

# Notices

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Friday, July 12, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2012-0076]

#### Plants for Planting Whose Importation Is Not Authorized Pending Pest Risk Analysis; Notice of Availability of Data Sheets for Taxa of Plants for Planting That Are Quarantine Pests or Hosts of Quarantine Pests

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of availability and request for comments; reopening of comment period.

**SUMMARY:** We are reopening the comment period for a notice that made available to the public data sheets detailing the scientific evidence we evaluated in making the determination that certain taxa of plants for planting are quarantine pests or hosts of quarantine pests and, therefore, should be added to our lists of plants for planting whose importation is not authorized pending pest risk analysis. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** The comment period for the notice published May 6, 2013 (78 FR 26316) is reopened. We will consider all comments that we receive on or before August 12, 2013.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0076-0001>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2012-0076, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket

may be viewed at <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0076> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold Tschanz, Senior Regulatory Policy Specialist, Plants for Planting Policy, RPM, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2179.

**SUPPLEMENTARY INFORMATION:** On May 6, 2013, we published in the **Federal Register** (78 FR 26316-26317, Docket No. APHIS-2012-0076) a notice that made available to the public data sheets detailing the scientific evidence we evaluated in making the determination that certain taxa of plants for planting are quarantine pests or hosts of quarantine pests and, therefore, should be added to our lists of plants for planting whose importation is not authorized pending pest risk analysis.

Comments on the notice were required to be received on or before July 5, 2013. We are reopening the comment period on Docket No. APHIS-2012-0076 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between July 6, 2013 (the day after the close of the original comment period) and the date of this notice.

**Authority:** 7 U.S.C. 450 and 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of June, 2013.

**Kevin Shea,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2013-16722 Filed 7-11-13; 8:45 am]

**BILLING CODE 3410-34-P**

## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

### Sunshine Act Meeting

**TIME AND DATE:** July 25, 2013, 9:30 a.m.-4:30 p.m. EDT.

**PLACE:** Ronald Reagan Building and International Trade Center, Horizon Room, 1300 Pennsylvania Avenue NW., Washington, DC 20004.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on Thursday, July 25, 2013, starting at 9:30 a.m. EDT at the Ronald Reagan Building and International Trade Center, Horizon Room, 1300 Pennsylvania Avenue NW., Washington, DC 20004. Between 9:30 a.m. and 12:15 p.m., the Board will consider and vote on the status designations of the following three recommendations issued by the CSB to the U.S. Occupational Safety and Health Administration: (1) 2001-05-I-DE-1 (revision of Process Safety Management standard to clarify coverage of atmospheric storage tanks connected to process vessels); (2) 2005-04-I-TX-9 (revision of Process Safety Management standard to require management of change reviews for certain organizational changes); and (3) 2010-07-I-CT-1 (issuance of a general industry and construction standards for fuel gas safety).

Beginning at 1:30 p.m. EDT, the Board will consider and vote on the status designations of four recommendations related to the issuance of a general industry standard for combustible dusts as follows (1) 2006-1-H-R1 (from Combustible Dust Study); (2) 2008-5-I-GA-R11 (from Imperial Sugar report); (3) 2011-4-I-TN- and (4) 2011-4-I-TN-R2 (from Hoeganaes case study), and possibly other items at the discretion of the Chair.

This notice is to provide information to the public concerning the matters related to the seven recommendations to OSHA listed above, which will be considered during the meeting. At the meeting, the staff will present their evaluations of the implementation of these seven recommendations. Following the staff presentations in the morning and afternoon, the Board will hear brief statements from OSHA, interested stakeholders, and the public. The Board will consider these analyses and vote on the status to assign to each recommendation according to Board Order 22 [[http://www.csb.gov/assets/Record/BO\\_22.pdf](http://www.csb.gov/assets/Record/BO_22.pdf)].

In addition, at this meeting, the CSB will also consider the potential

designation of a general industry standard for combustible dust as a "Most Wanted Chemical Safety Improvement" issue under Board Order 46 [[http://www.csb.gov/assets/Record/Order\\_046\\_\(06122012\).pdf](http://www.csb.gov/assets/Record/Order_046_(06122012).pdf)].

The following section contains summaries of the staff evaluations for the recommendations that will be presented to the Board for consideration.

#### **SUPPLEMENTARY INFORMATION:**

##### **Recommendation to the U.S. Occupational Safety and Health Administration 2001-05-I-DE-1**

###### *Recommendation Text*

Ensure coverage under the Process Safety Management Standard (29 CFR 1910.119) of atmospheric storage tanks that could be involved in a potential catastrophic release as a result of being interconnected to a covered process with 10,000 pounds of a flammable substance.

###### *Rationale for Recommendation*

The recommendation followed a fatal explosion involving a poorly maintained and corroded atmospheric aboveground tank containing spent sulfuric acid and flammable hydrocarbons at the Motiva Enterprises refinery in Delaware City in July 2001. The company considered the tank to be exempt from the OSHA Process Safety Management standard under the 1997 *Meer* decision. This decision was issued by an administrative law judge of the U.S. Occupational Safety and Health Review Commission. The decision, exempts from PSM coverage, "flammable liquids stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration." The CSB Motiva investigation concluded that if Motiva had adhered to a PSM standard requirements for the tank, the accident could have been avoided.

###### *Summary of OSHA Response to the Recommendation*

OSHA does not agree that it is necessary to revise the PSM standard in order to clarify the issues of coverage of tanks connected to processes. As an alternative, OSHA reported to the CSB in 2003 that it would issue a revised PSM Compliance Directive that would clarify to all its compliance officers and to the regulated parties that tanks like the one at Motiva (which OSHA contended had a process function as well as a storage function) were covered under PSM. To date, however, OSHA has not revised its compliance directive.

An August 2012 communication from the Assistant Secretary projected completion of a revision in 6-9 months, and the agency's Spring 2013 regulatory agenda indicates that it is considering "clarifying the PSM exception for atmospheric storage tanks" as part of a broader revision of its PSM standard, 29 CFR 1910.119.

###### *Summary Evaluation*

Because ten years have passed and OSHA has yet to take any regulatory or other actions which would address the intent of the recommendation, CSB staff propose that the Board vote to designate Recommendation 2001-5-I-DE-R1 with the status "Open-Unacceptable Response."

##### **Recommendation to the U.S. Occupational Safety and Health Administration 2005-04-I-TX-R9**

###### *Recommendation Text*

Amend the OSHA PSM standard to require that a management of change (MOC) review be conducted for organizational changes that may impact process safety including:

- (a) Major organizational changes such as mergers, acquisitions, or reorganizations;
- (b) Personnel changes, including changes in staffing levels or staff experience; and
- (c) Policy changes, such as budget cutting.

###### *Rationale for Recommendation*

The CSB investigation of the 2005 explosions and fire at the former BP refinery in Texas City, Texas revealed that poorly managed corporate mergers, leadership and organizational changes, and budget cuts increased the risk of catastrophic accidents at the site. The CSB also noted that a 2002 survey revealed that organizational change was assessed in the Management of Change (MOC) programs of only forty-four percent (44%) of chemical processing companies, strongly suggesting that assessment of such organizational factors are not widely used in the industry. While OSHA's Process Safety Management (PSM) standard (29 CFR 1910.119) requires MOC analyses for changes to "process chemicals, technology, equipment, procedures; and, changes to facilities that affect a covered process," the CSB concluded that it does not explicitly require that employers conduct MOC reviews for organizational, personnel and policy changes that could affect process safety. Consequently, the CSB recommended that OSHA amend the PSM standard to clarify that MOC reviews must be

conducted for organizational, personnel, and policy changes that may impact process safety.

###### *Summary of OSHA Response to the Recommendation*

OSHA responded that the PSM standard already requires employers to develop and implement MOC reviews to determine the adequacy of all contemplated changes with respect to their safety and health impacts as they relate to "process chemicals, technology, equipment, procedures, and facilities." In OSHA's view, these are the types of changes encompassed by the CSB recommendation. In addition, OSHA sent a memorandum to all Regional Administrators to clarify this policy with regard to the coverage of organizational changes under the PSM's management of change requirements. The policy clarification was to be provided to OSHA's compliance officers. OSHA's Spring 2013 regulatory agenda indicates that the agency is considering expanding the scope of its PSM standard to "require greater organizational management of change from employers."

###### *Summary Evaluation*

A policy memorandum to OSHA Regional Administrators is not the permanent regulatory change envisioned by the Board, which sought an explicit change in the requirements of the standard through through rulemaking procedures. For this reason, staff propose that the Board vote to designate Recommendation 2005-04-I-TX-R9 with the status: "Open—Unacceptable Response."

##### **Urgent Recommendation to the U.S. Occupational Safety and Health Administration 2010-07-I-CT-UR1**

###### *Recommendation Text*

Promulgate regulations that address fuel gas safety for both construction and general industry. At a minimum:

- a. Prohibit the release of flammable gas to the atmosphere for the purpose of cleaning fuel gas piping.
- b. Prohibit flammable gas venting or purging indoors. Prohibit venting or purging outdoors where fuel gas may form a flammable atmosphere in the vicinity of workers and/or ignition sources.
- c. Prohibit any work activity in areas where the concentration of flammable gas exceeds a fixed low percentage of the lower explosive limit (LEL) determined by appropriate combustible gas monitoring.
- d. Require that companies develop flammable gas safety procedures and training that involves contractors, workers, and their representatives in decision-making.

### *Rationale for Recommendation*

The CSB investigated two natural gas explosions (Kleen Energy Natural Gas Explosion and ConAgra Natural Gas Explosion and Ammonia Release) and concluded that the fire and explosion hazards of releasing flammable gas in the presence of workers and ignition sources can be largely or entirely avoided through the use of currently available inherently safer methods than those currently in use in most workplaces. These CSB reports focused particularly on the hazards of gas purging in industrial establishments and “gas blows” conducted during the construction of gas-fired power plants; reports of these investigations can be found in the CSB Web page ([www.csb.gov](http://www.csb.gov)). The CSB also found that OSHA has three gas-specific standards for flammable gases that are used far less frequently in the workplace than natural gas. These existing gas standards apply to liquefied petroleum gases (propane and butane, 1910.110), hydrogen (1910.103) and acetylene (1910.102). Yet the Agency has no comprehensive fuel gas safety standard, despite the fact that fuel gases pose serious explosion and fire hazards and are in much more widespread use in OSHA-regulated workplaces.

### *Summary of OSHA Response to the Recommendation*

OSHA’s initial response to the recommendation described several forceful enforcement actions affecting the industry sector conducting “gas blows” during the construction of power plants—which the CSB commended—but stated only that it would “consider” a new fuel gas standard during its next regulatory review. In a subsequent notification, however, OSHA reported that it did not “believe this is the appropriate time to initiate the regulatory process.” Briefly stated, OSHA indicated that “the most prudent approach for OSHA is to monitor the implementation” of two recently revised NFPA standards and “evaluate their effectiveness at controlling the targeted hazards, and then determine if additional rulemaking is necessary to protect workers.” Moreover, OSHA did not include fuel gas rulemaking in the Agency’s most recent regulatory agenda (Spring 2013), indicating that it has no current intention to begin rulemaking in this arena.

### *Summary Evaluation*

Per 42 U.S.C. 7412(6)(j), OSHA must inform the CSB within 180 days whether it will initiate rulemaking (and

provide a timetable), or not initiate rulemaking (and explain why). OSHA’s latest response to the CSB recommendation indicates that the agency does not currently intend to pursue rulemaking, and provides a rationale for this decision.

CSB’s Board Order 22 obligates staff to recommend an “Open- Unacceptable Response” status for urgent recommendations that “[have] not been responded to in an acceptable manner within 6 months and [are] not at a point where completion is imminent.” In this case, OSHA’s apparently indefinite postponement of any regulatory action on fuel gases is inconsistent with the intent of the recommendation and staff propose that the Board vote to change the status of Recommendation 2010–07–I–CT–UR1 to “Open-Unacceptable Response.”

### **Recommendations to the U.S. Occupational Safety and Health Administration Related to the Prevention of Combustible Dust Fires and Explosions**

#### *Recommendation Text*

Recommendation 2006–1–H–R1 (from the Combustible Dust Hazard Investigation Study):

Issue a standard designed to prevent combustible dust fires and explosions in general industry. Base the standard on current National Fire Protection Association (NFPA) dust explosion standards (including NFPA 654 and NFPA 484), and include at least—hazard assessment,—engineering controls,—housekeeping,—building design,—explosion protection,—operating procedures, and—worker training.

Recommendation 2008–5–I–GA–R11 (from the Imperial Sugar report):

Proceed expeditiously, consistent with the Chemical Safety Board’s November 2006 recommendation and OSHA’s announced intention to conduct rulemaking, to promulgate a comprehensive standard to reduce or eliminate hazards from fire and explosion from combustible powders and dust.

Recommendation 2011–4–I–TN–R1 (from the Hoeganaes case study):

Ensure that the forthcoming OSHA Combustible Dust Standard includes coverage for combustible metal dusts including iron and steel powders.

Recommendation 2011–4–I–TN–R2 (from the Hoeganaes case study):

Develop and publish a proposed combustible dust standard for general industry within one year of the approval of this case study.

#### *Rationale for Recommendations*

After investigating three deadly combustible dust accidents that claimed

the lives of fourteen workers in 2003, the CSB conducted a comprehensive combustible dust hazard investigation study. Released in late 2006, the study concluded that voluntary consensus standards and enhanced regulatory enforcement efforts are insufficient to prevent dust fires and explosions that occur across a broad range of industries. The CSB therefore recommended that OSHA issue a combustible dust general industry standard. In 2009, after investigating the catastrophic sugar dust explosions at the Imperial Sugar Refinery in Port Wentworth, Georgia that killed 14 workers, the CSB issued a second recommendation calling on OSHA to “proceed expeditiously” with the rulemaking. In 2011, following its investigation of three iron dust-related incidents at the Hoeganaes Corporation facility in Gallatin, Tennessee, that killed five workers, the CSB issued two more recommendations to OSHA regarding the dust rulemaking: one calling for the inclusion of metal dust in the scope of the standard, and a second calling for issuance of a proposed rule within one year.

#### *Summary of OSHA Response to the Recommendations*

Initially resistant to the CSB’s recommendation to develop a new standard, in October 2007, OSHA launched a National Emphasis Program to improve regulatory enforcement in workplaces handling combustible dust. The program was revised and reissued in March 2008 to better target affected industries. That same month, OSHA distributed a combustible dust Safety and Health Information Bulletin (SHIB) to approximately 30,000 workplaces within industries with potential dust hazards.

In April 2009, OSHA indicated that it would commence a combustible dust rulemaking, and issued an Advanced Notice of Proposed Rulemaking in the **Federal Register** in October 2009. That winter, OSHA held a series of stakeholder meetings, but twice postponed the next step in the rulemaking process, the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel Review. In May 2011, OSHA held a Combustible Dust Expert Forum in May 2011. In January 2012, shortly after the release of CSB’s most recent recommendations to the agency, OSHA released its Fall 2011 Semiannual Regulatory Agenda, which indicated that an estimated date for the next step in the rulemaking process was “undetermined.” OSHA reiterated its commitment to developing a standard, however, in a June 14, 2012 letter to the CSB, and its most recent Semiannual

Regulatory Agenda estimates that the SBREFA Panel Review will be held in October 2013.

#### Summary Evaluation

OSHA has initiated a rulemaking to issue a combustible dust standard and continues to undertake noteworthy and important regulatory enforcement and educational efforts to prevent and control combustible dust hazards in the workplace. The federal rulemaking process is complex; however, a combustible dust general industry standard is urgently needed to prevent future fires and explosions from claiming the lives of American workers. In addition, more than six years have passed since the CSB first issued a recommendation for this standard. Therefore, staff propose that the Board vote to designate all four recommendations with the status: "Open-Unacceptable Response."

No factual analyses, conclusions, or findings presented by staff should be considered final. Only after the Board has considered the staff presentations and voted to approve a change in status of the recommendation should that status be considered final.

#### Additional Information

The meeting will be free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the "Contact Person for Further Information," at least five business days prior to the meeting.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

**PUBLIC COMMENT:** Members of the public are invited to make brief statements to the Board at the conclusion of the staff presentations in the morning and afternoon. The time provided for public statements will depend upon the number of people who wish to speak. Speakers should assume that their presentations will be limited to five minutes or less, and may submit written statements for the record.

**FOR FURTHER INFORMATION CONTACT:** Hillary J. Cohen, Communications Manager, [hillary.cohen@csb.gov](mailto:hillary.cohen@csb.gov) or (202) 446-8094. General information about

the CSB can be found on the agency Web site at: [www.csb.gov](http://www.csb.gov).

**Rafael Moure-Eraso,**  
Chairperson.

[FR Doc. 2013-16838 Filed 7-10-13; 4:15 pm]

**BILLING CODE 6350-01-P**

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-27-2013]

#### Foreign-Trade Zone 161—Sedgwick County, Kansas; Authorization of Production Activity; Siemens Energy, Inc. (Wind Turbine Nacelles and Hubs); Hutchinson, Kansas

On March 7, 2013, Siemens Energy, Inc., an operator of FTZ 161, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 20888, April 8, 2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 8, 2013.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2013-16784 Filed 7-11-13; 8:45 am]

**BILLING CODE 3510-DS-P**

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-25-2013]

#### Foreign-Trade Zone 39—Dallas-Fort Worth, Texas; CSI Calendering, Inc. (Rubber Coated Textile Fabric); Arlington, Texas

On March 4, 2013, the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of CSI Calendering, Inc., in Arlington, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 18314, March 26, 2013). Pursuant to Section 400.37, the FTZ Board has determined that further review is warranted and has not

authorized the proposed activity. If the applicant wishes to seek authorization for this activity, it will need to submit an application for production authority, pursuant to Section 400.23.

Dated: July 5, 2013.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2013-16777 Filed 7-11-13; 8:45 am]

**BILLING CODE 3510-DS-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC008

#### Endangered and Threatened Species; Recovery Plans

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability.

**SUMMARY:** We, NMFS, announce the adoption of an Endangered Species Act (ESA) recovery plan for Lower Columbia River Chinook salmon (*Oncorhynchus tshawytscha*), Lower Columbia coho salmon (*O. kisutch*), and Columbia River chum salmon (*O. keta*) evolutionarily significant units (ESUs) and the Lower Columbia River steelhead (*O. mykiss*) distinct population segment (DPS), all of which are listed as threatened under the ESA. The geographic area covered by the plan is the Lower Columbia River mainstem and tributaries downstream of (and including) the White Salmon River in Washington and the Hood River in Oregon. As required by the ESA, the plan contains objective, measurable delisting criteria, site-specific management actions necessary to achieve the plan's goals, and estimates of the time and costs required to implement recovery actions. The *Endangered Species Act (ESA) Recovery Plan for Lower Columbia River Chinook Salmon, Lower Columbia River Coho Salmon, Columbia River Chum Salmon, and Lower Columbia River Steelhead* (Plan) and our summary of and responses to public comments on the Proposed Plan are now available.

**ADDRESSES:** Electronic copies of the Plan and a summary of and response to public comments on the Proposed Plan are available on-line at [http://www.nwr.noaa.gov/protected\\_species/salmon\\_steelhead/recovery\\_planning\\_and\\_implementation/lower\\_columbia\\_river/lower\\_columbia\\_river\\_recovery\\_plan\\_for\\_salmon\\_steelhead.html](http://www.nwr.noaa.gov/protected_species/salmon_steelhead/recovery_planning_and_implementation/lower_columbia_river/lower_columbia_river_recovery_plan_for_salmon_steelhead.html). A CD-ROM