

Dated: November 20, 1997.

**George B. Breznay,**  
*Director, Office of Hearings and Appeals.*

**Decision List No. 50; Week of  
September 8 Through September 12,  
1997**

**Appeals**

Bruce Darrow Gaither, 9/8/97; VFA-0324

The Department of Energy denied a Freedom of Information Act Appeal filed by Bruce Darrow Gaither. In his Appeal, Gaither contested the adequacy of the search for responsive documents performed by the DOE's Freedom of Information and Privacy Act Division. After reviewing the scope of the search, the DOE concluded that the search was adequate.

Greenpeace USA, 9/11/97; VFA-0311

Greenpeace USA appealed a Determination issued to it in response to a request made under the Freedom of Information Act (FOIA) for information on contracts for technical assistance that DOE's Idaho Operations Office (ID) provided to California in the development of new commercial low-level radioactive waste management systems. ID withheld some documents under Exemptions 3, 4, and 6 of the FOIA. Material withheld under Exemption 3 was categorized as exempt under the National Defense Authorization Act of 1997 (NDAA), which generally prohibits the release of proposals. The DOE found on Appeal that some of the withheld material did not meet the NDAA's requirement of a solicitation for a competitive proposal. In addition, the DOE found that some material withheld was non-exempt. Accordingly, the Appeal was granted in part and the case was remanded to ID for further action.

Janice C. Curry, 9/9/97; VFA-0313

The DOE granted an Appeal by a former DOE contractor employee for documents related to her employment. The DOE found that the Office of Environmental Management (EM) did not adequately address the basis for its withholding of information under FOIA Exemption 6, and that EM's search for responsive documents was inadequate. The matter was, therefore, remanded to EM.

Ralph C. Elkins, 9/12/97; VFA-0317

Ralph C. Elkins appealed a denial by the Freedom of Information and Privacy Act Division of a request for his security clearance file that he submitted under the Privacy Act. The FOIA Division had not found the requested file. In

considering the Appeal, the DOE found that the FOIA Division had conducted an adequate search for responsive documents, and it accordingly denied the Appeal.

**Personnel Security Hearing**

Personnel Security Hearing, 9/10/97; VSO-0151

A Hearing Officer issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. The Hearing Officer found the individual had harassed his ex-spouse and three co-workers and that this conduct, as specified by Criterion L, indicated that he may not be honest, reliable or trustworthy or may be subject to pressure, coercion, exploitation or duress. The Hearing officer found that the individual had engaged in a number of harassing acts towards his ex-spouse and three co-workers and that he had not demonstrated sufficient evidence of reformation. The Hearing officer also found that the individual had been diagnosed by a psychiatrist as suffering from mixed personality disorder and depressive disorder and that in the psychiatrist's opinion these illnesses could cause a significant defect in judgment and reliability, as specified by Criterion H. Although the individual presented witnesses testifying that he did not exhibit the personality characteristics described by the DOE psychiatrist, the Hearing Officer concluded that he had not presented sufficient evidence to warrant rejection of the psychiatrist's opinion. Given the above findings, the Hearing Officer recommended that the individual's access authorization should not be restored.

**Refund Applications**

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Buttler County Commission, et al:  
RF272-76385, 9/10/97

Crude Oil Ref. Dist.: RB272-00117,  
9/11/97

Empire Gas Corp./Howe Laundry: et al:  
RF335-00001, 9/12/97

Estate of Victor G. Zonver et al: RK272-01788, 9/11/97

Godwin Construction Co. et al: RF272-98611, 9/11/97

Worley's Asphalt & Paving Co. et al:  
RK272-04466, 9/11/97

**Dismissals**

The following submissions were dismissed.

American Building Components Co.,  
Case No. RF272-57013

Arka, Inc., Case No. RF272-94509

Damar Worldwide, Inc., Case No. VEE-0048

Houston Slag Materials Company, Case No. RK272-04476

Midwest Paving Company, Case No. RG272-00836

[FR Doc. 97-31386 Filed 11-28-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION  
AGENCY**

[FRL-5930-3]

**Agency Information Collection  
Activities: Proposed Collection;  
Comment Request; National Oil and  
Hazardous Substances Pollution  
Contingency Plan**

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): National Oil and Hazardous Substances Pollution Contingency Plan, EPA ICR No. 1463.03, OMB No. 2050-0096, expiring on January 31, 1998. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before January 30, 1998.

**ADDRESSES:** Community Involvement and Outreach Center, Office of Emergency and Remedial Response, 401 M Street, SW, Washington, DC 20460, Mail Code: 5204-G, 703-603-8889. Persons interested in obtaining a copy of the ICR without charge may call the telephone number above to request a free copy.

**FOR FURTHER INFORMATION CONTACT:** Lois Gartner, telephone number: 703-603-8889, facsimile number: 703-603-9100, e-mail address: gartner.lois@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities potentially affected by this action are those states and members of the public that

voluntarily participate in the remedial phase of the Superfund process and those members of the public that voluntarily participate in community involvement activities during some or all phases of the Superfund process.

**Title:** National Oil and Hazardous Substances Pollution Contingency Plan (OMB Control No. 2050-0096, EPA ICR No. 1463.03) expiring on January 31, 1998.

**Abstract:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund; 42 U.S.C. 9601 *et seq.*), as amended, establishes broad Federal authority to undertake removal and remedial actions in response to releases or threats of releases of hazardous substances and certain pollutants and contaminants into the environment. The NCP sets forth requirements for carrying out the response authorities established under CERCLA. In addition, the Government Performance and Results Act of 1993 requires EPA to determine and report to Congress on its effectiveness, including community involvement activities.

For states, this ICR addresses the record keeping and reporting provisions of the NCP that affect those states that voluntarily participate in the remedial phase of the Superfund program. (Record keeping and reporting requirements of the pre-remedial phase—except those tied to community involvement—have been addressed in the ICR prepared for the revisions to the Hazard Ranking System (HRS) (OMB Control No. 2050-0095). Record keeping and reporting provisions for the removal program—except, again, those tied to community involvement—also are not included in this ICR because the Federal government has the lead for removal actions.) Remedial responses under the Superfund program fall into the pre-remedial phase (during which the extent of site contamination is assessed) and the remedial phase (during which investigations are conducted to identify and characterize contaminants present and to determine viable remedies for a site, the remedy is chosen and the cleanup or construction is completed). The NCP includes the following reporting and record keeping provisions for the remedial phase of the Superfund program:

(1) States that voluntarily take the lead in remedial activities at Superfund sites must conduct the activities in a manner consistent with CERCLA (40 CFR 300.515(a)). Therefore, at a state-led site, the state must: develop a Remedial Investigation and Feasibility Study (RI/FS); prepare a Proposed Plan; issue a Record of Decision (ROD); complete community interviews; prepare a Community

Involvement Plan (CIP), and provide information to the public; and

(2) States must identify and communicate potential state applicable or relevant and appropriate requirements (ARARs) at all Superfund sites within the state (40 CFR 300.400(g)).

In addition, this ICR addresses the record keeping and reporting provisions of the NCP that affect communities voluntarily providing their concerns to the lead agency about the Superfund process. This ICR also addresses the record keeping and reporting provisions imposed on communities when those communities provide feedback on community involvement activities tied to GPRA. Community involvement related to NCP requirements and GPRA reporting may occur during all phases of the Superfund process including, pre-remedial, remedial, removal (short-term response actions), and operation and maintenance (which may include such activities as ground water and air monitoring, inspection and maintenance of the treatment equipment remaining on site, and maintenance of any security measures or institutional controls.) Specifically, members of the community surrounding a Superfund site may participate in community interviews (40 CFR 300.43(c)) conducted by EPA in order to prepare a CIP or serve on Technical Assistance Grant (TAG) groups, as provided for in Superfund Amendments and Reauthorization Act (SARA) of 1986, as well as in Community Advisory Groups (CAG), as provided in Superfund Administrative Reforms. Community groups focused on the technical assistance provided through the Technical Outreach Services for Communities (TOSC) program may also participate. Participation may also take the form of attending informal and formal meetings, open houses and public availability sessions, responding to questionnaires and telephone interviews, and/or participation in focus groups.

EPA uses the information provided by the states to ensure state actions are consistent with the provisions of CERCLA and SARA and that their decisions are protective of human health and the environment. EPA uses the information gathered from private citizens to plan activities geared to educating them where necessary, keeping them informed of activities within the community, and ensuring they have had an opportunity to assume an active role in the decision making process that affects their community. EPA also uses information from private citizens to measure the effectiveness of community involvement activities, as required by GPRA, and to improve those

activities as needed. EPA believes involvement of the members of the community surrounding a Superfund site is critical to ensuring effective site cleanups.

**Burden Statement:** Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA estimates that 30 new sites will be added to the NPL each year over the three-year period of this ICR. Of those 30 sites, EPA estimates six will be state-led cleanups. It is estimated that states will incur an annual burden of 6,026 hours per site, for a cost of \$178,100, of which \$178,011 is reimbursed by EPA. States are reimbursed from the CERCLA Hazardous Substances Trust Fund (the Fund) for state-led activities via cooperative agreements with EPA as provided in CERCLA section 104(d)(1). States are not reimbursed from the Fund for identification of state ARARs. It is also estimated that communities will incur a collective annual burden of 539 hours per site, for a cost of \$16,062 (assuming the value of their time at \$29.57) or an estimated average annual burden of 11 hours per person. While EPA does not reimburse community members for their participation, this ICR nonetheless estimates the monetary value of burden their participation imposes on them.

The burden data in this section are based on estimates by EPA personnel knowledgeable of the remedial program's record keeping and reporting requirements and the costs and level of effort required to meet the requirements.

#### **Estimated Unit Burdens to State Governments**

A "unit" burden is the burden incurred by a respondent for performing an individual site-specific activity. States incur burdens at: (1) An estimated six new state-led sites per year for several reporting and record keeping activities; and (2) all of the estimated 30 NPL sites on an annual

basis with RI/FS starts for identifying and reporting ARARs.

The burden is calculated using a weighted average hourly rate of \$29.57 multiplied times the number of hours to undertake a given activity. For purposes of this ICR, wage rates for state government personnel are estimated to be comparable to those for Federal government personnel. Labor rates for government workers reflect the median GS level salaries for managerial, technical and clerical positions. These rates include direct salary and fringe benefits (calculated at 60 percent of direct salary). The hourly rates, as of November 1997, are:

Management (GS 13, Step 1): \$42.01/hour

Technical (GS 11, Step 1): \$29.48/hour

Clerical: \$17.92/hour

Based on these assumptions, the weighted hourly wage rate for state and Federal personnel is \$29.57

$[(0.1) \times (42.01) + (0.8) \times (29.48) + (0.1) \times (17.92)]$ .

At a state-led site, states incur a burden for the following activities:

- Development of the RI/FS—5,200 hours/yr/site, \$153,764.
- Development of the Proposed Plan—160 hours/yr/site, \$4,731.
- Preparation of the ROD—360 hours/yr/site, \$10,645.
- Development of the CIP—150 hours/yr/site, \$4,435.
- Providing information to the public—153 hours/yr/site, \$4,524.

At all sites, states incur a unit burden of three hours per site per year, or a cost of \$88.71, for providing information on state ARARs.

#### Estimated Unit Burdens to Community Members

During their participation in the Superfund process, community members may perform any or all of the following activities (as with burden estimates for state activities, an hourly rate of \$29.57 is used to estimate the value of community members' time):

- Participate in interviews—20 hours/yr/site, \$591.
- Attend informal and formal meetings, open houses, and public information availability sessions—240 hours/yr/site, \$7,096.
- Participate in community groups—160 hours/yr/site with such groups, \$4,731.
- Respond to surveys—47 hours/yr/site, \$1,389.
- Participate in focus groups—72 hours/yr/site with such groups, \$2,129.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Please send comments to the address appearing in the ADDRESSES segment of this document.

Dated: November 20, 1997.

**Elaine F. Davies,**

*Deputy Director, Office of Emergency and Remedial Response.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5930-4]

### Agency Information Collection Activities: Continuing Collection; Comment Request; Registration of Fuels and Fuel Additives—Health-effects Research Requirements

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Registration of Fuels and Fuel Additives: Health-effects Research Requirements for Manufacturers (EPA ICR Number 1696.02, OMB Control Number 2060-0297, expiration date: 1-31-98). Before submitting the ICR to OMB for review and approval, EPA is

soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before January 30, 1998.

**ADDRESSES:** Fuels and Energy Division, Office of Mobile Sources, Office of Air and Radiation, Mail Code 6406J, U.S. Environmental Protection Agency, Washington, DC 20460. A paper or electronic copy of the ICR may be obtained without charge by contacting the person listed below.

**FOR FURTHER INFORMATION CONTACT:** James W. Caldwell, (202) 564-9303, fax: (202) 565-2085, caldwell.jim@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

**Affected entities:** Entities potentially affected by this action are those which manufacture or import gasoline or diesel fuel, or manufacture or import an additive for gasoline or diesel fuel.

**Title:** Registration of Fuels and Fuel Additives: Health-effects Research Requirements for Manufacturers  
OMB Control Number 2060-0297  
EPA ICR Number 1696.02  
Expiring: 1-31-98

**Abstract:** In accordance with the regulations at 40 CFR 79, subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of gasoline and diesel fuel, and manufacturers (including importers) if additives for gasoline or diesel fuel, are required to have their products registered by EPA prior to their introduction into commerce.

Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The development of health-effects data, as required by 40 CFR 79, subpart F, is the subject of this ICR. The information collection requirements for subparts A through D, and the supplemental notification requirement of Subpart F (indicating how the manufacturer will satisfy the research requirements) are covered by a separate ICR (EPA ICR Number 309.09, OMB Control Number 2060-1050). The health-effects information will be used to determine if there are any products whose evaporative or combustion emissions pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. This information is required for specific groups of fuels and additives as defined in the regulations. For example, all gasolines and gasoline additives which consist of only carbon, hydrogen, oxygen, nitrogen, and/or sulphur, and which involve a gasoline oxygen