

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of

section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes

no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 28, 2000.

Carl E. Edlund,

Acting Regional Administrator, Region 6
[FR Doc. 00-11566 Filed 5-8-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6601-2]

Montana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant Final authorization to the hazardous waste program changes submitted by Montana. In the "Rules" section of this **Federal Register**, we are authorizing the State's program changes as an immediate final rule without a prior proposed rule because we believe this action as not controversial. Unless we get written comments opposing this authorization during the comment period, the immediate final rule will become effective and the Agency will not take further action on this proposal. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. EPA will address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: We must receive your comments by June 23, 2000.

ADDRESSES: Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region VIII, 999 18th St, Ste 500, Denver, Colorado 80202-2466, phone number: (303) 312-6139. You can view and copy Montana's application at the following addresses: Air and Waste Management Bureau, Permitting and Compliance

Division, Montana Department of Environmental Quality, Metcalf Building, 1520 East Sixth Ave., Helena, Montana 59620, Phone: 406/444-1430; and U.S. EPA Region VIII, Montana Office, 301 S. Park, Federal Building, Helena, MT 59626, Phone: 406/441-1130 ext 239.

FOR FURTHER INFORMATION CONTACT: Eric Finke, Waste and Toxics Team Leader, U.S. EPA, 301 S. Park, Drawer 10096, Helena, MT 59626, Phone: (406) 441-1130 ext 239, or Kris Shurr, EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, phone number: (303) 312-6139.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules" section of this **Federal Register**.

Dated: April 28, 2000.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 00-11422 Filed 5-8-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6602-9]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Chemform, Inc. Site from the National Priorities List (NPL); request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region 4, announces its intent to delete the Chemform, Inc. Superfund Site in Pompano Beach, Broward County, Florida, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that all appropriate response actions under CERCLA have been implemented and that no further response action is appropriate. Moreover, EPA and FDEP have determined that the response actions conducted at the Site to date

have been protective of public health, welfare, and the environment.

DATES: Comments on the proposed deletion from the NPL should be submitted no later than June 8, 2000.

ADDRESSES: Comments may be mailed to: Mr. Jamey Watt, Remedial Project Manager, Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-3104.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is: Record Center, Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-3104, Phone: (404) 562-9530.

Background information from the regional public docket also is available for viewing at the Site information repository located at: Broward County Main Library, Government Documents, 100 South Andrews Avenue, N.E., Fort Lauderdale, Florida 33301.

FOR FURTHER INFORMATION CONTACT: Mr. Jamey Watt, Environmental Protection Agency, Region 4, 61 Forsyth Street S.W., Atlanta, Georgia 30303-3104, (404) 562-8920.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA, Region 4, announces its intent to delete the Chemform, Inc. Superfund Site from the NPL, which constitutes Appendix B of the NCP, and requests comments on this proposed deletion. EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Trust Fund (Fund). Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments concerning this Site for 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 how the Site meets the deletion criteria.

II. NPL Deletion Criteria

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

- Responsible parties or other persons have implemented all appropriate response actions required; or
- All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or
- The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

CERCLA Section 121 (c), 42 U.S.C. 9621 (c), provides that if a site is deleted from the NPL where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. The OU1 ROD signed on September 22, 1992, as amended by the Explanation of Significant Differences (ESD) signed on April 2, 1999, calls for such Five-Year Review events at the Site. Each Five-Year Review will examine the institutional controls identified at the Site and allow for additional ground water monitoring if necessary. Five-Year Reviews will continue until Site ground water meets maximum concentration limits (MCLs). The OU2 ROD selected remedy which addressed soil contamination did not require Five-Year Review events. Through soil excavation and removal actions, no hazardous substances remained in on-site soils above health-based levels. If new information becomes available that indicates a need for further action, EPA may initiate a remedial action. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.