currently no blowers manufactured in the United States that have the same product specifications in place. The specifications for the new blowers required that both the gear-end and the drive-end of the blowers shall be oil splash lubricated for minimal maintenance and long service life. Grease lubricated bearings are not acceptable and maximum average noise level, within enclosure, 76 dba measured at 6 locations at a distance of 3 feet from the blower system.''

Since the original WWTP was built in 1990, additional homes in the community were constructed closer to the WWTP than existing houses had been. Moreover, because there is no additional space in the basement of the operations building, the two new blowers had to be constructed outside the operations building. The PSD has also provided information that the low-noise stand alone blower enclosure ensures that the plant does not become a noise nuisance to the Cedar Grove and Happy Valley Community. The Aerzen-style blowers are the quietest blowers available. Given the proximity of the new residents and the necessary exterior location of the blowers, the PSD had a reasonable and appropriate basis to limit the project specification to ultra-quiet blowers.

The PSD's submission clearly articulates entirely functional reasons for its technical specifications, and has provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

The April 28, 2009 EPA HQ Memorandum, ''Implementation of Buy American Provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009' '', defines reasonably available quantity as ''the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design''. The PSD has incorporated specific technical design features for its blowers for noise, improved reliability and ease of maintenance.

The PSD has provided information to the EPA representing that there are currently no blowers manufactured in the United States that have the exact same product specifications in place. Based on additional research conducted by the Office of Infrastructure & Assistance and to the best of the Region's knowledge at the time of the review, there does not appear to be other blowers to meet the PSD's exact technical specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are ''shovel ready'' by requiring utilities, such as the Claywood Park Public Service District, to revise their standards and specifications and to start the bidding process again. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the ''shovel ready'' status for this project. To further delay construction is in direct conflict with a fundamental economic purpose of the ARRA, which is to create or retain jobs.

The Office of Infrastructure & Assistance has reviewed this waiver request and has determined that the supporting documentation provided by the Claywood Park Public Service District is sufficient to meet the criteria listed under Section 1605(b) and in the April 28, 2009, ''Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009' Memorandum'': Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The basis for this project waiver is the authorization provided in Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the District's technical specifications, a waiver from the Buy American requirement is justified.

The EPA's March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the Claywood Park Public Service District is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of blowers using ARRA funds as specified in the PSD's request of April 9, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers ''based on a finding under subsection (b).''

Authority: Public Law 111–5, section 1605.

Dated: June 18, 2009.

William C. Early,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. E9–16265 Filed 7–8–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8924–4]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html.* The document may be located by control number, date, author, subpart, or subject search. For questions about the ADI or this notice, contact Rebecca Kane at EPA by phone at: (202) 564–5960, or by e-mail at: *kane.rebecca@epa.gov.* For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions to the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the NESHAP in 40 CFR part

61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are commonly referred to as applicability determinations. *See* 40 CFR 60.5 and 61.06. Although the part 63 NESHAP [which includes Maximum Achievable Control Technology (MACT) standards] and section 111(d) of the Clean Air Act (CAA) regulations contain no specific regulatory provision that sources may request applicability determinations, EPA does respond to written inquiries regarding applicability for the part 63 and section 111(d) programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping that are different from the promulgated requirements. *See* 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are commonly referred to as regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the ADI on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 69 such documents added to the ADI on June 17, 2009. The subject and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: *http://www.epa.gov/compliance/monitoring/programs/caa/adi.html.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI database system on June 17, 2009; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter.

We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of section 307(b)(1) of the Clean Air Act. For example, this notice does not make an applicability determination for a particular source into a nationwide rule. Neither does it purport to make any document that was previously non-binding into a binding document.

ADI DETERMINATIONS UPLOADED ON JUNE 17, 2009

Control No.	Category	Subparts	Title
0900001	NSPS	WWW	Solar Flare Requirements.
0900003	NSPS	OOO	Performance Testing and Test Waiver Request.
0900004	NSPS	A, UUU	Spray Dryer Equipped with Baghouse and Wet Scrubber.
0900005	NSPS	A, UUU	Spray Dryer Equipped with Baghouse and Wet Scrubber.
0900006	NSPS	A, UUU	Spray Dryer Controlled by Baghouse-Scrubber System.
0900007	NSPS	XX	Ethanol Plant Receiving Gasoline by Truck.
0900008	NSPS	Cc, WWW	Landfill Expansion.
0900009	NSPS	WWW	Higher Operating Temperature at Landfill Wellhead.
0900010	NSPS	WWW	Alternative Operating Temperature at Landfill Wellhead.
0900011	NSPS	WWW	New Temporary Higher Operating Limit at Landfill Wellhead.
0900012	NSPS	BBBB, JJJ	Dioxin/furan Testing at Small Municipal Waste Combustor.
0900013	NSPS	Db	Alternative Monitoring Proposal.
0900014	NSPS	A, RR	Replacement Regenerative Thermal Oxidizer.
0900015	NSPS	PPP	Glass Pull Rate and Primary Amp/Voltage Monitoring.
0900016	NSPS	WWW	Alternative Timeline to Correct Oxygen Exceedances at Wellhead.
0900017	NSPS	CC	Opacity Standard for Glass Plants.
0900018	NSPS	NNN, RRR	Flow Monitoring Requirements for Distillation Column C–600.
0900019	NSPS	J	Platformer Regeneration Process Unit Operations.
0900020	NSPS	J	Wastewater API Separator Unit Operations.
0900021	NSPS	A, D	Relocating/Certifying Continuous Opacity Monitoring Systems.
0900022	NSPS	NNN, RRR	Flow Monitoring Requirements for Distillation Column C–5222.
A090001	Asbestos	M	Vermiculite in Facility Demolished for Safety Reasons.
A090003	Asbestos	M	Residential Structures Demolished by Municipalities for Public Safety.
A090004	Asbestos	M	Demolition Procedures Involving Asbestos-containing Vermiculite.
M090004	MACT	FFFF, GGG	Initial Compliance Demonstration for Process Condensers.
M090006	MACT	FFFF	Alternative Calculation of Uncontrolled Phenol Emissions; Use of Soundproof Acoustic Flare Monitoring System.
M090007	MACT	GGG	Floating Roof as Process Tank Control Device.
M090008	MACT	FFFF	Exclusion of Hydrogen Halides and Halogen HAPs.
M090009	MACT	RRR	Installation of Sweat Furnace at Area Source Aluminum Foundry.
M090010	MACT	FFFF	Alternative Monitoring Requirements for Packed Scrubber.
M090011	MACT	GGGGG	Excavated Soil Used as Backfill.
M090012	MACT	FFFF, SS	Control Methods for HAP Emissions from Group 1 Process Vents.
M090013	MACT	A, LLL	Alternative Baghouse Inlet Temperature Calculation for Long Wet Kiln.
M090014	MACT	FFFF	Use of Process Condenser as Recovery Device.

ADI DETERMINATIONS UPLOADED ON JUNE 17, 2009—Continued

Control No.	Category	Subparts	Title
M090015	MACT	RRR	Alternative Monitoring and Recordkeeping for Scrap Dryer.
M090016	MACT	EEEE	Container-to-Container and Truck-to-Container Transfers.
M090017	MACT	WWWW	Styrene Content Value for Calculating Emissions; Repairs with Putty.
M090018	MACT	KK	MACT Applicability after HAP Is Delisted.
M090019	MACT	MM	New Compliance Monitoring Limits without Testing.
M090020	MACT	VVVV	Opting Out of MACT after Compliance Date.
M090021	MACT	A, CCC	Monitoring and Recordkeeping Requirements.
Z090001	NESHAP	F, V	Updating Vinyl Chloride Leak Detection and Repair Programs.

Backlog:

ADI DETERMINATIONS UPLOADED ON JUNE 17, 2009

Control No.	Category	Subparts	Title
0900023	NSPS	J	Revising Alternative Monitoring Plan for Hydrogen Sulfide.
0900024	NSPS	WWW	Alternative Compliance Timeline for Well Exceedance.
0900025	NSPS	AAAA, WWW	Alternatives to Collection and Control System Design Plan.
0900026	NSPS	WWW	Alternative Monitoring Plan.
0900027	NSPS	WWW	Conducting Additional Tier 2 Sampling.
0900028	NSPS	J	Modification of Approved Alternative Monitoring Plan.
0900029	NSPS	QQQ	Designating Group 2 Wastewater Stream as Group 1 Wastewater Stream.
0900030	NSPS	WWW	Alternative Operating Temperatures for Gas Well.
0900031	NSPS	Db	Alternative Monitoring Plan.
0900032	NSPS	Db	Alternative Monitoring Plan.
0900033	NSPS	WWW	Alternative Operating Temperatures for Two Gas Wells.
0900034	NSPS	J	Alternative Monitoring Plan.
0900035	NSPS	VV	Closed Loop Sampling Systems.
0900036	NSPS	WWW	Alternative Operating Temperatures at Multiple Wells.
0900037	NSPS	WWW	Alternative Timeline for Gas Collection.
M090022	MACT	RRR	Thermal Chip Dryer Operation.
M090023	MACT	A, JJJJJ	Alternative Monitoring Method and Performance Test Waiver.
M090024	MACT	J, UUU	Alternative Monitoring Request for FCCU COMS.
M090025	MACT	CC	Alternative Monitoring Plan.
M090026	MACT	AAAA	Determination Whether Subpart Applies.
M090027	MACT	CC	Designating Group 2 Wastewater Stream as Group 1 Wastewater Stream.
M090028	MACT	G, JJJ	Alternative Control Device.
M090029	MACT	AAAA	Determination Whether Subpart Applies.
M090030	MACT	A, RRR	Alternative Monitoring Method.
M090031	MACT	JJJJ	Initial Performance Test Waiver.
M090032	MACT	GGG, MMM	Use of Previously Conducted Performance Tests for Initial Compliance Demonstration.
Z090002	NESHAP	FF	Designating Group 2 Wastewater Stream as Group 1 Wastewater Stream.

Abstracts

Abstract for [A090001]

Q: Does EPA approve a variance from 40 CFR part 61, subpart M, the asbestos NESHAP, to allow vermiculite material to be left in place during demolition at the former Coachman Motel in Bloomington, Illinois?

A: No. EPA does not approve a variance to the asbestos NESHAP under any circumstance. However, the asbestos NESHAP identifies situations where regulated asbestos-containing material (RACM) need not be removed prior to demolition, including a situation where the RACM was not accessible for testing and not discovered until after demolition, and as a result of the demolition, cannot be safely removed. The loose vermiculite material in between the walls at this motel appears to fall into this situation because, to remove it, the walls would need to be taken down, causing the ceiling to collapse. All exposed RACM and all contaminated debris must be treated as asbestos-containing waste material in this situation.

Abstract for [A090003]

Q: Does the applicability determination issued by EPA on July 15, 1993 (see ADI Control Number 930828) conflict with EPA's Clarification of Intent published in the **Federal Register** on July 28, 1995, as to the applicability of 40 CFR part 61, subpart M (the asbestos NESHAP) to single-family homes?

A: No. EPA believes that these documents are not in conflict, but rather are complementary and apply to different factual situations. The 1993 applicability determination responds to the issue of a large municipality-orchestrated project where multiple single-family homes are being demolished as part of that large project over the course of the same planning or scheduling period, which, for most municipalities, we believe is done on a fiscal or calendar year basis, or in accordance with the terms of a contract. It is EPA's interpretation that the demolition of such multiple single-family homes under such circumstances by a municipality is subject to the asbestos NESHAP regulation, notwithstanding the residential building exclusion contained within the definition of ''facility'' in the asbestos NESHAP. The 1995 Clarification of Intent, on the other hand, deals with the demolition of two or more single-family homes on the same site (*e.g.,* a city

block) that are under the control of a common owner or operator. Under that factual scenario, the single-family homes are considered to be (or, perhaps, to be a part of) an installation, as defined under the asbestos NESHAP, and are subject to the asbestos NESHAP regulation.

Abstract for [A090004]

Q: Does EPA approve Environmental Consultants' request under 40 CFR part 61, subpart M, to leave vermiculite asbestos-containing material (ACM), which is loose between the load-supporting concrete block walls of a vacant commercial building in O'Fallon, Illinois, in place during the building's demolition?

A: Yes. EPA has determined that Environmental Consultants can leave ACM in place during demolition because it is a friable ACM, and the exception in 40 CFR 61.145(c)(1)(iii) applies since it cannot be safely removed prior to demolition without causing the ceiling to collapse. All exposed regulated ACM and all asbestos-contaminated debris must be treated as asbestos-containing waste material and kept adequately wet at all times until properly disposed of.

Abstract for [M090004]

Q: Does EPA approve Dow Chemical Company's request under 40 CFR part 63, subpart FFFF (MON), to waive the initial compliance demonstration for process condensers at its Midland, Michigan facility?

A: Yes. EPA approves Dow's request to waive the initial compliance demonstration for the specific process condensers listed in its request because the condensers are not designed to recover hazardous air pollutants (HAP) and therefore cannot meet the initial compliance demonstration requirements without negatively affecting process operations. In addition, the condensers are vented to control devices that reduce HAP emissions per the MON.

Abstract for [M090006]

Q1: Is a Soundproof acoustic flare monitoring system an acceptable method for the Albemarle Corporation facility in Orangeburg, South Carolina, to meet the flare monitoring requirements of 40 CFR 63.987(c), as referenced in 63.2450(e)(2)?

A1: Yes. Based on information Albemarle Corporation submitted in its November 8, 2007 letter, specifically information from John Zink Company, the manufacturer of the Soundproof Acoustic Pilot Monitor, EPA concludes that the Soundproof monitoring system meets the requirements of 40 CFR 63.987(c).

Q2: May Albemarle Corporation conduct an engineering assessment to calculate uncontrolled phenol emissions from its P30 process at its Orangeburg, South Carolina facility?

A2: Yes. Phenol is used as the limiting reagent in the P30 process. During the reaction, phenol is converted to hydrochloric acid at a 1:1 molar ratio. Due to the variable nature of the batch reaction, it is impossible to know the mole fraction of phenol during the reaction; thus, it is impossible to calculate the partial pressure. Phenol emissions were calculated by multiplying the HCl emissions from the process by the ratio of phenol to HCl in the scrubber liquid (0.14 percent, obtained from test results).

Abstract for [M090007]

Q: May a floating roof be used as a control device for process tank emissions to comply with 40 CFR part 63, subpart GGG?

A: Yes. A floating roof can be used in this application provided that the 93 percent reduction of HAP emissions required by 40 CFR 63.1254(a)(1) is met. The 93 percent HAP reduction requirement can be satisfied by first calculating uncontrolled HAP emissions using the equations in 40 CFR 63.1257(d)(2)(i)(A) and calculating the controlled HAP emissions using EPA's TANKS computer program, then calculating the percent reduction using these two values.

Abstract for [M090008]

Q1: Does EPA approve of test conditions, data, calculations, and other means used at the MeadWestvaco facility in Charleston, South Carolina, to establish operating limits for a regenerative thermal oxidizer according to 40 CFR 63.2460(c)(3)?

A1: EPA approval is not required for this request because MeadWestvaco is requesting to average emissions within specific processes and not across multiple processes.

Q2: Can hydrogen halides and halogen HAPs generated due to halides present in water used as a raw material by the MeadWestvaco facility in Charleston, South Carolina, be excluded from uncontrolled emissions calculations under 40 CFR part 63, subpart FFFF?

A2: No. Although the levels of hydrogen halides and halogen HAPs are quite small, there is no de minimis value for these pollutants in MACT subpart FFFF. Also, there is no regulatory basis in 40 CFR part 63 for EPA to grant such an approval.

Q3: Does EPA approve the use of the reduced recordkeeping requirements at 40 CFR 63.2525(e)(3) under MACT subpart FFFF for miscellaneous organic chemical processing units (MCPUs) with uncontrolled halogen halide and halogen HAP emissions of less than 200 pounds per year?

A3: No. EPA does, however, approve the use of these reduced recordkeeping requirements under MACT subpart FFFF for MCPUs with uncontrolled halogen halide and halogen HAP emissions less than 100 pounds per year.

Abstract for [M090009]

Q: Does the installation of a sweat furnace at the Nemak USA aluminum foundry facility in Sylacauga, Alabama, which is currently exempt from the requirements of 40 CFR part 63, subpart RRR (Secondary Aluminum Production NESHAP), make the facility subject to the requirements of NESHAP subpart RRR?

A: Yes. According to 40 CFR 63.1503, aluminum foundries are not considered secondary aluminum production facilities if they only melt clean charge, customer returns, or internal scrap, and do not operate sweat furnaces, thermal chip dryers, or scrap dryers/delacquering kilns/decoating kilns. By this definition, the Nemak facility would be subject to subpart RRR upon installation of a sweat furnace at its facility. Specifically, as an affected source located at an area source of HAPs, the sweat furnace would be subject to the requirements of subpart RRR pertaining to dioxin and furan (D/F) emissions and the associated operating, monitoring, reporting, and record keeping requirements under 40 CFR 63.1500(c)(3). Per the applicability criteria in 40 CFR 63.1500(c)(4), the existing area source furnaces are still exempt from the requirements of MACT subpart RRR because they only process clean charge.

Abstract for [M090010]

Q: Does EPA approve the requested alternative monitoring to the monitoring requirements under 40 CFR part 63, subpart FFFF, for the C–202 packed scrubber at the Rhodia Inc. facility in Charleston, South Carolina?

A: Yes. EPA approves the monitoring of the scrubber column differential pressure, scrubber liquid inlet flow rate, and scrubber liquid acid strength in place of the monitoring requirements stated in 40 CFR 63.990(c) [as referenced by 63.2470(c)]. Rhodia has identified that all three of these parameters have specific designed

operating conditions specified by the manufacturer.

Abstract for [M090011]

Q: Would contaminated soil that the BP refinery in Whiting, Indiana, excavates as part of on-site construction activities, temporarily stores on-site, and uses as backfill on-site be subject to the Site Remediation MACT, 40 CFR part 63, subpart GGGGG?

A: No. The re-use of contaminated soil as backfill on-site without any cleanup activities is not subject to MACT subpart GGGGG.

Abstract for [M090012]

Q1: Does EPA approve an alternative monitoring plan under the Miscellaneous Organic NESHAP, 40 CFR part 63, subpart FFFF (MON), for the packed-bed caustic scrubber used to control phenol emissions from several Group 1 batch process vents at DynaChem, Inc.'s batch chemicals manufacturing facility in Georgetown, Illinois?

A1: Yes. EPA approves DynaChem's request to continuously measure pH and scrubber flow rate (to determine the liquid to gas ratio) as an alternative to continuously measuring the scrubbing liquid temperature and the specific gravity. According to DynaChem, the phenol in the process reacts with the sodium hydroxide in the scrubbing liquid caustic solution to form sodium phenolate. As phenol is removed, the specific gravity will not vary significantly to provide the level of sensitivity needed for determining on-going compliance due to the limited solubility of the sodium phenolate. This alternative monitoring plan follows the requirements for absorbers removing halogenated compounds where the scrubbing liquor is reacting with the compound instead of absorbing it.

Q2: Are DynaChem's condensers after the vacuum pumps in the epoxy and sulfonic acid production batch trains ''control devices'' or ''process condensers'' under the MON?

A2: Based on the information provided by DynaChem, the refrigerated vent condensers in the vent stream trains after the vacuum pumps (vent condensers 1, 2, and 3, and the post condenser) are control devices for the following reasons: (1) The primary purpose of these vent condensers is the control of HAP emissions; (2) three of the four condensers were installed at the same time as the non-regenerative adsorber units as part of a single control system for controlling HAP emissions to meet 98 percent control and the fourth condenser is outside the unit battery limits and functions as an emission control device; and (3) these condensers account for a very small percentage of the total condensate recovered during a process batch.

Q3: Does EPA approve an alternative monitoring plan under the MON for Group 1 process vent trains, in the epoxy resin and sulfonic acid production processes, which are equipped with a combination of refrigerated vent condensers followed by two non-regenerative carbon canisters configured in series, at DynaChem's Georgetown, Illinois facility?

A3: Yes. EPA approves an alternative monitoring plan involving the use of a Flame Ionization Detector (FID) to detect when the canisters need change-out. The frequency of such monitoring will be determined via performance testing. DynaChem must also install and operate a monitoring device capable of providing a continuous record of the exit (product side) gas temperature of the condenser.

Abstract for [M090013]

Q: Does EPA approve a re-start of the calculation of the 180-minute rolling average baghouse inlet temperature (BHIT), under 40 CFR part 63, subpart LLL, when the Holcim, Inc. facility in Dundee, Michigan, switches the emission controls on its long wet kiln #1 from the carbon injection system to the scrubber/regenerative thermal oxidizer (S/RTO) system, and vice versa?

A: Yes. EPA approves a re-start under MACT subpart LLL. Holcim conducted performance testing on long wet kiln #1, which resulted in a BHIT limit of 419 degrees Fahrenheit when operating the S/RTO and a BHIT of 351 degrees Fahrenheit when operating carbon injection. Because Holcim has two temperature limits in two different operating scenarios, the facility needs to begin anew at zero the calculation of the 180-minute rolling average temperature when switching between the two control device scenarios.

Abstract for [M090014]

Q: May the 3V Inc. facility in Georgetown, South Carolina, use a condenser as a recovery device to reduce collective uncontrolled organic HAP emissions from batch process vents by 95 percent as required by Table 2 of 40 CFR part 63, subpart FFFF?

A: No. Under MACT subpart FFFF, any condenser which recovers material for fuel value cannot be a recovery device used to comply with Table 2, and is deemed a process condenser.

Abstract for [M090015]

Q: Does EPA approve Aleris International's request under 40 CFR part 63, subpart RRR, to base the feed/charge weight to the scrap dryer on the weight of the feed/charge into either the ring crusher or the feed hopper at the Wabash Alloys facility in Wabash, Indiana?

A: Yes. EPA approves Aleris International's alternative methodology request under MACT subpart RRR based on its claims that (1) there are no process losses at or through the ring crusher, (2) after the ring crusher and after the hopper the material is conveyed continuously to the scrap dryer, and (3) the equipment configurations do not allow the separate weighing of the feed/charge directly into the dryer.

Abstract for [M090016]

Q: Are the following organic liquid transfers at the BP Whiting refinery in Whiting, Indiana, subject to 40 CFR part 63, subpart EEEE, the Organic Liquid Distribution MACT: Container-to-container transfers via gravity or non-permanent hose or valve; and truck-to-container transfers via non-permanent hose or valve with or without a pump?

A: Each of the loading/unloading activities described by BP meets the definition of a ''transfer rack'' under MACT subpart EEEE at 40 CFR 63.2406, defined as ''a system used to load organic liquids into, or unload organic liquids out of, transport vehicles or containers''. However, BP does not explain whether, in addition to being non-permanent, the transfers are related to special situation distribution loading and unloading operations or maintenance to make a determination on whether the exemption in 40 CFR 63.2338(c) would apply. If the organic liquid transfers are normal operating procedures necessary to keep process operations going, then the exemption in 40 CFR 63.2338(c) would not apply.

Abstract for [M090017]

Q1: Concept Plastics of High Point, North Carolina, submitted 16 photos with textual description, seeking determinations concerning whether the processes depicted in the photos are manual resin application, open molding, closed molding, or polymer casting under 40 CFR part 63, subpart WWWW. Concept Plastics also requested a clarification on how these processes were differentiated, with particular interest in how much ''working'' constitutes manual resin application.

A1: EPA has determined that all Concept processes, described in photos,

are considered polymer casting per definition in 40 CFR 63.5935. These processes are defined as polymer casting because they involve a filled resin that contains no reinforcement material. There is no working of the resin after application except for smoothing the material or vibrating to remove air bubbles. Because there is no reinforcement to be wetted out, the resin does not have to be worked to the same extent as occurs on open molding manual resin application. Specifically, photos 1 and 2 show polymer casting as the materials are poured into a closed mold and the resin is allowed to cure. Photos 3 and 4 show polymer casting as the component materials are poured into a closed mold and brushed to remove an air pocket. Photos 5 through 8 show polymer casting operations that involve pouring the composite materials into an open mold and not working the resin during or after application. These processes do not meet the definition of open molding manual resin application. Open molding involves the resin being typically applied to the open mold covered with reinforcing materials (typically fiberglass cloth or mat), or the resin applied to the mold contains reinforcing materials. The resin is typically applied using a brush (although it is sometimes poured on), and a roller is run back and forth across the surface to remove air bubbles and to insure the reinforcement is completely wetted out. Several passes of a hand held roller are generally necessary to ensure complete wetting of the reinforcement. On the other hand, Concept Plastics processes are not considered closed molding since this broader category includes fabricating composites in a way that HAP-containing materials are not exposed to the atmosphere except during the material loading stage.

Q2: Is the process involving a rotocast machine to allow the resin to contact and coat all sides of the mold, as described in photos 9 through 12, ''centrifugal casting'' or ''polymer casting'' under 40 CFR part 63, subpart WWWW?

A2: EPA has determined that Concept processes, described in photos 9 through 12, are polymer casting involving pouring the composite materials into an open mold that is then closed and rotated on more than one axis to allow the resin to contact and coat all sides of the mold. The resin is worked via this rotation after the mold is closed to ensure that all surfaces of the mold are coated. Based on photos 11 and 12, the rotation does not appear to rely upon centrifugal forces to hold the composite materials in place until the part is sufficiently cured to maintain its physical shape. Hence, it does not appear to be centrifugal casting.

Q3: Given that the styrene content of the ''neat resin plus'' varies, what value should the emission calculations use?

A3: The weighted average of styrene content should be used to address the variable formulations used at the facility.

Q4: Does the mixing of much of the catalyst and ''neat resin plus'' in one-gallon buckets constitute ''mixing'' under 40 CFR part 63, subpart WWWW?

A4: No. Because MACT subpart WWWW defines ''mixing'' as the blending of HAP-containing materials in vessels of five gallon or greater capacity, the mixing at issue here, and depicted in Photo 13, is not subject to the rule.

Q5: Is minor touch up work done using resin applied in a putty form considered a repair under 40 CFR part 63, subpart WWWW?

A5: No. The application of putties is excluded from the provisions of MACT subpart WWWW.

Abstract for [M090018]

Q: Is the Reynolds Flexible Packaging Plant (Reynolds) in Louisville, Kentucky, subject to the National Emission Standards for Hazardous Air Pollutants (HAP) for the Printing and Publishing Industry, 40 CFR part 63, subpart KK, after the compliance date if the primary HAP is delisted from the section 112(b) list of Hazardous Air Pollutants?

A: No. EPA finds that it is appropriate to allow facilities to look back to the first substantive compliance date to demonstrate that the potential to emit HAPs on that date would have been less than the major source threshold, without counting emissions of the delisted pollutant.

Abstract for [M090019]

Q: Does EPA approve a request to establish a lower compliance monitoring parameter limit without conducting a source test at the lower limit under 40 CFR part 63, subpart MM, for a smelt dissolving tank scrubber at the Smurfit-Stone facility in Florence, South Carolina (Florence Mill)?

A: No. EPA does not approve this request. A source test will be required before a lower compliance monitoring limit can be established under MACT subpart MM.

Abstract for [M090020]

Q: Does EPA approve a request from Stamas Yacht, Inc. (Stamas), in Pinellas County, Florida, to opt out of MACT applicability after the compliance date if actual HAP emissions never exceeded the major source threshold? Stamas was issued an initial Title V permit, based on emissions of hazardous air pollutants (HAPS), on September 11, 1998. The permit was renewed on December 29, 2003, at which time the requirements of the National Emission Standard for Hazardous Air Pollutants for Boat Manufacturing, 40 CFR 63, subpart VVVV were added.

A: No. EPA does not approve Stamas' request because based on the 1999 and 2000 styrene emissions, the facility does have the potential to emit major source levels of HAPs, even when its actual emissions level may be lower at this time. Therefore, we believe that the Stamas request to opt out of subpart VVVV applicability and to rescind their Title V permit should be denied.

Abstract for [M090021]

Q1: Has EPA reconsidered its May 23, 2007 determination regarding the monitoring and recordkeeping requirements of 40 CFR part 63, subpart CCC, Steel Pickling NESHAP, that apply to wet scrubbers on the two existing continuous pickling lines and the acid regeneration plant at Nucor Corporation's steel mini-mill in Crawfordsville, Indiana?

A1: Yes. EPA has reconsidered its earlier determination and reissued this superseding determination.

Q2: How does 40 CFR 63.1162(a)(2), which requires that the scrubber flow rates be monitored continuously and recorded at least once per shift while the scrubber is operating, apply to the Nucor Mill?

A2: Under 40 CFR 63.1162(a)(2) Nucor must install, operate, and maintain flow meters to monitor continuously the scrubber flow rates (makeup water and recirculation water flow rates) at all times the scrubber is operating. These flow rates must be recorded at least once per shift while the scrubber is operating. Furthermore, because operation of the scrubber with excursions of scrubber flow rates less than the minimum values established during the performance test(s) will require initiation of corrective action as specified by the maintenance requirements of the Steel Pickling NESHAP, the instantaneous scrubber flow rates must be displayed continuously in real time via gauges or digital readout systems to allow such corrective action if the flow rates drop below the minimum values established during the performance test(s).

Q3: Are Nucor's scrubber flow rates monitoring systems ''continuous monitoring systems''?

A3: Yes. The term ''continuous monitoring system'' or CMS is a comprehensive term that includes not only continuous emission monitoring systems but also various systems that provide continuous assurance that a NESHAP is being met. Notwithstanding this determination, EPA interprets 40 CFR 63.1162(a)(2) to require Nucor to record the scrubber flow rates once per shift.

Abstract for [Z090001]

Q: Does EPA approve Dow Chemical Company's (Dow's) request to modify the leak detection and repair programs under 40 CFR part 61, subpart F, with regard to its Midland, Michigan facility by: (1) Increasing the leak definition for vinyl chloride detected with a portable leak detector from 10 to 500 parts per million (ppm); (2) eliminating weekly/monthly monitoring of valves, connectors, and compressors not monitored per Method 21 at 40 CFR part 60, appendix A (Method 21); (3) eliminating weekly monitoring of all sealless pumps in vinyl chloride service; (4) replacing weekly monitoring of all compressors in vinyl chloride service with a designation of ''no detectable emissions'', and an annual verification by Method 21 monitoring; and (5) changing the monitoring process from monitoring by plant personnel to monitoring by the site's fugitive emission contractor, and the data collection process from retention of paper checklists to retention of an electronic database?

A: In regard to increasing the vinyl chloride leak definition to 500 ppm [(1), above] and eliminating weekly/monthly non-Method 21 monitoring of valves, connectors, and compressors [(2), above], Dow does not need EPA approval because these modifications would not change Dow's leak detection and elimination area program under 40 CFR 61.65(b)(8)(i), and because Dow would continue to meet the requirements of 40 CFR 61.65(b)(8)(ii). Dow also does not need EPA approval to eliminate weekly monitoring of sealless pumps in vinyl chloride service [(3), above] because these pumps are exempt from monitoring under 40 CFR part 61, subpart V. With regard to compressor monitoring [(4), above), EPA accepts the submittal of the information Dow provided as fulfillment of the requirements of 40 CFR 61.10(c) to provide notification to EPA of a change to any information provided in 40 CFR 61.10(a), including the method chosen by the facility to demonstrate compliance. Finally, EPA approves Dow's request in (5), above, to change the monitoring process from monitoring by plant personnel to monitoring by the site's fugitive emission contractor, and the data collection process from retention of paper checklists to retention of an electronic database.

Abstract for [0900001]

Q: May a solar-powered flare with a constant sparking device be used to control landfill gas emissions for purposes of 40 CFR part 60, subpart WWW?

A: No. EPA does not recognize constant sparking devices as meeting requirements under 40 CFR 60.18(f)(2) and 40 CFR 60.756(c)(1). The flare must also have a pilot flame and heat sensors such as a thermocouple or ultraviolet beam sensor with a recording device.

Abstract for [0900003]

Q1: Does EPA approve the proposed performance testing protocol under 40 CFR part 60, subpart OOO, for Duke Energy Indiana's Cayuga Generating Station in Cayuga, Indiana?

A1: Yes. EPA conditionally approves the proposed performance test protocol submitted under NSPS subpart OOO, provided that the testing protocol is modified to incorporate the changes and additions listed in EPA's response.

Q2: Does EPA approve Cayuga's request for a waiver for compliance testing using Method 5 or Method 17, pursuant to the requirements of 40 CFR 62.672(e)(2), requiring that the emissions from the forced air vents in the Limestone Preparation Building shall not exceed the stack emission limits of 0.022 gr/dscf (using Method 5 or Method 17) and 7 percent opacity (using Method 9) as given in 40 CFR 60.672(a)? Due to the nature and location of the forced air vents in the Limestone Preparation Building, Cayuga is unable to conduct a compliance test using either Method 5 or Method 17.

A2: Yes. EPA conditionally approves Cayuga's test waiver request under NSPS subpart OOO, provided that the facility can demonstrate compliance for the two forced air vents in the Limestone Preparation Building by having no visible emissions, using Method 9 for the duration of 1 hour.

Abstract for [0900004]

Q: Does EPA approve an alternative monitoring plan under 40 CFR part 60, subpart UUU, for Criterion Catalyst's spray dryer system equipped with a baghouse system followed by a non-Venturi type wet scrubber located in Michigan City, Indiana? Criterion Catalyst seeks to monitor continuously the fuel flow rate to the spray dryer process heater and the feed rate to the spray dryer in lieu of continuously monitoring the gas phase pressure drop across the scrubber.

A: No. EPA does not approve the requested alternative monitoring plan under NSPS subpart UUU. Although EPA agrees with Criterion Catalyst that the pressure drop may not be an appropriate monitoring parameter for a wet scrubber that does not use a Venturi design, Criterion Catalyst has not made adequate demonstration that the feed rate to the dryer or the fuel flow rate to the process heater correlate to the gas flow to the scrubber or relate to the performance of the scrubber.

Abstract for [0900005]

Q: Does EPA approve an alternative monitoring system (AMS) plan to comply with the mass emission standard under 40 CFR part 60, subpart UUU, for Criterion Catalyst's spray dryer equipped with a baghouse system and wet scrubber located in Michigan City, Indiana? Criterion Catalyst seeks to monitor continuously the liquid-to-gas ratio in lieu of the pressure drop across the scrubber.

A: EPA conditionally approves Criterion Catalyst's AMS plan under NSPS subpart UUU to monitor continuously the liquid-to-gas ratio in lieu of the pressure drop across the scrubber to comply with the mass emission standard. In addition, Criterion Catalyst must have continuous monitoring systems in place for the baghouse system since in this case the baghouses are essential to achieving compliance with the particulate matter (PM) emission standard, and Criterion Catalyst does not meet the exception in 40 CFR 60.734(a).

Abstract for [0900006]

Q: Does EPA approve Criterion Catalyst's request, under 40 CFR part 60, subpart UUU, to monitor continuously at its spray dryer system in Michigan City, Indiana, the opacity of exhaust gases in the ductwork between the baghouse system and scrubber as an alternative to monitoring the opacity at the outlet of the scrubber?

A: Yes. Because the opacity at the scrubber outlet cannot be measured accurately with a monitor due to interference caused by liquid water, EPA approves the use of a continuous opacity monitoring system (COMS) under NSPS subpart UUU for the measurement of the opacity of the exhaust gases in the ductwork between the baghouse system and scrubber.

Abstract for [0900007]

Q: Does the Illinois River Energy production plant in Rochelle, Illinois, which handles an ethanol/gasoline

blended fuel known as ''E–85'' and which receives fuel by truck, meet the definition of bulk terminal in 40 CFR 60.501 of NSPS subpart XX?

A: No. The Illinois River Energy facility does not meet the definition of bulk terminal and is, therefore, not subject to NSPS subpart XX. Although the E–85 fuel meets the definition of gasoline, the bulk terminal receives gasoline only by truck, which was intentionally excluded from the rule's definition, as supported by the Background Information Document for NSPS subpart XX (Bulk Gasoline Terminals—Background Information for Proposed Standards, September 1980).

Abstract for [0900008]

Q: The Laraway Recycling and Disposal Facility (Laraway) in Will County, Illinois, consists of three physically separate waste disposal areas located within a single parcel of property and identified as: (1) The closed Resource Conservation and Recovery Act (RCRA) unit, which accepted municipal solid waste (MSW) from 1973 to 1983; (2) the closed Trench 11, which never accepted MSW; and (3) the active 32-acre solid waste unit, which was permitted to accept MSW but never actually accepted MSW. Will a vertical and horizontal expansion of the active solid waste unit described in (3) be subject to 40 CFR part 60, subpart WWW?

A: No. Although the closed RCRA unit is an MSW landfill, and all three landfills are a single source or facility, a modification to a proven non-MSW landfill, such as the solid waste unit, would not make the entire facility subject to NSPS subpart WWW, as long as the solid waste unit continues to contain only non-MSW. If the expansion begins accepting MSW, then the solid waste unit (including the expansion area) and the RCRA unit would become subject to NSPS subpart WWW.

Abstract for [0900009]

Q: Does EPA approve a higher operating temperature at Waste Management's Milam Recycling and Disposal Facility Well MW28 in East St. Louis, Illinois, under 40 CFR part 60, subpart WWW?

A: EPA approves a temporary higher operating temperature of 140 degrees Fahrenheit only until May 31, 2008, because Milam has submitted only four consecutive days of data. EPA requests that Milam supply another three months of monitoring data before the Agency makes a final determination as to a higher operating temperature limit under NSPS subpart WWW.

Abstract for [0900010]

Q: Does EPA approve a permanent higher operating temperature of 140 degrees Fahrenheit at Well MW28 at Milam Recycling and Disposal Facility in East St. Louis, Illinois, under 40 CFR part 60, subpart WWW?

A: No. On February 14, 2008, and March 7, 2008, EPA approved a temporary higher operating temperature of 140 degrees Fahrenheit, under NSPS subpart WWW, to last until July 31, 2008. [See ADI Control Numbers 0900009 and 0900011, which are summarized in this FR Notice.] In March 2008, the facility installed a new lateral line to the well, which has corrected the temperature exceedances. Therefore, no higher operating temperature is needed.

Abstract for [0900011]

Q: Does EPA approve a new temporary higher operating temperature of 150 degrees Fahrenheit for Milam Recycling and Disposal Facility's (Milam) Well MW28 in East St. Louis, Illinois, under 40 CFR part 60, subpart WWW?

A: No. EPA does not approve a new temporary higher operating temperature of 150 degrees Fahrenheit for this facility, as it is no longer needed due to the installation of a new lateral line by Milam. On February 14, 2008, EPA approved a temporary higher operating limit of 140 degrees Fahrenheit until May 31, 2008, under NSPS subpart WWWW, pending the submittal of three months of additional monitoring data. [See ADI Control Number 0900009, which is summarized in this FR Notice.] Milam has now indicated that the temperature at the Well MW28 will likely decrease with the installation of a new lateral line to the well. Therefore, EPA approves an alternative timeline until May 31, 2008, to correct the temperature exceedances at MW28. EPA will also grant an extension of the existing 140 degrees Fahrenheit temperature limit until July 31, 2008, to gather additional monthly well data after the lateral line is installed in order to set the final operating temperature.

Abstract for [0900012]

Q1: Pursuant to 40 CFR 62.15250(a) of 40 CFR part 62, subpart JJJ, may the Polk County Solid Waste Management Facility (SWMF) in Fosston, Minnesota, skip two subsequent annual stack tests for dioxins/furans after demonstrating compliance with the dioxin/furan emission standard during three consecutive annual dioxin/furan stack tests?

A1: Yes. Each small municipal waste combustor (MWC) unit at the Polk County SWMF has demonstrated compliance with the dioxin/furan emission standard for three years in a row (2005, 2006, and 2007). The Polk County SWMF must conduct a dioxin/furan stack test on each unit in April 2010.

Q2: Pursuant to 40 CFR 62.15250(b) of 40 CFR part 62, subpart JJJ, is the Polk County SWMF required to conduct a dioxin/furan stack test every other year if both units at the facility have demonstrated dioxins/furans emissions less than or equal to 30 nanograms total mass per dry standard cubic meter at 7 percent oxygen for two consecutive years?

A2: No. The Polk County SWMF qualifies for and has elected to implement the option in 40 CFR 62.15250(a). Thus, the requirement in 40 CFR 62.15250(b) does not apply.

Abstract for [0900013]

Q: Does EPA approve Proctor & Gamble Paper Products Company's (Proctor & Gamble) request for an alternative opacity monitoring procedure for Boiler No. 2 at its Albany, Georgia facility, which is subject to 40 CFR part 60, subpart Db? The primary fuel for the boiler is biomass, and No. 2 fuel oil is used during startup and as a backup fuel. Particulate matter emissions are controlled by a wet electrostatic precipitator (WESP). Due to moisture interference, the company proposes to monitor the total power input to the WESP as an alternative to a COMS.

A: No. EPA does not approve Proctor & Gamble's request under NSPS subpart Db. The company will need to install a PM continuous emission monitoring system (PM CEMS) unless it can be demonstrated that a PM CEMS is not a viable alternative for the boiler.

Abstract for [0900014]

Q: Would the replacement of three regenerative thermal oxidizers (RTO) with a single RTO system on three pressure sensitive vinyl/paper roll coating lines trigger the performance test requirements of the 40 CFR part 60, subparts A and RR, at Avery Dennison's facility in Lowell, Indiana?

A: No. EPA has determined that because no construction, modification or reconstruction appears to have occurred, as defined in NSPS subparts A and RR, the NSPS requirements have not been triggered. NSPS subpart RR applies to any affected facility that begins construction, modification or reconstruction after December 30, 1980. A modification could occur if the new RTO system proves to be less efficient

than the old RTO system at controlling volatile organic compounds (VOC).

Abstract for [0900015]

Q1: Does EPA approve CertainTeed's request under 40 CFR part 60, subpart PPP, to monitor only secondary voltage and amperage on the wet electrostatic precipitator (WESP) at its Kansas City, Kansas facility?

A1: Yes. EPA approves CertainTeed's request under NSPS subpart PPP. The CertainTeed WESP operation is monitored and controlled by microprocessor based automatic voltage controllers that react extremely quick to changes in secondary voltage and current. (See also ADI control Number 0700066.)

Q2: Does EPA approve CertainTeed's request to use flow cameras at its Kansas City, Kansas facility to comply with the monitoring requirement in 40 CFR part 63, subpart NNN, as an alternative to calculating the glass pull rate?

A2: Yes. EPA has determined that the use of flow cameras is an equivalent, if not a better, monitoring method than the one specified in 40 CFR part 60, subpart PPP. (See also ADI control Number 0600088.)

Abstract for [0900016]

Q: Does EPA approve an alternative timeline under 40 CFR part 60, subpart WWW, to correct an oxygen exceedance at Well MW20 at Milam Recycling and Disposal Facility in East St. Louis, Illinois?

A: Yes. EPA will approve an alternative timeline under NSPS subpart WWW for Milam to correct the oxygen exceedance at Well MW20. However, in the future, it is not sufficient for Milam to notify EPA of a parameter exceedance at a wellhead. In accordance with 40 CFR 60.755(a)(5), the facility must request an alternative timeline within 15 days of the initial exceedance.

Abstract for [0900017]

Q: Saint-Gobain Containers Inc. requested a clarification on whether the opacity value, determined using the 99 percent upper confidence level, is a reporting threshold or a never-to-exceed limit under the New Source Performance Standards (NSPS) for Glass Manufacturing Plants, 40 CFR part 60, subpart CC?

A: The opacity value determined under 40 CFR 60.263(c)(4) is not an opacity limit, but an exceedance. An exceedance could constitute credible evidence that the source is not being properly operated and maintained.

Abstract for [0900018]

Q: Does EPA approve Advanced Aromatics, L.P.'s (AALP) request to use the flow monitoring methods of 40 CFR 60.703(b)(2) in lieu of the requirements of 40 CFR 60.663(b)(2) for the Distillation Column C–600 (and associated equipment) at its facility in Baytown, Texas?

A: No. EPA does not approve this request because AALP's letter did not include specific details of valves associated with the C–600. Although AALP provided a drawing, it did not address the necessary criteria for evaluating and proving this request.

Abstract for [0900019]

Q: Does EPA approve Delek Refining's (Delek) request to monitor hydrogen sulfide (H2S) in vent streams, pursuant to 40 CFR part 60, subpart J, in lieu of installing a H2S continuous emissions monitor (CEMs) on the hydrochloric acid (HCl) scrubber, associated with the ''Platformer Regeneration Process'' at its Tyler, Texas facility?

A: EPA conditionally approves Delek's alternate monitoring request under NSPS subpart J, as described in the EPA response letter.

Abstract for [0900020]

Q: Does EPA approve Delek Refining's (Delek) request under 40 CFR part 60, subpart J, to monitor hydrogen sulfide (H2S) in vent streams in lieu of installing a H2S continuous emissions monitor (CEMs) on the Wastewater API Separator Process vent stream combusted in the Wastewater API Separator Flare at its Tyler, Texas facility?

A: No. EPA does not approve Delek's request under NSPS subpart J because Delek did not state the correlation between inherently low and stable H2S content in the exhaust gas stream to the process parameters proposed in the alternate monitoring plan for various wastewater streams being treated. Delek also did not include piping and instrumentation drawings to support its request.

Abstract for [0900021]

Q: Does EPA approve Public Service Company of New Mexico's (PNM) alternative monitoring plan (AMP) under 40 CFR part 60, subpart D, involving the relocation and certification of continuous opacity monitoring systems at Units 4, 3, 2, and 1 at the PNM San Juan Generating Station in Waterflow, New Mexico?

A: EPA approves PNM's AMP for all four units under NSPS subpart D, so long as they meet the terms and conditions specified in the Enclosure of EPA's February 28, 2008 response letter.

Abstract for [0900022]

Q1: Does EPA approve Texmark Chemicals, Inc. (Texmark) request for flow monitoring requirements applicable to Distillation Column C–5222 (and associated equipment) at its facility in Galena Park, Texas, in accordance with 40 CFR 60.703(b)(2) of NSPS subpart RRR in lieu of 40 CFR 60.663(b)(2) of NSPS subpart NNN?

A1: Yes. EPA conditionally approves Texmark's request to monitor Distillation Column C–5222 (and associated equipment) at its Galena Park, Texas facility in accordance with 40 CFR 60.703(b)(2) in lieu of 40 CFR 60.663(b)(2) for compliance with both NSPS subparts RRR and NNN standards.

Q2: Does EPA approve Texmark's request to comply with the recordkeeping requirements specified in 40 CFR part 60, subpart RRR in lieu of 40 CFR part 60, subpart NNN, for Distillation Column C–5222, at its Galena Park, Texas facility?

A2: Yes. EPA approves Texmark's request to comply with the recordkeeping requirements in NSPS subpart RRR in lieu of subpart NNN requirements, because these recordkeeping requirements correspond directly to those monitoring requirements to be implemented for the distillation vents under NSPS subparts RRR and NNN. Since subpart RRR provides some relief in testing and monitoring requirements in comparison to subpart NNN, a copy of the schematic required by 40 CFR 60.705(s) needs to be submitted in the initial report to the State agency, and a copy must be maintained onsite for the life of the system to ensure that the affected vent streams are being routed to appropriate control devices under this approval.

Abstract for [M090022]

Q: Does EPA approve the request from Allied Metal Company (Allied) in Chicago, Illinois, to begin operation of a thermal chip dryer, under 40 CFR part 63, subpart RRR?

A: EPA approves Allied's request under MACT subpart RRR, provided that Allied operates the thermal chip dryer and all associated emission control equipment for performance test preparation beginning in January 2007. All performance testing must be completed by March 1, 2007. If Allied cannot follow this schedule, Allied must cease operating the thermal chip dryer and notify EPA.

Abstract for [M090023]

Q1: The Glen-Gery Marseilles Facility (Glen-Gery) in Marseilles, Illinois, operates two identical natural gas fired tunnel kilns subject to 40 CFR part 63, subpart JJJJJ. May Glen-Gery use an alternative monitoring procedure whereby exhaust flow to the dry limestone absorber (DLA) will be verified by continuously monitoring the bypass stack damper position at least once every fifteen minutes during normal kiln operation, and any period in which the bypass damper is opened allowing the kiln exhaust gas to bypass the DLA would be considered a MACT-related event triggering corrective actions pursuant to the facilities startup, shutdown, and malfunction plan?

A1: Yes. EPA approves this alternative monitoring request under MACT subpart JJJJJ. As explained in 68 FR 26704, the pressure drop across the DLA is only intended to demonstrate that kiln exhaust flow is being directed through the DLA, and is not bypassing the control device.

Q2: Will EPA approve a performance test waiver for Glen-Gery seeking approval to conduct performance testing while Kiln A and B are operating at maximum production rates, but with different limestone extraction screw settings, and then apply the lower DLA limestone extraction screw setting to demonstrate ongoing compliance with both kilns under 40 CFR part 63, subpart JJJJJ?

A2: No. EPA denies Glen-Gery's performance test waiver request. Although both units may be identical in design and operation, there is an insufficient body of compliant performance test data demonstrating that the kilns have a low variability in emissions, and that the emissions profiles of the kilns are the same under MACT subpart JJJJJ.

Abstract for [M090024]

Q: Does EPA approve an alternative monitoring plan (AMP) submitted by ExxonMobil Oil Corporation's (ExxonMobil) refinery in Joliet, Illinois, under 40 CFR part 63, subpart UUU?

A: No. EPA does not approve ExxonMobil's AMP requesting identical monitoring, recordkeeping, and reporting requirements to those granted under NSPS subpart J, for compliance with MACT subpart UUU. See determination filed as ADI Control Number 0800082. Specifically, EPA will not approve the same averaging time or the same method for determining excess emissions or deviations as that approved for the NSPS. Rather, this AMP must follow the continuous monitoring requirements of 40 CFR 63.1564(b)(1) identified as Option 2 in Table 3 of MACT subpart UUU. This is consistent with the requirements requested by ExxonMobil.

Abstract for [M090025]

Q: Does EPA approve ExxonMobil's request for an alternative monitoring to use two carbon canisters in series instead of its current flare if it monitors the carbon canister system for 20 ppm breakthrough using a portable VOC analyzer twice weekly at its Joliet Refinery in Joliet, Illinois, under 40 CFR 63.643 of MACT subpart CC?

A: No. EPA cannot approve this alternative monitoring request under MACT subpart CC without notification from ExxonMobil that continuous monitors and a back-up will be installed on the outlet of both the primary and secondary carbon canisters. EPA requests that you provide further details.

Abstract for [M090026]

Q: Does EPA determine that the Beecher Development Company Landfill (Beecher) in Beecher, Illinois, which is subject to 40 CFR part 60, subpart WWW, is subject to 40 CFR part 63, subpart AAAA, given the applicability criteria of 40 CFR 63.1935?

A: Yes. EPA determines that Beecher is subject to the requirements of MACT subpart AAAA because at the time of the compliance date for this subpart Beecher's nonmethane organic compound (NMOC) emissions were greater than 50 Mg/year.

Abstract for [M090027], [0900029] and Z090002

Q: Does EPA agree with BP Products North America (BP), Whiting, Indiana, that a wastewater stream, which is defined as a Group 2 wastewater stream under 40 CFR part 63 subpart CC, National Emissions Standards for Hazardous Air Pollutants (NESHAP) from Petroleum Refineries (the Refinery MACT) and is managed in equipment that is also subject to the provisions of 40 CFR part 60, subpart QQQ, and was designated by BP instead as a Group 1 wastewater stream, as allowed under the Refinery MACT and controlled and treated under the applicable provisions of 40 CFR part 61, subpart FF, would only be subject to the provisions of NSPS subpart QQQ? Under the Refinery MACT, streams meeting the definition of a Group 1 wastewater stream are required to meet the wastewater control requirements of the Benzene Waste Operations NESHAP (BWON) found at 40 CFR 61.340 through 40 CFR 61.355.

A: Yes. The Refinery MACT at 40 CFR 63.640(c)(l) states that ''after the compliance dates specified in paragraph (h) of this section a Group 1 wastewater stream managed in a piece of equipment that is also subject to the provisions of 40 CFR part 60, subpart QQQ is required to comply only with this subpart.'' Therefore, EPA agrees with BP that if this facility were to designate a Group 2 wastewater stream as a Group 1 wastewater stream, as allowed in the Refinery MACT, it would not be subject to NSPS subpart QQQ per the overlap provisions under the Refinery MACT, specified at 40 CFR 63.640(c)(l), if these designated streams were fully treated and controlled as prescribed in the waste water provisions of the Refinery MACT at 40 CFR 63.647(a) through (c), and none of the treatment and control exemptions of the BWON rule were applied.

Abstract for [M090028]

Q: Does EPA approve the request of Lanxess Corporation (Lanxess) under 40 CFR part 63, subparts G and JJJ, for an alternative emission control device for the Lanxess Building 30 Organic Trap Oil-Water separator (organic trap), specifically that the organic trap scrubber, which achieves the required 95 percent organic HAP removal, be classified as the MACT control device for the organic trap instead of the facility's thermal oxidizer?

A: No. EPA does not approve the Lanxess request for an alternative emission control device under MACT subparts G and JJJ because it believes the design of the organic trap scrubber was not properly evaluated. The evaluation: (1) Did not demonstrate the required HAPs emission reduction at all possible temperatures, only at 30 degrees C; and (2) only evaluated the emissions reductions for Acrylonitrile, Styrene, and MEK, despite the fact that Lanxess told EPA that ABS and Ethyl Benzene are also vented to the organic trap scrubber a small amount of the time. In addition, Group 1 wastewater/residual streams are sent to a storage tank, which vents to the organic trap scrubber. The storage tank is located outside of Building 30 thus the temperature of the tank would fluctuate with the weather. Lastly, Lanxess used estimations and not actual temperatures of the five Group I wastewater/residual streams that are sent to the storage tank.

Abstract for [M090029]

Q: Does the Lake County Landfill (Lake County) in Kirtland, Ohio, which is subject to 40 CFR part 60, subpart WWW, also meet the applicability

criteria in 40 CFR 63.1935 under NESHAP subpart AAAA?

A: Lake County would be subject to the requirements of NESHAP subpart AAAA if at the time of the compliance date for this subpart Lake County's NMOC emissions were greater than 50 Mg/year. In order for EPA to make a final determination, Lake County should provide its nonmethane organic compound (NMOC) emissions rate as of January 16, 2004, the compliance date for this subpart.

Abstract for [M090030]

Q: Does EPA approve the request of Staker Alloys (Staker), under 40 CFR part 63, subpart RRR, to use a data logger, a dual thermocouple and a digital readout as an alternative to calibrating the afterburner thermocouple at least once every six months at its facility in Hallowell, Maine?

A: Yes. EPA approves Staker's request for alternative monitoring under MACT subpart RRR based on the series of setup and operation conditions set forth in the determination.

Abstract for [M090031]

Q: Does EPA approve a request from Avery Dennison (Avery) for an initial performance test waiver under 40 CFR part 63, subpart JJJJ, for its facility in Painesville, Ohio?

A: Yes. EPA approves Avery's request for an initial performance test waiver under MACT subpart JJJJ based upon supporting data that included summary information from the most recent performance test for each existing thermal oxidizer and the Title V Compliance Certifications for Year 2005 for Avery Dennison Corporation, Reflective Products and Graphics Divisions.

Abstract for [M090032]

Q: Does EPA approve Dow Chemical Company's (Dow) request to use performance tests previously conducted on three thermal treatment devices under 40 CFR part 63, subparts GGG and MMM for the initial compliance demonstration for 40 CFR part 63, subpart FFFF?

A: With certain contingency, EPA approves Dow's request to use performance tests previously conducted under MACT subparts GGG and MMM for the initial compliance demonstration under MACT subpart FFFF because these tests used the methods specified in 40 CFR 63.997(e), and because no significant process changes have occurred since these tests. Specifically, this approval is contingent on the production rates achieved during these prior performance tests as representing the highest production rates currently achievable.

Abstract for [0900023]

Q: Does EPA approve Air Products and Chemicals (Air Products) request to use the process monitor as the primary method to measure H2S and eliminate the previously stipulated alternative monitoring plan (AMP) conditions that require random H2S grab sampling for two of its furnaces operating within ExxonMobil's Joliet, Illinois facility and subject to 40 CFR part 60, subpart J?

A: No. EPA finds that the conditions of the AMP cannot be revised, because monitoring a process parameter is not a substitute for H2S grab sampling under NSPS subpart J. Please refer to a previous EPA approved AMP, filed as ADI Control Number 0100037.

Abstract for [0900024]

Q: Does EPA approve of the alternative compliance timeline requested by the Zion Landfill (Zion), located in Zion, Illinois, to correct exceedances under 40 CFR part 60, subpart WWW?

A: No. EPA does not approve Zion's request for an alternative compliance timeline under NSPS subpart WWW. Zion was unable to correct the exceedance at both wells EW–39 and EW–45 within the 15-day timeline and is, therefore, required to expand the gas collection system within 120 days of the initial exceedance.

Abstract for [0900025]

Q: Does EPA approve the alternative design plans and monitoring and operations standards request from American Disposal Services of Illinois, Inc.'s Livingston Landfill (Livingston Landfill), located in Pontiac, Illinois, under 40 CFR part 60, subpart AAAA?

A: No. EPA does not find Livingston Landfill's request under NSPS subpart AAAA clear enough to approve. EPA requests that Livingston Landfill submit a revised letter to EPA with changes that are applicable to EPA, such as operational and monitoring alternatives. Note that design plan changes should be directed to the State, and operational and monitoring standard alternatives should be directed to EPA.

Abstract for [0900026]

Q1: Does EPA approve a request from BFI Waste Systems of North America (BFI) for its Quad Cities Landfill located in Milan, Illinois, to waive nitrogen monitoring at interior wellheads and monitor only oxygen, under 40 CFR part 60, subpart WWW?

A1: Yes. EPA approves this request because 40 CFR 60.753(c) allows a landfill to monitor either nitrogen or oxygen.

Q2: Does EPA approve a request from BFI Waste Systems of North America (BFI) for its Quad Cities Landfill located in Milan, Illinois, to have 180 days after start-up of new wells to meet all operating conditions, under 40 CFR part 60, subpart WWW?

A2: No. EPA still cannot approve this request. However, BFI may make this request under NSPS subpart WWW for specific wells within the gas collection and control system (GCCS) with supporting data.

Q3: Does EPA approve a request from BFI Waste Systems of North America (BFI) for its Quad Cities Landfill located in Milan, Illinois, to treat Quad Cities Landfill as a separate landfill from Millennium Waste Landfill to reduce the frequency of surface scan requirements, under 40 CFR part 60, subpart WWW?

A3: No. EPA finds that Quad Cities Landfill and the Millennium Waste Landfill are considered one landfill under NSPS subpart WWW.

Q4: Does EPA approve a request from BFI Waste Systems of North America (BFI) for its Quad Cities Landfill located in Milan, Illinois, to not be subject to the monitoring, recordkeeping, reporting, and testing requirements of 40 CFR part 60, subpart WWW, for treated landfill gas?

A4: Yes. EPA previously approved this request for treatment of landfill gas at BFI's Quad Cities facility. See previous determination filed as ADI Control Number 0800069. As a clarification, EPA approves the flare as part of the treatment system when it is combusting treated gas. If the flare is controlling emissions that are not treated, then it is subject to the requirements of 40 CFR 60.752(b)(2)(iii)(A) and (B).

Q5: Does EPA approve a request from BFI Waste Systems of North America (BFI) for its Quad Cities Landfill located in Milan, Illinois, for approval of a closure report submitted to meet the requirements of 40 CFR part 60, subpart WWW?

A5: No. EPA finds that since the Quad Cities Landfills and Millennium Landfill are considered one landfill under NSPS subpart WWW, the closure report must be submitted when the landfill as a whole ceases accepting wastes.

Abstract for [0900027]

Q: Does EPA approve under 40 CFR part 60, subpart WWW, the monitoring request from Rock Island County Landfill (Upper Rock) in Milan, Illinois, to conduct additional Tier 2 testing to

update the 2006 values as it has expanded the active gas collection system?

A: Yes. EPA approves Upper Rock's monitoring request under NSPS subpart WWW. Where the requirements for submittal of a Gas Collection and Control System (GCCS) design plan and installation of a GCCS have been triggered, EPA has determined it will allow owners or operators to conduct additional Tier 2 testing until the compliance deadline for installing the GCCS, provided that a GCCS design plan was submitted within one year of the first exceedance of the 50Mg/year threshold. EPA has also determined that allowing owners or operators to conduct additional Tier 2 testing is reasonable as nonmethane organic compound (NMOC) emission rate results are more representative of current conditions if they are calculated using up-to-date Tier 2 sampling data.

Abstract for [0900028]

Q: Does EPA approve BP Products North America's (BP) request to use at its facility in Whiting, Indiana, detector tubes with a dual range of 1–20 ppm and 10–200 ppm to conduct H2S testing under 40 CFR part 60, subpart J, given that BP could not locate tubes with ranges specified in the RFG AMP Guidance issued January 9, 2006?

A: Yes. EPA approves BP's request to use detector tubes at the Whiting, Indiana facility with a dual range of 1–20 ppm and 10–200 ppm under NSPS subpart J.

Abstract for [0900030]

Q: Does EPA approve Elk River Landfill's (Elk River) request for an alternative operating temperature under 40 CFR part 60, subpart WWW, of 145 degrees F for gas well number 26r at its Elk River, Minnesota facility?

A: Yes. EPA approves Elk River's request for an alternative operating temperature under NSPS subpart WWW. Based on the supporting information presented by Elk River, it appears that the methanogenic process is still at an anaerobic phase at the higher landfill gas temperatures, and no evidence of subsurface landfill fire is present at the site.

Abstract for [0900031]

Q: Does EPA approve an alternative monitoring plan under 40 CFR part 60, subpart Db, at the Flint Hills Resources Pine Bend Refinery (FHR) plant in Saint Paul, Minnesota, specifically the use of an alternative dual span value for the continuous emissions monitoring system (CEMS) for nitrogen oxides (NO_X) to be installed on an existing boiler?

A: Yes. EPA approves FHR's alternative monitoring plan request under NSPS subpart Db, specifically the request for a dual span range, one span value of 50 ppmdv and a second span value set at 500 ppmdv, for the EU 126 NO_X CEMS.

Abstract for [0900032]

Q: Does EPA approve the request of International Specialty Products Lima (ISP-Lima) under 40 CFR part 60, subpart Db, to use an analyzer span change from 500 ppm to 140 ppm for the nitrogen oxides (NO_X) continuous emission rate monitoring system (CERMS) at ISP-Lima's Butanediol Plant #1 Scrubber Offgas Boiler (SOGB) at its facility in Lima, Ohio, for the purpose of providing a more appropriate span range for the actual NO_X emissions emitted?

A: EPA approves ISP-Lima's request for alternative monitoring under NSPS subpart Db, provided that ISP-Lima meet the series of conditions set out in the determination.

Abstract for [0900033]

Q: Does EPA approve Stony Hollow Landfill's (Stony Hollow) request for alternative operating temperatures under 40 CFR part 60, subpart WWW, for two gas wells at its Dayton, Ohio facility, 145 degrees F for gas well number 26 and 150 degrees F for gas well number 27?

A: Yes. EPA approves Stony Hollow's request for alternative operating temperatures under NSPS subpart WWW. Based on the supporting information presented by Stony Hallow Landfill, it appears that the methanogenic process is still at an anaerobic phase at the higher landfill gas temperatures and no evidence of subsurface landfill fire is present at the site.

Abstract for [0900034]

Q: Does EPA approve Sunoco's request for an alternative monitoring plan under 40 CFR part 60, subpart J, for its Toledo, Ohio refinery, to allow parametric monitoring of the wet gas scrubber in lieu of a continuous opacity monitoring system at the catalyst regenerator, in which pressure of the water supplied at the discharge of the recirculation pumps supplying water to the scrubber filtering modules and flue gas pressure drop across the scrubber filtering modules will be continuously monitored and recorded?

A: EPA approves Sunoco's request for an alternative monitoring plan under NSPS subpart J, provided that Sunoco meet the several conditions set out in the EPA response letter.

Abstract for [0900035]

Q: Does EPA agree with BP Products North America (BP) that a Sentry closed loop liquid and gas sampler system is sufficient to demonstrate compliance with the Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI), 40 CFR part 60, subpart VV, at the BP facility in Whiting, Indiana?

A: No. EPA determines that because the remaining vapors in the sampling system lines will be purged, causing VOC emissions to the atmosphere, this sampling system does not meet any of the compliance options under 40 CFR 60.482(5)(b).

Abstract for [0900036]

Q: Does EPA approve the request of Noble Road Landfill (Noble Road) for an alternative monitoring plan under 40 CFR part 60, subpart WWW that would allow an operating temperature of 160 degrees F for well numbers EW01, EW02, EW03, EW04, EW05, EW06, EW07, EW08, EW09, EW10, EW11, EW12, EW61, EW62, EW63, EW64, EW65, EW66, EW67, and EW68 at its facility in Shiloh, Ohio?

A: EPA approves certain of Noble Road's request under NSPS subpart WWW as follows: Based on the supporting information presented by Noble Road, it appears that the methanogenic process is still at an anaerobic phase at the higher landfill gas temperatures for wells EW10, EW63, and EW65 and no evidence of subsurface landfill fire is present at the site. EPA will approve an operating temperature of 150 degrees F for gas well EW10 and an operating temperature of 140 degrees F for gas well EW63, and EW65. However, EPA does not approve of Noble's request for an operating temperature of 160 degrees F for wells EW01, EW02, EW03, EW04, EW05, EW06, EW07, EW08, EW09, EW10, EW1I, EW12, EW61, EW62, EW63, EW64, EW65, EW66, EW67, and EW68.

Abstract for [0900037]

Q: Does EPA approve the request of County Environmental of Wyandot (County) for an alternative timeline and alternative operation under 40 CFR part 60, subpart WWW, for wells EW2, EW3, EW4R, EW8, and EW9R, at its facility in Carey, Ohio? Specifically, County is planning to install a new 14-inch header line to replace the current 10-inch line and for worker safety, the portion of the header system that will be affected will

be isolated from the rest of the collection system. The facility also states that by doing this, wells EW2, EW3, EW4R, EW8 and EW9R will have no vacuum applied and will remain off during the duration of the construction, expected to last until July 15, 2006.

A: Yes. EPA approves County's request for an alternative timeline and alternative operation under NSPS subpart WWW, for wells EW2, EW3, EW4R, EW8, and EW9R.

Dated: June 8, 2009.

Lisa Lund,

Director, Office of Compliance.

[FR Doc. E9–16274 Filed 7–8–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:55 a.m. on Thursday, July 2, 2009, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a matter related to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Martin J. Gruenberg, seconded by Director John E. Bowman (Acting Director, Office of Thrift Supervision), concurred in by Director John C. Dugan (Comptroller of the Currency), Director Thomas J. Curry (Appointive), and Chairman Sheila C. Bair, that Corporation business required its consideration of the matter which was to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: July 6, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–16171 Filed 7–8–09; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–AD47

Proposed Statement of Policy on Qualifications for Failed Bank Acquisitions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed statement of policy with request for comment.

SUMMARY: The FDIC is proposing to issue a Statement of Policy on Qualifications for Failed Bank Acquisitions (Proposed Policy Statement) to provide guidance to private capital investors interested in acquiring or investing in failed insured depository institutions regarding the terms and conditions for such investments or acquisitions. This Proposed Policy Statement is being published with a request for comment in order to obtain the public's views on the provisions of the policy statement before it becomes effective.

DATES: Comments must be received by the FDIC no later than August 10, 2009.

ADDRESSES: You may submit comments on the Proposed Policy Statement by any of the following methods:

- *Agency Web Site: http://www.FDIC.gov/regulations/laws/federal/notices.html.* Follow instructions for submitting comments on the agency Web site.
- *E-mail: Comments@FDIC.gov.* Include RIN # 3064–AD47 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted generally without change to *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Catherine Topping, Counsel, Legal Division, (202) 898–3975 or *ctopping@fdic.gov,* Charles A. Fulton, Counsel, Legal Division, (703) 562–2424 or chfulton@fdic.gov, or Mindy West, Chief, Policy and Program Development, Division of Supervision and Consumer Protection, (202) 898–7221 or *miwest@fdic.gov.*

SUPPLEMENTARY INFORMATION

I. Background

Recently, private capital investors have indicated interest in purchasing insured depository institutions in receivership.[1] The FDIC is particularly concerned that owners of banks and thrifts, whether they are individuals, partnerships, limited liability companies, or corporations, have the experience, competence, and willingness to run the bank in a prudent manner, and accept the responsibility to support their banks when they face difficulties and protect them from insider transactions.

Especially in light of the increased number of bank and thrift failures, and the consequent increase in interest by potential acquirers, the FDIC has evaluated the policies that apply in deciding whether a prospective acquisition is appropriate. The FDIC has reviewed various elements of private capital investment structures and considers that some of these investment structures raise potential safety and soundness considerations and risks to the Deposit Insurance Fund (DIF) as well as important issues with respect to their compliance with the requirements applied by the FDIC in its decision on the granting of deposit insurance. The concerns center on the need for fully adequate capital, a source of financial and managerial strength for the depository institution, and the potential adverse effects of extensions of credit to affiliates. These structuring issues are present with respect to any new proposed acquisition of a failed insured depository institution.

The FDIC is seeking public input on this Proposed Policy Statement. This guidance describes the terms and conditions that private capital investors would be expected to satisfy to obtain eligibility for a proposed acquisition structure. These measures would cover capital support and cross guarantees; transactions with affiliates; secrecy jurisdiction investors; continuity of ownership requirements, and disclosure.

II. Request for Public Comment

The FDIC invites comments on all aspects of the Proposed Policy Statement, including the following questions:

1. The measures contained in the Proposed Policy Statement will not be applied to individuals, partnerships, limited liability companies, or corporations, that accept the

[1] The purchase or acquisition of a failed depository institution in receivership refers to the purchase of the deposit liabilities, or both such liabilities and assets.