

Docket# RP02-165, 000, Horizon Pipeline Company, L.L.C.

#### Energy Projects—Hydro

H-1.

Docket# P-12020, 001, Marseilles Hydro Power, LLC

Other#s P-12150, 000, Marseilles Land and Water Power Company

H-2.

Omitted

H-3.

Docket# P-2622, 009, International Paper Company and Turner Falls Hydro LLC  
Other#s P-2622, 010, International Paper Company and Turner Falls Hydro LLC

H-4.

Docket# P-2596, 004, Rochester Gas and Electric Corporation

Other#s P-2596, 002, Rochester Gas and Electric Corporation

H-5.

Docket# P-12055, 000, Dakota Pumped Storage, LLC

Other#s P-12134, 000, South Dakota Conservancy District

#### Energy Projects—Certificates

C-1.

Docket# CP00-6, 003, Gulfstream Natural Gas System, L.L.C.

C-2.

Docket# CP01-415, 000, East Tennessee Natural Gas Company

C-3.

Docket# CP01-427, 000, Dominion Transmission, Inc.

C-4.

Docket# CP01-438, 000, Northwest Pipeline Corporation

C-5.

Docket# CP02-4, 000, Northwest Pipeline Corporation

C-6.

Docket# CP96-152, 029, Kansas Pipeline Company

C-7.

Docket# CP01-22, 003, North Baja Pipeline LLC

Other#s CP01-23, 002, North Baja Pipeline LLC

CP01-24, 003, North Baja Pipeline LLC

CP01-25, 003, North Baja Pipeline LLC

Magalie R. Salas,

Secretary.

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BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[MO 153-1153; FRL-7161-8]

### Notice of Deficiency for Clean Air Act Operating Permit Program in Missouri

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

**ACTION:** Notice of deficiency and notice of availability.

**SUMMARY:** Pursuant to its authority under section 502(i) of the Clean Air Act

(Act) and the regulations on Federal oversight and sanctions, EPA is publishing this Notice of Deficiency (NOD) for Missouri's Clean Air Act title V operating permits program. The NOD is based upon EPA's finding that several state requirements do not meet the minimum Federal requirements. Publication of this notice is a prerequisite for withdrawal of Missouri's title V program approval, but EPA is not withdrawing the program through this action. This notice also provides information regarding the availability of additional related information.

**EFFECTIVE DATE:** March 25, 2002.

Because this Notice of Deficiency is an adjudication and not a final rule, the Administrative Procedure Act's 30-day deferral of the effective date of a rule does not apply.

**FOR FURTHER INFORMATION CONTACT:** Harriett Jones, EPA, Region 7, Air, RCRA, and Toxics Division, Air Permitting and Compliance Branch (ARTD/APCO), 901 North 5th Street, Kansas City, KS 66101, (913) 551-7703, or by e-mail at [jones.harriett@epa.gov](mailto:jones.harriett@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). The Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001, to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002, to timely comments on fully approved programs. EPA is publishing a NOD because the Agency has determined that deficiencies exist and is notifying all commenters in writing to explain the reasons for not making a finding of deficiency on other issues. EPA received two timely comment letters pertaining to Missouri's title V program, one from the Sierra Club and the other from the National Environmental Development Association/Clean Air Regulatory Project (NEDA/CARP). In reviewing the commenters' concerns, EPA agreed that some of the comments identify deficiencies in Missouri's program. EPA

is addressing those deficiencies in this notice. In addition, the commenters raised other issues that EPA has determined are not deficiencies. EPA is responding to the commenters in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

#### II. Description of Action

##### 1. Modifications to Acid Rain Portion of Operating Permit

EPA's regulations at 40 CFR 70.7(e), which pertain to minor and significant modifications of operating permits, specify that permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under title IV of the Act. Although Missouri's regulations do include this requirement at 10 CSR 10-6.065(6)(E)4.B. for administrative amendments, the requirement is not included in the minor and significant permit modification procedures at 10 CSR 10-6.065(6)(E)5. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

##### 2. Minor Permit Modifications

EPA's regulations at 40 CFR 70.7(e)(2)(ii)(C) require that an application for a minor permit modification must include certification by a responsible official that the requested modification meets the criteria for use of the minor permit modification procedures and a request that such procedures be used. The state's regulations governing minor permit modifications at 10 CSR 10-6.065(6)(E)5.B. fail to include this requirement. Because of the omission of this requirement, the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to add this requirement to its regulations.

##### 3. Contemporaneous Written Notice of Off-Permit Changes

EPA's regulations at 40 CFR 70.4(b)(14)(ii) mandate that if an approved program allows certain "off-permit" changes (*i.e.*, changes that are not addressed or prohibited by the permit) to be made without a permit

revision, the state's regulations must require that the source provide "contemporaneous" written notice of each change to the permitting authority and to EPA, except for those that are determined to be insignificant. Missouri's regulations at 10 CSR 10-6.065(6)(C)9.A. do allow certain "off-permit" changes to be made without a permit revision, and written notice of each change is required at 10 CSR 10-6.065(6)(C)9.B. However, although this regulation is titled "Contemporaneous notice, except insignificant activities", the wording of Missouri's regulation ("permittee must provide written notice of the change \* \* \* no later than the next annual emissions report") effectively results in allowing up to one year for notification of the change to be submitted. Therefore, EPA does not believe that the rule ensures "contemporaneous" submission of the written notice, and finds that the state's program does not comply with the requirements of the Act and 40 CFR part 70. The state has initiated procedures to revise this regulation accordingly.

### III. Availability of EPA Responses to Citizen Comments

As discussed above, EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in a NOD, EPA will explain why it found that a NOD was not warranted. EPA Region 7 will also post its response letters on the Internet at <http://www.epa.gov/oar/oaqps/permits/response/> or you may obtain a copy by contacting Harriett Jones, EPA Region 7, by phone at (913) 551-7730 or by e-mail at [jones.harriett@epa.gov](mailto:jones.harriett@epa.gov).

### IV. Effect of Notice of Deficiency

Part 70 provides that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1). This section lists a number of potential bases for program withdrawal, including the case where the permitting authority's legal authority no longer meets the requirements of part 70. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal, that the permitting authority be notified of any finding of deficiency by the Administrator and that the document be published in the **Federal Register**. Today's document satisfies this requirement and constitutes a finding of program deficiency. If the permitting

authority has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after publication of a NOD, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a Federal title V program. 40 CFR 70.10(b)(2). Section 70.10(b)(3) provides that if a state has not corrected the deficiency within 18 months of the finding of deficiency, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, section 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of NOD, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw Missouri's title V program. Consistent with 40 CFR 70.10(b), EPA will wait at least 90 days, at which point it will determine whether Missouri has taken significant action to correct the deficiencies.

### V. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2002.

Dated: March 12, 2002.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-66301; FRL-6827-6]

### Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

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

**ACTION:** Notice.

**SUMMARY:** In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request from the registrant Earth Care, Division of United Industries Corp., (previously Pursell Industries) to cancel its registration for the product Green Up Kerb 50W, EPA Reg. No. 8660-85, which contains the pesticide pronamide. Also under section 6(f)(1) of FIFRA, EPA is issuing a notice of receipt of request from the registrant

International Paint Inc., to cancel its registration for the product 673 Black Co-Poly Crab Pot, EPA Reg. No. 23566-17, which contains the pesticide tributyltin methacrylate.

The EPA received these requests for voluntary cancellation as a result of activities related to the tolerance reassessment of pronamide and discussions on potential risks of tributyltin used in antifouling paints, respectively.

**DATES:** Comments on the requested cancellations must be submitted to the appropriate address provided below April 24, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP-66301 in the subject line of the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** For the pronamide product, Cecelia Watson, (703) 305-4329; e-mail address [watson.cecelia@epa.gov](mailto:watson.cecelia@epa.gov) Special Review and Reregistration Division (7508C), Office of Pesticides Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. By courier: Room 604W38, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. For the tributyltin product, Jill Bloom, (703) 308-8019; email address [bloom.jill@epa.gov](mailto:bloom.jill@epa.gov) (Same address as above, Room 604W53).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use pesticides. The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, 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 or persons listed under **FOR FURTHER INFORMATION CONTACT**.