

VII. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under docket control number "OPP-00557" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPP-00557." Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, FQPA, Pesticides.

Dated: October 23, 1998.

Lynn R. Goldman,
*Assistant Administrator for Prevention,
Pesticides and Toxic Substances.*

[FR Doc. 98-29013 Filed 10-28-98; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6181-6]

National Environmental Justice Advisory Council Workgroup on Waste Transfer Stations; Notice of Public Hearings

The Environmental Protection Agency (EPA) is sponsoring a fact finding meeting held by the National Environmental Justice Advisory Council (NEJAC) working group on Waste Transfer Stations (WTS) for the purpose of gathering information related to potential environmental issues related to Waste Transfer Stations. Information gathered from these meetings will be gathered in a report for recommendations to EPA.

The WTS working group was formed after a NEJAC resolution calling for EPA to "examine the risks from the siting and operation of Waste Transfer Stations for the purpose of determining its regulatory responsibilities and prescribe requirements to reduce health risks associated with such facilities." The WTS working group consists of representatives of community based organizations, business interests, and elected officials from impacted communities for the purposes of advising on the design and implementation of the WTS study.

The workgroup plans to conduct two fact finding meetings: the first one will take place in New York City on November 10, 1998; the second meeting will take place in Washington, D.C., meeting day and location to be announced. The New York meeting will take place at the Marriot Hotel in Brooklyn on November 10, 1998, 333 Adams Street, Brooklyn, NY 11021, (718) 246-7000.

Please call Kent Benjamin, Office of Solid Waste and Emergency Response at (202) 260-2822 for more information or Nancy Wilson at, 202-260-1910, if Kent is unavailable.

Dated: October 26, 1998.

Linda Garczynski

Director, Outreach Special Projects, Office of Solid Waste and Emergency Response.

[FR Doc. 98-29018 Filed 10-28-98; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6181-5]

Notice of Policy and Procedures for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of new policy and repeal of existing policy.

SUMMARY: EPA is today withdrawing its May 7, 1974 Statement of Policy for Voluntary Environmental Impact Statements (EIS) (39 FR 16186) and publishing a Statement of Policy for Voluntary Preparation of National Environmental Policy Act (NEPA) Documents. The new Statement of Policy updates Agency policy to make it more consistent with current practice. This policy change widens the scope of Agency activities for which a NEPA document may be prepared voluntarily and enables EPA to address actions for which a voluntary EIS would have been

prepared previously with a voluntary Environmental Assessment (EA) if appropriate. Additionally, EPA is withdrawing the Procedures for the Voluntary Preparation (39 FR 37419, October 21, 1974) and instead will use procedures as set out at 40 CFR Part 6, Subparts A through D, as specified below.

DATES: This policy shall take effect October 29, 1998.

FOR FURTHER INFORMATION CONTACT: Joseph Montgomery at (202) 564-7157; *Email:*

montgomery.joseph@epamail.epa.gov; or Marguerite Duffy at (202) 564-7148; *E-mail: duffy.marguerite@epa.gov;* U.S. Environmental Protection Agency, Office of Federal Activities (2252-A), 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Background

In the November 28, 1997 **Federal Register** (62 FR 63334), EPA proposed changes in its Statement of Policy for Voluntary EISs, which it had adopted and published on May 7, 1974 in the **Federal Register** (39 FR 16186). This revised policy updates EPA's 1974 policy to reflect how Congress and the Courts have defined EPA's 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) at 40 CFR Parts 1500 through 1508. The revised policy also encourages expansion of the increased discretionary use of NEPA procedures voluntarily 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 revised policy affects certain EPA standard-setting and cancellation procedures.

II. Response to Comments

A total of four comments were received in response to the November 28, 1997 proposed changes. Three organizations were supportive of the proposed changes. One state government concurred with the proposed changes but requested that EPA consult with states regarding any actions which were previously reviewed through the EIS process but which EPA believes should be evaluated through environmental assessments in the future. The state also requested that EPA continue to prepare EISs in the case of site designations under the Marine Protection, Research and Sanctuaries

Act. EPA appreciates the support for its proposed change to the policy. In response to the first request, EPA supports early consultation with the states, particularly on specific actions which affect one or more states, and expects that there will be early coordination with affected states on these actions. EPA does not believe that there is a need to formalize this process in the policy statement and notes that, in addition to early consultation between EPA and the states, under the EPA NEPA implementing regulations at 40 CFR Part 6, which EPA will follow in its voluntary NEPA compliance, a 30-day public review is required for any proposed Finding of No Significant Impact. This allows an additional opportunity for state involvement in the decision on preparing a voluntary EIS. As to the second point, EPA believes that decisions on preparing EISs for proposed ocean disposal sites should be made on a case-by-case basis. States have been working closely with EPA Regional offices on this program for many years; the Agency does not envision significant changes to the decision making process or working relationship. EPA voluntarily will follow NEPA procedures in ocean disposal site designations under MPRSA and these procedures provide for consultation with the states. Therefore, states will have an opportunity to comment on the need for an EIS as discussed above.

III. Statement of Policy

Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 *et seq.*) requires that federal agencies prepare detailed environmental impact statements (EISs) on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. Regulations promulgated in 1978 and amended in 1986 by CEQ at 40 CFR Parts 1500 through 1508 further provide for the preparation of Environmental Assessments (EAs) to provide sufficient evidence and analysis for determining whether to prepare an EIS or to prepare a Finding of No Significant Impact (FONSI). The objective of NEPA is to build into the agency decision-making process an appropriate and careful consideration of all environmental aspects of proposed actions.

The Environmental Protection Agency (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 (CWA), EPA-issued National Pollutant Discharge Elimination System (NPDES) permits for new sources, and for certain projects funded through EPA annual Appropriations Acts. Section 511(c)¹ of the CWA exempts other EPA actions under the CWA from the requirements of NEPA. Section 7(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 793(c)(1)) exempts actions under the Clean Air Act from the requirements of NEPA. EPA is also exempted from the procedural requirements of environmental laws, including NEPA, for Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response actions. Courts also consistently have 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.

Under the new policy, EPA may undertake voluntary preparation of EAs and EISs under programs where it is not legally required to prepare such documents, where such voluntary documents can be beneficial in addressing Agency actions. Voluntary NEPA documentation can be particularly useful in situations where other federal agencies are preparing NEPA documentation for related actions, where NEPA's well-understood and long-standing procedures provide an opportunity for increased public understanding and involvement, and where the NEPA process can facilitate analysis of environmental impacts. Accordingly, the Agency has determined that, while it is not legally bound to do so by NEPA, EPA may voluntarily prepare EAs and, as appropriate, EISs in connection with certain EPA actions. The voluntary preparation of these documents in no way legally subjects the Agency to NEPA's requirements.

A. Applicability

EPA will prepare an EA or, if appropriate, an EIS on a case-by-case basis in connection with Agency decisions where the Agency determines

¹ In its May 7, 1974 Statement of Policy, EPA construed CWA § 511(c) as authorizing that "environmental impact statements be prepared only" in connection with the activities to which that section's exemptions did not apply. After the Policy's adoption, in language virtually identical to that in § 511(c), Congress enacted an exemption for EPA Clean Air Act activities (15 U.S.C. § 793(c)(1)). EPA did not construe the Clean Air Act exemption as precluding voluntary preparation of NEPA documents, and has, in fact, also prepared voluntary NEPA documents for activities exempted under CWA § 511(c). This policy does not preclude voluntary preparation of EAs or EISs for any EPA programs, including Clean Water Act Programs.

that such an analysis would be beneficial. Among the criteria that may be considered in making such a determination are: (a) the potential for improved coordination with other federal agencies taking related actions; (b) the potential for using an EA or EIS to comprehensively address large-scale ecological impacts, particularly cumulative effects; (c) the potential for using an EA or an EIS to facilitate analysis of environmental justice issues; (d) the potential for using an EA or EIS to expand public involvement and to address controversial issues; and (e) the potential of using an EA or EIS to address impacts on special resources or public health.

For standard setting under the CAA; the Noise Control Act; and the Atomic Energy Act; criteria for ocean disposal under the Marine Protection, Research and Sanctuaries Act (MPRSA); and pesticide disposal regulations and pesticide cancellations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); 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. The new policy will not preclude the voluntary preparation of an EA or EIS in an individual case should it be determined that an EA or EIS would be beneficial.

B. Procedures

With respect to voluntary EAs and EISs prepared pursuant to this policy, the Agency will follow, as appropriate, procedures set out at 40 CFR Part 6, Subparts A through D (which can be found on EPA's Web-Site at www.epa.gov/oeca/ofa). In specific cases where following these procedures in the preparation of voluntary EAs or EISs would not be practicable or appropriate, the Director, Office of Federal Activities, Office of Enforcement and Compliance Assurance, may approve exemptions. The public shall be notified of any exemptions.

IV. Repeal of Current Policy

Effective upon publication of this policy in the **Federal Register** the Statement of Policy for Voluntary EISs (39 FR 16186) and the Environmental Impact Statements Procedures for the Voluntary Preparation (39 FR 37419), are withdrawn and replaced by this policy.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Dated: October 23, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98-29019 Filed 10-28-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6179-1]

Final Guidelines for Implementation of the Drinking Water Infrastructure Grants Tribal Set-Aside Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of final guidelines.

SUMMARY: The Environmental Protection Agency (EPA) has released Final Guidelines for the Drinking Water Infrastructure Grants Tribal Set-Aside (DWIG TSA) program (EPA 816-R-98-020). The Tribal Set-Aside Program was established as a result of the reauthorized Safe Drinking Water Act (SDWA), signed by President Clinton on August 6, 1996. Section 1452 of the SDWA authorizes a Drinking Water State Revolving Loan Fund (DWSRF) similar to a fund for wastewater treatment systems that has been in place under the Clean Water Act for several years. The SDWA also authorizes EPA to set aside up to 1½ percent of the amounts annually appropriated to carry out section 1452 for grants to Indian Tribes and Alaska Native Villages. The SDWA directs EPA to use these funds for infrastructure improvements to public drinking water systems that serve Indian Tribes.

EPA first received federal funds for section 1452 in its FY1997 Appropriation Bill. EPA received \$1.275 billion in FY1997, and \$725 million in FY1998 for the programs authorized by section 1452. Of these amounts, 1½ percent (the maximum allowed by law) has been set aside for the Tribal program—\$19,125,000 in fiscal year 1997 and \$10,875,000 in fiscal year 1998.

These funds and each future year's Tribal Set-Aside Program funds will be allotted, by formula (which is described in the Final Guidelines), among the nine EPA Regional offices with Tribal programs. In consultation with the

Indian Health Service (IHS) and the Tribes in their Region, each EPA Region will identify potential projects, prioritize those projects, and select the ones to receive funding from its share of the Set-Aside Program allotment. The EPA Regions will then award and administer the funds. Each Regional office will give the Tribes in their Region an opportunity to review and comment on the Regional program as they develop it, and once developed, will consult with the IHS and the Tribes in their Region regarding annual project selections.

The Final Guidelines explain how the Tribal Set-Aside Program will be implemented; outline who is eligible to receive funds from the program; and list the types of projects that are eligible and ineligible to be funded with DWIG TSA monies. Within the conditions and allowances described in the Final Guidelines, the EPA Regions will have flexibility in designing a program that works best for the Tribes in their Region.

Copies of the Final Guidelines have been sent to every Indian Tribe currently recognized and eligible for funding and services from the Bureau of Indian Affairs.

DATES: The Guidelines become effective on October 29, 1998.

ADDRESSES: Copies of the Final Guidelines are available through the Safe Drinking Water Act Hotline, telephone (800) 426-4791, and from the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street, SW, Washington, DC 20460. A single copy of the document can be picked up at the Resource Center in Room 2615 of the Waterside Mall at the address above. The Center is open from 8:30 a.m. until 5 p.m. Monday through Friday. The Guidelines may also be obtained from the EPA Web Site at the URL address "<http://www.epa.gov/safewater/tribes.html>".

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, telephone (800) 426-4791. For technical inquiries, contact Ray Enyeart, Drinking Water Implementation and Assistance Division, Office of Ground Water and Drinking Water, U.S. EPA, (4606), 401 M Street SW, Washington, DC 20460, telephone (202) 260-5551.

Authority: Pub. L. 104-182.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6181-7]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment Regarding the California Department of Transportation and the Granite Construction Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the California Department of Transportation and the Granite Construction Company (together the "Respondents").

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act (the "Act"). EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 309(g) of the Act, 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings under section 309(g) are conducted in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Part 22"), 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in Part 22. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after publication of this notice.

On September 30, 1998, EPA commenced the following Class II proceeding for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1391, the following Complaint:

In the Matter of the State of California, Department of Transportation, District 7 and the Granite Construction Company, Watsonville, California, Docket No. CWA-309-IX-FY98-23.