

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 13, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule

and address the comment in the proposed rulemaking.

This action to approve the Scranton/Wilkes-Barre revised maintenance plan may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 28, 2009.

William C. Early,
Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory for the Scranton/Wilkes Barre, PA Area to read as follows:

§ 52.2020 Identification of plan.

*	*	*	*	*
(e)	*	*	*	
(1)	*	*	*	

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Scranton/Wilkes-Barre Area: Lackawanna, Luzerne, Monroe and Wyoming Counties.	6/12/07	11/14/07, 72 FR 64948.	
		4/21/08	8/11/09, [Insert page number where the document begins].	
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[FR Doc. E9-18867 Filed 8-10-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2005-0011; FRL-8942-6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final Notice of Deletion of the Delilah Road Landfill, Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is publishing a direct final Notice of Deletion of the Delilah Road Landfill, Superfund Site (Site), located in *Egg Harbor Township, New Jersey*, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is

an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR part 300. This direct final deletion is being published by EPA with the concurrence of the State of New Jersey, through the *New Jersey Department of Environmental Protection*, because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective October 13, 2009 unless EPA receives significant adverse comments by September 10, 2009. If significant adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect, and will continue with the deletion process on the basis of the Notice of Intent To Delete.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2005-0011, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.

- *E-mail:* loney.natalie@epa.gov.

- *Fax:* (212) 637-4445.

- *Mail:* Natalie Loney, Community Involvement Coordinator, U.S. Environmental Protection Agency, 290 Broadway, 26th Floor, New York, New York 10007-1866.

- *Hand delivery:* U.S. Environmental Protection Agency Records Center, Region 2, 290 Broadway, 18th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-2005-0011, EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at: United States Environmental Protection Agency Region 2 Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866, Building hours are Monday to Friday 9 a.m.-5 p.m., Telephone number is (212) 637-4308, or The Atlantic County Library, Egg Harbor Township Branch, 1 Swift Avenue, Egg Harbor Township, New Jersey 08234, Building hours are Monday to Thursday 9 a.m. to 8 p.m., Friday and Saturday 9 a.m. to 5 p.m., Telephone number is (609) 927-8664.

FOR FURTHER INFORMATION CONTACT:

Tanya Mitchell, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 19th Floor, New York, New York 10007-1866, (212) 637-4362, *e-mail:* mitchell.tanya@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

I. Introduction

EPA Region 2 is publishing this direct final Notice of Deletion of the Delilah Road Landfill, from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the Oil and Hazardous

Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective October 13, 2009 unless EPA receives adverse comments by September 10, 2009. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the "Proposed Rules" section of the **Federal Register**. If significant adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Delilah Road Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response

action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the state of New Jersey prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the "Proposed Rules" section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the state, through the New Jersey Department of Environmental Protection, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *Shore News Today*. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If significant adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Delilah Road Landfill Site is located southwest of Delilah Road in Egg Harbor Township, Atlantic County, New Jersey, and is designated as Block 901, part of Lot 1 and all of Lots 2 and 52 on the Municipal Tax Map of Egg Harbor Township. This area is immediately northeast of the intersection of the Garden State Parkway and the Atlantic City Expressway (Exit 38 of the Garden State Parkway). The surrounding area is a suburb of Atlantic City, comprised of residential areas, small businesses, and warehouses. The regional topography is generally flat. The Site consists of approximately 52 acres of land at an average elevation of 50 feet above mean sea level.

The Atlantic City Reservoir is about a mile and a half north of the Site. The closest surface water is Jarrets Run, located 1,000 feet to the north of the landfill. This small and often dry creek runs into Absecon Creek, which flows into Absecon Bay. The New Jersey Water Company's public water supply wells are located to the northwest, northeast, southeast and southwest of the landfill and less than a mile away from the Site.

The Site was originally used for sand and gravel excavation. It was later converted into a solid waste disposal area. In 1972, NJDEP issued a Certificate of Registration for the operation of a sanitary landfill. At present, no future reuse/development is known. Deed restrictions at the Site stipulate no residential development is permitted.

Landfill operations ceased in 1980, when fill material reached the final design elevation. NJDEP records suggest that the landfill was not operated properly and not closed correctly. Several violations of NJDEP regulations were reported by NJDEP inspectors during the years of landfill operations and after operations ceased. These included emissions of foul odors, windblown paper and other material, and other operational and closure inadequacies. A 1982 preliminary assessment report prepared by EPA indicated that the landfill may have a potential impact on groundwater.

Remedial Investigation and Feasibility Study (RI/FS)

On October 4, 1984, the Delilah Road Landfill Site was placed on the National Priorities List (NPL) of Superfund sites

(49 FR 40320). In June of 1985, Camp Dresser and McKee initiated a remedial investigation and feasibility study (RI/FS) to investigate the nature and extent of hazardous substances present at the Site. The RI/FS activities were conducted under state authority in accordance with New Jersey Regulations for Oversight of Contaminated Sites, N.J.A.C 7:26C. A field investigation of the Site was initiated in February 1986 to evaluate remedial alternatives to mitigate public health and environmental impacts associated with the landfill.

The Phase I RI/FS activities and the Phase II RI/FS activities conducted in 1986 and 1988 did not identify the presence of any organic compounds in the soil samples from under the fill material in the landfill which needed to be addressed. Metals were found at levels typical of background concentration of natural soils. Groundwater monitoring data for wells located upgradient, downgradient and side gradient to the landfill indicated the presence of several metals (chromium, lead, nickel, mercury, aluminum and zinc) in concentrations that exceeded the New Jersey Ground Water Quality Standards. The metal concentrations were consistent with background levels and no site related contamination was found in groundwater that warranted action. The RI/FS concluded that no response action was required under CERCLA. New Jersey, in accordance with New Jersey Regulations for Oversight of Contaminated Sites, N.J.A.C 7:26C, selected a remedy that would provide proper closure of the landfill and require closure monitoring and controls be enforced by the responsible parties.

Selected Remedy

On September 28, 1990, NJDEP issued a ROD in accordance with New Jersey Regulations for Oversight of Contaminated Sites, N.J.A.C 7:26C, which presented the selected remedy for the Site that included: Placement of an impermeable layer cap on the landfill; installation of a surface water control system; installation of a landfill gas collection and treatment system based on design studies to confirm the need for this system; implementation of an air and groundwater monitoring program; fencing of the Site; and establishment of an appropriate deed restriction. Since the RI/FS determined that response under CERCLA was not required, the EPA did not concur on the remedy.

In March 1993, the Delilah Road Potentially Responsible Party (PRP) group implemented a groundwater investigation at the Site in order to

determine if the impermeable layer cap was needed and to evaluate the long-term impact of the landfill on groundwater conditions further. The results of groundwater sampling conducted in October 1993 found that groundwater quality had not significantly changed from the RI/FS groundwater sampling events conducted in 1986 and 1988. Since the uncapped landfill was not shown to be degrading groundwater quality (beyond the extent observed in 1986 and 1988) and downgradient water users were utilizing a public water supply, NJDEP determined that a soil cap, rather than a synthetic membrane as presented in the ROD would provide sufficient protection for the Site.

NJDEP issued an ESD in September 1998 which substituted the soil cap for the impermeable cap. Under the modified remedy, the landfill soil cap would consist of 18 inches of soil cover over approximately 47 acres. The modified remedy includes all of the other elements of the selected ROD including: Fencing of the Site and establishment of appropriate deed restrictions; a groundwater quality monitoring program; installation of a surface water runoff control system; and installation of a landfill gas collection and treatment system subject to design studies confirming the need for such a system.

Response Actions

The PRP Group, composed of American Cyanamid Company (now Wyeth Holdings Corporation), Lenox Incorporated, and Atlantic City Electric Company, prepared a Remedial Action Work Plan Outline (RAWPO) which described the remedial design (RD) and RA activities needed to complete the project. The RAWPO was approved by NJDEP in accordance with New Jersey Regulations for Oversight of Contaminated Sites, N.J.A.C. 7:26C and was included in the ACO, executed by the PRP Group and NJDEP, and became effective October 12, 1994.

In accordance with the RAWPO and the ACO, a Phase I RAWP was prepared and submitted to NJDEP to present the Site investigation activities proposed to support the design of the soil cap at the Site. A revised RAWP was approved by NJDEP February 1999. The Site investigation activities included: Delineation of the lateral extent of the landfill waste; determination of the existing cover depth within the landfill; and monitoring along the landfill perimeter for landfill gas. The lateral extent of the landfill waste was found to be limited to Block 901 Lots 2 and 52, and a small area of Lot 1. The extent of

the existing soil cover within the interior of the landfill ranged from a few inches to 1.5 feet, and lateral migration of the landfill gas was detected in only one localized area beneath E. Atlantic Avenue.

The results of the Phase I investigation provided the basis for the soil cap design. The landfill waste delineation determined the necessary extent of the soil cap to be constructed, the landfill cover thickness information supported the soil cap grading requirements, and the landfill gas monitoring verified that a passive gas migration control/venting system would be necessary in a localized area of the landfill adjacent to E. Atlantic Avenue. NJDEP approved the June 16, 1999 Phase I Remedial Action Report (RAR) August 1999.

The PRP Group's consultant engineer, Environmental Resources Management (ERM), prepared remedial design plans and specifications, which NJDEP approved May 30, 2001 in the Phase II RAWP. ERM also served as the construction quality assurance (CQA) consultant to the PRP Group. On November 1, 2001, the PRP Group selected Envirocon, Inc. as the RA contractor for the construction of the soil cap. The contractor started construction in December of 2001.

The Phase II remedial actions included: Modification of existing groundwater monitoring well risers located within the areal extent of the cap system; regrading of the Site to achieve designed subgrade elevations; construction of an 18-inch soil cap over the subgrade, which included the placement of 12 inches of general fill (cover soil) and 6 inches of topsoil; hydroseeding of disturbed areas; installation of slope bench drains, downslope drains, and construction of three percolation basins; construction of a passive trench gas migration control/venting system parallel with and adjacent to East Atlantic Avenue; installation of a site security fence around the Site perimeter; and, construction of access roads.

EPA accompanied NJDEP during a pre-final Site inspection held on June 26, 2002. Minimal deficiencies were found and few punch list items were identified. Activities at the Site were found to be completed and in accordance with *Close Out Procedures for National Priorities List Sites* (OSWER Directive 9320.2-09A-P). Construction of the soil cap system was completed July 2002. The NJDEP approved the October 30, 2002 Phase II RAR on March 7, 2003.

Cleanup Goals

There were no cleanup goals required under CERCLA. The construction was performed under NJDEP oversight. NJDEP has determined that the RA was constructed consistent with the ROD as amended by the ESD and the Phase II RAWP and issued a No Further Action (NFA) determination on August 18, 2006.

Community Involvement

Community involvement relative to the landfill remedial action was solicited throughout the RI/FS and RD/RA process. The RI and FS Reports (prepared by Camp Dresser & McKee Inc.), which include the proposed remedial action alternative for the Site, were released to the public August 25, 1989. These documents were made available to the public at two information repositories: The Egg Harbor Township Municipal Building, Bargaintown, New Jersey and the Atlantic County Library, Bargaintown, New Jersey. Additional documentation regarding the remedy selection was made available within the administrative record for the remedy, which was placed in the NJDEP Division of Hazardous Site Mitigation, Bureau of Community Relations, in Trenton, New Jersey. The notice of availability for these documents was sent to residents, state, county, and local officials, and was published in local newspapers. In addition, a public meeting was held on August 18, 1989. At this meeting, representatives from NJDEP and EPA answered questions concerning the contamination and conditions at the Site and the remedial alternatives under consideration.

Community concerns regarding the landfill have remained at a moderate to low level throughout the remedial action activities. The major concern had been contamination of residential and business water supply wells. However, this concern was mitigated by the installation of a public water supply system proximate to the Site for area wide contamination of groundwater.

Determination That the Site Meets the Criteria for Deletion in the NCP

One of the three criteria for site deletion is that "the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate." The contribution to that risk from exposure to soil was estimated to be 7×10^{-6} , which is within the acceptable risk range. Since then, the landfill has been

capped, thereby eliminating direct contact with contaminated soil. The site is also fenced, prohibiting trespassing. Exposure to groundwater contributed a risk of 3×10^{-4} and an HI of 3.3 to the overall risk and hazard calculations for the site. If the groundwater risk assessment were performed today, following the practices for calculating an exposure point concentration (an upper bound estimate of the mean concentration) described in the Risk Assessment Guidance for Superfund, Part A (1989), and later clarified in the "Supplemental Guidance to RAGS: Calculating the Concentration Term" (1992), the risk and hazard estimates would be within the acceptable risk range. Therefore, EPA determined that no response action under CERCLA was appropriate.

V. Deletion Action

The EPA, with concurrence of the State of New Jersey through the New Jersey Department of Environmental Protection, has determined that all appropriate response actions under CERCLA, have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective *October 13, 2009* unless EPA receives significant adverse comments by *September 10, 2009*. If significant adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 27, 2009.

George Pavlou,

Acting Regional Administrator, Region II.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by removing "Delilah Road", "Egg Harbor Township, NJ."

[FR Doc. E9–19066 Filed 8–10–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 09–65; MD Docket No. 08–65; FCC 09–62]

Assessment and Collection of Regulatory Fees for Fiscal Year 2009

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, we amend our Schedule of Regulatory Fees to collect \$341,875,000 in regulatory fees for Fiscal Year (FY) 2009, pursuant to section 9 of the Communications Act of 1934, as amended (the Act). These fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.

DATES: Effective September 10, 2009.

FOR FURTHER INFORMATION CONTACT: Daniel Daly, Office of Managing Director at (202) 418–1832, or Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION:

I. Introduction

1. In this Report and Order we conclude the Assessment and Collection of Regulatory Fees for Fiscal Year (FY) 2009 proceeding¹ to collect \$341,875,000 in regulatory fees for FY 2009, pursuant to section 9 of the Communications Act of 1934, as amended (the Act). Section 9 regulatory fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international

¹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, MD Docket No. 09–65, Notice of Proposed Rulemaking and Order, 24 FCC Rcd 5966 (2009) (*FY 2009 NPRM and Order*).

activities.² The annual regulatory fee amount to be collected is established each year in the Commission's annual appropriations act which is adopted by Congress and signed by the President and which funds the Commission.³ In this annual regulatory fee proceeding, we retain many of the established methods, policies, and procedures for collecting section 9 regulatory fees adopted by the Commission in prior years. Consistent with our established practice, we intend to collect these regulatory fees during a filing window in September 2009 in order to collect the required amount by the end of our fiscal year.

II. Report and Order

2. On May 14, 2009, we released a Notice of Proposed Rulemaking and Order (*FY 2009 NPRM and Order*, 74 FR 26329, June 2, 2009) seeking comment on regulatory fee issues for FY 2009.⁴ The section 9 regulatory fee proceeding is an annual rulemaking process to ensure the Commission collects the fee amount required by Congress each year. In the *FY 2009 NPRM and Order*, we proposed to largely retain the section 9 regulatory fee methodology used in the prior fiscal year except as discussed below. We received nine comments and two reply comments.⁵ We address the issues raised in our *FY 2009 NPRM and Order* below.

A. FY 2009 Regulatory Fee Assessment Methodology—Development of FY 2009 Regulatory Fees

3. We note at the outset that in the context of their comments on the FY 2009 regulatory fee proceeding, commenters⁶ discussed the Commission's Further Notice of Proposed Rulemaking, which accompanied the FY 2008 regulatory fee Report and Order (*FY 2008 Report and Order*, 73 FR 50285, August 26, 2008).⁷ Through that proceeding the

² 47 U.S.C. 159(a).

³ See *Omnibus Appropriations Act, 2009*, P.L. 111–8, for the FY 2009 appropriations act language for the Commission establishing the amount of \$341,875,000 of offsetting collections to be assessed and collected by the Commission pursuant to section 9 of the Communications Act.

⁴ See *FY 2009 NPRM and Order*.

⁵ See Appendix A for the list of commenters and abbreviated names.

⁶ See comments from American Association of Paging Carriers (AAPC); Coalition of Canadian-Based Service Providers (Coalition); Independent Telephone and Telecommunications Alliance (ITTA); and United States Telecom Association (USTelecom).

⁷ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08–65, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6389 (2008) (*FY 2008 Report and Order*).