

located at <http://www.ferc.gov/EventCalendar/EventsList.aspx> along with other related information.

Magalie R. Salas,  
Secretary.

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. RM98-1-000]

**Regulations Governing Off-the-Record Communications; Public Notice**

September 29, 2003.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant

to the merit's of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the

document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC, Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	Date filed	Presenter or requestor
<b>Prohibited</b>		
1. ER03-1118-000 .....	9-15-03	Henry J. Knapp, PE
<b>Exempt</b>		
1. Project No. 2042-000 .....	9-04-03	Hon. George R. Nethercutt, Jr.

Magalie R. Salas,  
Secretary.

[FR Doc. 03-25228 Filed 10-3-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7568-5]

**Final Administrative Determination Document on the Question of Whether Ferric Ferrocyanide Is One of the "Cyanides" Within the Meaning of the List of Toxic Pollutants Under the Clean Water Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of document availability.

**SUMMARY:** By order dated October 19, 1995, the United States District Court for the District of Massachusetts stayed the proceedings in *Commonwealth of Massachusetts v. Blackstone Valley Electric Co.* (No. 94-2286) and referred the question of whether ferric ferrocyanide qualifies as one of the

"cyanides" within the meaning of the list of toxic pollutants under the Clean Water Act to the U.S. Environmental Protection Agency (EPA). This District Court order followed a U.S. Court of Appeals decision in which the First Circuit determined that it was appropriate to refer this question to EPA for an "administrative determination." Today's notice announces the availability of EPA's final administrative determination that ferric ferrocyanide (FFC) is one of the "cyanides" within the meaning of the Toxic Pollutant List Under the Clean Water Act.

**DATES:** This final administrative determination is available on October 6, 2003.

**ADDRESSES:** The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC) in the basement of the EPA West Building, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Final Administrative Determination and key supporting materials are also electronically available via EPA Dockets

(Edocket) at <http://www.epa.gov/edocket/>.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Marion Kelly, USEPA, Office of Water, Engineering and Analysis Division (4303T), 1301 Constitution Avenue, NW., Washington, DC; or call (202) 566-1045; or e-mail [kelly.marion@epa.gov](mailto:kelly.marion@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. How Can I Get Copies of This Document and Other Related Information?**

A. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2002-0036. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B-102, 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 Water Docket is (202) 566-2426.

B. **Electronic Access.** You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listing 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 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.

## II. EPA’s Determination Regarding Ferric Ferrocyanide

EPA has prepared a final administrative determination describing the Agency’s interpretation of the term “cyanides” (found in 40 CFR 401.15, 40 CFR 302.4, and Table 302.4 at 40 CFR 302.4) as that interpretation applies to ferric ferrocyanide. 40 CFR 401.15 contains the list of toxic pollutants, 40 CFR 302.4 provides the designation of hazardous substances, and Table 302.4 at 40 CFR 302.4 contains the list of hazardous substances and reportable quantities. This final administrative determination responds to a referral from the United States District Court for the District of Massachusetts. By order dated October 19, 1995, the United States District Court for the District of Massachusetts stayed the proceedings in *Commonwealth of Massachusetts v. Blackstone Valley Electric Co.* (No. 94-2286) and referred the question of whether ferric ferrocyanide qualifies as one of the “cyanides” within the meaning of 40 CFR 401.15, 40 CFR 302.4, and Table 302.4 to EPA. This District Court order followed a U.S. Court of Appeals decision in which the First Circuit determined that it was appropriate to refer this question to EPA for an “administrative determination.” *Commonwealth of Massachusetts v. Blackstone Valley Electric Co.*, 67 F.3d 981 (1st Cir. 1995).

This determination is not a legislative rule; notice and comment is not required. However, in reaching this determination, EPA provided an opportunity for public comment through a **Federal Register** notice announcing the availability of the Agency’s preliminary determination (January 25, 2001, 66 FR 7759). EPA originally requested public comments

on the preliminary determination by March 12, 2001 and then extended the comment period twice at the request of the litigants in the Blackstone case. After the close of the comment period for the preliminary determination, EPA found additional (and potentially relevant) historical documents and scientific articles, and reopened the comment period for comment on these new materials on November 4, 2002 (November 4, 2002, 67 FR 67183; corrected November 12, 2002, 67 FR 68725). The comment period for the additional materials ended January 3, 2003. In April 2003, EPA conducted a peer review of the preliminary determination in accordance with EPA’s Peer Review policies, which are described in EPA’s *Science Policy Council Handbook—Peer Review, 2nd Edition* (EPA 100-B-00-001, December 2001; the “Peer-review Handbook”).

EPA considered all comments and materials received, including those submitted by the peer reviewers, the litigants in the *Blackstone* case, Massachusetts, and other stakeholders. EPA has placed all comments, responses to comments, and all information used by the Agency in support of this administrative determination in the public docket. EPA also prepared, and included in the public docket, a final administrative determination document (EPA-821-R-03-014) that summarizes the Agency’s analysis and rationale. EPA has determined that ferric ferrocyanide is one of the “cyanides” within the meaning of 40 CFR 401.15, 40 CFR 302.4, and Table 302.4.

Dated: September 24, 2003.

### G. Tracy Mehan III,

Assistant Administrator for Water.

[FR Doc. 03-25272 Filed 10-3-03; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[RCRA-2003-0024; FRL-7558-5]

### Announcement of Availability of the Results-Based Approaches and Tailored Oversight Guidance for Facilities Subject to Corrective Action Under Subtitle C of the Resource Conservation and Recovery Act

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

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to announce the availability of the final “Results-Based Approaches and Tailored Oversight Guidance for Facilities Subject to Corrective Action

Under Subtitle C of the Resource Conservation and Recovery Act” (Guidance). This guidance is designed to provide the EPA Regions, the States, Tribes, the regulated community, members of the public, and other stakeholders with a better understanding of EPA’s general results-based strategy for RCRA Corrective Action. This document provides guidance on how EPA generally intends to exercise its discretion in implementing its statutory authorities and regulations. EPA wrote this guidance because we believe greater use of results-based approaches will help us achieve our short-term goals established by the Government Performance and Results Act (GPRA).

**DATES:** This guidance was issued September 26, 2003.

**ADDRESSES:** The Agency is posting this document on the Corrective Action Web site: <http://www.epa.gov/correctiveaction>. If you would like to receive a hard copy, please call the RCRA Call Center at 800-424-0346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703-412-9810 or TDD 703-412-3323.

**FOR FURTHER INFORMATION CONTACT:** For more detailed information on specific aspects of the guidance document, contact Karen Tomimatsu, Office of Solid Waste, Mail Code 5303W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703-605-0698), ([tomimatsu.karen@epa.gov](mailto:tomimatsu.karen@epa.gov)), or Peter Neves, Office of Enforcement and Compliance Assurance, Mail Code 2273A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564-6072, ([neves.peter@epa.gov](mailto:neves.peter@epa.gov)).

**SUPPLEMENTARY INFORMATION:** The guidance document will be issued as a memorandum from EPA headquarters to the Regional offices. It will be available on the Internet at: <http://www.epa.gov/correctiveaction>.

EPA has established an official public docket for this action under Docket ID No. RCRA-2003-0024. The official public docket is the collection of materials that is available for public viewing at the OSWER Docket in the EPA Docket Center (EPA/DC), 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 OSWER Docket is (202) 566-0270.