

42 U.S.C. 12188(b)(1)(A)(ii) and 28 CFR 36.601 *et seq.*, which constitutes rebuttable evidence, in any enforcement proceeding, that a building constructed or altered in accordance with the NCAC meets or exceeds the requirements of the ADA.

**DATES:** December 8, 2005.

**FOR FURTHER INFORMATION CONTACT:** John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., 1425 NYA Building, Washington, DC 20530. Telephone number (800) 514-0301 (Voice) or (800) 514-0383 (TTY).

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514-0301 (Voice) or (800) 514-0383 (TTY).

**SUPPLEMENTARY INFORMATION:**

**Background**

The ADA authorizes the Department of Justice, upon application by a State or local government, to certify that a State or local law that establishes accessibility requirements meets or exceeds the minimum requirements of title III of the ADA for new construction and alterations. 42 U.S.C. 12188(b)(1)(A)(ii); 28 CFR 36.601 *et seq.* Final certification constitutes rebuttable evidence, in any ADA enforcement action, that a building constructed or altered in accordance with the certified code complies with the new construction and alterations requirements of title III of the ADA.

The North Carolina Department of Insurance requested that the Department of Justice (Department) certify that the 2002 North Carolina Accessibility Code with 2004 Amendments (NCAC) meets or exceeds the new construction and alterations requirements of title III of the ADA.

The Department has analyzed the NCAC and has preliminarily determined that it meets or exceeds the new construction and alterations requirements of title III of the ADA. By letter dated March 17, 2005, the Department notified the North Carolina Department of Insurance of its preliminary determination of equivalency.

On April 8, 2005, the Department published notices in the **Federal Register** announcing its preliminary determination of equivalency and requesting public comments thereon. The period for submission of written comments ended on June 7, 2005. In addition, the Department held public hearings in Cary, North Carolina on May

16, 2005, and in Washington, DC, on June 20, 2005.

Seven individuals provided comments. The commenters included design professionals, disability rights advocates, government officials, and other interested individuals. The Department has analyzed all of the submitted comments and has consulted with the U.S. Architectural and Transportation Barriers Compliance Board.

The majority of the comments the Department received supported certification of the NCAC. Two commenters, while not opposing certification of the NCAC, had questions about the State's enforcement of the NCAC. Based on these comments, the Department has determined that the NCAC is equivalent to the new construction and alterations requirements of title III of the ADA. Therefore, the Department has informed the submitting official of its decision to certify the NCAC.

**Effect of Certification**

The certification determination will be limited to the version of the NCAC that has been submitted to the Department. The certification will not apply to amendments or interpretations that have not been submitted and reviewed by the Department.

Certification will not apply to buildings constructed by or for State or local government entities, which are subject to title II of the ADA. Nor does certification apply to accessibility requirements that are addressed by the NCAC, but are not addressed by the new construction and alterations requirements of title III of the ADA, including the ADA Standards for Accessible Design.

Finally, certification does not apply to variances or waivers granted under the NCAC. Certification also does not apply if other State building codes provide exemptions from the NCAC requirements. Therefore, if a builder receives a variance, waiver, modification, or other exemption from the requirements of the NCAC for any element of new construction or alterations, the builder would not be in compliance with the ADA and would not be able to benefit from certification's rebuttable evidence of ADA compliance with respect to that element.

**Wan J. Kim,**

*Assistant Attorney General for Civil Rights.*

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**DEPARTMENT OF JUSTICE**

**Notice of Lodging of Consent Decree Under the Clean Air Act**

Under 28 CFR 50.7, notice is hereby given that on November 17, 2005, a proposed consent decree in *United States et al. v. Atlas Roofing Corporation*, Case No. CV 05-8180JFW (RZx), was lodged with the United States District Court for the Central District of California.

In this action, the United State and the South Coast Air Quality Management District, ("SCAQMD") sought injunctive relief and civil penalties under Section 113 of the Clean Air Act and Cal. Health & Safety Code §§ 42401, 42402.1 against Atlas Roofing Corporation ("Atlas") at its expanded polystyrene ("EPS") foam manufacturing facility in Los Angeles, California, for: (1) Failure to demonstrate that the emission control system at the facility complied with SCAQMD Rule 1175, a part of the California State Implementation Plan; (2) failure to comply with a permit condition limiting the pentane content of the polystyrene beads used at the facility; (3) failure to comply with a permit condition regarding the operation of the control device; (4) violation of SCAQMD Hearing Board's Order limiting the pentane content of the polystyrene beads; and (5) violation of SCAQMD Hearing Board's Order for Abatement regarding the operation of the control device. The consent decree requires Atlas to: (1) Pay a civil penalty of \$221,400 to the United States; (2) pay a civil penalty of \$147,000 to SCAQMD; and (3) cease all EPS foam operations regulated by SCAQMD 1175 at the facility by December 31, 2005.

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, D.C. 20044-7611, with a copy to Ann Hurley, U.S. Department of Justice, 301 Howard Street, Suite 1050, San Francisco, CA 94105, and should refer to *United States et al. v. Atlas Roofing Corporation*, D.J. Ref. #90-5-2-1-08415.

The consent decree may be examined at U.S. EPA Region 9, Office of regional Counsel, 75 Hawthorne Street, San Francisco, California. 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 \$5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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## DEPARTMENT OF JUSTICE

### CERCLA Consent Decree for Settlement of Response Costs and Civil Penalty Claims Associated With the River Terrace RV Park Site

**AGENCY:** Department of Justice.

**ACTION:** Notice of availability for public comment.

**Authority:** 28 CFR 50.7

Notice is hereby given that on November 23, 2005, a CERCLA Consent Decree For Settlement Of Response Costs And Civil Penalty Claims Associated With The River Terrace RV Park Site ("Consent Decree") in *United States v. Gary C. Hinkle and Judith A. Hinkle*, Docket No. A05-0111 CV (RRB), was lodged with the United States District Court for the District of Alaska. In this action brought pursuant to Sections 107, 109 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9607, 9609 and 9622, the United States is seeking: (1) The reimbursement of response costs incurred in connection with a removal action at the River Terrace RV Park Site in Soldotna, Alaska; and (2) a civil penalty for the failure of the Hinkles to abide by the terms of a 1997 Administrative Order on Consent for Removal Action ("AOC") that they entered into with the Environmental Protection Agency (EPA), under which they agreed to reimburse EPA for the United States' costs incurred in connection with, *inter alia*, overseeing the Hinkles' conduct of the removal action in accordance with the AOC and enforcing the AOC.

The Consent Decree requires two payments from the Hinkles—one

reimbursement the United States' response costs in the amount of \$241,000.00, the second a civil penalty of \$7,500.00.

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, United States Department of Justice and sent to 801 B Street, Suite 504, Anchorage, Alaska 99501-3657. Comments should refer to *United States v. Gary C. Hinkle and Judith A. Hinkle*, D.J. Ref. #90-11-3-07377. During the public comment period, the Consent Decree may be examined during business hours at the same address by contacting Lorraine Carter (907-271-5452) or on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the Consent Decree may be obtained by contacting Lorraine Carter in writing at the address above or via electronic mail ([lorraine.carter@usdoj.gov](mailto:lorraine.carter@usdoj.gov)). In requesting a copy by mail, please enclose a check in the amount of \$3.50 (25 cents per page reproduction cost) payable to the U.S. Treasury. This amount does not include costs for reproduction of Appendix A to the Consent Decree (a copy of the AOC). If you would like a copy of Appendix A in addition to a copy of the Consent Decree, please send a check in the amount of \$11.50.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

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## DEPARTMENT OF JUSTICE

### Executive Office for Immigration Review

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 30-Day Notice of Information Collection Under Review: Notice of Appeal from a Decision of an Immigration Judge.

The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed

information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 151, page 45746 on August 8, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 9, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395-5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of this Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Notice of Appeal from a Decision of an Immigration Judge.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form EOIR-26, Executive Office for Immigration Review, United States Department of Justice.