

January 21, 1998, from 7:30 p.m. until 9 p.m. The second will occur on Thursday, January 22, 1998, from 3:30 p.m. until 5:00 p.m.

**FUTURE MEETING DATES:** The Committee has one remaining meeting scheduled on May 4–6, 1998, in Atlanta, Georgia.

**ADDRESSES:** Materials or written comments may be transmitted to the Committee through Hazel Groman, Designated Federal Officer, NACEPT/TMDL, U.S. EPA, Office of Water, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division (4503F), 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Hazel Groman, Designated Federal Officer for the Total Maximum Daily Load Committee, at 202–260–8798.

Dated: November 20, 1997.

**Hazel Groman,**

*Designated Federal Officer.*

[FR Doc. 97–31279 Filed 11–26–97; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5486–6]

### Notice of Proposed Changes to Voluntary Environmental Impact Statement Policy

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

**ACTION:** Notice of changes to existing policy and opportunity for public comment.

**SUMMARY:** EPA is proposing changes in its Statement of Policy for Voluntary Environmental Impact Statements (EIS), which it adopted and published in the **Federal Register** (Vol. 39, No. 89/ Tuesday, May 7, 1974/Notices/16186–16187). The proposed changes would update the EPA policy to reflect how Congress and the Courts have defined EPA's National Environmental Policy Act (NEPA) obligations and to ensure that EPA's voluntary practices regarding NEPA compliance are consistent with practices provided in the NEPA regulations issued by the Council on Environmental Quality (CEQ). The proposed changes will also encourage expansion of the increased discretionary use of voluntary EISs in circumstances where they can be particularly helpful for decision-making involving other federal agencies, cross-media issues, or other concerns such as environmental justice. The proposed changes will affect certain EPA standard-setting and cancellation procedures. EPA is

soliciting comments on these proposed changes.

**DATES:** Submit written comments on or before January 27, 1998. After addressing any comments received, EPA will issue a final policy in the **Federal Register**.

**FOR FURTHER INFORMATION AND TO SUBMIT WRITTEN COMMENTS CONTACT:** Marguerite Duffy at (202) 564–7148; E-mail: duffy.marguerite@epamail.epa.gov; or Joseph Montgomery at (202) 564–7157; E-mail: montgomery.joseph@epamail.epa.gov; U.S. Environmental Protection Agency, Office of Federal Activities (2252–A), 401 M Street, SW, Washington, D.C. 20460.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Unless otherwise exempted, Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (hereafter “NEPA”), implemented by Executive Orders 11514 and 11991 and the Council on Environmental Quality (CEQ) Regulations at 40 CFR parts 1500–1508, requires that Federal agencies prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into the Federal agency decision-making process an appropriate and careful consideration of all environmental impacts of proposed actions. Accordingly, under CEQ regulations, where major Federal actions will have a significant effect on the quality of the human environment, a detailed environmental impact statement (EIS) is required; where it is believed that an action will have no significant impact, or where the level of impact is uncertain, agencies can prepare less detailed environmental assessments (EAs) to determine the level of impact and/or document a finding of no significant impact.

EPA is legally required to comply with the procedural requirements of NEPA for its research and development activities, facilities construction, wastewater treatment construction grants under Title II of the Clean Water Act, and EPA-issued National Pollutant Discharge Elimination System (NPDES) permits for new sources. The Agency is exempted by statute for actions taken under the Clean Air Act and for most Clean Water Act programs. EPA is also exempted from the procedural requirements of environmental laws, including NEPA, for Comprehensive Environmental Response, Compensation, and Liability Act

response actions. For other programs, courts have consistently recognized that EPA procedures or environmental reviews under enabling legislation are functionally equivalent to the NEPA process and thus exempt from the procedural requirements in NEPA. However, as discussed below, it has been long-standing Agency policy to prepare EISs voluntarily for some actions.

EPA has long recognized the value of sound environmental analysis, the importance of public participation, and the desirability of integration of other environmental requirements across the range of its activities. EPA issued a “Statement of Policy” (Policy) in the **Federal Register** (Vol. 39, No. 89/ Tuesday, May 7, 1974/Notices/16186–16187) expressing the belief that preparation of environmental impact statements would have beneficial effects for certain of its regulatory actions. EPA decided that, while it was not legally bound to do so by Section 102(2)(C) of NEPA, it would voluntarily prepare environmental impact statements for specific regulatory actions relating to the Clean Air Act (42 U.S.C. 1857 *et seq.*); Noise Control Act (42 U.S.C. 4901 *et seq.*); Atomic Energy Act (42 U.S.C. 2011 *et seq.*); the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401 *et seq.*); and, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 135 *et seq.*, as amended by 7 U.S.C. 136 *et seq.*).

EPA believes that several aspects of the 1974 Voluntary EIS Policy have become outdated since its publication. EPA issued this Policy four years prior to CEQ promulgation of regulations implementing NEPA. CEQ's regulations state that while an EIS is required to document significant impacts, an EA will be adequate documentation to determine if an action will have no significant impact. EPA has gained extensive experience concerning what types of analysis will be useful to enhance environmental decision-making under particular circumstances. In addition, Congress, through statutory exemptions from NEPA requirements, and the Courts, through finding that EPA statutes provide an analysis functionally equivalent to what would be done under NEPA, have explicitly defined the legal role of NEPA analysis in EPA decision-making.

In October 1993, an EPA Workgroup on NEPA issued a report entitled “The National Environmental Policy Act and Environmental Protection Agency Programs.” This Report recommended that EPA revise its “voluntary EIS” Policy to: (1) Make it a “voluntary NEPA” policy under which EPA would

prepare analyses that would be appropriate under CEQ regulations. This revision would allow the Agency, as it could if it were governed by NEPA, to prepare "environmental assessments" and subsequent findings of no significant impact where warranted. Accordingly, as under NEPA, only major Federal actions with potential for having a significant effect on the quality of the human environment would require the more extensive environmental impact statements. This revision would enable the Agency to focus its efforts and limited resources on environmentally significant actions and also would be in keeping with the Administration's policy to streamline government by eliminating unnecessary paperwork and analysis and to focus its efforts on significant environmental problems. (2) The Report also recommended expanding the Policy's scope by encouraging EPA program managers to use voluntary EISs to address, among other things, issues involving multi-media impacts, indirect effects, environmental justice, large-scale ecological impacts, or where there is significant public controversy. EPA Administrator Browner has explained that the policy changes would "make EPA's existing voluntary EIS policy more flexible and encourage the expanded use by EPA managers of voluntary EISs as a means of involving the public, states, tribes, localities, and other Federal agencies in EPA decision-making provided that such voluntary EISs are not duplicative of existing procedures and do not significantly delay actions." Such changes would enhance appropriate use of voluntary EISs and also would be in keeping with the Administration's policy to streamline government by providing managers with one process for dealing with multiple issues and programs.

## II. Proposed Changes to Existing Policy

Agency officials will be encouraged to consider, where appropriate and on a case-by-case basis, the use of voluntary EISs or EAs where they can provide additional benefits for public participation, environmental analysis, or cooperation with other Federal, state or local agencies, or tribal governments. For example, there are several areas where NEPA documents may be appropriate in individual cases: (1) Actions involving cumulative cross-media or ecosystem impacts; (2) actions involving environmental justice issues; (3) actions which also involve other Federal agencies which are addressing issues under the NEPA process; (4) actions involving special resources, such as endangered species or historic,

archaeological, or cultural resources; and (5) public health risk.

The policy will be changed to modify voluntary EIS requirements for regulatory actions under the programs identified in the 1974 policy statement: standard setting under the Clean Air Act, the Noise Control Act, and the Atomic Energy Act; criteria and site designations under the Marine Protection, Research and Sanctuaries Act; and pesticide disposal regulations and pesticide cancellations under FIFRA. For these actions EPA will continue to fulfill its commitment to meeting the fundamental elements of NEPA through the Agency's Regulatory Development Process for rule-making, and through negotiated settlements with pesticide producers under FIFRA. This change will not preclude the voluntary preparation of an EIS in an individual case should it be determined that it would be beneficial.

## III. Basis for Proposed Change

This proposed change is based on the following: (1) The need to update the Policy to parallel established procedures for implementation of NEPA which allow for the preparation of an EA (and a Finding of No Significant Impact) rather than requiring an EIS in all cases; (2) the need to streamline EPA operations in order to ensure that Agency resources are effectively used; (3) the need to foster increased utilization of NEPA processes for decision-making and promote use of the EA as a decision-making document for those actions that have less than significant impacts but which can benefit from an environmental analysis that leads to environmentally protective modifications of the proposed action; and (4) recognize that procedures for environmental impact analysis and public participation provided by the EPA regulatory development process have significantly changed since 1974.

Under the proposed new Policy, instead of preparing EISs for the regulatory actions listed in the 1974 Policy, EPA will routinely meet the fundamental elements of NEPA for rule-making actions through the Agency's Regulatory Development Process. This process, which has become considerably more developed over the last twenty years, includes the fundamental steps which would be carried out in a NEPA analysis: identification of environmental impacts; consideration of alternatives; compliance with other environmental statutes; and process for public participation, including public review and comment on draft regulations. The Agency also considers environmental justice impacts and impacts on

endangered species, and cultural, archaeological, and historical resources in its regulation process. EPA's rule-makings involve detailed examination of environmental effects and are oriented towards achieving environmental protection in furtherance of EPA's unique mission of implementing statutes that are environmentally protective. The analysis and public participation provided in EPA's regulatory development process would make separate NEPA documents, i.e., preparation of EISs, redundant.

EPA rules, policy, and guidance are developed by the EPA program office which has lead responsibility for the relevant statute. Where appropriate, the lead program office also includes other interested program and staff offices. In addition to following the substantive and procedural regulatory requirements set out in the relevant statute, the lead program office must follow requirements in Executive Orders and legislation which prescribe the regulatory development process and must analyze a number of factors, including those which would be considered in an EIS analysis. These include: (1) Different regulatory alternatives, including use of market-based incentives, as well as different levels of environmental protection and technical feasibility; (2) cross-media impacts; (3) coordination with state/local standards; (4) applicable Federal laws or executive orders (such as the Endangered Species Act and Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"); (5) implementation and enforcement of the rule; and (6) economic impacts and impacts on state, local, and tribal governments.

As with the preparation of an EIS document, public participation is also a key part of the EPA regulatory development process. The Administrative Procedure Act and a number of environmental statutes require EPA to provide the members of the public with an opportunity to participate in the development of regulations affecting them. The Agency must provide an opportunity for public comment and must consider the views expressed, providing a summary of significant comments and what the Agency has done to address them. This includes publication of the proposed rule in the **Federal Register** and offering the public the opportunity to submit written comment, before **Federal Register** publication of the final rule, policy, or guidance. The lead program office involved in developing a

regulation, policy, or guidance must select the forms of participation best suited to the issues and audiences interested in that particular regulation. These can include: written comments submitted in response to notice of proposed rulemaking, policy, or guidance or an advance notice of proposed rulemaking; comment from established Federal Advisory Committee Act (FACA) groups that advise the Agency on policy issues; public briefing sessions or meetings held to elicit views on specific rules; and regulatory negotiation groups. Federal Executive Orders 12866 (Regulatory Planning and Review) and 12875 (Enhancing Intergovernmental Partnerships) as well as EPA policy require timely and meaningful intergovernmental consultation with affected states, localities and tribes. Planning for intergovernmental consultation should consider what governmental entities will be affected, how they may be affected, and what issues are likely to concern them. The lead program office is required to develop consultation plans to set out processes for public participation and intergovernmental consultation that will be followed for a rule-making.

An additional level of review for significant regulations is carried out by the Office of Management and Budget (OMB) under Executive Order 12866 to ensure that guidance, regulations, and policies are consistent with applicable law and the President's priorities. This process assures that, in deciding whether and how to regulate, agencies have assessed the costs and benefits of the various approaches to regulation when appropriate, including the alternative of not regulating (this corresponds to the "no action" alternative which would be considered in a NEPA document). As appropriate, this process also includes review of the regulation, policy or guidance by other Federal agencies to assure consistency with their policies and any planned actions and includes a process for resolution of Federal interagency disputes.

#### Public Comments

EPA seeks comment on these proposed changes to the existing Policy. To ensure full consideration, comments must be submitted within 60 days of publication of this Notice to the Contacts listed above.

Date: November 21, 1997.

**Richard E. Sanderson,**

*Director, Office of Federal Activities.*

[FR Doc. 97-31251 Filed 11-26-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5928-7]

### Agency Information Collection Activities; OMB Responses

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

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). 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.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer (202) 260-2740, please refer to the appropriate EPA Information Collection Request (ICR) Number.

#### SUPPLEMENTARY INFORMATION:

#### OMB Responses to Agency Clearance Requests

##### OMB Approvals

EPA ICR No. 1807.01; National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient; was approved 11/07/97; OMB No. 2060-0370; expires 11/30/2000.

EPA ICR No. 1056.06; NSPS for Nitric Acid Plants—Subpart G; was approved 11/14/97; OMB No. 2060-0019; expires 11/30/2000.

EPA ICR No. 1711.02; Voluntary Customer Service Satisfaction Surveys; was approved 11/12/97; OMB No. 2090-0019; expires 10/31/99.

EPA ICR No. 1824.01; State Use of EPA's Policy on Compliance Incentives for Small Businesses or Comparable State Policy on Reducing Penalties for Small Entities; was approved 11/04/97; OMB No. 2020-0011; expires 04/30/98.

##### Short Term Extensions

EPA ICR No. 1723.01; Reporting and Recordkeeping Requirements for the Importation of Nonconforming Marine Engines; expiration date was extended from 01/31/98 to 05/31/98.

##### Change in Expiration Date

EPA ICR No. 1743.01; Application for Motor Vehicle Emission Certification of Air Revisions to the Federal Test Procedure (FTP); OMB No. 2060-0332; expiration date was changed from 04/30/98 to 11/30/97.

Date: November 21, 1997.

**Joseph Retzer,**

*Division Director, Regulatory Information Division.*

[FR Doc. 97-31274 Filed 11-26-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5929-7]

### Notice of Proposed Administrative De Minimis Settlement Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act, Regarding the Carroll & Dubies Superfund Site, Town of Deerpark, New York

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

**ACTION:** Notice of proposed administrative agreement and opportunity for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency (EPA) Region II announces a proposed administrative *de minimis* settlement pursuant to section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Carroll & Dubies Superfund Site (the "Site"), Town of Deerpark, Orange County, New York. This Site is on the National Priorities List established pursuant to section 105(a) of CERCLA, 42 U.S.C. 9605(a). This document is being published to inform the public of the proposed settlement and of the public's opportunity to comment.

This settlement, memorialized in an Administrative Order on Consent (Order), is being entered into by EPA and the Reynolds Metals Company (Respondent), and is the second and final *de minimis* settlement between these parties for this Site. The Respondent contributed a relatively minimal amount of hazardous substances to the Site and is eligible for a *de minimis* settlement under section 122(g) of CERCLA. Under the Order, the Respondent has agreed to pay EPA \$14,154.03, toward the costs of certain past and future response actions at the Site. In exchange, Respondent will receive a covenant not to sue from EPA relating to liability for the Site under sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a).