

drug medicated feed. This correction is being made to improve the accuracy of the animal drug regulations.

#### List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Accordingly, 21 CFR part 558 is corrected by making the following correcting amendment:

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

#### § 558.530 [Corrected]

■ 2. In § 558.530, remove and reserve paragraphs (d)(4)(i) and (d)(4)(xvii).

Dated: March 17, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011-6790 Filed 3-23-11; 8:45 am]

BILLING CODE 4160-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 558

[Docket No. FDA-2010-N-0002]

#### New Animal Drugs for Use in Animal Feeds; Florfenicol; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Correcting amendments.

**SUMMARY:** The Food and Drug Administration (FDA) published a document in the *Federal Register* of June 17, 2010 (75 FR 34361) revising the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA). That document contained an incorrect table entry describing the maximum florfenicol concentration in Type B medicated swine feeds. This correction is being made to improve the accuracy of the animal drug regulations.

**DATES:** This rule is effective March 24, 2011.

#### FOR FURTHER INFORMATION CONTACT:

George K. Haibel, Center for Veterinary Medicine (HFV-6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-276-9019, e-mail: [george.haibel@fda.hhs.gov](mailto:george.haibel@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The Food and Drug Administration (FDA) published a document in the *Federal Register* of June 17, 2010 (75 FR 34361) revising the animal drug regulations to

reflect approval of a supplemental new animal drug application (NADA). That document contained an incorrect table entry describing the maximum florfenicol concentration in Type B medicated swine feeds. This correction is being made to improve the accuracy of the animal drug regulations.

#### List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Accordingly, 21 CFR part 558 is corrected by making the following correcting amendments:

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

#### § 558.4 [Corrected]

■ 2. In paragraph (d) of § 558.4, in the “Category II” table, in the “Type B maximum (100x)” column, in the entry for “Florfenicol”, remove “Swine feed: n/a”, “Catfish feed: n/a”, and “Salmonid feed: n/a” and in their places add “9.1 g/lb (2.0%)”.

Dated: March 17, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011-6789 Filed 3-23-11; 8:45 am]

BILLING CODE 4160-01-P

## POSTAL SERVICE

### 39 CFR Parts 111 and 121

#### Combined Mailings of Standard Mail and Periodicals Flats

AGENCY: Postal Service.™

ACTION: Final rule; withdrawal.

**SUMMARY:** The Postal Service is withdrawing a final rule that would have provided a new option for mailers to combine mailings of Standard Mail® flats and Periodicals flats within the same bundle, when placed on pallets, and to combine bundles of Standard Mail flats and bundles of Periodicals flats on the same pallet. The Postal Service also withdraws the *Code of Federal Regulations* revision to reflect that Standard Mail service standards apply to all Periodicals flats pieces entered in such combined mailings. **DATES:** The final rule published on February 28, 2011 (76 FR 10757), is withdrawn effective March 24, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Leon at 202-268-7443, or Kevin Gunther at 202-268-7208.

**SUPPLEMENTARY INFORMATION:** In a final rule published in the *Federal Register*

on February 28, 2011, the Postal Service provided a new option for mailers to combine Standard Mail flats and Periodicals flats, when bundled and placed on pallets. Mailers using this option would have combined different-class mailpieces within the same bundle (comail), or combined separate same-class bundles (of different classes) on the same pallet (copalletize) to maximize presorting or to qualify for deeper destination entry discounts. All mailpieces prepared under this option were required to be bundled and placed on pallets.

In consideration of concerns expressed by members of the mailing community, the Postal Service has elected to withdraw this final rule and will publish these standards as a proposed rule concurrently.

The Postal Service also withdraws the revision to 39 CFR part 121.2 whereby we added a new item “c” to describe the USPS processing of Periodicals mailpieces included in combined mailings of Standard Mail flats and Periodicals flats, and specifying that Periodicals mailpieces included in these mailings will be assigned the service standards applicable to Standard Mail pieces.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2011-6911 Filed 3-23-11; 8:45 am]

BILLING CODE 7710-12-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[EPA-R03-RCRA-2010-0132; FRL-9285-7]

#### Hazardous Waste Management System Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA, also the Agency or we in this preamble) today is granting a petition submitted by Babcock & Wilcox Nuclear Operations Group, Inc., the current owner, and to BWX Technologies, Inc., as predecessor in interest to the current owner, identified collectively hereafter in this preamble as “B&W NOG,” to exclude (or delist) on a one-time basis from the lists of hazardous waste, a certain solid waste generated at its Mt. Athos facility near Lynchburg, Virginia.

After careful analysis, we have concluded that the petitioned waste is

not hazardous waste. This exclusion applies to 148 cubic yards of sludge currently deposited in two on-site surface impoundments designated as Final Effluent Ponds (FEPs) 1 and 2. Accordingly, this final rule conditionally excludes this volume of the petitioned waste from the requirements of the hazardous waste regulation under the Resource Conservation and Recovery Act (RCRA).

**DATES:** *Effective Date:* March 24, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R03-RCRA-2010-0132. The public docket for this final rule is located at the Environmental Protection Agency Region III, Land and Chemicals Division, Office of Technical and Administrative Support, Mail Code: 3LC10, 1650 Arch Street, Philadelphia, PA 19103-2029. The docket is available for viewing from 8 a.m. to 3 p.m., Monday through Friday, excluding Federal holidays. You may copy material from any regulatory docket at a cost of \$0.15 per page. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You should make an appointment with the office at least 24 hours in advance. Docket materials are also available electronically through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For further technical information concerning this document or for appointments to view the docket for the B&W NOG facility petition, contact David M. Friedman, Environmental Protection Agency Region III, Land and Chemicals Division, Office of Technical and Administrative Support, Mail Code: 3LC10, 1650 Arch Street, Philadelphia, PA 19103-2029, by calling 215-814-3395 or by e-mail at [friedman.davidm@epa.gov](mailto:friedman.davidm@epa.gov).

**SUPPLEMENTARY INFORMATION:** The information in this preamble is organized as follows:

I. Overview Information

II. Background

- A. What is a delisting petition?
- B. What regulations allow a hazardous waste generator to petition for a delisting of its waste?
- C. What information must the petitioner supply?

III. B&W NOG's Delisting Petition

- A. What waste is the subject of B&W NOG's petition?
- B. What information was submitted in support of this petition?

IV. EPA's Evaluation and Final Decision

- A. Why is EPA approving this petition?
- B. What limitations are associated with this exclusion?
- C. When is the final rule effective?

- D. How does this action affect States?
- V. Public Comment Received on the Proposed Exclusion
  - A. Who submitted comments on the proposed rule?
  - B. Comment and Response From EPA
- VI. Statutory and Executive Order Reviews

**I. Overview Information**

On October 7, 2010, we proposed to grant a petition submitted by B&W NOG to exclude (or delist) from the definition of hazardous waste on a one-time basis, wastewater treatment sludge generated at its Mt. Athos facility near Lynchburg, VA, and currently deposited in two on-site surface impoundments designated as FEPs 1 and 2. Today we are finalizing the decision to grant a conditional exclusion as described in the October 7, 2010 proposed rule (75 FR 62040).

**II. Background**

*A. What is a delisting petition?*

A delisting petition is a request from a facility to EPA or an authorized State to exclude waste from the list of hazardous wastes on a site-specific basis. A facility petitions EPA because it believes the waste should not be considered hazardous under RCRA.

In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which the waste was listed. The criteria which EPA uses to evaluate a waste for listing are found in 40 CFR 261.11. An explanation of how these criteria apply to a waste is contained in the background document for that particular listed waste.

In addition to the criteria that we used when we originally listed the waste, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics found in 40 CFR 261, Subpart C, and must present sufficient information for EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste as required by Section 3001(f) of RCRA (42 U.S.C. 6921(f)) and 40 CFR 260.22(a).

A petitioner who is granted a delisting by EPA or an authorized State remains obligated under RCRA to confirm that the delisted waste remains nonhazardous based on the hazardous waste characteristics and must ensure that the waste meets the conditions set forth.

*B. What regulations allow a hazardous waste generator to petition for a delisting of its waste?*

Under 40 CFR 260.20 and 262.22, a generator may petition EPA to remove its waste from hazardous waste

regulation by excluding it from the lists of hazardous wastes contained in 40 CFR 261, Subpart D. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273. 40 CFR 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

*C. What information must the petitioner supply?*

A petitioner must provide sufficient information to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, EPA must determine that the waste is not hazardous for any other reason.

**III. B&W NOG's Delisting Petition**

*A. What waste is the subject of B&W NOG's petition?*

On February 21, 2003, B&W NOG (then known as BWX Technologies, Inc.) petitioned EPA to exclude from the lists of hazardous waste contained in 40 CFR 261.31 on a one-time basis, the sludge which was deposited in FEPs 1 and 2 because it believed that the petitioned waste did not meet any of the criteria for which the waste was listed and because there were no additional constituents or factors that would cause the waste to be hazardous. This sludge was derived in part from the treatment of wastewater in the pickle acid treatment system and, therefore, was designated as EPA Hazardous Waste No. F006 (wastewater treatment sludge from electroplating operations). The volume of sludge contained in each FEP at that time was determined to be 6,600 cubic yards, for a combined sludge volume of 13,200 cubic yards.

In addition, although the routing of treated wastewaters into the FEPs has changed during the operating history of these units, at some point they have both received treated wastewater from the low level radioactive treatment system. Because of this, the sludge in these units is classified as a "mixed waste" under RCRA. A mixed waste is defined as a waste that contains both a radioactive component subject to the Atomic Energy Act (AEA), as amended, and a hazardous component subject to RCRA.

On September 3, 2008, B&W NOG notified EPA that it had successfully completed a sludge removal project at FEPs 1 and 2. Sludge was removed from these units and disposed of at a mixed

waste disposal facility permitted under the authority of both RCRA and the Atomic Energy Act. B&W NOG conservatively estimated that of the 13,200 cubic yards of sludge in both units, only 148 cubic yards (less than 2 percent of the original volume) remained. In this notification, B&W NOG requested that its petition be amended to reflect the reduced volume, and that the Agency proceed with the delisting request based on the new volume.

For a detailed description of how the waste was generated, please refer to the October 7, 2010 proposed rule.

*B. What information was submitted in support of this petition?*

B&W NOG submitted detailed descriptions of the processes generating the waste. B&W NOG also asserted that the waste does not meet the criteria for which the F006 waste was listed and that there are no other factors that might cause the waste to be hazardous.

To support its assertion that the waste is not hazardous, B&W NOG implemented a comprehensive strategy for evaluating the sludge in the FEPs consisting of a two-phase sampling and analysis plan. Details of this plan and the analytical results from representative samples of the sludge are contained in the October 7, 2010 proposed rule.

**IV. EPA's Evaluation and Final Decision**

*A. Why is EPA approving this petition?*

Today EPA is finalizing a one-time exclusion for the 148 cubic yards of wastewater treatment sludge generated at the B&W NOG's Mt. Athos facility and currently deposited in two on-site surface impoundments designated as FEPs 1 and 2. B&W NOG petitioned EPA to exclude, or delist, the wastewater treatment sludge because B&W NOG believed that the petitioned waste did not meet the criteria for which it was listed and that the waste was not hazardous for any other reason. Review of this petition included consideration of the original listing criteria, as well as factors (including additional constituents) other than those for which the waste was listed as required by the Hazardous and Solid Waste Amendments (HSWA) of 1984 to RCRA. See, Section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(a)(1) and (2).

On October 7, 2010, we proposed to conditionally exclude the remaining 148 cubic yards of wastewater treatment sludge currently deposited in FEPs 1 and 2 at the B&W NOG's Mt. Athos facility from the list of hazardous waste

in 40 CFR 261.31, and requested public comment on the proposed rule. For reasons stated in both the proposed rule and in today's preamble, we determined that B&W NOG's wastewater treatment sludge should be excluded from regulation as a hazardous waste.

*B. What limitations are associated with this exclusion?*

This exclusion applies only to the estimated 148 cubic yards of sludge currently deposited in FEPs 1 and 2 at the B&W NOG's Mt. Athos facility.

B&W NOG states in its petition that this sludge contains low levels of radioactivity, and that it is, and if delisted by EPA will remain subject to, Nuclear Regulatory Commission (NRC) regulations. Although the sludge currently resides in the FEPs and will continue to do so for many years, the FEPs will be subject to NRC decommissioning rules when they are taken out of service. At that time, any sludge remaining in the units will have to be removed and disposed of in a facility licensed to accept low-level radioactive waste.

In order to adequately track wastes that have been delisted, when a decision is made to dispose of all or of part of the sludge off-site, we are requiring that B&W NOG provide a one-time notification to any State regulatory agency to which or through which the delisted waste will be transported for disposal. B&W NOG will be required to provide this notification at least 60 calendar days prior to commencing these activities.

*C. When is the final rule effective?*

This rule is effective March 24, 2011. HSWA amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. For these same reasons, this rule can and will become effective immediately upon publication pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d).

*D. How does this action affect States?*

Today's exclusion is being issued under the Federal RCRA delisting program. Therefore, only States subject to Federal RCRA delisting provisions would be affected. This exclusion is not effective in States that have received EPA authorization to make their own delisting decisions. Also, this exclusion may not be effective in States having a dual system that includes Federal RCRA

requirements and their own requirements.

We allow States to impose their own regulatory requirements that are more stringent than EPA's under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the State until the State approves the exclusion through a separate State administrative action. Because a dual system (that is, both Federal and State programs) may regulate a petitioner's waste, we urge petitioners to contact the applicable State regulatory authorities or agencies to establish the status of their waste under that State's hazardous waste program.

We have also authorized some States to administer a delisting program in place of the Federal program; that is, to make delisting decisions pursuant to EPA authorized State regulations. Therefore, the petition for an exclusion that EPA is granting today does not necessarily apply within those authorized States. If B&W NOG transports the petitioned waste to, or manages the waste in, any State which has received delisting authorization from EPA, B&W NOG must obtain delisting approval from that State before it can manage the waste as nonhazardous in that State.

**V. Public Comment Received on the Proposed Exclusion**

*A. Who submitted comments on the proposed rule?*

We received public comments on the October 7, 2010 proposed exclusion from counsel for B&W NOG, on behalf of the petitioner.

*B. Comment and Response From EPA*

*Comment:* The commenter requested a clarification of the regulatory status of the minimal amounts of newly generated suspended solids that are not captured by the dewatering process for the currently generated wastewater treatment sludge, which is generated for the purpose of disposal as filter cake solids. As explained in the October 7, 2010 proposed exclusion, on January 14, 2000 (65 FR 2337), EPA granted an exclusion to B&W NOG (known then as BWX Technologies, Inc.), for its currently generated F006 wastewater treatment sludge (*i.e.*, the filter cake solids). However, suspended solids carry over in the effluent from the sludge dewatering process and settle out in the FEPs as a portion of the sludge accumulation in these units (currently only in FEP 2).

The commenter stated that it was not clear whether the “currently deposited” wording in the proposal refers to the sludge now residing in the FEPs, or the current sludge plus the minimal future accumulations contributed by the suspended solids carryover. The commenter stated that there is no practical difference between the filter cake solids, the FEP sludge that is the subject of today’s exclusion, and the suspended solids carryover. The commenter further stated that the filter cake solids and the suspended solids carryover are physically (except for water content) and chemically identical, since they are both the precipitated electroplating sludge either (1) captured on the filter media and subject to the January 14, 2000 exclusion or (2) escaping that process, carried over in the effluent from the filtering process, subsequently settling out in FEP 2 and similarly subject to the earlier delisting.

*Response:* As noted in the October 7, 2010, proposed exclusion, on January 14, 2000, EPA finalized a delisting for the current production of filter cake solids from the pickle acid wastewater system. The suspended solids carryover that is the subject of this commenter’s request for clarification are uncaptured portions of the newly generated filter cake which escape the dewatering process. EPA agrees with the commenter that these suspended solids are identical in all respects to the filter cake except for water content.

Recognizing that no filtration process is 100 percent efficient, it was EPA’s intention that this minimal amount of newly generated suspended solids carryover described above be included as part of the January 14, 2000 exclusion for the currently generated sludge.

## VI. Statutory and Executive Order Reviews

Under Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular

facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, “Federalism,” (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

Similarly, because this rule will affect only a particular facility, this final rule does not have Tribal implications, as specified in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the Delisting Risk Assessment Software (DRAS) program, which considers health and safety risks to infants and children, to calculate the cumulative carcinogenic and noncarcinogenic risk. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by

section 3 of Executive Order 12988, “Civil Justice Reform,” (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties, 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

## List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**Authority:** Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: March 17, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

For the reasons set forth in the preamble, 40 CFR Part 261 is amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for Part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

### Appendix IX of Part 261—[Amended]

■ 2. Table 1 of Appendix IX of Part 261 is amended to add the following waste stream in alphabetical order by facility to read as follows:

**Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22**

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
<p>* * Babcock &amp; Wilcox Nuclear Operations Group, Inc., current owner, and BWX Technologies, Inc., predecessor in interest to the current owner, identified collectively hereafter as “B&amp;W NOG”.</p>	<p>* * Lynchburg, Virginia .....</p>	<p>* * Wastewater treatment sludge from electroplating operations (Hazardous Waste Number F006) generated at the Mt. Athos facility near Lynchburg, VA and currently deposited in two on-site surface impoundments designated as Final Effluent Ponds (FEPs) 1 and 2. This is a one-time exclusion for 148 cubic yards of sludge and is effective after March 24, 2011. (1) <i>Reopener language.</i> (A) If B&amp;W NOG discovers that any condition or assumption related to the characterization of the excluded waste which was used in the evaluation of the petition or that was predicted through modeling is not as reported in the petition, then B&amp;W NOG must report any information relevant to that condition or assumption, in writing, to the Regional Administrator and the Virginia Department of Environmental Quality within 10 calendar days of discovering that information (B) Upon receiving information described in paragraph (a) of this section, regardless of its source, the Regional Administrator will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate action deemed necessary to protect human health or the environment (2) <i>Notification Requirements</i> In the event that the delisted waste is transported off-site for disposal, B&amp;W NOG must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported at least 60 calendar days prior to the commencement of such activities. Failure to provide such notification will be deemed to be a violation of this exclusion and may result in revocation of the decision and other enforcement action</p>

[FR Doc. 2011-6892 Filed 3-23-11; 8:45 am]  
BILLING CODE 6560-50-P

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

**49 CFR Part 1155**

[Docket No. EP 684]

**Solid Waste Rail Transfer Facilities**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Clean Railroads Act of 2008 amended the law to restrict the jurisdiction of the Surface Transportation Board (Board or STB) over solid waste rail transfer facilities. The Clean Railroads Act also added three new statutory provisions that address the Board’s regulation of such facilities, which is now limited to issuance of “land-use-exemption permits” in certain circumstances. Upon receiving a land-use-exemption permit issued by the Board, a solid waste rail transfer facility need not comply with State laws, regulations, orders, and

other requirements affecting the siting of the facility, except to the extent that the Board requires compliance with any of those requirements. The Clean Railroads Act provides that a solid waste rail transfer facility must comply with all applicable Federal and State requirements respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, in the same manner as any similar solid waste management facility not owned or operated by or on behalf of a rail carrier, except for laws affecting the siting of the facility that are covered by the land-use-exemption permit. As required by the Clean Railroads Act, on January 14, 2009, the Board issued interim rules that were published in the **Federal Register** on January 27, 2009 (2009 interim rules). Based on the comments received and further evaluation, the Board now modifies the review process for land-use-exemption permits under the Clean Railroads Act and modifies other aspects of the 2009 interim rules, in the interest of clarity and efficiency. The Board requests comments on the modifications contained in the interim rules.

**DATES:** *Effective date:* March 24, 2011.

*Comment date:* Comments are due May 23, 2011. Reply comments are due by June 22, 2011.

**ADDRESSES:** Comments may be submitted either via the Board’s e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board’s Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 684, 395 E Street, SW., Washington, DC 20423-0001.

Copies of written comments will be available for viewing and self-copying at the Board’s Public Docket Room, Room 131, and will be posted to the Board’s Web site.

**FOR FURTHER INFORMATION CONTACT:** Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 10501(a), the Board has jurisdiction over “transportation by rail