

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 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, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duties on any of these governmental entities or the private sector. The rule merely corrects a factual error in the regulatory text of the regulatory definition of solid waste. In any event, EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Similarly, 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 261

Environmental protection, Hazardous waste, Solid Waste, Petroleum, Recycling.

Dated: March 19, 1996.

Carol M. Browner,  
Administrator.

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

#### **PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912 (a), 6921, 6922 and 6938.

2. Section 261.4 is amended by revising paragraph (a)(12) to read as follows:

#### **§ 261.4 Exclusions.**

(a) \* \* \*

(12) Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous waste listed in 40 CFR part 261 D (e.g., K048–K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in 40 CFR 279.1.

\* \* \* \* \*

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#### **40 CFR Part 300**

[FRL-5445-8]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Waste Disposal Engineering Inc. site from the national priorities list; request for comments.

**SUMMARY:** The United States Environmental Protection Agency (U.S. EPA) Region 5 announces its intent to delete the Waste Disposal Engineering Inc. (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 Responsible Parties and the State of Minnesota have implemented all appropriate response actions required. U.S. EPA, in consultation with the State of Minnesota, have also determined that no further response is appropriate. Although full compliance with off-site surface water and ground water standards has not been demonstrated as yet due to past interruptions in ground water remediation, the State of Minnesota has assumed the legal obligation to carry out the response action duties, including but not limited to operation and maintenance of the remedy and attaining the response action objectives and cleanup standards. A determination of compliance with the off-site surface water and ground water standards will be demonstrated by the State after a longer period of operation and maintenance of the remedy. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date are and will continue to be 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 April 25, 1996.

**ADDRESSES:** Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region 5, 77 W. Jackson Blvd. (SR-6J), Chicago, IL 60604.

Comprehensive information on the site is available at U.S. EPA's Region 5 office and at the local information repository located at: Anoka County Community Health and Environmental Service, Anoka County Government Center, Rm. 360, 2100 3th Ave., Anoka, MN 55303 and Andover City Hall, 1685 Crosstown Blvd. Andover, MN 55304. Requests for comprehensive copies of documents should be directed formally to the Region 5 Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H-7J), U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Schmitt, Remedial Project Manager at (312) 353-6565, Gladys Beard (SR-6J), Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886-7253 or Susan Pastor (P-19J), Office of

Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-1325.

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#### I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Waste Disposal Engineering Inc. 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 Section 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 comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region 5 Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the Federal Register.

#### IV. Basis for Intended Site Deletion

The Waste Disposal Engineering, Inc., Site occupies approximately 114 acres in the City of Andover, Minnesota. Andover has a population of approximately 9000 and is located 20 miles north of Minneapolis/St. Paul. Land uses in the vicinity of the site include agricultural, commercial, and residential, with several subdivisions and a stream bordering directly on the site. Some area residents rely on local ground water as a drinking water supply.

The site operated as an open dump from 1963 to 1971, and as a landfill from 1971 until 1983. Approximately 2.5 million cubic yards of solid municipal and industrial wastes and 3 million gallons of liquid industrial wastes were deposited at the site during this time. The site was proposed for the NPL July 16, 1982. The listing was finalized on September 8, 1983, Federal Register number 175, volume number 48 and Page number 40658-40682.

A Remedial Investigation/Feasibility Study was conducted at the site from

1984 through 1987. Contaminants of concern identified at the site include a number of volatile organic compounds in ground water, including 1,1,1-trichloroethane, trichloroethene, and vinyl chloride, at concentrations well above Maximum Contaminant Levels. The site posed potential threats to human health and the environment through direct contact with wastes, soils, and leachate seeps; ingestion of ground or surface water impacted by the site; and possible off-site migration of landfill gas containing hazardous constituents.

On December 31, 1987, the Regional Administrator signed a Record of Decision (ROD) selecting the following remedy:

1. A multilayer soil cap;
2. A ground water containment (extraction and treatment) system;
3. A slurry wall/non-aqueous phase layer control system for a portion of the site;
4. Wetlands replacement;
5. A monitoring program for ground water, surface water, and landfill gas;
6. An operation and maintenance program; and
7. Institutional controls.

After attempts at negotiating a consent decree with the PRPs failed, U.S. EPA issued a CERCLA Section 106 Unilateral Administrative Order for Remedial Design/Remedial Action (RD/RA) to 28 PRPs on August 23, 1991. The PRPs agreed to implement the Order and completed the RD for Operable Unit (OU) 1, the ground water containment system, in October 1992. OU1 Construction was initiated in October 1992 and completed in September 1993. The RD for OU2, the multilayer cap, was completed in December 1992, with construction completed in August 1994. The State provided oversight of all RD/RA activities under a cooperative agreement with U.S. EPA. U.S. EPA and the State conducted a final inspection of the site on August 9, 1994.

After the final inspection was completed, the PRPs were required to discontinue operation of the ground water containment system for several months due to difficulties in meeting permit requirements for the discharge of the ground water to a sanitary sewer. The ground water exhibited a low flash point, creating the hazard of fire or explosion in the sewer, and the PRPs concluded that the presence of landfill gas in the ground water was responsible. U.S. EPA approved the PRP's proposal to construct an air stripping system for the extracted ground water in March 1995 and the system was completed in June 1995.

The ground water containment system has operated without interruption since June 1995, and no further construction is anticipated. U.S. EPA approved the Remedial Action Report submitted by the PRPs and issued the Certification of Completion of Remedial Construction required under the Order to the PRPs on August 10, 1995. U.S. EPA has also approved the Operation and Maintenance Plan and, as a result, only routine operating, maintenance, and monitoring are presently required.

Activities at the site were consistent with the ROD, and work plans were issued to contractors for design and construction of the RA, including sampling and analysis. The RD Report, including a Quality Assurance Project Plan, incorporated all U.S. EPA and State quality assurance and quality control (QA/QC) procedures and protocol. U.S. EPA analytical methods were used for all validation and monitoring samples during remedial action activities.

The QA/QC program utilized throughout this remedial action was rigorous and in conformance with U.S. EPA and State standards; therefore U.S. EPA and the State determined that all analytical results are accurate to the degree needed to assure satisfactory execution of the remedial action, and consistent with the ROD and RD plans and specifications.

Since 1983 the MPCA and the U.S. EPA have been involved in numerous community relations activities associated with the Waste Disposal Engineering Site. Numerous fact sheets and news releases were issued throughout the remedial investigation/feasibility study (RI/FS). Public meetings were held at the beginning of the project on the remedial investigation report and on the proposed remedy. The City of Andover and Anoka County officials were invited to participate in the discussions.

On September 3, 1987, the MPCA issued a news release on the proposed remedy and the public meeting. On September 8, 1987, U.S. EPA sponsored an ad in the Minneapolis daily paper announcing the beginning of the public comment period. On September 14, 1987, a public meeting was held in the Andover City Hall. On September 29, 1987, the public comment period was closed. On March 17, 1993, an Environmental News Release announced the operation schedule of the cleanup at the site.

All the components of the remedy have been fully implemented. On November 27, 1995, the site was issued a Notice of Compliance (NOC) from the State under the Minnesota Landfill

Cleanup Law. The State has now assumed full responsibility for the remedy at this site, including achieving all cleanup levels for the remedy. Compliance with off-site surface water and ground water cleanup levels must still be demonstrated. U.S. EPA will proceed in deleting the site from the NPL.

EPA, with concurrence from the State of Minnesota, has determined that Responsible Parties and the State of Minnesota have implemented all appropriate response actions required at the Waste Disposal Engineering Inc. Superfund Site, and that no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: March 11, 1996.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region V.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 20 and 24

[WT Docket No. 96-59; GN Docket No. 90-314; FCC 96-119]

### Broadband Personal Communications Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission has adopted a Notice of Proposed Rule Making ("Notice") that proposes to resolve a number of issues relevant to the award of licenses for the broadband Personal Communications Services ("PCS") D, E, and F blocks. The Notice begins the process of supplementing the record supporting the gender- and race-based competitive bidding rules in the wake of *Adarand Constructors, Inc. v. Peña*, but it also tentatively concludes that the Commission should not delay auctioning the remaining broadband PCS frequency blocks long enough to complete that process. Accordingly, the Notice proposes to modify the F block auction rules to make them gender- and race-neutral. The Notice also seeks comment on several other matters relating to designated entities and entrepreneurs, including the definitions of small business and rural telephone company, whether to extend installment

payment plans to small businesses bidding on the D and E blocks, adjustments to the payment plans available to small businesses bidding on the D and E blocks, and adjustments to the benefits provided to entrepreneurs in the F block rules that might be warranted in light of the fact that 10 MHz licenses are expected to have lower values than the 30 MHz C block licenses. In addition, the Notice proposes changes to the F block license transfer restrictions.

The Notice also proposes to resolve the question whether, in light of *Cincinnati Bell Telephone Co. v. FCC*, the Commission should for all broadband PCS licensees, retain or relax the cellular/PCS cross-ownership rule and the attribution rules for cellular licensees interested in acquiring broadband PCS licenses. In addition, the Notice proposes to amend the ownership information disclosure requirements for broadband PCS auction applicants, and proposes to auction the D, E, and F block licenses in concurrent auctions.

This Notice contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

**DATES:** Comments must be submitted on or before April 15, 1996; reply comments must be submitted on or before April 25, 1996. Written comments by the public on the proposed and/or modified information collections are due April 15, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before May 28, 1996.

**ADDRESSES:** Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to [dconway@fcc.gov](mailto:dconway@fcc.gov), and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to [fain\\_t@al.eop.gov](mailto:fain_t@al.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Mark Bollinger, Wireless