

public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise issues during the comment period, or the grounds for the issues arose after this period.

On September 20, 2010, EPA received a petition from the Petitioners requesting that EPA object to the Title V operating permit that IDEM proposed to issue to Duke. The Petitioners alleged that the permit is not in compliance with the requirements of the Act. Specifically, the Petitioners alleged that: (1) The permit fails to include a Best Available Control Technology limit for particulate matter with a diameter of 2.5 microns or less (PM<sub>2.5</sub>) because of the improper use of coarse particulate matter as a surrogate for PM<sub>2.5</sub>; and (2) emissions of PM<sub>2.5</sub> from the plant would cause a violation of the PM<sub>2.5</sub> National Ambient Air Quality Standard.

On December 13, 2011, the Administrator issued an Order denying the Petitioners' petition. The Order explains the reasons behind EPA's conclusion.

Dated: January 23, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012-2214 Filed 1-31-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2012-0057; FRL-9337-1]

### Notice of Availability of Memorandum of Understanding Between U.S. Environmental Protection Agency and Department of the Interior, Bureau of Land Management

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of a Memorandum of Understanding (MOU) between the Environmental Protection Agency and the Department of Interior, Bureau of Land Management. The two agencies will work together to support and facilitate reviewing pesticide regulatory activities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) relevant to risk assessments for the active ingredient formulations—aminopyralid, fluroxpyr, and rimsulfuron, proposed by the Bureau of Land Management, as well as to update risk assessment of two other ingredients.

#### FOR FURTHER INFORMATION CONTACT:

Mario Steadman, Information Technology and Resources Management

Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-8338; email address: [steadman,mario@epa.gov](mailto:steadman,mario@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2011-0057. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

The complete text of the MOU can also be viewed in the electronic docket at [regulations.gov](http://www.regulations.gov).

##### II. Brief Summary of Memorandum of Understanding

Under the MOU the EPA and the BLM will work together to support and facilitate reviewing pesticide regulatory activities under the FIFRA relevant to work on some risk assessments for active ingredient formulations proposed by the BLM. Currently, the BLM is proposing to use three new active ingredients: aminopyralid, fluroxpyr, and rimsulfuron. The BLM is conducting human health and ecological risk assessments to evaluate the risks to humans, and fish and wildlife, from the use of these new active ingredients. In addition, the BLM is proposing to update risk assessments for 2, 4-D and clopyralid.

#### List of Subjects

Environmental protection, Confidential Business Information, Interagency Agreements, Pesticides and pests, Memorandum of Understanding.

Dated: January 25, 2012.

**Michael Hardy,**

*Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.*

[FR Doc. 2012-2212 Filed 1-31-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9624-8]

### Proposed Settlement Agreement, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed settlement agreement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("CAA" or the "Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to settle a lawsuit filed by Zen Noh Grain Corporation in the United States District Court for the Eastern District of Louisiana: *Zen-Noh Grain Corporation v. Jackson*, Case No. 10-4367 (E.D. La.). Plaintiff filed this suit to compel the Administrator to respond to an administrative petition requesting, among other things, that EPA object to a CAA Title V operating permit issued by the Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana for a pig iron manufacturing process in St. James Parish, Louisiana. After subsequent permitting actions, Plaintiff submitted a second administrative petition requesting, among other things, that EPA object to two CAA Title V permits issued by Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana: a modified Title V permit for the aforementioned pig iron manufacturing process and a Title V permit for a direct reduced iron manufacturing process in St. James Parish, Louisiana. Under the terms of the proposed settlement agreement, EPA has agreed to respond to both petitions by March 16, 2012 to the extent that such response is required under 42 U.S.C. 7661d(b)(2).

**DATES:** Written comments on the proposed settlement agreement must be received by March 2, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2012-0074, online at [www.regulations.gov](http://www.regulations.gov) (EPA's preferred method); by email to

[oei.docket@epa.gov](mailto:oei.docket@epa.gov); by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:**

Melina Williams, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564-3406; fax number (202) 564-5603; email address: [williams.melina@epa.gov](mailto:williams.melina@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Additional Information About the Proposed Settlement Agreement**

This proposed settlement agreement would resolve a lawsuit alleging, among other things, that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana for a pig iron manufacturing process in St. James Parish, Louisiana. After subsequent permitting actions, Plaintiff submitted a second administrative petition requesting, among other things, that EPA object to two CAA title V permits issued by the Louisiana Department of Environmental Quality to Consolidated Environmental Management, Inc.—Nucor Steel Louisiana: a modified Title V permit for the aforementioned pig iron manufacturing process and a Title V permit issued for a direct reduced iron manufacturing process in St. James Parish, Louisiana. Under the terms of the proposed settlement agreement, EPA has agreed to respond to both petitions by March 16, 2012 to the extent that such response is required under 42 U.S.C. 7661d(b)(2). In addition, the proposed settlement agreement provides that such response would resolve all claims that were or could have been asserted against the United States in the lawsuit, as well as the claims that could be asserted in connection with the second administrative petition. The proposed settlement agreement also

provides that if it becomes final, the parties shall jointly file a stipulation of dismissal with prejudice with the court, within 10 days of the date when EPA provides written notice that the proposed settlement agreement has become final. In addition, the proposed settlement agreement provides that Plaintiff shall have until 120 days after the Court enters an Order of Dismissal as provided in the proposed settlement agreement to file a motion for costs of litigation (including attorney fees), that the parties shall seek to informally resolve any claim for costs of litigation, and that EPA reserves the right to object to the award of any such costs.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

**II. Additional Information About Commenting on the Proposed Settlement Agreement**

*A. How can I get a copy of the settlement agreement?*

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2012-0074) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through [www.regulations.gov](http://www.regulations.gov). You may use the [www.regulations.gov](http://www.regulations.gov) to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are

available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at [www.regulations.gov](http://www.regulations.gov) without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

*B. How and to whom do I submit comments?*

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the [www.regulations.gov](http://www.regulations.gov) Web site to submit comments to EPA electronically is EPA’s preferred method for receiving comments. The electronic public docket system is an “anonymous access” system, which means EPA will not know your identity, email address,

or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an "anonymous access" system. If you send an email comment directly to the Docket without going through [www.regulations.gov](http://www.regulations.gov), your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: January 25, 2012.

**Patricia Embrey,**

*Acting Associate General Counsel.*

[FR Doc. 2012-2040 Filed 1-31-12; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2010-0014; FRL-9335-1]

### Rescission of Certain Product Cancellations

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

**ACTION:** Notice.

**SUMMARY:** EPA issued notices in the **Federal Register** of August 31, 2011 and December 28, 2011, concerning the voluntary cancellation of multiple pesticide products. This document is being issued to rescind the cancellation of Baker Petrolite Corporation's (BPC) product, EPA Reg. No. 010707-00055; BioSafe Systems' products, EPA Reg. Nos. 070299-00001, 070299-00002, and 070299-00003; and Oregon's special local needs (SLN) registration, OR060026.

#### FOR FURTHER INFORMATION CONTACT:

Maia Tatinclaux, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 347-0123; email address: [tatinclaux.maia@epa.gov](mailto:tatinclaux.maia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. Does this action apply to me?

The Agency included in the notice a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2010-0014. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

##### II. What does this rescission do?

This Notice rescinds the cancellation of BPC's product, EPA registration number 010707-00055, which appeared in FR Doc. 2011-22135, published in the **Federal Register** of August 31, 2011 (76 FR 54230) (FRL-8885-6). The Cancellation Order was issued following a Notice announcing the request to voluntarily cancel product 010707-00055 published in the **Federal Register** of January 19, 2011 (76 FR 31380) (FRL-8857-1). However, the request to voluntarily cancel this pesticide product had been rescinded on December 16, 2010 in a letter from BPC, and this product should not have been cancelled.

Additionally, this Notice rescinds the cancellations of BioSafe Systems' products, EPA Reg. Nos. 070299-00001, 070299-00002, 070299-00003 and Oregon's SLN, OR060026, which appeared in FR Doc. 2011-33252, published in the **Federal Register** of December 28, 2011 (76 FR 81496) (FRL-9326-6). The Cancellation Order was issued following a Notice announcing the request to voluntarily cancel these products published in the **Federal Register** of April 27, 2011 (76 FR 23588) (FRL-8870-6). However, BioSafe Systems, LLC never requested the cancellation of its products, and therefore EPA did not have the authority to cancel them. Additionally, the State of Oregon retracted their request to voluntarily cancel OR060026 on December 3, 2010 and this product should not have been cancelled.

Therefore, based on the discussion above, with this notice, cancellation of BPC's product, EPA Reg. No 010707-00055, X-cide 305, contained in the cancellation order published in the **Federal Register** on August 31, 2011, is hereby rescinded.

Cancellation of the following BioSafe Systems' products contained in the cancellation order published in the

**Federal Register** on December 28, 2011 is hereby rescinded:

070299-00001, Zerotel Algaecide Fungicide, 070299-00002, Oxidate Broad Spectrum Bactericide/fungicide, and 070299-00003, Terracite.

In addition, the cancellation of Oregon's SLN, OR060026, also contained in the cancellation order published in the **Federal Register** on December 28, 2011 is rescinded.

In addition to the rescission of these cancellations, the existing stocks provisions contained in the August 31, 2011 cancellation order and the December 28, 2011 cancellation order are rescinded as those provisions apply to the products and registrations contained in this notice.

##### List of Subjects

Environmental protection, Pesticides and pest.

Dated: January 20, 2012.

**Richard P. Keigwin, Jr.,**

*Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2012-2209 Filed 1-31-12; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2011-0038; FRL-9328-7]

### Environmental Protection Agency, Department of Health and Human Services and Department of Agriculture; Memorandum of Understanding Regarding Genetically Engineered Plants

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

**ACTION:** Notice.

**SUMMARY:** This notice announces that pesticide-related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by submitters in accordance with 40 CFR 2.309(c) and 2.308(h)(2) will be shared with the Department of Human Services (HHS) and the U.S. Department of Agriculture (USDA). HHS's Centers for Disease Control and Prevention and the Food and Drug Administration (FDA) will perform work for OPP under a Memorandum of Understanding (MOU). The MOU will support and encourage cooperation and communication between USDA, FDA, and EPA in the regulatory oversight over