

Reliability Corporation (NERC) to conduct the annual oversight of the Find, Fix, Track and Report (FFT) program, as outlined in the March 15, 2012 Order,<sup>1</sup> and the Compliance Exception (CE) Program, as proposed by NERC's September 18, 2015 annual Compliance Filing and accepted by delegated letter order.<sup>2</sup>

Commission staff reviewed a sample of 29 FFT noncompliances out of 191 FFT noncompliances posted by NERC between October 2020 and September 2021 and a sample of 32 CE noncompliances out of 1,050 CE noncompliances posted by NERC between October 2020 and September 2021.

Commission staff found that the FFT and CE programs are meeting expectations, with limited exceptions. Specifically, Commission staff identified one instance where the CE would be more appropriate as an FFT with a moderate risk. Staff also noted in two instances of FFT that the originally posted description of the noncompliances were incomplete. The Regional Entities appropriately included 60 of the 61 samples in the FFT and CE programs, and all 61 FFTs and CEs have been adequately remediated and the root cause of each noncompliance was clearly identified. Commission staff also reviewed the supporting information for these FFTs or CEs and agreed with the final risk determinations for 60 of the 61 noncompliances, which clearly identified the factors affecting the risk prior to mitigation (such as potential and actual risk) and actual harm.

Finally, Commission staff noted that the FFTs and CEs sampled did not contain any material misrepresentations by the registered entities.

Dated: June 29, 2022.

**Kimberly D. Bose,**  
Secretary.

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<sup>1</sup> *North American Electric Reliability Corp.*, 138 FERC ¶ 61,193, at P 73 (2012) (discussing Commission plans to survey a random sample of FFTs submitted each year to gather information on how the FFT program is working).

<sup>2</sup> *North American Electric Reliability Corp.*, Docket No. RC11-6-004, at 1 (Nov. 13, 2015) (delegated letter order) (accepting NERC's proposal to combine the evaluation of CEs with the annual sampling of FFTs).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. CP16-10-000; CP21-57-000; CP19-477-000]

#### Mountain Valley Pipeline, LLC; Notice of Request for Extension of Time

Take notice that on June 24, 2022, Mountain Valley Pipeline, LLC (Mountain Valley) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until October 13, 2026, to complete construction of the Mountain Valley Pipeline Project (Project) and place the Project facilities into service, as authorized in the October 13, 2017 Order Issuing Certificate.<sup>1</sup> On October 9, 2020, the Commission issued an order granting a two-year extension of time, until October 13, 2022, for Mountain Valley to complete construction of the Project and place the Project facilities into service.<sup>2</sup> On April 8, 2022, the Commission issued an order amending the Project certificate to permit Mountain Valley to: (1) change the crossing method for 183 waterbodies and wetlands; (2) slightly shift the permanent right-of-way at mileposts 0.70 and 230.8 to avoid one wetland and one waterbody, respectively; and (3) conduct 24-hour construction activities at eight trenchless crossings. The Commission conditioned the Amendment Order on Mountain Valley completing construction by the October 13, 2022 construction deadline.

Mountain Valley states that its request for an extension of time is due to the ongoing litigation and remand proceedings related to several permits and authorizations in the above identified dockets.

Mountain Valley states that it has shown good cause for the extension as Project construction is substantially complete and Mountain Valley is actively working to reinstate all required

permits so that it can complete construction as expeditiously as possible. Mountain Valley avers it is currently obtaining all necessary permits, including updated environmental findings where applicable, that will be in place before Mountain Valley is permitted to complete construction of the Project. Mountain Valley states it has expended approximately \$5.5 billion on the Project to date and the Project's total cost is targeted to be approximately \$6.6 billion. Mountain Valley states its extension of time request is necessary to maintain its erosion and sedimentation control program. Finally, Mountain Valley states that the Project remains fully subscribed under binding long-term agreements. Accordingly, Mountain Valley requests an extension of the October 13, 2022 deadline until October 13, 2026, to complete construction of the Mountain Valley Pipeline Project and place the Project facilities into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Mountain Valley's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,<sup>3</sup> the Commission will aim to issue an order acting on the request within 45 days.<sup>4</sup> The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.<sup>5</sup> The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the

<sup>3</sup> Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

<sup>4</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

<sup>5</sup> *Id.* at P 40.

certificate complied with the National Environmental Policy Act.<sup>6</sup> At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.<sup>7</sup> The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFile" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on July 14, 2022.

Dated: June 29, 2022.

**Kimberly D. Bose,**

*Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2022-0511; FRL-9986-01-OGC]

### Proposed Consent Decree, Unreasonable Delay Claim Regarding Petition Concerning Treated Seeds and Treated Article Exemption

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

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with the Environmental Protection Agency (EPA) Administrator's March 18, 2022, Memorandum entitled Consent Decrees and Settlement Agreements to Resolve Environmental Claims Against the Agency, notice is hereby given of a proposed consent decree that resolves *Center for Food Safety, et al. v. U.S. Environmental Protection Agency*, a case in the United States District Court for the Northern District of California (3:21-cv-09640-JSC) that alleges EPA unreasonably delayed responding to a petition for rulemaking, submitted to EPA on or around April 26, 2017, relating to the regulatory exemption of pesticide treated seed.

**DATES:** Written comments on the proposed consent decree must be received by August 5, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2022-0511 online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

**Instructions:** All submissions received must include the Docket ID number for this action. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the "Additional Information about Commenting on the Proposed Consent Decree" heading under the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Amber Aranda, Pesticides and Toxic Substances Law Office; telephone (202) 564-3186; email address [aranda.amber@epa.gov](mailto:aranda.amber@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2022-0511) contains a copy of the proposed consent decree. The official public docket is available

for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search."

#### II. Additional Information About the Proposed Consent Decree

Prior to this lawsuit being filed, EPA received a petition on or around April 26, 2017, requesting that EPA (1) amend 40 CFR 152.25(a) to exclude seeds for planting coated with systemic pesticides intended to kill pests of the plant, or, (2) in the alternative, publish a formal agency interpretation in the **Federal Register** stating that 40 CFR 152.25(a) does not apply to seeds for planting coated with systemic pesticides intended to kill pests of the plant, and (3) aggressively enforce FIFRA's numerous pesticide registration and labeling requirements for each separate crop seed product that is coated with a neonicotinoid or other systemic insecticidal chemical (hereinafter, this petition will be referred to as the "2017 Petition" and the three requests enumerated in this paragraph will be referred to as the "2017 Petition Requests"). EPA sought public comment on the 2017 Petition. See "Pesticides; Petition Seeking Rulemaking or a Formal Agency Interpretation for Planted Seeds Treated with Systemic Insecticides; Request for Comment," 83 FR 66260 (December 26, 2018) (the "Request for Comment"). EPA received approximately 100 substantive comments. Plaintiffs filed a Complaint on December 14, 2021, alleging that EPA's failure to respond to the petition constitutes an unreasonable delay under Section 706(1) of the Administrative Procedure Act, 5 U.S.C. 706(1).

This proposed consent decree states that no later than September 30, 2022, the appropriate EPA official shall, by

<sup>6</sup> Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

<sup>7</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).