other unit data reported to EPA under the Acid Rain Program since, in submitting the data under the program, a source's Designated Representative has already certified the accuracy of the data. However, we will consider any objections. For example, a source's Designated Representative may provide evidence that we improperly calculated heat input at the unit level, where the heat input was actually measured at another location (such as a common stack). As a further example, a source's Designated Representative may demonstrate that the data provided in today's NODA are not consistent with the data reported to EPA for compliance with the Acid Rain Program. In that case, the objector should explain why the data values in EPA's data files are incorrect and should document and explain the new data values.

Similarly, in general, we do not anticipate revisions to data reported to EIA since such data were submitted to meet regulatory reporting requirements. However, we will consider any objections to the data as reported, as well as any calculation in which we used the data for purposes of today's NODA.

Dated: July 27, 2006.

Brian McLean,

Director, Office of Atmospheric Programs.

[FR Doc. E6–12628 Filed 8–3–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8205–9]

Proposed CERCLA Administrative Cost Recovery Settlement; Industrial Chrome Plating, Incorporated

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Industrial Chrome Plating Time-Critical Removal Site in Portland, Oregon with the following settling party: Industrial Chrome Plating, Incorporated (ICP). The settlement requires the settling party to pay $66,000.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101.

DATES: Comments must be submitted on or before September 5, 2006.

ADDRESSES: The proposed settlement is available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop ORC–158, Seattle, Washington 98101; (206) 553–0242. Comments should reference the Industrial Chrome Plating Time-Critical Removal Site in Portland, Oregon and EPA Docket No. CERCLA–10–2006–0035 and should be addressed to Dean Ingemansen, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC–158, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Dean Ingemansen, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC–158, 1200 Sixth Avenue, Seattle, Washington 98101; (206) 553–1744.

SUPPLEMENTARY INFORMATION: The ICP Site, a former chrome plating facility, is located in a predominantly residential neighborhood on the southeast corner of NE 62nd Avenue and NE Hassalo Street in Portland, Oregon. In July 2001, EPA was requested by the Oregon Department of Environmental Quality (ODEQ) to conduct a time-critical removal action at the Site due to evidence of chrome plating wastes having leaked onto the ground and into the subsurface at the Site. When EPA began the removal action on August 27, 2001, there were chromium and lead-contaminated soils, plating wastes, and other hazardous substances at the Site. In order to get at the subsurface contamination, the buildings at the Site had to be torn down. Removal of the ICP building, liquid wastes, and soils was completed at the end of November 2001. Soils were excavated to a maximum depth of 20 feet below grade. Approximately 4,000 gallons of chromic acid was pumped from on-site dip tanks and holding tanks to a tanker truck and delivered to Burlington Environmental in Kent, Washington, for proper disposal. Another 100 gallons and 500 pounds of hazardous substances including paint wastes, corrosive liquids, mercury, and PCB wastes were packed and transported to Philip Services, Incorporated, in Washington state. The excavation resulted in 4,718 tons of hazardous wastes shipped to U.S. Ecology in Grand View, Idaho, and 1,098 tons of special waste delivered to the Waste Management Hillsboro, Oregon, landfill. A protective asphalt cap was placed over the entire Site to prevent surface water infiltration. The settlement requires payment of $66,000.00, an amount equal to the fair market value of the real property owned by ICP, which is the only asset of ICP, a defunct Oregon corporation. ICP has proposed to sell this property in order to pay the settlement amount. In addition, the settlement requires (and ICP has already placed) a deed notice on the title to the Site property. This deed notice notifies all owners of this property of the need to maintain the integrity of the asphalt cap, and of the need to contact the ODEQ if the property owner decides to build on the Site or otherwise puncture or destroy the asphalt cap. ODEQ has issued a conditional ''No Further Action'' letter for the Site conditioned upon, among other things, the property owner maintaining the integrity of the cap.

Dated: July 28, 2006.

Ron Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. E6–12624 Filed 8–3–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8204–7]

Water Pollution Control; State Program Requirements; Program Modification Application by Michigan To Administer a Partial Sewage Sludge Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of application and public comment period.

SUMMARY: Pursuant to 40 CFR 123.62 and 40 CFR part 501, the State of Michigan has submitted a program modification application to EPA, Region 5 to administer and enforce a sewage sludge (biosolids) management program. Specifically, the state is seeking

approval of a biosolids management program which addresses the land application of biosolids. Michigan is not seeking approval of the land application of domestic septage, surface disposal of biosolids, incineration of biosolids, or the landfilling of biosolids. Further, the state is not seeking program approval for, and the state's biosolids management program will not extend to ''Indian Country'' as defined in 18 U.S.C. 1151 and applicable case law. According to the state's application, this program would be administered by the Michigan Department of Environmental Quality (MDEQ).

The application from Michigan is complete and is available for inspection and copying. Public comments are requested and encouraged.

DATES: The public comment period on the state's request for approval to administer the proposed Michigan NPDES biosolids management program will be from the date of publication until September 18, 2006. Comments postmarked after this date may not be considered.

ADDRESSES: *Viewing/Obtaining Copies of Documents.* You can view Michigan's application for modification from 8 a.m. until 4 p.m. (Eastern time zone) Monday through Friday, excluding holidays, at the MDEQ, Constitution Hall, Water Bureau, 525 W. Allegan St., South Tower—2nd Floor, Lansing, Michigan 48913, contact James Johnson (517) 241–8716; MDEQ Cadillac/Saginaw Bay Districts, 503 N. Euclid Ave., Ste 1, Bay City, Michigan 48706–2965, contact Mike Person (989) 686–8025; MDEQ Grand Rapids/Kalamazoo Districts, 4460 44th St., SE., Ste. E, Kentwood, Michigan 49512, contact David Schipper (616) 356–0276; MDEQ Jackson District, 301 Louis Glick Highway, Jackson, Michigan 49201, contact Greg Merricle (517) 780–7841; MDEQ S.E. Michigan District, 27700 Donald CT, Warren, Michigan 48092–2793, contact Todd Jaranowski (586) 753–3798; and, MDEQ Upper Peninsula District, K.I. Sawyer International Airport, 420 Fifth St., Gwinn, Michigan 49841, contact Ben Thierry (906) 346–8528. A copy of Michigan's application for modification is also available for viewing from 9 am to 4 pm, Monday through Friday, excluding legal holidays, at EPA Region 5, 16th floor, NPDES Programs Branch, 77 West Jackson Blvd., Chicago, IL 60604. Part or all of the state's application may be copied, for a minimal cost per page, at MDEQ's offices or EPA's office in Chicago.

Comments. Electronic comments are encouraged and should be submitted to *colletti.john@epa.gov.* Please send a copy to *johnsoj1@michigan.gov.* Written comments may be sent to John Colletti (WN–16J), EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604. Please send an additional copy to MDEQ, Attn: James Johnson, Constitution Hall, Water Bureau, 525 W. Allegan St., South Tower—2nd Floor, Lansing, Michigan 48913. Public comments may be sent in either electronic or paper format. EPA requests that electronic comments include the commentor's postal mailing address. No Confidential Business Information (CBI) should be submitted through e-mail. Comments and data will also be accepted on disks in Microsoft Word format. If submitting comments in paper format, please submit the original and three copies of your comments and enclosures. Commentors who want EPA to acknowledge receipt of their comments should enclose a self-addressed stamped envelope.

FOR FURTHER INFORMATION CONTACT: John Colletti at the above address by phone at (312) 886–6106, or by e-mail at *colletti.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we'', ''us'', or ''our'' means EPA.

Table of Contents

I. Background

Under section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA may issue permits allowing discharges of pollutants from point sources into waters of the United States, subject to various requirements of the CWA. These permits are known as National Pollutant Discharge Elimination System (NPDES) permits. Section 402(b) of the CWA, 33 U.S.C. 1342(b), allows states to apply to EPA for authorization to administer their own NPDES permit programs.

Section 405 of the Clean Water Act (CWA), 33 U.S.C. 1345, created the Federal biosolids management program, requiring EPA to set standards for the use and disposal of biosolids and requiring EPA to include biosolids conditions in some of the NPDES permits which it issues. The rules developed under section 405(d) are also self-implementing, and the standards are enforceable whether or not a permit has been issued. Section 405(c) of the CWA provides that a state may submit an application to EPA for administering its own biosolids program within its jurisdiction. EPA is required to approve each such submitted state program unless EPA determines that the program does not meet the requirements of sections 304(i) and/or 402(b) and 405 of the CWA or the EPA regulations implementing those sections. To obtain such approval, the state must show, among other things, it has authority to issue permits which comply with the Act, authority to impose civil and criminal penalties for permit violations, and authority to ensure that the public is given notice and opportunity for a hearing on each proposed permit. The requirements for state biosolids management program approval are listed in 40 CFR part 501.

The Michigan NPDES program was approved by EPA on October 17, 1973. EPA received the biosolids management program application from Michigan on April 4, 2002. Michigan's application for the biosolids management program approval contains a letter from the Director of MDEQ requesting program approval, an Attorney General's Statement, copies of pertinent State statutes and regulations, a Program Description, and a Memorandum of Agreement (MOA) to be executed by the Regional Administrator of EPA, Region 5 and the Director of MDEQ. The state, based on comments from EPA, submitted revisions to its application on April 21, 2005, and March 17, 2006.

The Director's letters of March 28, 2002 and March 17, 2006, requested that EPA approve the state's biosolids management program as a modification of its NPDES program. On April 21, 2005, the Director clarified that ''the MDEQ is not seeking approval of federal authority of its Biosolids Application Program in Indian country at this time.''

The Attorney General's Statement includes citations to specific statutes, administrative rules, and judicial decisions which demonstrate adequate authority to carry out the state's biosolids management program. State statutes and regulations cited in the Attorney General's Statement are also included in the application. The Attorney General's Statement states that the state is not seeking approval of the biosolids program over ''Indian lands'' which it defines separately from the term ''Indian Country.'' This statement has been superseded by the state's letter of April 21, 2005 which states that the application is not seeking approval in Indian country at this time, but reserves the right to do so in the future. It is EPA's long-standing position that the term ''Indian lands'' is synonymous

with the term ''Indian country''. *Washington Dep't of Ecology* v. *U.S. EPA*, 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). See 40 CFR 144.3 and 258.2.

The Program Description includes a description of the scope and organizational structure of the biosolids management program, including a description of the general duties and the total number of state staff carrying out the program, a description of applicable state procedures, including permitting procedures, and administrative and judicial review procedures, and a description of the state's compliance tracking and enforcement program. It also includes an inventory of the facilities that are subject to regulations promulgated pursuant to 40 CFR part 503 and subject to the state's biosolids management program.

The proposed amendments to the MDEQ/EPA MOA include provisions for permit administration, enforcement and compliance monitoring, and annual reporting. The MOA was signed by the Director of MDEQ on May 17, 2006, and will become effective upon the signature of the Regional Administrator of EPA, Region 5. The MOA does not limit the authority of EPA to take actions pursuant to its powers under the CWA, nor does it limit EPA's oversight responsibilities with respect to biosolids management program administration.

II. Biosolids and the State Biosolids Management Program

Biosolids are the solids separated from liquids during treatment at a municipal wastewater treatment plant and treated to stabilize and reduce pathogens. EPA in 1993 adopted standards for management of biosolids generated during the process of treating municipal wastewater. 40 CFR part 503. The part 503 rules establish standards under which biosolids may be land applied as a soil amendment, disposed in a surface disposal site, or incinerated, and requirements for compliance with 40 CFR part 258 if placed in a municipal landfill. The standards, designed to protect public health and the environment, include pollutant limits, pathogen reduction requirements, vector attraction reduction requirements, and management practices specific to the use or disposal option selected.

The Michigan biosolids management program imposes requirements on wastewater treatment plants and biosolids appliers. It also provides for the issuance of permits under certain conditions, enforcing the standards as necessary, and providing guidance and technical assistance to members of the regulated community. The program also includes a state-specific feature requiring permittees to develop a Residuals Management Program.

III. Indian Country

Michigan is not authorized to carry out its biosolids management program in ''Indian Country,'' as defined in 18 U.S.C. 1151 and applicable case law. Indian Country includes:

1. All lands within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, if EPA approves the state's biosolids management program, it will have no effect in Indian Country. EPA retains the authority to implement and administer the NPDES and biosolids program in Indian Country.

IV. Public Notice and Comment Procedures

Copies of all submitted statements and documents shall become a part of the record submitted to EPA. All comments or objections presented in writing to EPA, Region 5 and postmarked within 45 days of this document will be considered by EPA before it takes final action on Michigan's request for program modification approval. All written comments and questions regarding the biosolids management program should be addressed to John Colletti at the above address. The public is also encouraged to notify anyone who may be interested in this matter.

V. Public Hearing Procedures

At the time of this notice, a decision has not been made as to whether a public hearing will be held on Michigan's request for program modification. During the comment period, any interested person may request a public hearing by filing a written request which must state the issues to be raised to EPA, Region 5. The last day for filing a request for a public hearing is 45 days from the date of this notice; the request should be submitted to John Colletti at the above address. In appropriate cases, including those where there is significant public interest, EPA may hold a public hearing. Public notice of such a hearing will occur in the **Federal Register** and in enough of the largest newspapers in Michigan to provide statewide coverage and will be mailed to interested persons at least 30 days prior to the hearing.

VI. EPA's Decision

EPA has determined that Michigan has submitted a complete application. EPA sent a letter to the Director of the MDEQ on April 28, 2006, stating that the state's application to modify the Michigan NPDES program to include a biosolids management program was substantially complete, needing only to submit signed copies of the MOA. EPA received the signed copies on May 25, 2006, and now has 90 days from that date to approve or disapprove Michigan's biosolids management program unless a public hearing is held. After the close of the public comment period, EPA will consider and respond to all significant comments received before taking final action on Michigan's request for biosolids management program approval. The decision will be based on the requirements of sections 405, 402 and 304(i) of the CWA and EPA regulations promulgated thereunder. If the Michigan biosolids management program is approved, EPA will so notify the state. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will no longer serve as the primary program and enforcement authority for land application of biosolids within Michigan. EPA, within Michigan, will remain the authority for biosolids use and disposal in Indian Country, for the incineration of biosolids, for the surface disposal of biosolids, for the landfilling of biosolids, and for the land application of domestic septage. The state's program will operate in lieu of the EPA-administered program. However, EPA will retain the right, among other things, to object to NPDES permits proposed by Michigan and to take enforcement actions for violations, as allowed by the CWA. If EPA disapproves Michigan's biosolids management program, EPA will notify Michigan of the reasons for disapproval and of any revisions or modifications to the state program that are necessary to obtain approval.

VII. Other Federal Statutes

A. National Historic Preservation Act

Section 106 of the National Historic Preservation Act, 16 U.S.C. 470(f), requires federal agencies to take into account the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on such undertakings. Under the ACHP's regulations (36 CFR part 800), agencies consult with the

appropriate State Historic Preservation Officer (SHPO) on federal undertakings that have the potential to affect historic properties listed or eligible for listing in the National Register of Historic Places. EPA, Region 5 is currently in discussions with the Michigan SHPO regarding its determination that approval of the state biosolids management program would have no adverse effect on historic properties within the State of Michigan.

B. Regulatory Flexibility Act

Based on General Counsel Opinion 78–7 (April 18, 1978), EPA has long considered a determination to approve or deny a State Clean Water Act (CWA) program submission to constitute an adjudication because an ''approval,'' within the meaning of the Administrative Procedure Act (APA), constitutes a ''license,'' which, in turn, is the product of an ''adjudication.'' For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq. Under the RFA, whenever a Federal agency proposes or promulgates a rule under section 553 of the APA, after being required by that section or any other law to publish a general notice of proposed rulemaking, the Agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule. Even if the CWA program approval were a rule subject to the RFA, the Agency would certify that approval of the State proposed CWA program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve a CWA program merely recognizes that the necessary elements of the program have already been enacted as a matter of state law; it would, therefore, impose no additional obligation upon those subject to the state's program. Accordingly, the Regional Administrator would certify that this Michigan biosolids management program, even if a rule, would not have significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or lease burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's decision includes no Federal mandates for state, local or tribal governments or the private sector. The Act excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program, except in certain cases where a ''Federal intergovernmental mandate'' affects an annual Federal entitlement program of $500 million or more which are not applicable here. Michigan's request for approval of its biosolids management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its biosolids management program approved, the state will gain the authority to implement the program within its jurisdiction, in lieu of EPA, thereby eliminating duplicative state and federal requirements. If a state chooses not to seek authorization for administration of a biosolids management program, regulation is left to EPA. EPA's approval of state programs generally may reduce compliance costs for the private sector, since the state, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of biosolids management facilities or businesses generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's decision is not subject to the requirements of sections 202 and 205 of the UMRA. The Agency recognizes that small governments may own and/or operate biosolids management facilities that will become subject to the requirements of an approved state biosolids management program. However, small governments that own and/or operate biosolids management facilities are already subject to the requirements in 40 CFR parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a state to administer its own biosolids management program and any revisions to that program, these same small governments will be able to own and operate their biosolids management facilities or businesses under the approved state program, in lieu of the federal program. Therefore, EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects

Environmental protection, Administrative practice and procedures, Indian Country, Intergovernmental relations, Waste treatment and disposal, Water pollution control.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: July 5, 2006.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. E6–12359 Filed 8–3–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of New Exposure Draft; Interpretation: Items Held for Remanufacture

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April, 2004,