

protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

*Comment Date:* June 7, 2011.

Dated: May 17, 2011.

**Kimberly D. Bose,**  
Secretary.

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BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9309-8]

### Science Advisory Board Staff Office Notification of a Public Meeting of the SAB Mercury Review Panel

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Mercury Review Panel.

**DATES:** The meeting will be held on June 15, 2011 and June 16, 2011 from 9 a.m. to 5 p.m. and on June 17, 2011 from 8:30 a.m. to 2:30 p.m. (Eastern Time).

**ADDRESSES:** The Panel meeting will be held at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC, 27703.

**FOR FURTHER INFORMATION CONTACT:**

Members of the public who wish to obtain further information regarding this meeting may contact Dr. Angela Nugent, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564-2188; by fax at (202) 565-2098 or via e-mail at [nugent.angela@epa.gov](mailto:nugent.angela@epa.gov). General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:**

*Background:* The SAB was established pursuant to the Environmental Research, Development,

and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Mercury Review Panel will hold a public meeting to review EPA's *Technical Support Document: National-Scale Mercury Risk Assessment Supporting the Appropriate and Necessary Finding for Coal and Oil-Fired Electric Generating Units—March 2011*. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA's Office of Air and Radiation has requested peer review of the March 2011 draft risk assessment for mercury, entitled *Technical Support Document: National-Scale Mercury Risk Assessment Supporting the Appropriate and Necessary Finding for Coal and Oil-Fired Electric Generating Units—March 2011*. This technical document was developed to support a proposed rule concerning regulation of hazardous air pollutants (HAPs) released from coal-burning electric generating units in the United States (U.S. EGUs) under Section 112(n)(1)(A) of the Clean Air Act (CAA). This regulation may potentially use a Maximally Achievable Control Device (MACT) approach to set a technology-based standard for reducing HAP emissions.

The SAB announced this peer review and requests for public nomination of experts to serve on an *ad hoc* review panel on February 28, 2011 (76 FR 10896-10897) and March 30, 2011 (76 FR 17649-17650). Information about formation of the Mercury Review Panel can be found at [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/A%26N%20Hg%20Risk%20Assessment%20TSD?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/A%26N%20Hg%20Risk%20Assessment%20TSD?OpenDocument).

*Availability of Meeting Materials:* The agenda will be available on the SAB Web site at [http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr\\_activites/A%26N%20Hg%20Risk%20Assessment%20TSD?OpenDocument](http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/A%26N%20Hg%20Risk%20Assessment%20TSD?OpenDocument) in advance of the meeting.

*EPA contact for background on the draft document to be reviewed:* For questions concerning the development of EPA's mercury assessment, on the Web site at [http://www.epa.gov/ttn/atw/utility/pro/hg\\_risk\\_tsd\\_3-17-11.pdf](http://www.epa.gov/ttn/atw/utility/pro/hg_risk_tsd_3-17-11.pdf), please contact Dr. Zachary Pekar at (919) 541-3704 or [pekar.zachary@epa.gov](mailto:pekar.zachary@epa.gov).

*Procedures for Providing Public Input:* Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at this public meeting will be limited to five minutes per speaker. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via e-mail), at the contact information noted above, by June 10, 2011 to be placed on the list of public speakers for the meeting.

*Written Statements:* Written statements should be received in the SAB Staff Office by June 10, 2011 so that the information may be made available to the Panel for their consideration. Written statements should be supplied to the DFO in electronic format via e-mail (acceptable file formats: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

*Accessibility:* For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give

EPA as much time as possible to process your request.

Dated: May 16, 2011.

**Anthony F. Maciorowski,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 2011-12598 Filed 5-20-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9309-7]

### State Program Requirements; Proposal To Approve Maine's Base National Pollutant Discharge Elimination System (NPDES) Permitting Program

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

**ACTION:** Notice.

**SUMMARY:** On August 8, 2007, the U.S. Court of Appeals for the First Circuit vacated EPA's October 31, 2003 decision to withhold the permitting of two tribally owned and operated treatment works from the Agency's approval of the State of Maine's NPDES permitting program under the Clean Water Act. Today, EPA is responding to the court's order by proposing to approve Maine's NPDES program to include the permitting of all discharges within the Indian territories of the Penobscot Nation and the Passamaquoddy Tribe.

**DATES:** Interested persons may submit comments on the approval of Maine's Base NPDES Permitting Program in these territories as part of the administrative record to EPA-Region 1, at the address given below, no later than midnight through July 22, 2011.

**ADDRESSES:** *Submit comments by one of the following methods:*

- *E-mail:* [Hing.Jessica@epa.gov](mailto:Hing.Jessica@epa.gov).
- *Mail:* Jessica Hing, USEPA-Region 1, 5 Post Office Square—OEP06-04, Boston, MA 02109-3912.

No facsimiles (faxes) will be accepted.

**FOR FURTHER INFORMATION CONTACT:**

Additional information concerning the proposed approval of Maine's program in these territories may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Jessica Hing, USEPA-Region 1, 5 Post Office Square—OEP06-04, Boston, MA 02109-3912, *Telephone:* 617-918-1560, *Email:* [hing.jessica@epa.gov](mailto:hing.jessica@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 17, 1999, EPA determined that the State of Maine had submitted a complete application to administer the

NPDES permitting program in the state under the Clean Water Act (CWA). 33 U.S.C. 1251, *et seq.*, see 64 FR 73552 (Dec. 30, 1999). Maine's application included an assertion of authority to implement the program in the territories of the federally-recognized Indian tribes within the state, based on the jurisdictional provisions of the Maine Indian Claims Settlement Act (MICSA), which ratified the Maine Implementing Act (MIA). 25 U.S.C. 1721, *et seq.* and 30 M.R.S.A. section 6201, *et seq.*, respectively.

On January 12, 2001, EPA approved the State of Maine's application to administer the NPDES program for all areas of the state other than Indian country. At that point EPA did not take any action on Maine's application to administer the program within the territories of the federally-recognized Indian tribes in Maine. EPA published notice of its action on February 28, 2001. 66 FR 12791. As described in the **Federal Register**, EPA approved the state's application to administer both the NPDES permit program covering point source dischargers and the pretreatment program covering industrial dischargers into publicly owned treatment works (POTWs). EPA did not authorize the state to regulate cooling water intake structures under CWA section 316(b) (33 U.S.C. 1326(b)). 66 FR at 12792.

### 2003 Partial Approval of Program in Indian Territories

On October 31, 2003, EPA approved the State of Maine's application to administer the NPDES program in the Indian territories of the Penobscot Indian Nation and the Passamaquoddy Tribe, with the exception of any discharges that qualified as "internal tribal matters" under MICSA and MIA. 68 FR 65052 (Nov. 18, 2003). This action generally authorized the state to administer the NPDES program in the territories of the two largest Indian tribes in the state, finding that the combination of MICSA and MIA created a unique jurisdictional arrangement that granted the state authority to issue permits to dischargers. EPA did not approve the state's program to regulate two small tribally-owned and operated POTWs. EPA determined that these POTWs qualified as internal tribal matters and, therefore, fell within an enumerated exception to the grant of jurisdiction to the state in MICSA and MIA. EPA did not take action on the state's application as it applied to the territories of the two smaller federally-recognized tribes in the state, the Houlton Band of Maliseet Indians and the Aroostook Band of Micmac Indians.

These two tribes are subject to jurisdictional provisions separate from those that apply to the Penobscot and Passamaquoddy tribes. EPA's 2003 action did address all the Indian territories that included existing point source dischargers covered by the NPDES program.

### Appeal and Decision in Maine v. Johnson

Several parties petitioned for judicial review of EPA's 2003 decision partially approving Maine's NPDES program in the Penobscot and Passamaquoddy Indian territories. The Penobscot Nation and Passamaquoddy Tribe challenged EPA's decision to generally approve the state to administer the program in their territories. The State of Maine and a coalition of public and private NPDES permit holders challenged EPA's decision to disapprove the state's program as to the two small tribal POTWs based on the finding that permitting those discharges qualified as an internal tribal matter.

On August 8, 2007, the U.S. Court of Appeals for the First Circuit issued its opinion in *Maine v. Johnson*. 498 F.3d 37. The court held that EPA had correctly determined that MICSA and MIA granted the state sufficient authority to administer the NPDES permit program in the territories of these two tribes. The court disagreed with EPA's finding, however, that permitting the two small tribal POTWs qualified as an internal tribal matter. It found that

Discharging pollutants into navigable waters is not of the same character as tribal elections, tribal membership or other exemplars [of internal tribal matters] that relate to the structure of Indian government or the distribution of tribal property.

*Id.* at 46. The court affirmed EPA's approval of Maine's NPDES program, but vacated EPA's decision to withhold permitting of the two tribal POTWs, and remanded the matter back to EPA to amend the program approval consistent with its opinion. *Id.* at 48-49. The court's mandate was issued on October 2, 2007.

### Program Approval To Address the Court's Remand

EPA is proposing to implement the court's order by modifying its approval of Maine's NPDES program to include the permitting of all discharges within the Indian territories of the Penobscot Nation and Passamaquoddy Tribe. Additionally, EPA does not plan to undertake a case-by-case analysis of any new discharges to determine whether they qualify as internal tribal matters under MICSA and MIA. As a result, the