

*open.html*. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy of the consent decree, please enclose a check in the amount of \$4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury for the consent decree.

**William Brighton,**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Between the United States, the State of Michigan, and the Wisconsin Electric Power Company Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on July 10, 2003, a proposed Amended Consent Decree ("Amended Consent Decree") between the United States, Michael A. Cox, Attorney General of the State of Michigan, *ex rel.* Michigan Department of Environmental Quality ("State of Michigan"), and the Wisconsin Electric Power Company ("Wisconsin Electric"), Civil Action No. 03-C-0371, was lodged with the United States District Court for the Eastern District of Wisconsin.

This Amended Consent Decree modifies the Consent Decree that was lodged in the Eastern District of Wisconsin on April 29, 2003, notice of which was provided at 68 FR 26354 (May 15, 2003). Like the original proposed Consent Decree, this proposed Amended Consent Decree would resolve claims asserted by the United States against Wisconsin Electric pursuant to Sections 113(b) and 167 of the Clean Air Act (the "Act"), 42 U.S.C. 7413(b) and 7477, and seeks injunctive relief and the assessment of civil penalties for Wisconsin Electric's violations of:

(a) The Prevention of Significant Deterioration provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470-92;

(b) The nonattainment New Source Review provisions in Part D of Subchapter I of the Act, 42 U.S.C. 7501-7515;

(c) The federally-enforceable State Implementation Plan developed by the

State of Michigan (the "Michigan SIP"); and

(d) The federally-enforceable State Implementation Plan developed by the State of Wisconsin (the "Wisconsin SIP").

In addition, this Amended Consent Decree would resolve claims asserted by the State of Michigan against Wisconsin Electric pursuant to Section 167 of the Act, 42 U.S.C. 7477, and Section 5530 of Part 55 of Michigan's Natural Resources and Environmental Protection Act ("Part 55 of NREPA"), MCL § 324.5530, for injunctive relief and the assessment of civil fines for alleged violations of:

(a) The Prevention of Significant Deterioration provisions in Part C of Subchapter I of the Act, 42 U.S.C. 7470-92; and

(b) Section 5505 of Part 55 of NREPA, MCL § 324.5505.

The proposed Amended Consent Decree incorporates two types of changes from the original Consent Decree. First, various changes have been made to reflect the addition of the State of Michigan as a Plaintiff-Intervenor. Among these are changes to the Penalty and Fines Section (Section X), in which Wisconsin Electric would be required to pay a fine of \$100,000 to the State of Michigan and a civil penalty of \$3.1 million to the United States, and changes to the Resolution of Claims Section (Section XI), in which a Resolution of Claims parallel to that provided by the United States is provided for claims that may be brought by the State of Michigan. Second, clarifying changes have been made to six paragraphs in which Wisconsin Electric's emissions would be limited to levels that are measured as either a 30-day or 12-month rolling average. (See paragraphs 58, 62, 63, 73, 76, and 77.) Each of these clarifying changes is intended to eliminate any ambiguity as to when the compliance requirement actually commences, given that, in each provision, the emission limit is measured by reference to a historical period (*i.e.*, the last 30 days or 12 months).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Wisconsin Electric*, D.J. Ref. No. 90-5-2-1-07493.

The Consent Decree may be examined at the Office of the United States

Attorney, Eastern District of Wisconsin, Federal Courthouse, 517 East Wisconsin Ave., Milwaukee, Wisconsin 53202, and at U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604-3507. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$19.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**W. Benjamin Fisherow,**

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Callahan's Foods; Denial of Application

On October 28, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Callahan's Foods (Callahan's) proposing to deny its application, executed on May 13, 1997, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting the application of Callahan's would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h) and 824(a)(4). The Order to Show Cause also notified Callahan's that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to Callahan's at its proposed registered location in Pulaski, Virginia and was received on November 2, 2001. DEA has not received a request for hearing or any other reply from Callahan's or anyone purporting to represent the company in this matter.

Therefore, the Acting Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause at the applicant's