

(FACA), Public Law 92-463, and section 102-3.175(c) of the General Services Administration's (GSA) Final Rule on Federal Advisory Committee Management, the Department of Energy's 2002 Annual Report of Closed Advisory Committee meetings has been issued. The report covers three closed meetings of the National Nuclear Security Administration Advisory Committee held October 19-20, 2001, in McLean, Virginia; February 12-13, 2002 (Partially Closed), in McLean, Virginia; and May 14-15, 2002, in McLean, Virginia.

The report is available for public review and copying at the Department of Energy's Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between 9 a.m. and 4 p.m.; Monday through Friday, except Federal holidays. For further information contact me at the U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, 20585.

Issued in Washington, DC, on November 12, 2003.

**Rachel Samuel,**

*Deputy Advisory Committee Management Officer.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7587-8]

### **Proposed Settlement Agreement, Clean Air Act Citizen Suit**

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

**ACTION:** Notice of Proposed Settlement Agreement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement and stipulation modifying the settlement agreement, to address two lawsuits filed by Association of Irrigated Residents and Medical Advocates for Healthy Air ("Petitioners"): No. 03-71973 (9th Circuit). Pursuant to section 307(b)(1) of the Clean Air Act Petitioners filed petitions for review of EPA documents implementing a federal title V permitting program for agricultural sources in California and setting guidelines for permit applications for major sources due to diesel engine emissions. Under the terms of the proposed settlement agreement EPA

would withdraw these documents from EPA's Region 9 Web site and publish revised national guidance that is non-binding. The proposed stipulation would remove this last requirement.

**DATES:** Written comments on the proposed stipulation of settlement agreement must be received by December 18, 2003.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC-2003-0002, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:** Apple Chapman, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone: (202) 564-7606.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Additional Information About the Proposed Settlement Agreement and Stipulation Modifying the Settlement Agreement**

Petitioners allege that the title V permit application guidance EPA published for agricultural sources in California excludes, without rulemaking, certain agricultural major sources of air pollution from regulation.

The settlement agreement provides that: (1) EPA will file an Unopposed Motion for Voluntary Remand with the Ninth Circuit Court of Appeals and that within five days of a court order granting this motion, EPA will withdraw the guidance documents and remove them from the Region 9 website; (2) EPA will publish new, nonbinding nationwide guidance that better explains a facility's "potential to emit" (PTE) in the context of diesel engines used as agricultural pumps; and (3) EPA will publish a notice establishing a new Title V permit application deadline of November 13, 2003, for sources in California that are subject to Title V regulation under the new PTE guidance.

On September 22, 2003, the Governor of the State of California signed legislation removing the agricultural exemption that prevented full approval of 34 Title V programs in the State. On October 8, 2003, the EPA proposed to approve this revision to 34 Title V programs in the State of California. In light of the expected final action to approve the State program revisions, the Parties have agreed that EPA PTE guidance is not required at this time. Therefore, the stipulation amending the settlement agreement would remove EPA's obligation to publish new, nonbinding guidance. Final action of the proposal to approve the revisions to the 34 California Title V programs will also terminate EPA's implementation of a part 71 Federal operating permit program for State-exempt major stationary agricultural sources within the jurisdiction of the 34 California air districts. Accordingly, the stipulation also removes the requirement that EPA establish a new Title V permit application deadline of November 13, 2003.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement and stipulation amending the agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement and stipulation if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement and stipulation should be withdrawn, the terms of the agreement will be affirmed.

##### **II. Additional Information About Commenting on the Proposed Settlement Agreement and Stipulation**

###### *A. How Can I Get a Copy of the Settlement Agreement?*

EPA has established an official public docket for this action under Docket ID No. OGC-2003-0002 which contains a copy of the settlement agreement and stipulation amending the agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open

from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

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 submit or 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. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information

provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 12, 2003.

**Lisa K. Friedman,**

*Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.*

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**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-7587-4]**

### **State Program Requirements; Approval of Application by Maine To Administer the National Pollutant Discharge Elimination System (NPDES) Program; Maine**

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

**ACTION:** Notice; final approval of the Maine Pollutant Discharge Elimination System under CWA.

**SUMMARY:** On October 31, 2003 the Regional Administrator for the Environmental Protection Agency, Region I, approved the application by the State of Maine to administer and enforce the Maine Pollutant Discharge Elimination System (MEPDES) Program for the territories of the Penobscot Nation and the Passamaquoddy Tribe, with the exception of facilities with discharges that qualify as internal tribal matters. The authority to approve state programs is provided to EPA in section 402(b) of the Clean Water Act (CWA). The state will administer the approved

program through its Department of Environmental Protection (DEP), subject to continuing EPA oversight and enforcement authority, in place of the National Pollutant Discharge Elimination System (NPDES) program previously administered by EPA in these territories. The program is a partial program to the extent described in the section of this Notice entitled "Scope of the MEPDES Program." In making its decision, EPA considered and addressed all comments and issues raised during the public comment period relating to jurisdiction over the territories of the Penobscot Nation and Passamaquoddy Tribe and related issues.

**DATES:** Pursuant to 40 CFR 123.61(c), the MEPDES program was approved and became effective on October 31, 2003.

**ADDRESSES:** Questions or requests for additional information may be submitted to: Stephen Silva, USEPA Maine State Office, 1 Congress Street—Suite 1100 (CME), Boston, MA 02114-2023; or Dennis Merrill, MEDEP, Statehouse Station #17, Augusta, ME 04333-0017.

Copies of documents Maine has submitted in support of its program approval and copies of the comments received on this request may be reviewed during normal business hours, Monday through Friday, excluding holidays, at: EPA Region I, 11th Floor Library, 1 Congress Street—Suite 1100, Boston, MA 02114-2023, 617-918-1990 or 1-888-372-5427; and MEDEP, Ray Building, Hospital Street, Augusta, ME.

**FOR FURTHER INFORMATION CONTACT:** Stephen Silva at the address listed above or by calling (617) 918-1561 or Dennis Merrill at the address listed above or by calling (207) 287-7788. Part of the state's program submission and supporting documentation is available electronically at the following Internet address: <http://www.maine.gov/dep/blwq/delegation/index.htm>.

**SUPPLEMENTARY INFORMATION:** On January 12, 2001, EPA approved Maine to implement the MEPDES program in all the areas of the state outside Indian country. 66 FR 12791 (February 28, 2001). In that approval, EPA took no action on the state's program application as it applied to the territories and lands of the four federally recognized Indian tribes in Maine, including disputed territories. *Id.* at 12792-93. In our approval on October 31, 2003, EPA authorized the state to implement the MEPDES program as it applies to the territories of the Penobscot Nation and the Passamaquoddy Tribe, with the