

inapplicable to issuance of such permits,” and thus “NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law \* \* \* [and] it is not subject to the RFA.” *Id.* at 36497.

However, the Agency went on to explain that, even though EPA had concluded that it was not legally required to do so, the Agency would voluntarily perform the RFA’s small-entity impact analysis. *Id.* EPA explained the strong public interest in the Agency following the RFA’s requirements on a voluntary basis: “[The notice and comment] process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities.” *Id.* Accordingly, with respect to the NPDES permit that EPA was addressing in that **Federal Register** notice, EPA stated that “the Agency has considered and addressed the potential impact of the general permit on small entities in a manner that would meet the requirements of the RFA if it applied.” *Id.*

Subsequent to EPA’s conclusion in 1998 that general permits are adjudications rather than rules, as noted above, the DC Circuit recently held that Nationwide general permits under section 404 are “rules” rather than “adjudications.” Thus, this legal question remains “a difficult one” (*supra*). However, EPA continues to believe that there is a strong public policy interest in EPA applying the RFA’s framework and requirements to the Agency’s evaluation and consideration of the nature and extent of any economic impacts that a CWA general permit could have on small entities (*e.g.*, small businesses). In this regard, EPA believes that the Agency’s evaluation of the potential economic impact that a general permit would have on small entities, consistent with the RFA framework discussed below, is relevant to, and an essential component of, the Agency’s assessment of whether a CWA general permit would place requirements on dischargers that are appropriate and reasonable. Furthermore, EPA believes that the RFA’s framework and requirements provide the Agency with the best approach for the Agency’s evaluation of the economic impact of general permits on small entities. While using the RFA framework to inform its assessment of whether permit requirements are appropriate and reasonable, EPA will also continue to ensure that all permits satisfy the requirements of the Clean

Water Act. Accordingly, EPA has committed to operating in accordance with the RFA’s framework and requirements during the Agency’s issuance of CWA general permits (in other words, the Agency has committed that it will apply the RFA in its issuance of general permits as if those permits do qualify as “rules” that are subject to the RFA).

#### *B. Application of RFA Framework to Proposed Issuance of CGP*

EPA has concluded, consistent with the discussion in Section IV.A above, that the proposed issuance of the 2008 CGP could affect a substantial number of small entities. In the areas where the CGP is effective (see Section II.E), (those areas where EPA is the permit authority), an estimated 4,000 construction projects per year were authorized under the 2003 CGP, a substantial number of which could be operated by small entities. However, EPA has concluded that the proposed issuance of the 2008 CGP is unlikely to have an adverse economic impact on small entities. The draft 2008 CGP includes the same requirements as those of the 2003 CGP. Additionally, an operator’s use of the CGP is volitional (*i.e.*, a discharger could apply for an individual permit rather than for coverage under this general permit) and is less burdensome than an individual NPDES permit. EPA intends to include an updated economic screening analysis with the issuance of the next CGP.

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 7, 2008.

**Ira Leighton,**  
*Acting Regional Administrator, EPA Region 1.*

Dated: May 8, 2008.

**Walter Mugden,**  
*Director, Division of Environmental Planning & Protection, EPA Region 2.*

Dated: May 6, 2008.

**Carl-Axel P. Soderberg,**  
*Division Director, Caribbean Environmental Protection Division, EPA Region 2.*

Dated: May 7, 2008.

**Jon M. Capacasa,**  
*Director, Water Protection Division, EPA Region 3.*

Dated: May 7, 2008.

**Tinka Hyde,**  
*Acting Director, Water Division, EPA Region 5.*

Dated: May 8, 2008.

**William H. Honker,**  
*Acting Director, Water Quality Protection Division, EPA Region 6.*

Dated: May 8, 2008.

**William A. Spratlin,**  
*Director, Water, Wetlands and Pesticides Division, EPA Region 7.*

Dated: May 8, 2008.

**Debra H. Thomas,**  
*Deputy Assistant Regional Administrator, Office of Partnerships & Regulatory Assistance, EPA Region 8.*

Dated: May 6, 2008.

**Alexis Strauss,**  
*Director, Water Division, EPA Region 9.*

Dated: May 7, 2008.

**Michael Gearheard,**  
*Director, Office of Water and Watersheds, EPA Region 10.*

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**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[ER-FRL-6698-9]**

### **Environmental Impact Statements and Regulations; Availability of EPA Comments**

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2) (c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202-564-7167.

An explanation of the ratings assigned to draft environmental impact

statements (EISs) was published in FR dated April 11, 2008 (73 FR 19833).

#### Draft EISs

*EIS No. 20070344, ERP No. D-FHW-B40172-VT*, Circ-Williston Transportation Project, Improvements between I-89 and the Towns Williston and Essex and the Village of Essex Junction, City of Burlington, Chittenden County, VT.

*Summary:* EPA has environmental objections to the proposed Circ A-B alternatives based on environmental impacts to wetlands, water resources and storm water, air quality, indirect and cumulative impacts and hydrologic impacts. EPA also noted that the VT 2A alternatives appear to include the least environmentally damaging practicable alternative. Rating EO2.

*EIS No. 20080010, ERP No. D-FHW-E40819-00, US-231/I-10 Connector Project HPP-1602-(507)*, Proposal to Build Limited Access Facility from US 231 North of Dothan to the Alabama/Florida State Line, Dale, Houston, Geneva Counties, AL.

*Summary:* EPA expressed environmental concerns about impacts related to noise, aquatic resources and community impacts, as well as to the 100-year floodplains. Rating EC2.

*EIS No. 20080038, ERP No. D-BLM-J65507-WY*, West Antelope Coal Lease Application (Federal Coal Lease Application WYW163340), Implementation, Converse and Campbell Counties, WY.

*Summary:* EPA expressed environmental concerns about impacts to air quality based on monitored data, wildlife habitat and wetlands. The final EIS should address these issues, and include mitigation for air quality and wetlands where applicable. Rating EC2.

*EIS No. 20080043, ERP No. D-FTA-K39111-HI*, Lahaina Small Boat Harbor Ferry Pier Project, To Build a New Inter-island Ferry Pier, Maui, Hawaii.

*Summary:* EPA expressed environmental concerns about the proposed project related to dredging, water quality, habitat, and cumulative impacts. In particular, EPA is concerned that the document does not discuss how the dredging and construction associated with the project will be performed and the impacts of those methods. Rating EC2.

*EIS No. 20080091, ERP No. D-AFS-J65513-WY*, Winter Elk Management Programs, Long-Term Special Use Authorization for Wyoming Game and Fish Commission to use National Forest System Land within the

Bridger-Teton National Forest at Alkali Creek, Dog Creek, Fall Creek, Fish Creek, Muddy Creek, Patrol Cabin, and Upper Green River, Jackson and Sublette, WY.

*Summary:* EPA expressed environmental concerns about potential impacts to water quality resulting from stream bank damage, erosion, and sedimentation. EPA requested that the Final EIS provide additional information on existing water quality conditions and consider additional mitigation to reduce potential impacts. Rating EC2.

*EIS No. 20080111, ERP No. D-COE-E09811-00, WITHDRAWN-PROGRAMMATIC—Hydropower Rehabilitations, Dissolved Oxygen and Minimum Flow Regimes at Wolf Creek Dam, Kentucky and Center Hill and Dale Hollow Dams, Tennessee, Implementation.*

*Summary:* Officially withdrawn by the preparing agency. Rating NW.

*EIS No. 20080129, ERP No. D-FHW-J40182-UT*, Layton Interchange Project, Improvements on I-15 (Exit-330) to Provide Unrestricted Access Across the Unicon Pacific Railroad and to Address Traffic Congestion on Gentile St. in West Layton, Layton City, UT.

*Summary:* While EPA has no objections to the proposed action, EPA did request clarification of the air quality analysis. Rating LO.

#### Final EISs

*EIS No. 20070458, ERP No. F-FHW-B40086-CT*, CT 82/85/11 Corridor Transportation Improvements, Selected Preferred Alternative, is a Modification of Alternative 4(E), Funding and COE Section 404 Permit, In the Towns of Salem, Montville, East Lyme and Waterford, CT.

*Summary:* EPA has environmental objections to the proposed project about the evaluation of alternatives, the significance of impacts on the aquatic ecosystem, and compensatory mitigation issues.

*EIS No. 20080099, ERP No. F-FHW-E40778-NC*, US 74 Shelby Bypass Transportation Improvements, Preferred Alternative is 21, Construction, Funding and COE Section 404 Permit, Cleveland County, NC.

*Summary:* EPA expressed environmental concerns about the impacts to streams, potential prime farmland impacts, potential impacts to the protection of surface water quality within a protected water supply watershed and indirect and cumulative

impacts. EPA is also concerned that impacts from mobile source air toxics were not addressed.

*EIS No. 20080102, ERP No. F-BLM-K65323-00*, Yuma Field Office (YFO) Resource Management Plan, Provide Direction Managing Public Lands, Implementation, Yuma, La Paz and Maricopa Counties, AZ and Imperial and Riverside Counties, CA.

*Summary:* The final EIS addressed EPA's comments; therefore, EPA does not object to the project.

*EIS No. 20080131, ERP No. F-AFS-K65332-CA*, Eldorado National Forest Public Wheeled Motorized Travel Management Project, Proposes to Regulate Unmanned Public Wheeled Motor Vehicle, Implementation, Alpine, Amador, El Dorado, and Placer Counties, CA.

*Summary:* EPA continues to have environmental concerns about the potential adverse impacts on water quality and sensitive resources. As the plan is implemented we continue to recommend eliminating routes in sensitive and easily damaged, high elevation habitat.

*EIS No. 20080094, ERP No. FS-AFS-L65453-ID*, North Sheep Allotments—Sheep and Goat Allotment Management Plans, Additional Information on Analyses Concerning Management Indicator Species, Capable and Suitable Grazing Lands, and Adaptive Management Strategies, Authorization of Continued Sheep Grazing for Fisher Creek, Smiley Creek, North Fork-Boulder and Baker Creek Sheep and Goat Grazing Allotments, Sawtooth National Forest, Ketchum Ranger District, Sawtooth National Recreation Area, Blaine and Custer Counties, ID.

*Summary:* While EPA supports adaptive management we have concerns that the monitoring necessary to implement adaptive management may not be implemented. Providing an indication that funding will be available for the adaptive management is recommended.

*EIS No. 20080127, ERP No. FS-FHW-J40135-MT*, US 93 Highway Ninepipe/Ronan Improvement Project, from Dublin Gulch Road/Red Horn Road, Funding, Special-Use Permit, NPDES Permit and U.S. Army COE Section 404 Permit, Lake County, MT.

*Summary:* EPA has environmental concerns with the proposed project regarding impacts to wetlands and aquatic habitat, as well as impacts to wildlife and wildlife movement. Additional information is needed to

fully assess and mitigate all potential impacts of the management actions.

Dated: May 13, 2008.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

[FR Doc. E8-11069 Filed 5-15-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6698-8]

### Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>.

Weekly Receipt of Environmental Impact Statements

Filed May 5, 2008 Through May 9, 2008 Pursuant to 40 CFR 1506.9.

*EIS No. 20080181, Draft EIS, FAA, OH, Port Columbus International Airport (CMH) Project, Replacement of Runway 10R/28L, Development of a New Passenger Terminal and other Associated Airport Projects, Funding, City of Columbus, OH, Comment Period Ends: 07/11/2008, Contact: Katherine Jones 734-229-2958.*

*EIS No. 20080182, Final EIS, AFS, NM Perk-Grindstone Fuel Reduction Project, To Protect Life, Property, and Natural Resources, Village of Ruidoso, Lincoln National Forest, Lincoln County, New Mexico, Wait Period Ends: 06/16/2008, Contact: Ron Hannan 575-434-7245.*

*EIS No. 20080183, Final EIS, FHW, 00, US-131 Improvement Study, from the Indiana Toll Road (I-80/90) to a Point One Mile North of Cowling Road, U.S. Army COE Section 404 Permit, St. Joseph County, MI and Elkhart County, IN, Wait Period Ends: 06/16/2008, Contact: David T. Williams 517-702-1820.*

*EIS No. 20080184, Draft EIS, FHW, IA, I-29 Improvements in Sioux City, Construction from Burlington Northern Santa Fe Rail Road (BNSF) Bridge over the Missouri River to Existing Hamilton Boulevard Interchange, Woodbury County, IA, Comment Period Ends: 06/30/2008, Contact: Philip Barnes 515-233-7300.*

*EIS No. 20080185, Draft Supplement, FSA, 00, Programmatic—Expansion of the Emergency Conservation Program, To Restore Farmland (Cropland, Hayland and Pastureland) to a Normal Productive State after a Natural Disaster, Comment Period Ends: 06/*

*30/2008, Contact: Matthew Ponish 202-720-6853.*

*EIS No. 20080186, Draft EIS, FAA, NV, City of Mesquite, Proposed Replacement General Aviation Airport, Implementation, Clark County, NV, Comment Period Ends: 07/03/2008, Contact: Barry Franklin 650-876-2778.*

*EIS No. 20080187, Final EIS, AFS, MT, Marten Creek Project, Proposed Timber Harvest, Prescribed Fire Burning, Watershed Restoration, and Associated Activities, Cabinet Ranger District, Kootenai National Forest, Sanders County, MT, Wait Period Ends: 06/16/2008, Contact: John Head 406-827-3533.*

*EIS No. 20080188, Final EIS, IBW, CA, Programmatic—Tijuana River Flood Control Project, Proposing a Range of Alternatives for Maintenance Activities and Future Improvements, San Diego County, CA, Wait Period Ends: 06/16/2008, Contact: Daniel Borunda 915-832-4767.*

*EIS No. 20080189, Final EIS, NSA, NM, Continued Operations of Los Alamos National Laboratory, Proposal to Expand Overall Operational Levels, (DOE/EIS-0380), Site Wide, Los Alamos County, NM, Wait Period Ends: 06/16/2008, Contact: Elizabeth Withers 505-665-0308.*

*EIS No. 20080190, Draft Supplement, USA, 00, Programmatic—Army Growth and Force Structure Realignment, Evaluation of Alternatives for Supporting the Growth, Realignment, and Transformation of the Army to Support Operations in the Pacific Theater, Implementation, Nationwide and the Pacific Region of AK, HI, Comment Period Ends: 06/30/2008, Contact: Mike Ackerman 410-436-2522.*

*EIS No. 20080191, Final Supplement, AFS, MT, Fishtrap Project, Updated Information on Past Maintenance/Restorative Treatments within Old Growth Stands, Timber Harvest, Prescribed Burning, Road Construction and Other Restoration Activities, Lolo National Forest, Plains/Thompson Falls Ranger District, Sanders County, MT, Wait Period Ends: 06/30/2008, Contact: Randy Hojem 406-826-4308.*

*EIS No. 20080192, Draft EIS, AFS, MT, Sheppard Creek Post-Fire Project, Timber Salvage, Implementation, Flathead National Forest, Flathead and Lincoln Counties, MT, Comment Period Ends: 07/01/2008, Contact: Bryan Donner 406-758-3508.*

### Amended Notices

*EIS No. 20080106, Draft EIS, AFS, CO, Long Draw Reservoir Project, Re-Issue a Special-Use-Authorization to Water Supply and Storage to Allow the Continued Use of Long Draw Reservoir and Dam, Arapaho and Roosevelt National Forests and Pawnee National Grassland, Grand and Larimer Counties, CO, Comment Period Ends: 06/11/2008, Contact: Ken Tu 970-295-6623. Revision of FR Notice Published 03/28/2008: Extending Comment Period from 05/12/2008 to 06/11/2008.*

*EIS No. 20080163, Draft EIS, AFS, AK, Withdrawn—Spencer Mineral Materials Project, Proposal to Develop and Extract Quarry Rock and Gravel from a Site near Spencer Glacier, Chugach National Forest, Kenai Borough, AK, Comment Period Ends: 06/16/2008, Contact: Alice Allen 605-673-4853. Revision to FR Notice Published 05/02/2008: Officially Withdrawn by the Preparing Agency.*  
*EIS No. 20080171, Draft EIS, NOA, WA, Proposed Authorization of the Makah Indian Tribe's Request to Hunt Gray Whales in the Tribe's Usual and Accustomed Fishing Grounds off the Coast of Washington, Comment Period Ends: 07/08/2008, Contact: Donna Darm 206-526-6150. Revision to FR Notice Published 05/09/2008: Correction to Title and Comment Period from 07/07/2008 to 07/08/2008.*

Dated: May 13, 2008.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0046; FRL-8361-6]

### Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before June 16, 2008.

**ADDRESSES:** Submit your comments, identified by docket identification (ID)