

- Transmission Company  
G-19.  
Omitted  
G-20.  
Omitted  
G-21.  
RP04-110-002, El Paso Natural Gas Company  
RP04-110-001, El Paso Natural Gas Company  
RP00-336-014, El Paso Natural Gas Company  
RP00-336-018, El Paso Natural Gas Company  
RP00-336-019, El Paso Natural Gas Company  
RP00-336-020, El Paso Natural Gas Company  
RP00-336-025, El Paso Natural Gas Company  
RP04-251-000, El Paso Natural Gas Company  
G-22.  
RP04-249-002, AES Ocean Express LLC v. Florida Gas Transmission Company  
G-23.  
RP98-52-055, Southern Star Central Gas Pipeline Inc.  
G-24.  
Omitted  
G-25.  
RP03-281-004, Columbia Gas Transmission Corporation

#### Energy Projects—Hydro

- H-1.  
P-2543-063, Clark Fork and Blackfoot, LLC  
H-2.  
P-309-042, Reliant Energy Mid-Atlantic Power Holdings, LLC  
H-3.  
P-2835-012, New York State Electric and Gas Corporation  
H-4.  
P-2016-092, City of Tacoma, Washington  
P-2016-073, City of Tacoma, Washington  
H-5.  
P-516-399, South Carolina Electric and Gas Company  
H-6.  
P-2100-130, Baiocchi Family v. California Department of Water Resources  
P-2426-190, Baiocchi Family v. California Department of Water Resources  
H-7.  
P-1971-094, Idaho Power Company  
H-8.  
P-6132-010, John C. Jones  
H-9.  
P-516-390, South Carolina Electric and Gas Company  
H-10.  
P-2188-097, PPL Montana, LLC

#### Energy Projects—Certificates

- C-1.  
CP04-343-000, Paiute Pipeline Company  
CP04-343-001, Paiute Pipeline Company  
CP04-343-002, Paiute Pipeline Company  
C-2.  
CP04-47-000, Sabine Pass LNG, L.P.  
CP04-38-000, Cheniere Sabine Pass Pipeline Company  
CP04-38-001, Cheniere Sabine Pass Pipeline Company  
CP04-39-000, Cheniere Sabine Pass Pipeline Company  
CP04-40-000, Cheniere Sabine Pass Pipeline Company  
C-3.  
CP04-345-001, Cheyenne Plains Gas Pipeline Company, L.L.C.  
CP03-302-000, Cheyenne Plains Gas Pipeline Company, L.L.C.  
CP03-302-001, Cheyenne Plains Gas Pipeline Company, L.L.C.

**Magalie R. Salas,**  
*Secretary.*

The Capitol Connection offers the opportunity for remote listening and viewing of the meeting. It is available for a fee, live over the Internet, via C-Band Satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.gmu.edu> and click on "FERC".

[FR Doc. 04-27399 Filed 12-09-04; 5:07 pm]  
**BILLING CODE 6717-01-M**

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons To Attend

December 8, 2004.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission.

**DATE AND TIME:** December 15, 2004 (Within a relatively short time after the Commission's open meeting on December 15, 2004).

**PLACE:** Room 3M 4A/B, 888 First Street, NE., Washington, DC 20426.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Non-Public Investigations and Inquiries, Enforcement Related Matters, and Security of Regulated Facilities.

**CONTACT PERSON FOR MORE INFORMATION:** Magalie R. Salas, Secretary, Telephone (202) 502-8400.

Chairman Wood and Commissioners Brownell, Kelliher, and Kelly voted to hold a closed meeting on December 15, 2004. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public reference Room at 888 First Street, NW., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary and her assistant, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. 04-27400 Filed 12-9-04; 5:07 pm]

**BILLING CODE 6717-01-P**

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-7846-4]

##### Water Pollution Control; State Program Requirements; Program Modification Application by Ohio To Administer the Sewage Sludge Management Program

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

**ACTION:** Notice of application and public comment period.

**SUMMARY:** Pursuant to 40 CFR 123.62 and 40 CFR part 501, the State of Ohio has submitted a program modification application to EPA, Region 5 to administer and enforce a sewage sludge management program. Specifically, the State is seeking approval of a sewage sludge management program which addresses the land application of sewage sludge, surface disposal of sewage sludge, and the landfilling of sewage sludge. Ohio is not seeking approval of the land application of domestic septage. Also, Ohio is not seeking approval for the incineration of sewage sludge at this time, but will in the future. Ohio will seek approval for the incineration of sewage sludge when their current draft administrative rules for incineration of sewage sludge are adopted. The State's sewage sludge management program will not extend to

“Indian Country” as defined in 18 U.S.C. 1151, and will not include lands within the exterior boundaries of Indian reservations within or abutting the State of Ohio. According to the State’s application, this program would be administered by the Ohio Environmental Protection Agency (Ohio EPA).

The application from Ohio is complete and is available for inspection and copying. Public comments are requested and encouraged.

**DATES:** The public comment period on the State’s request for approval to administer the proposed Ohio NPDES sewage sludge management program will be from the date of publication until January 28, 2005. Comments postmarked after this date may not be considered.

**ADDRESSES:** *Viewing/Obtaining Copies of Documents.* You can view Ohio’s application for modification from 8:00 a.m. until 4 p.m. (Eastern time zone) Monday through Friday, excluding holidays, at the Ohio EPA, Lazarus Government Center, Division of Surface Water, 122 S. Front St., Columbus, Ohio 43215, contact Suzanne Matz (614) 644-2034; Ohio EPA Southeast District Office, 2195 Front Street, Logan, Ohio 43138, contact Jeanne Chapman (740) 380-5425; Ohio EPA Southwest District Office, 401 E. Fifth St., Dayton, Ohio 45402-2911, contact Sally Brown (937) 285-6025; Ohio EPA Northwest District Office, 347 N. Dunbridge Rd., Bowling Green, Ohio 43402, contact Megan Carr (419) 373-3003; and, Ohio EPA Northeast District Office, 2110 E. Aurora Rd., Twinsburg, Ohio 44087, contact Lily Aaron (330) 963-1200 extension 129. A copy of Ohio’s application for modification is also available for viewing from 9 am to 4 pm, Monday through Friday, excluding legal holidays, at EPA Region 5, 16th floor, NPDES Programs Branch, 77 West Jackson Blvd., Chicago, IL 60604. Part or all of the State’s application may be copied, for a minimal cost per page, at Ohio EPA’s offices or EPA’s office in Chicago. Ohio EPA’s submission documents are also available on the Internet at: <http://www.epa.state.oh.us/dsw/sludge/biosolid.html>.

*Comments.* Electronic comments are encouraged and should be submitted to [colletti.john@epa.gov](mailto:colletti.john@epa.gov). Please send a copy to [suzanne.matz@epa.state.oh.us](mailto:suzanne.matz@epa.state.oh.us). Written comments may be sent to John Colletti (WN-16J), EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604. Please send an additional copy to Ohio EPA, Attn: Suzanne Matz, Permits and Compliance Section, P.O. Box 1049, Columbus, OH 43216-1049. Public

comments may be sent in either electronic or paper format. EPA requests that electronic comments include the commenter’s postal mailing address. No Confidential Business Information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in WordPerfect 9.0 format or Microsoft Word format. If submitting comments in paper format, please submit the original and three copies of your comments and enclosures. Commentors who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped envelope.

**FOR FURTHER INFORMATION CONTACT:** John Colletti at (312) 886-6106, or by e-mail at [colletti.john@epa.gov](mailto:colletti.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” or “our” means EPA.

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  - A. National Historic Preservation Act
  - B. Endangered Species Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act

#### I. Background

Under section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA may issue permits allowing discharges of pollutants from point sources into waters of the United States, subject to various requirements of the CWA. These permits are known as National Pollutant Discharge Elimination System (NPDES) permits. Section 402(b) of the CWA, 33 U.S.C. 1342(b), allows states to apply to EPA for authorization to administer their own NPDES permit programs.

Section 405 of the Clean Water Act (CWA), 33 U.S.C. 1345, created the Federal sewage sludge management program, requiring EPA to set standards for the use and disposal of sewage sludge and requiring EPA to include sewage sludge conditions in some of the NPDES permits which it issues. The rules developed under section 405(d) are also self-implementing, and the standards are enforceable whether or not a permit has been issued. Section 405(c) of the CWA provides that a state may submit an application to EPA for administering its own sewage sludge program within its jurisdiction. EPA is required to approve each such submitted state program unless EPA determines that the program does not meet the requirements of sections 304(i)

and/or 402(b) and 405 of the CWA or the EPA regulations implementing those sections. To obtain such approval, the state must show, among other things, that it has authority to issue permits which comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and opportunity for a hearing on each proposed permit. The requirements for state sewage sludge management program approval are listed in 40 CFR part 501.

The Ohio NPDES program was approved by EPA on March 11, 1974. EPA received the sewage sludge management program application from Ohio on May 28, 2004. Ohio’s application for the sewage sludge management program approval contains a letter from the Governor requesting program approval, an Attorney General’s Statement, copies of pertinent State statutes and regulations, a Program Description, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA, Region 5 and the Director of Ohio EPA. The State, based on comments from EPA, submitted a revision of its Program Description and MOA, which EPA received on September 28, 2004.

The Governor’s letter of May 12, 2004, requested that EPA approve the State’s sewage sludge management program as a modification to their NPDES program.

The Attorney General’s Statement includes citations to specific statutes, administrative rules, and judicial decisions which demonstrate adequate authority to carry out the State’s sewage sludge management program. State statutes and regulations cited in the Attorney General’s Statement are also included in the application.

The Program Description includes a description of the scope and organizational structure of the sewage sludge management program, including a description of the general duties and the total number of state staff carrying out the program, a description of applicable State procedures, including permitting procedures, and administrative and judicial review procedures, and a description of the State’s compliance tracking and enforcement program. It also includes an inventory of the facilities that are subject to regulations promulgated pursuant to 40 CFR part 503 and subject to the State’s sewage sludge management program.

The proposed amendments to the Ohio EPA/EPA MOA include provisions for permit administration, enforcement and compliance monitoring, and annual reporting. The MOA has been signed by

the Director of Ohio EPA and will become effective upon the signature of the Regional Administrator of EPA, Region 5. The MOA does not limit the authority of EPA to take actions pursuant to its powers under the CWA, nor does it limit EPA's oversight responsibilities with respect to sewage sludge management program administration.

## II. Sewage Sludge and the State Sewage Sludge Management Program

Sewage sludge, are the solids separated from liquids during treatment at a municipal wastewater treatment plant and treated to stabilize and reduce pathogens. EPA in 1993 adopted standards for management of sewage sludge generated during the process of treating municipal wastewater. 40 CFR part 503. The part 503 rules establish standards under which sewage sludge may be land applied as a soil amendment, disposed in a surface disposal site, or incinerated, and requirements for compliance with 40 CFR part 258 if placed in a municipal landfill. The standards, designed to protect public health and the environment, include pollutant limits, pathogen reduction requirements, vector attraction reduction requirements, and management practices specific to the use or disposal option selected.

The Ohio sewage sludge management program imposes requirements on wastewater treatment plants, sewage sludge applicators, and surface disposal site operators. It also provides for the issuance of permits under certain conditions, enforcing the standards as necessary, and providing guidance and technical assistance to members of the regulated community. The program also includes a state-specific feature requiring a land applicator to obtain site authorization from Ohio EPA before class B treated sewage sludge is applied to the site.

## III. Indian Country

Ohio is not authorized to carry out its sewage sludge management program in "Indian Country," as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Ohio;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, this action has no effect on Indian Country. EPA retains the authority to implement and administer the sewage sludge management program in Indian Country. However, at this

time, there is no Indian Country within the State of Ohio.

## IV. Public Notice and Comment Procedures

Copies of all submitted statements and documents shall become a part of the record submitted to EPA. All comments or objections presented in writing to EPA, Region 5 and postmarked within 45 days of this document will be considered by EPA before it takes final action on Ohio's request for program modification approval. All written comments and questions regarding the sewage sludge management program should be addressed to John Colletti at the above address. The public is also encouraged to notify anyone who may be interested in this matter.

## V. Public Hearing Procedures

At the time of this notice, a decision has not been made as to whether a public hearing will be held on Ohio's request for program modification. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised to EPA, Region 5. The last day for filing a request for a public hearing is 45 days from the date of this notice; the request should be submitted to John Colletti at the above address. In appropriate cases, including those where there is significant public interest, EPA may hold a public hearing. Public notice of such a hearing will occur in the **Federal Register** and in enough of the largest newspapers in Ohio to provide statewide coverage and will be mailed to interested persons at least 30 days prior to the hearing.

## VI. EPA's Decision

EPA has determined that Ohio has submitted a complete application. EPA sent a letter to the Director of the Ohio EPA on November 9, 2004, stating that the State's application to modify the Ohio NPDES program to include a sewage sludge management program was complete. EPA has 90 days from the date of that letter to approve or disapprove Ohio's sewage sludge management program unless a public hearing is held. After the close of the public comment period, EPA will consider and respond to all significant comments received before taking final action on Ohio's request for sewage sludge management program approval. The decision will be based on the requirements of sections 405, 402 and 304(i) of the CWA and EPA regulations promulgated thereunder. If the Ohio sewage sludge management program is

approved, EPA will so notify the State. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will no longer serve as the primary program and enforcement authority for sewage sludge use and disposal within Ohio. EPA will remain the authority for sewage sludge use and disposal in Indian Country within Ohio should a Tribe become recognized, for the incineration of sewage sludge, and for the land application of domestic septage. The State's program will operate in lieu of the EPA-administered program. However, EPA will retain the right, among other things, to object to NPDES permits proposed by Ohio and to take enforcement actions for violations, as allowed by the CWA. If EPA disapproves Ohio's sewage sludge management program, EPA will notify Ohio of the reasons for disapproval and of any revisions or modifications to the State program that are necessary to obtain approval.

## VII. Other Federal Statutes

### A. National Historic Preservation Act

Section 106 of the National Historic Preservation Act, 16 U.S.C. 470(f), requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on such undertakings. Under the ACHP's regulations (36 CFR part 800), agencies consult with the appropriate State Historic Preservation Officer (SHPO) on federal undertakings that have the potential to affect historic properties listed or eligible for listing in the National Register of Historic Places. EPA, Region 5 is currently in discussions with the Ohio SHPO regarding its determination that approval of the state sewage sludge management program would have no effect on historic properties within the State of Ohio.

### B. Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) requires that all federal agencies, in consultation with the U.S. Fish and Wildlife Service, insure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any Federally-listed threatened or endangered species or result in the destruction or adverse modification of their designated critical habitat. Regulations for consultation under ESA section 7 are codified at 50 CFR part 402. EPA, Region 5 has initiated informal ESA section 7 consultation with the U.S. Fish and Wildlife Service

regarding Ohio's request for approval of its sewage sludge management program.

### C. Regulatory Flexibility Act

Based on General Counsel Opinion 78-7 (April 18, 1978), EPA has long considered a determination to approve or deny a State Clean Water Act (CWA) program submission to constitute an adjudication because an "approval," within the meaning of the Administrative Procedure Act (APA), constitutes a "licence," which, in turn, is the project of an "adjudication." For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a Federal agency proposes or promulgates a rule under section 553 of the APA, after being required by that section or any other law to publish a general notice of proposed rulemaking, the Agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule. Even if the CWA program approval were a rule subject to the RFA, the Agency would certify that approval of the State proposed CWA program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve a CWA program merely recognizes that the necessary elements of the program have already been enacted as a matter of State law; it would, therefore, impose no additional obligation upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this Ohio sewage sludge management program, even if a rule, would not have significant economic impact on a substantial number of small entities.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit

analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's decision includes no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "Federal intergovernmental mandate" affects an annual Federal entitlement program of \$500 million or more which are not applicable here. Ohio's request for approval of its sewage sludge management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its sewage sludge management program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA, thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a sewage sludge management program, regulation is left to EPA. EPA's approval of State

programs generally may reduce compliance costs for the private sector, since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of sewage sludge management facilities or businesses generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's decision is not subject to the requirements of sections 202 and 205 of the UMRA. The Agency recognizes that small governments may own and/or operate sewage sludge management facilities that will become subject to the requirements of an approved State sewage sludge management program. However, small governments that own and/or operate sewage sludge management facilities are already subject to the requirements in 40 CFR parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own sewage sludge management program and any revisions to that program, these same small governments will be able to own and operate their sewage sludge management facilities or businesses under the approved State program, in lieu of the federal program. Therefore, EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments.

**Authority for parts 123 and 501:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: November 23, 2004.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04-27365 Filed 12-13-04; 8:45 am]

**BILLING CODE 6560-50-P**

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## FEDERAL COMMUNICATIONS COMMISSION

### Sunshine Act Meeting; Open Commission Meeting Wednesday, December 15, 2004

December 8, 2004.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 15, 2004, which is scheduled to commence at 9:30 a.m. in Room TW-C305, at 445 12th Street, SW., Washington, DC.