

2009. We have received several requests to extend the comment period. We are extending the comment period to September 14, 2009.

DATES: Comments must be received by September 14, 2009.

ADDRESSES: You may submit comments, identified by docket number COE-2009-0032, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (Attn: Ms. Desiree Hann), 441 G Street, NW., Washington, DC 20314-1000.

Hand Delivery/Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

We will not accept e-mailed or faxed comments. We will post all comments on <http://www.regulations.gov> under docket number COE-2009-0032.

FOR FURTHER INFORMATION CONTACT: Ms. Desiree Hann or Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC. Ms. Hann can be reached at 202-761-4560 and Mr. Olson can be reached at 202-761-4922.

SUPPLEMENTARY INFORMATION: In the July 15, 2009, issue of the **Federal Register** (74 FR 34311) the U.S. Army Corps of Engineers published a proposal to take two actions concerning Nationwide Permit 21, which authorizes discharges of dredged or fill material into waters of the United States for surface coal mining activities.

First, the Corps proposes to modify NWP 21 to prohibit its use to authorize discharges of dredged or fill material into waters of the United States for surface coal mining activities in the Appalachian region of the following states: Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia until it expires on March 18, 2012. The proposed modification would enhance environmental protection of aquatic resources by requiring surface coal mining projects in the affected region to obtain individual permit coverage under the Clean Water Act, which includes increased public and agency involvement in the permit review process, including an opportunity for public comment on individual projects.

Second, the Corps is proposing to suspend NWP 21 to provide an interim means of requiring individual permit reviews in Appalachia, while proposing to undertake the longer-term measure of modifying NWP 21 to prohibit its use to authorize discharges of dredged or fill material into waters of the United States

associated with surface coal mining activities in the Appalachian region of these six States. The Corps is also proposing to suspend NWP 21 to provide immediate environmental protection while it evaluates the comments received in response to the proposal to modify NWP 21.

The application of NWP 21 to surface coal mining activities in the rest of the United States would not be affected by this proposed modification or the proposed suspension.

Several entities have requested an extension of the comment period for the proposed rule. We have determined that a 30-day extension of the comment period for this proposed rule is warranted. Therefore, the comment period for these proposed actions is extended until September 14, 2009.

Dated: August 10, 2009. Approved By:

Jonathan A. Davis,

Deputy Chief, Operations, Directorate of Civil Works.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8945-5]

Cross-Media Electronic Reporting Rule State Authorized Program Revision/Modification Approvals: State of Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval, under regulations for Cross-Media Electronic Reporting, of the State of Washington's request to revise/modify programs to allow electronic reporting for certain of their EPA-authorized programs under title 40 of the CFR.

DATES: EPA's approval is effective on August 13, 2009.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566-1697, huffer.evi@epa.gov, or David Schwarz, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566-1704, schwarz.david@epa.gov.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media

Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR, requires that State, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and get EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, in § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the State, tribe or local government has sufficient legal authority to implement the electronic reporting components of its authorized programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On October 10, 2008, the State of Washington Department of Ecology (WAECY) submitted an application for its enterprise-wide electronic document receiving system for revision or modification of multiple EPA-authorized programs under title 40 CFR. EPA reviewed WAECY's request to revise/modify their EPA-authorized programs and, based on this review, EPA determined the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Washington's request for revision/modification to certain of their authorized programs is being published in the **Federal Register**.

Specifically, EPA has approved WAECY's request for revisions/modifications to the following of their authorized programs to allow electronic reporting under 40 CFR parts 51, 60-63, 70, 122-124, 144-147, and 280:

- Part 52—Approval and Promulgation of Implementation Plans;

- Part 61—National Emission Standards For Hazardous Air Pollutants;
- Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants;
- Part 63—National Emission Standards For Hazardous Air Pollutants For Source Categories;
- Part 70—State Operating Permit Programs;
- Part 123—State Program Requirements (National Pollutant Discharge Elimination System Permit Program);
- Part 147—State, Tribal, and EPA-administered Underground Injection Control Programs; and
- Part 282—Approved Underground Storage Tank Programs.

WAEYC was notified of EPA's determination to approve its application with respect to the authorized programs listed above in a letter dated August 6, 2009.

Dated: August 6, 2009.

Lisa Schlosser,

Director, Office of Information Collection.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8945-4]

Notice of a Regional Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Ocean Shores (the City), Washington for the Purchase of Resin Beads (Miex® DOC Resin) Manufactured Outside of the United States Under the Section 1605 Waiver Authority Based on the Conclusion That Iron, Steel, and the Relevant Manufactured Goods Are Not Produced in the United States in Sufficient and Reasonably Available Quantities and of a Satisfactory Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Acting Regional Administrator of EPA Region 10, is hereby granting a waiver of the Buy America requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the City for the purchase of resin beads (MIEX® DOC Resin) supplied by Orica Ltd, in Victoria, Australia and manufactured in Australia. The

applicant indicates that MIEX® DOC Resin is necessary to the MIEX® process, a treatment process evaluated in pilot studies and selected for implementation. While the majority of other equipment is manufactured in the U.S., the MIEX® DOC Resin is only manufactured in Australia. It is patented and no alternative exists which can be used with the MIEX® process. The Acting Regional Administrator is making this determination based on the review and recommendations of the Drinking Water Unit. The City has provided sufficient documentation to support their request.

DATES: *Effective Date:* July 24, 2009.

FOR FURTHER INFORMATION CONTACT: Rick Green, DWSRF Coordinator, Drinking Water Unit (DWU), Office of Water & Watersheds (OWW), (206) 553-8504, U.S. EPA Region 10 (OWW-136), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

SUPPLEMENTARY INFORMATION:

In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(b)(2) of Public Law 111-5, Buy American requirements, to the City for the acquisition of resin beads (MIEX® DOC Resin) supplied by Orica Ltd, in Victoria, Australia and manufactured in Australia. The applicant indicates that MIEX® DOC Resin is necessary to the MIEX® process, a treatment process evaluated in pilot studies at the City and selected for use. While the majority of other equipment is manufactured in the U.S., the MIEX® DOC Resin is only manufactured in Australia. It is patented and no alternative exists which can be used with the MIEX® process. Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The construction project being undertaken by the City is treatment of

water from a shallow aquifer, which contains problematic levels of iron, manganese, hydrogen sulfide, ammonia, organic nitrogen, and organic carbon. Based on the results of pilot studies, the City chose to use a combination of greensand filtration and the MIEX® process to treat this water supply. The community chose this treatment process over the alternatives of ultrafiltration or nanofiltration because the capital costs are significantly lower, the electrical consumption is significantly less, and there is much less water wasted during the treatment process.

The City's submission clearly articulates entirely reasonable reasons for choosing the type of technology that it chose for this project 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 City has incorporated specific technical design features for the proposed project based on pilot studies which demonstrated that the combination of greensand filtration and MIEX treatment is the best alternative.

The City has provided information to the EPA representing that there are currently no resin beads manufactured in the United States that have the exact same product specifications in place. The City has also provided certification from its supplier representing that there are no beads of comparable quality available from a domestic manufacturer to meet its exact specifications.

Based on additional research by EPA's consulting contractor (Cadmus), and to the best of the Region's knowledge at this time, there does not appear to be other resin beads available to meet the City's specifications.

Furthermore, the purpose of the ARRA provisions was to stimulate economic recovery by funding current infrastructure construction, not to delay projects that are already shovel ready by requiring entities, like the City, to revise their design and potentially choose a more costly and less efficient project. The imposition of ARRA Buy American requirements on such projects eligible