

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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 least burdensome alternative if the Administrator publishes with the final rule an explanation of 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's proposed rule, if adopted, would reduce the number of sources subject to part 68. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 68

Environmental protection, Chemicals, Chemical accident prevention,

Extremely hazardous substances, Incorporation by reference, Intergovernmental relations, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 16, 1997.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, subchapter C, part 68 of the Code of Federal Regulations is proposed to be amended as follows:

PART 68—CHEMICAL ACCIDENT PREVENTION PROVISIONS

1. The authority citation for part 68 continues to read as follows:

Authority: 42 U.S.C. 7412(r), 7601(a)(1), 7661-7661f.

§ 68.130 Tables 1 and 2 [Amended]

2. In § 68.130 List of substances, Table 1 is proposed to be amended by revising the listing in the column "Chemical name" from "Hydrochloric acid (conc 30% or greater)" to "Hydrochloric acid (conc 37% or greater)."

3. In § 68.130 List of substances, Table 2 is proposed to be amended by revising the listing in the column "Chemical name" from "Hydrochloric acid (conc 30% or greater)" to "Hydrochloric acid (conc 37% or greater)," and by adding a note "d" between note "c" and "e" at the end of the table to read as follows:

d Toxicity of hydrogen chloride, potential to release hydrogen chloride, and history of accidents.

Appendix A of Part 68 [Amended]

4. Appendix A of Part 68 is proposed to be amended by revising the listing in the column "Chemical name" from "Hydrochloric acid (conc 30% or greater)" "Hydrochloric acid (conc 37% or greater)."

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[FRL-5829-1]

Notification of Completeness of the Department of Energy's Compliance Certification Application for the Waste Isolation Pilot Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking; notification of

completeness of compliance certification application.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the Department of Energy's (DOE) Compliance Certification Application (CCA) for the Waste Isolation Pilot Plant (WIPP) is complete. The Administrator of the EPA provided written notice of the completeness decision to the Secretary of Energy on May 16, 1997. The text of the letter is contained in the **SUPPLEMENTARY INFORMATION.**

EPA has determined that the CCA is complete in accordance with 40 CFR Part 194, "Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with the 40 CFR Part 191 Disposal Regulations" (Compliance Certification Criteria). The completeness determination is an interim preliminary administrative step in the certification rulemaking for WIPP that is required by regulation, and does not imply in any way that the CCA demonstrates compliance with the Compliance Criteria and/or the Disposal Regulations.

ADDRESSES: Written comments should be submitted, in duplicate, to: Docket No. A-93-02, Air Docket, Room M-1500 (LE-131), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: Mary Kruger or Scott Monroe; telephone number: (202)233-9310; address: Radiation Protection Division, Mail Code 6602J, U.S. Environmental Protection Agency, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Background

The Waste Isolation Pilot Plant (WIPP) was authorized in 1980, under section 213 of the Department of Energy (DOE) National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164, 93 Stat. 1259, 1265). The WIPP is being constructed by the DOE near Carlsbad, New Mexico, as a potential repository for the safe disposal of transuranic radioactive waste.

The 1992 WIPP Land Withdrawal Act, as amended (Pub. L. 102-579) requires EPA to evaluate and certify whether the WIPP will comply with subparts B and C of 40 CFR part 191—known as the "disposal regulations"—and to issue or deny a certification of compliance. The Department of Energy is required to submit an application to EPA that will be the basis of EPA's evaluation of whether a certification of the WIPP's compliance with the disposal

regulations should be issued. The disposal regulations limit releases of radioactive materials from disposal systems for radioactive waste, and require implementation of measures to provide confidence for compliance with the radiation release limits.

Additionally, the disposal regulations limit radiation doses to members of the public, and protect ground water resources by establishing maximum concentrations for radionuclides in ground water. For more information about 40 CFR part 191, refer to **Federal Register** notices published in 1985 (50 FR 38066–38089, Sep. 19, 1985) and 1993 (58 FR 66398–66416, Dec. 20, 1993).

The WIPP Land Withdrawal Act also calls for EPA to establish criteria by which to judge whether the WIPP will comply with the disposal regulations. EPA published the Compliance Certification Criteria (40 CFR Part 194) on February 9, 1996. See 61 FR 5224. Thus, EPA will determine whether the WIPP complies with the Part 191 disposal regulations by applying the Compliance Certification Criteria in its evaluation of the CCA. For more information about 40 CFR part 194, refer to **Federal Register** notices published in 1995 (60 FR 5766–5791, Jan. 30, 1995), and 1996 (61 FR 5224–5245, Feb. 9, 1996).

Section 8(d)(2) of the WIPP Land Withdrawal Act, as amended, requires EPA to determine whether the WIPP complies with the disposal regulations by rulemaking pursuant to the Administrative Procedure Act (5 U.S.C. 553) within 1 year of receipt of the application. The Compliance Certification Criteria at 40 C.F.R. 194.11 provide that EPA's evaluation for certification pursuant to Section 8(d) shall not begin until the Administrator has informed the Secretary in writing that EPA has received a complete application.

With today's document, the Agency announces that it has determined that the compliance certification application (CCA) for the WIPP is sufficiently complete to allow EPA to conduct the required technical evaluation. This determination is solely an administrative measure and does not reflect any conclusion regarding the WIPP's compliance with the disposal regulations.

DOE submitted the CCA to EPA on October 29, 1996. Pursuant to Section 8(d)(1) of the WIPP Land Withdrawal Act, as amended, EPA identified additional information necessary for the CCA to constitute a complete application in a letter transmitted to DOE on December 19, 1996. DOE

submitted the requested information with letters dated January 17, January 24, February 7, February 14, and February 26, 1997.

EPA announced its receipt of the CCA in an Advance Notice of Proposed Rulemaking (ANPRM) for the compliance determination published in the **Federal Register** on November 15, 1996 (61 FR 58499). A copy of the submitted application, as well as the Agency's comments on draft versions, is available for inspection in EPA's public docket, as described below. In addition, all correspondence between EPA and DOE regarding the completeness of the compliance application is available in the public docket.

EPA received numerous public comments regarding the completeness and technical sufficiency of the CCA during both a 120-day public comment period provided for in the ANPRM (November 15, 1996, to March 17, 1997) and a series of public hearings held in New Mexico. All significant public comments received during the first public comment period will be considered and responded to as EPA develops the proposed certification decision on whether the WIPP complies with the disposal regulations. In response to public requests for an additional opportunity to comment on the complete CCA, EPA will accept and consider public comments submitted to the docket after publication of this notice.

EPA will determine whether to certify that the WIPP complies with the disposal regulations after several additional regulatory steps, including technical evaluation of the application, issuance of a notice of proposed rulemaking in the **Federal Register**, a second 120-day public comment period, a second set of public hearings in New Mexico, analysis of public comments, and issuance of a final notice in the **Federal Register**. A "response to comments" document that summarizes and addresses significant comments will accompany the final notice and will be made available in the public docket. Comments must be received within the time frame specified by the Notice of Proposed Rulemaking. Any contacts between EPA and any party occurring after the close of the comment period will be strictly governed in accordance with the Administrator's Statement of Policy on *ex parte* contacts in rulemaking and the transparency requirements of Executive Order 12866.

Text of Letter

Dear Mr. Secretary: Pursuant to Section 8(d) of the Waste Isolation Pilot Plant (WIPP)

Land Withdrawal Act, as amended, (the Act, or the LWA), and in accordance with the WIPP Compliance Criteria at 40 CFR § 194.11, I hereby notify you that the U.S. Environmental Protection Agency (EPA) has determined that the U.S. Department of Energy's (DOE) Compliance Certification Application (CCA) for WIPP is complete. This completeness determination is a preliminary, interim determination required under the WIPP Compliance Criteria, which implement the Agency's Final Radioactive Waste Disposal Regulations at Subparts B and C of 40 CFR Part 191 (Disposal Regulations). While the completeness determination initiates the one-year evaluation period provided for in Section 8(d)(2) of the LWA, it does not have any generally applicable legal effect. Further, this determination does not imply or indicate that the CCA demonstrates compliance with the Compliance Criteria and/or the Disposal Regulations.

Section 8(d)(2) of the LWA requires EPA to certify whether WIPP complies with the Agency's Disposal Regulations. Section 8(d)(4) of the Act requires that EPA only perform such certification after DOE has submitted a "full" (or complete) application. Upon receipt of the CCA on October 29, 1996, EPA immediately commenced its review to determine whether the CCA was complete. Shortly thereafter, the Agency began to identify areas of the CCA that required supplementary information and analyses. In addition, EPA received numerous public comments on the CCA that identified areas of concern.

EPA identified completeness concerns in a December 19, 1996 letter from Mary Nichols, Assistant Administrator for the Office of Air and Radiation, to Alvin Alm, Assistant Secretary for Environmental Management. DOE responded with additional information, records packages, and clarifications, as necessary.

To the extent possible, the Agency has also been conducting a preliminary technical sufficiency review, and has provided the Department with relevant technical comments on an ongoing basis. EPA will continue to conduct its technical review of the CCA. The Agency will issue its proposed compliance certification decision, in accordance with 40 CFR Part 194 and Part 191 Subparts B and C, after it has thoroughly evaluated the complete CCA and considered relevant public comments. Thank you for your cooperation during our review process. Should you have questions regarding this request, please contact Ramona Trovato at (202) 233-9320.

Sincerely,
[signed]
Carol M. Browner,
Administrator.

Additional Docket Information

The CCA consists of the application received by EPA on October 29, 1996, plus all relevant supplementary information sent by DOE after that date. Documents that constitute the CCA are filed in Category II–G of Docket No. A-93-02. Correspondence between DOE

and EPA in reference to the CCA is filed in Category II-I.

EPA maintains the following public information dockets: (1) Docket No. A-93-02, located in room 1500 (first floor in Waterside Mall near the Washington Information Center), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460 (open from 8:00 a.m. to 4:00 p.m. on weekdays); (2) EPA's docket in the Government Publications Department of the Zimmerman Library of the University of New Mexico located in Albuquerque, New Mexico, (open from 8:00 a.m. to 9:00 p.m. on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, and 1:00 p.m. to 9:00 p.m. on Sunday); (3) EPA's docket in the Fogelson Library of the College of Santa Fe in Santa Fe, New Mexico, located at 1600 St. Michaels Drive (open from 8:00 a.m. to 12:00 midnight on Monday through Thursday, 8:00 a.m. to 5:00 p.m. on Friday, 9:00 a.m. to 5:00 p.m. on Saturday, 1:00 p.m. to 9:00 p.m. on Sunday); and (4) EPA's docket in the Municipal Library of Carlsbad, New Mexico, located at 101 S. Halegueno (open from 10:00 a.m. to 9:00 p.m. on Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday and Saturday, and 1:00 p.m. to 5:00 p.m. on Sunday). As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

Dated: May 16, 1997.

Carol M. Browner,
Administrator.

[FR Doc. 97-13482 Filed 5-21-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5827-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Tri-State Plating Superfund Site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Tri-State Plating Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil

and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Indiana, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before June 23, 1997.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR-6J), Chicago, IL 60604.

Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Bartholomew County Health Department, 440 3rd St., Suite 303, Columbus, IN 47201-6798. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H-7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard (SR-6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-7253 or Dave Novak (P-19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-9840.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Tri-State Plating Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that

appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial Investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day comment period. The public is asked to