

Magalie R. Salas,

Secretary.

[FR Doc. E4-280 Filed 2-13-04; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7622-7]

### Clean Air Act Advisory Committee; Notice of Meeting

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific and enforcement policy issues.

*Open Meeting Notice:* Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Wednesday, March 24, 2004, from approximately 8:30 a.m. to 3 p.m. at the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC. Seating will be available on a first come, first served basis. Three of the CAAAC's four Subcommittees (the Linking Energy, Land Use, Transportation, and Air Quality Concerns Subcommittee; the Permits/NSR/Toxics Integration Subcommittee; and the Economics Incentives and Regulatory Innovations Subcommittee) will hold meetings on Tuesday, March 23, 2004 from approximately 9:30 a.m. to 5 p.m. at the Renaissance Mayflower Hotel, the same location as the full Committee. The Mobile Source Technical Subcommittee will not meet at this time. The Economic Incentives and Regulatory Innovations Subcommittee is scheduled to meet from 9:30 a.m. to 11:30; the Linking Energy, Land Use, and Transportation, and Air Quality Concerns Subcommittee is scheduled to meet from 12:15 p.m. to 2:15 p.m.; and the Permits/NSR/Toxics Subcommittee is scheduled to meet from 2:15 p.m. to 4:45 p.m. There will be a presentation of the Clean Air Act Excellence Awards from 5 p.m. to 7 p.m. following the subcommittee meetings.

*Inspection of Committee Documents:* The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents,

together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A-94-34 (CAAAC). The Docket office can be reached by telephoning 202-566-1742; FAX 202-566-1741.

For further information concerning this meeting of the full CAAAC, please contact Pat Childers, Office of Air and Radiation, US EPA (202) 564-1082, FAX (202) 564-1352 or by mail at US EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittee meetings, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919-541-5354; and (2) Linking Transportation, Land Use and Air Quality Concerns—Robert Larson, 734-214-4277; and (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202-564-1667.

Additional information on these meetings and the CAAAC and its Subcommittees can be found on the CAAAC Web Site: <http://www.epa.gov/oar/caaac/>.

Dated: February 9, 2004.

**Robert D. Brenner,**

Principal Deputy Assistant Administrator.

[FR Doc. 04-3365 Filed 12-13-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2004-0037; FRL-7345-8]

### Availability of Court Orders in Washington Toxics Coalition v. EPA Litigation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces to the public the availability of Orders issued by a federal district court affecting certain aspects of the sale, distribution and use of pesticides and instructs certain entities about their responsibility to inform others of these Orders. In response to a citizen suit filed under the Endangered Species Act against EPA by the Washington Toxics Coalition and other public interest groups, the United States District Court for the Western District of Washington issued an Order granting interim injunctive relief on January 22, 2004. The Order (with some exceptions) enjoins, vacates and sets aside EPA's authorization of certain pesticides' uses within 20 yards for ground applications

and 100 yards for aerial applications, adjacent to salmon supporting waters in California, Oregon and Washington, effectively establishing buffer zones around those waters. The Court also ordered EPA to notify a variety of entities in the affected states of this injunction, and of previous Orders issued by the Court in this case, and to instruct registrants and the affected states to inform certain persons who sell, distribute and use pesticides of the Order. Unit II. of this Notice provides in detail the list of persons and entities to whom this notification and instruction apply. Further, the Court ordered EPA to develop and facilitate the availability of a point of sale notification in urban areas in the three states, for certain products containing any of 7 active ingredients. The Court's January 22 Order, which carries an effective date of February 5, 2004, and other related materials, including the Court's previous Orders, are available on EPA's web site (See Unit I.B.3. of the **SUPPLEMENTARY INFORMATION** for the web site address).

**FOR FURTHER INFORMATION CONTACT:** Arty Williams, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-305-5239; fax number: 703-308-3259; e-mail address: [williams.arty@epa.gov](mailto:williams.arty@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this Action Apply to Me?

This action is directed to certain pesticide registrants, states, certified applicators, and licensed pesticide dealers. This Notice may also be of particular interest to persons in California, Oregon and Washington who may wish to use a pesticide near salmon supporting waters. The Court has defined salmon supporting waters in its January 22, 2004 Order. This action may also be of particular interest to distributors, retail sales businesses, and pesticide applicators in California, Oregon and Washington and registrants of pesticides containing the active ingredients subject to the Court's injunction. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2004-0037. The official public docket consists of the documents specifically referenced in this notice, and other information related to this notice. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

3. *EPA Web site.* You may also find these documents on EPA's endangered species Web site at <http://www.epa.gov/espp>.

## II. Background

### A. What Action is the Agency Taking?

EPA is notifying the public of certain Court Orders affecting pesticide use in California, Oregon and Washington. On January 30, 2001, the Washington Toxics Coalition and a number of other public interest groups filed suit against the U.S. Environmental Protection Agency (*WTC v. EPA*) alleging EPA had failed to assess the potential of certain pesticides to harm federally listed endangered and threatened species, and to consult with the National Marine Fisheries Service (NMFS) on whether

those pesticides posed jeopardy to 26 federally listed endangered and threatened Pacific salmon and steelhead. Under the Endangered Species Act, EPA must ensure that its registration of pesticides is not likely to jeopardize the continued existence of species listed as endangered and threatened, or to adversely modify habitat critical to those species' survival. In addition to the obligation to ensure that its actions do not jeopardize listed species, the Agency must consult, as appropriate, with the U.S. Fish and Wildlife Service or NMFS if a pesticide's use may affect listed species or designated critical habitat for a listed species.

The Chief Judge of the United States District Court for the Western District of Washington issued an opinion on July 2, 2002, ordering EPA to review pesticides containing any of 55 active ingredients, for their potential effects on these listed species and to consult with NMFS as appropriate. EPA has reviewed over half of those pesticides and is consulting with NMFS on certain determinations. Chief Judge Coughenour issued the January 22, 2004 Order in response to the Plaintiffs' motion for injunctive relief to establish buffer zones as an interim measure to "substantially reduce the likelihood of jeopardy" to 26 species of Pacific salmon and steelhead, until EPA and, where appropriate, NMFS have completed an evaluation of the potential impacts of these 55 pesticides on endangered Pacific salmon and steelhead.

As of February 10, 2004, no stay request has been filed and no stay has been issued in either the District Court or the Court of Appeals. Accordingly, the Order became effective on February 5, 2004. Until further judicial proceedings occur, EPA cannot determine the extent to which the Order will remain effective. If, however, the Order remains in effect EPA intends to provide information on the above Web site that will assist pesticide users and others in understanding the requirements created by the January 22 Order, where and to whom those requirements apply, and when any of those requirements is lifted or modified.

Because of EPA's reviews and effects determinations on many of the 55 pesticides, the Court's Order effectively applies only to the following 38 pesticides:

1. 1,3-Dichloropropene
2. 2,4-D
3. Acephate
4. Azinphos-methyl
5. Bensulide
6. Bromoxynil
7. Captan

8. Carbaryl
9. Carbofuran
10. Chlorothalonil
11. Chlorpyrifos
12. Coumaphos
13. Diazinon
14. Diflubenzuron
15. Dimethoate
16. Disulfoton
17. Diuron
18. Ethoprop
19. Fenamiphos
20. Fenbutatin-oxide
21. Lindane (gamma-BHC and HCH)
22. Linuron
23. Malathion
24. Methamidophos
25. Methidathion
26. Methomyl
27. Methyl parathion
28. Metolachlor
29. Metribuzin
30. Naled
31. Oxyfluorfen
32. Pendimethalin
33. Phorate
34. Prometryn
35. Propargite
36. Tebuthiuron
37. Triclopyr BEE
38. Trifluralin

In addition, as explained in detail in the Court's Order, the provisions concerning buffer zones do not apply to all uses of the above pesticides in all parts of California, Oregon and Washington. Rather, the Order applies only in certain circumstances. A determination of the applicability of the Order requires consideration of: (1) Which active ingredient is in the pesticide product; (2) how the pesticide product is intended to be used; and (3) where the product is intended to be used. Further, the Order provides that changes in certain circumstances would affect the applicability of the Order, for example, as EPA makes additional effects determinations, or as NMFS moves ahead in its review of EPA's determinations. Thus, a pesticide user should review, as close as possible to the time of intended use, the Order posted on EPA's Web site (<http://www.epa.gov/espp>), as well as any additional information updating the Order, to ascertain whether the provisions would affect a specific product, use, and location.

In addition to provisions that, in effect, establish buffer zones around salmon supporting waters for certain pesticides and to provisions that require point of sale notification, the January 22, 2004 Order contains provisions imposing requirements on EPA to inform the public and certain specific entities of this and other Orders. Accordingly, by issuance of this Notice, EPA hereby:

1. Informs the public, registrants, states, certified applicators and licensed pesticide dealers of the Court's Orders in this case dated July 2, 2002; July 16, 2003; August 8, 2003; and January 22, 2004. EPA is posting the full text of these Orders on its web site at <http://www.epa.gov/espp>.

2. Instructs registrants of the pesticides to which the January 22, 2004 Order applies, to make pesticide distributors, wholesalers, retailers, brokers, dealers and others in privity with them, aware of the January 22, 2004 Order issued by the Court.

3. Instructs the affected states to inform registrants, certified applicators, and licensed pesticide dealers of the January 22, 2004 Order.

#### *B. What is the Agency's Authority for Taking this Action?*

This action is taken pursuant to the January 22, 2004 Order of the Court in *Washington Toxics Coalition, et al v. EPA*, C01-0132 (W.D. WA).

#### **List of Subjects**

Environmental protection,  
Endangered species.

Dated: February 10, 2004.

**James Jones,**

*Director, Office of Pesticide Programs.*

[FR Doc. 04-3364 Filed 2-13-04; 8:45 am]

**BILLING CODE 6560-50-S**

#### **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7623-7]

#### **Agreement and Covenant Not To Sue: Union Pacific Railroad Company**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Prospective Purchaser Agreement/Agreement and Covenant Not To Sue.

**SUMMARY:** As required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, as amended (CERCLA), and the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*, as amended (RCRA), notice is hereby given that an Agreement and Covenant Not To Sue ("Agreement") is proposed by the United States ("U.S.") on behalf of the Environmental Protection Agency ("EPA"), the State of Colorado ("State") on behalf of the Colorado Department of Public Health and Environment ("CDPHE"), and the Union Pacific Railroad Company ("Union Pacific") (collectively the "Parties" and

singularly "Party"). The following is a list of CERCLA and RCRA sites covered under the Agreement.

1. The Broderick Wood Products Site ("Broderick") is located at 5800 Galapago Street in unincorporated Adams County, Colorado. Broderick consists of approximately 64 acres situated in a primarily industrial area and was operated by Broderick Wood Products Company as a wood treating facility from 1947 until 1982. The Broderick remediation is now managed by the Broderick Investment Company ("BIC").

2. The Sand Creek Site ("Sand Creek") is located at 52nd and Dahlia St., approximately 5 miles northeast of Denver, Colorado in a heavy industrial area. Sand Creek occupies about 550 acres. Sand Creek includes properties that are vacant, industrially developed, and former railroad right-of-ways owned by the Colorado and Eastern Railroad Company or recently transferred to NDSC LLC, subject to a Union Pacific option, and an active rail line and railroad right-of-way owned by the Denver Rock Island Railroad. Sand Creek was listed on the National Priorities List (NPL) in 1982 and was deleted from the NPL in 1996.

3. The Chemical Sales Site ("Chemical Sales") is located at 4661 Monaco Street in Denver, Colorado and covers approximately 5 square miles. Chemical Sales is located in a light industrial area of northeast Denver and was first developed in 1962 with construction of a warehouse. Operations have included the storage and repackaging of bulk chemicals. Chemical Sales was listed on the NPL in 1990.

4. The Woodbury Chemical Site ("Woodbury") is located north of 54th Avenue between Harrison and Adams Streets in Commerce City, Colorado. This 15-acre site was operated by Woodbury Chemical Company as a pesticide production facility from the late 1950's until 1971. Remediation was completed in 1992, and Woodbury was deleted from the NPL in 1993.

5. The Koppers Site is an active industrial wood treating operation adjacent and is just east of Broderick. Soil and groundwater contamination has been identified and is being remediated by Koppers.

Union Pacific, a Delaware Corporation organized under the laws of the State of Delaware, with its principal offices at 1416 Dodge Street in Omaha, Nebraska, desires to acquire a perpetual easement or other property interest in the above-described Properties in order to establish a more direct east-west rail corridor through the north Denver area.

The Parties agree to undertake all actions required by the terms and conditions of the Agreement and the Statement of Work. The purpose of the Agreement is to settle and resolve, subject to reservations and limitations, the potential liability of Union Pacific for the existing contamination at the Sites, which liability would otherwise result from Union Pacific becoming the owner of, or acquiring a property interest in, the Sites. In consideration of and exchange for the U.S. and the State's Covenant Not To Sue and Removal of Lien, Union Pacific agrees to pay for or perform the remedy repair and replacement work at the Sites and to reimburse EPA and CDPHE for their reasonable oversight costs incurred in the oversight of Union Pacific's performance of such work.

#### **FOR FURTHER INFORMATION CONTACT:**

Richard Sisk, Legal Enforcement Attorney (ENF-L) Legal Enforcement Program, U.S. Environmental Protection Agency, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, (303) 312-6638. Please contact Sharon Abendschan, Enforcement Specialist at (303) 312-6957 for requests for copies of the Agreement and/or repository location(s) where supporting documentation may be found and reviewed.

Dated: February 5, 2004.

**Carol Rushin,**

*Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. Environmental Protection Agency, Region VIII.*

[FR Doc. 04-3367 Filed 2-13-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested**

February 9, 2004.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the