

commit funds for the purchase of LED lights or HVAC units between February 17, 2009 and March 31, 2010. Under the authority of section 1605(b)(1) of the Recovery Act, the Assistant Secretary, EERE, has determined that the application of section 1605 requirements in these circumstances would be inconsistent with the public interest.

The limited waivers for these two categories of manufactured goods are intended to resolve the confusion surrounding the characterization of LED lights and HVAC units as “supply” items, and thus not subject to the Recovery Act Buy American provisions. The concept of the “supply” item has its origins in the Buy American Act (41 U.S.C. 10a–10d) and the Federal Acquisition Regulation (FAR), neither of which applies to section 1605 of the Recovery Act. The concept of a “supply” item has no significance in the context of section 1605 (the Buy American provisions) of the Recovery Act. The Buy American provisions apply to all iron, steel, and manufactured goods used for a project funded by Recovery Act appropriations for the construction, alteration, maintenance, or repair of a public building or public work. However, there is no requirement with regard to the origin of components or subcomponents in manufactured goods used in the project, as long as the manufacturing occurs in the United States (2 CFR 176.70).

However, it is understandable that a general lack of familiarity with the Buy American provisions would lead Recovery Act stakeholders to reference a similar set of procurement regulations—such as those codified by the FAR and Buy American Act—for guidance in understanding and interpreting section 1605 of the Recovery Act. This confusion ultimately led some recipients of EERE Recovery Act funds to rely on the “supply” item characterization to procure some LED lighting products and HVAC units from foreign manufacturers, without first seeking and obtaining an official waiver of section 1605 of the Recovery Act.

The purpose of the Recovery Act Buy American provisions is to support economic recovery by driving investment into the domestic manufacturing sector and recycling Recovery Act dollars within the U.S. economy. Given that the majority of Recovery Act-related procurement for EERE-funded projects has yet to occur, the Buy American provisions still have ample opportunity to fulfill their purpose and potential. This nationwide limited waiver being issued for LED lighting and HVAC units is critical to

resolving the existing confusion, clearly elucidating the requirements of section 1605 of the Recovery Act, and moving forward in a proactive manner.

To support this potential, facilitate the implementation of section 1605 of the Recovery Act, and ensure that Recovery Act funds are deployed expeditiously, EERE is operationalizing a robust and proactive strategy to locate domestic manufacturers for the hard-to-find products sought by grantees. This strategy is outlined in a Request for Information published in **Federal Register** Vol. 75, No. 23 on Thursday, February 4 (and posted on the EERE Buy American Web page [http://www1.eere.energy.gov/recovery/buy\\_american\\_provision.html](http://www1.eere.energy.gov/recovery/buy_american_provision.html)), and demonstrates EERE's commitment to the fulfillment of the economic and job-creation potential of the Recovery Act Buy American provisions.

Finally, the installation of LED lights and more efficient HVAC units is a proven strategy to achieve impressive energy savings, reduce energy expenditures, and to create immediate jobs in the building, construction, and electrical trades. All three of these attributes can support near-term economic recovery and long-term sustainability in locations across the country. Hence, the installation of these products has inherently supported the goals of the Recovery Act and—as a popular use of Recovery Act funds by EERE grantees—will continue to do so in the unambiguous regulatory landscape made possible by this nationwide limited waiver.

This **SUPPLEMENTARY INFORMATION** constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of her responsibility. Consequently, this waiver applies to EERE projects carried out under the Recovery Act.

**Authority:** Pub. L. 111–5, section 1605.

Dated: March 19, 2010.

**Cathy Zoi,**

*Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy.*

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## ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8989–4]

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

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146 or <http://www.epa.gov/compliance/nepa/>. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009 (74 FR 34754).

### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register**.

### Draft EISs

*EIS No. 20090429, ERP No. D–IBR–L39067–ID, Minidoka Dam Spillway Replacement Project, To Prevent Structural Failure of the Minidoka Dam Spillway and Canal Headworks, Lake Walcott, Minidoka County, ID.*

**Summary:** EPA expressed environmental concerns about water quality impacts, the potential extent of jurisdictional wetlands, and the extent to which the wetlands below the dam would be monitored and adaptively managed. Rating EC1.

*EIS No. 20090432, ERP No. D–NPS–D65042–DC, National Mall Plan, To Prepare a Long-Term Plan that will Restore National Mall, Implementation, Washington, DC.*

**Summary:** EPA expressed environmental concerns about impacts

to water resources, fish and wildlife, and soils. Rating EC2.

*EIS No. 20090436, ERP No. D-AFS-L65525-OR*, Canyon Fuels and Vegetation Management Project, Proposed Fuels and Vegetation Treatment to Reduce the Risk of Stand Loss Due to Overly Dense Stand Conditions, Lookout Mountain Ranger District, Ochoco National Forest, Crook County, OR.

**Summary:** EPA expressed environmental concerns about water quality and habitat impacts, and recommend the inclusion of additional information on riparian harvest prescriptions and grazing management in riparian habitat conservation areas. Rating EC1.

*EIS No. 20100004, ERP No. D-NOA-A91078-00*, Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish (MSB), Fishery Management Plan (FMP), Establish an Atlantic Mackerel Limited Access Program, Implementation.

**Summary:** EPA does not object to the proposed action. Rating LO.

*EIS No. 20100005, ERP No. DS-FHW-F40427-WI*, WI-23 Highway Project, Transportation Improve between Fond du Lac and Plymouth, Fond du Lac and Sheboygan Counties, WI.

**Summary:** EPA expressed environmental concerns about wetlands, air quality, upland habitat, noise, and cumulative impacts. Rating EC2.

*EIS No. 20100028, ERP No. DS-AFS-J65146-WY*, Bridger-Teton National Forest, Proposal to Determine What Terms and Conditions to Allow Development of Oil and Gas Leasing in the Wyoming Range, Sublette County, WY.

**Summary:** EPA does not object to the proposed action. Rating LO.

#### Final EISs

*EIS No. 20100020, ERP No. F-FTA-G59002-TX*, University Corridor Fixed Guideway Project, To Implement Transit Improvements from Hillcroft Transit Center to the Vicinity of the University of Houston (UH)—Central Campus or the Eastwood Transit Center, City of Houston, Harris County, TX.

**Summary:** No formal comment letter was sent to the preparing agency.

*EIS No. 20100025, ERP No. F-COE-E30043-NC*, North Topsail Beach Shoreline Protection Project, Seeking Federal and State Permits to Allow Implementation of a Non-Federal Shoreline and Inlet Management Project, New River Inlet, Onslow County, NC.

**Summary:** EPA expressed environmental concerns about the impacts to marine habitats and migratory species from dredge/fill actions.

*EIS No. 20100026, ERP No. F-NOA-E91029-00*, Amendment 31 to the Fishery Management Plan for Reef Fish Resources, Addresses Bycatch of Sea Turtles in the Bottom Longline Component of the Reef Fish Fishery, Gulf of Mexico.

**Summary:** While EPA continues to support the reduction of sea turtle bycatch in bottom longline Reef Fish Fishery proposed by Amendment 31, EPA expressed concern that additional research is needed to supplement the proposed actions to successfully reduce turtle bycatch.

*EIS No. 20100043, ERP No. F-FHW-H40194-IA*, Southeast (SE) Connector in Des Moines, Iowa, To Provide a Safe and Efficient Link between the MLK Jr. Parkway at SE 14th Street to the U.S. 65 Bypass, Funding, US Army COE Section 404 and NPDES Permits, Polk County, IA.

**Summary:** EPA's previous comments have been addressed; therefore, EPA does not object to the proposed action.

Dated: March 23, 2010.

**Kenneth Mittelholtz,**

*Deputy Director, NEPA Compliance Division, Office of Federal Activities.*

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## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8989-3]

### Environmental Impacts Statements; Notice of Availability

**Responsible Agency:** Office of Federal Activities, General Information (202) 564-1399 or <http://www.epa.gov/compliance/nepa/>.

Weekly receipt of Environmental Impact Statements

Filed 03/15/2010 Through 03/19/2010 Pursuant to 40 CFR 1506.9.

#### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on

EISs on its Web site at: <http://www.epa.gov/compliance/nepa/eisdata.html>. Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register**.

*EIS No. 20100087, Final EIS, USFS, NV*, Bridgeport Travel Management Project, To Provide the Primary Framework for Sustainable Management of Motor Vehicle Use on the Bridgeport Ranger District, Humboldt-Toiyabe National Forest, Mono County, CA and Lyon, Douglas, and Mineral Counties, NV, Wait Period Ends: 04/26/2010, Contact: James Winfrey, 775-355-5308.

*EIS No. 20100088, Final EIS, USFS, ID*, Small-Scale Suction Dredging in Lolo Creek and Moose Creek Project, Updated Information to Analysis Three Alternatives, Clearwater National Forest, North Fork Ranger District, Clearwater and Idaho Counties, ID, Wait Period Ends: 04/26/2010, Contact: Douglas Gober, 208-476-4541.

*EIS No. 20100089, Draft EIS, STB, AK*, Port MacKenzie Rail Line Extension Construction and Operation, Alaska Railroad Corporation, Port MacKenzie, AK, Comment Period Ends: 05/10/2010, Contact: Dave Navecky 202-245-0294 *EIS No. 20100090*, Third Draft EIS (Tiering), USFS, OR, Mt. Ashland Ski Area Expansion, To Address Matters Identified by the Ninth Circuit Court of Appeals for the Existing 2004 FEIS, Ashland Ranger District, Rogue River National Forest and Scott River Ranger District, Klamath National Forest, Jackson County, OR, Comment Period Ends: 05/10/2010, Contact: Steve Johnson, 541-552-2900.

*EIS No. 20100091, Final EIS, USFS, MT*, Bozeman Municipal Watershed Project, To Implement Fuel Reduction Activities, Bozeman Ranger District, Gallatin National Forest, City of Bozeman Municipal Watershed, Gallatin County, MT, Wait Period Ends: 04/26/2010, Contact: Jim Devitt, 406-587-6749.

*EIS No. 20100092, Final EIS, USFS, CA*, Shasta-Trinity National Forest Motorized Travel Management Project, Proposal to Prohibit Cross-County Motor Vehicle Travel off Designated National Forest Transportation System (NFTS) Roads, Motorized Trails and Areas by the Public Except as Allowed by Permit