

Treatment Plant and South Bay Ocean Outfall, Updated Information, Interim Operation, Tijuana River, San Diego, CA, Due: November 30, 1998, Contact: Elizabeth Borowiec (415) 744-1165.

U.S. EPA had applied to the Council on Environmental Quality (CEQ) under Section 1502(c)(4) of the CEQ Regulations for the Approval of Alternative Procedures. CEQ has approved the request by EPA for a 30-day Review Period.

Dated: November 3, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98-29841 Filed 11-5-98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

ER-FRL-5496-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 19, 1998 Through October 23, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (62 FR 17856).

Draft EISs

ERP No. D-DOA-G36149-OK. Rating LO, Double Creek Watershed Plan, Implementation, Watershed Protection and Flood Prevention, National Economic Development (NED), Town of Ramona, Washington and Osage Counties, OK.

Summary: EPA had no objection to the selection of the lead agency's preferred alternative as described in the DEIS.

ERP No. D-FAA-E51046-NC. Rating EC2, Charlotte/Douglas International Airport, Construction and Operation, New Runway 17/35 (Future 18L/36R) Associated Taxiway Improvements, Master Plan Development, Approval Airport Layout Plan (ALP) and COE Section 404 Permit, Mecklenburg County, NC.

Summary: EPA's review found that the noise analysis was deficient and needs to be redone. Both general and

transportation conformity criteria must be met for the project to go forward.

ERP No. D-FHW-L40209-WA. Rating EC2, WA-16/Union Avenue Vicinity to WA-302 Vicinity of Tacoma Improvements, Construction, Funding, Coast Guard Permit, COE Section 10 and 404 Permits, Pierce County, WA.

Summary: EPA had concerns with the likely increase of urban growth and the resulting impact. EPA requested that these issues be fully discussed in the final EIS.

ERP No. D-NOA-E39044-FL. Rating LO, Guana, Tolomato, Matanzas, Site Designation, National Estuarine Research Reserve, Management Plan, City of Jacksonville, St. Johns and Flagler Counties, FL.

Summary: EPA supports the proposed action.

ERP No. D-NOA-E39045-MS. Rating EC2, Grand Bay National Estuarine Research Reserve (NERR), Designation, To Conduct Research, Educational Project and Construction, East of the City of Biloxi, Jackson County, MS.

Summary: EPA requested additional information on phosphogypsum waste storage facility impacts on ground surface water quality. Comments were made on rock reed wastewater cell maintenance problems compared to conventional septic tank systems.

ERP No. DS-NOA-A64057-00. Rating EC2, Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans for the South Atlantic Region for Shrimp, Red Drum, Coral, Coral Reefs and Live/Hard Bottom Habitat, Spiny Lobster, Snapper-Grouper, Coastal Migratory Pelagics and Golden Crab, South Atlantic Region.

Summary: EPA expressed environmental concerns that the Calico Scallop Fishery Management Plan contained data that was too old to fully assess impact of the fishery and collateral impacts threatened and endangered species. EPA requested that these issues be fully discussed in the next environmental document.

Final EISs

ERP No. F-BLM-G65021-00. Rio Grande Corridor Coordinated Resource Management Plan and Taos Management Plan Amendment, Activity-Level-Plans, Implementation, NM and CO.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F-DOE-L08053-00. Lower Valley Transmission Project, Construction of a New 115 kV Transmission Line from Swan Valley Substation near Swan Valley, Special-

Use-Permits, Bonneville and Teton Counties, ID and Teton County, WY.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F-JUS-K80035-CA. Service Processing Center (SPC) for Detainees, Construction and Operation, Possible Sites, Stockton and Tracy Sites, San Joaquin Counties, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: November 3, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98-29842 Filed 11-5-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6183-4]

Extension of the Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: EPA is announcing a limited extension of its policy (56 FR 42730, August 29, 1991) on the civil enforcement of the storage prohibition in sec. 3004(j) of the Resource Conservation and Recovery Act (RCRA) at facilities that generate "mixed waste" regulated under both the RCRA subtitle C hazardous waste program and the Atomic Energy Act of 1954, as amended (AEA). The policy affects only mixed wastes that are prohibited from land disposal under the RCRA land disposal restrictions (LDR) and for which there are no available options for treatment or disposal. EPA has determined that for a few of these mixed wastes, treatment technology and disposal capacity still is not commercially available. Based on this determination, EPA is hereby renewing for three years the August 1991 policy for those mixed wastes. For purposes of this policy statement, "available treatment technology and disposal capacity" means that a facility is commercially available to treat or dispose of a particular waste and the facility has either (1) a RCRA permit or interim status; (2) a research, development, and demonstration permit under 40 CFR 270.65; or (3) a land treatment permit under 40 CFR 270.63.

Pursuant to the terms of this policy, EPA will continue to treat violations of RCRA sec. 3004(j) as reduced priorities among EPA's potential civil enforcement actions. EPA's primary concerns are with mixed waste facilities (1) that are storing wastes for which treatment technology is commercially available, and (2) that are not managing their stored mixed waste in an environmentally responsible manner. Generators must regularly explore all treatment and disposal alternatives during the extension because new technologies may come on line at any time. If treatment technology or disposal capacity is available or becomes available, the generator must use it. EPA will employ RCRA enforcement authorities to ensure that this policy is not abused, with particular focus on ensuring that emerging treatment technologies are fully utilized and on confirming that those wastes for which no treatment exists are stored safely.

EFFECTIVE DATE: October 31, 1998.

FOR FURTHER INFORMATION CONTACT: Leslie Bell, Federal, State and Tribal Programs Branch, Office of Solid Waste; Telephone (703) 308-8888 or Mary Andrews, RCRA Enforcement Division, Office of Regulatory Enforcement; Telephone (202) 564-4011.

SUPPLEMENTARY INFORMATION:

I. Background

A. Mixed Waste and the LDR Storage Prohibition

"Mixed wastes" are wastes that contain both a hazardous waste component regulated under Subtitle C of RCRA and a radioactive component consisting of source, special nuclear, or byproduct material regulated under the AEA. On July 3, 1986, EPA clarified that RCRA applies to the hazardous component of these wastes (51 FR 24504). The hazardous component of mixed wastes is subject to the land disposal restrictions in 40 CFR Part 268. The LDR requires generators to treat hazardous wastes to specified treatment standards.

The aspect of the LDR affected by the policy extension set forth in this notice is the "storage prohibition" enacted in the Hazardous and Solid Waste Amendments (HSWA), RCRA section 3004(j), 42 U.S.C. 6924(j), and 40 CFR 268.50. This provision prohibits any storage of a waste prohibited from land disposal (including mixed waste) except "for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal." EPA has concluded that storage of a waste pending development of treatment

technology does not constitute storage to accumulate sufficient quantities to facilitate proper treatment or disposal. This interpretation was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *Edison Electric Institute v. EPA*, 996 F.2d 326 (D.C. Cir. 1993).

However, treatment and disposal options are limited for some mixed wastes, both currently generated and generated in the past. Therefore, commercial generators may have no option but to store those wastes for which treatment technology or disposal capacity is not yet available.

B. Mixed Waste Treatment Technology and Disposal Capacity

In the past year, EPA has visited hospitals, laboratories, nuclear power plants, universities, and treatment and disposal facilities. The Agency has also conducted research on emerging mixed waste treatment technologies, and has employed RCRA information gathering authority to collect information from several facilities regarding the treatment and disposal of their mixed wastes. The purpose of these efforts was to determine the extent to which generators have utilized available treatment and disposal alternatives, to ascertain whether there are mixed wastes that can not be treated, and to confirm that those wastes for which no treatment exists are stored safely and in compliance with interim status or a RCRA storage permit. As a result of its investigation, EPA believes that (1) currently treatment is available for most low level mixed wastes, but treatment continues to be unavailable for a few wastes, such as mixed wastes containing dioxins, PCBs, and lead based paint solids, and wastes with very high levels of radioactivity; and (2) where treatment technology is available, there is excess capacity at the commercial mixed waste treatment facilities.

In an effort to help generators locate mixed waste treatment, storage, and disposal facilities, EPA has developed an Internet HomePage that lists some commercially available mixed waste treatment, storage, and disposal facilities based on information received from vendors. The EPA Mixed Waste HomePage can be found at "http://www.epa.gov/radiation/mixed-waste." This list should not be seen as complete or as a recommendation or endorsement of any of these facilities. This list only represents those companies that have expressed an interest in participating in EPA's Mixed Waste Internet HomePage. EPA does not endorse or promote technologies or companies that provide treatment, storage, or disposal capacity

for any waste, including mixed waste. Companies that wish to participate should contact EPA's Office of Solid Waste at the number listed for this **Federal Register** notice.

II. Summary of Policy

A. Storage Prohibition Policy Extension

In this notice, EPA is announcing a limited extension of its policy (56 FR 42730, August 29, 1991) on civil enforcement of the storage prohibition in RCRA section 3004(j) at facilities that generate mixed wastes. This policy extension is limited to three years from October 31, 1998. Note that this extended policy applies only to those waste streams for which no treatment technology or disposal capacity is available. If treatment technology and disposal capacity are available, the generator must use it. This policy is not a final agency action, but is intended solely as guidance. This policy is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the policy provided in this extension or to act at variance with the policy, based on an analysis of specific site circumstances. The Agency also reserves the right to change this policy at any time.

The intent of this policy is to explain how RCRA section 3004(j) storage violations involving mixed wastes fit within the Agency's civil enforcement priorities. For generators that are storing mixed wastes for which no viable treatment technology or disposal capacity exists, EPA considers the violations of RCRA section 3004(j) to be a relatively low priority among EPA's potential civil enforcement actions so long as the wastes are stored in accordance with a RCRA permit or interim status and are stored in an environmentally responsible manner. Any enforcement activity arising from violations of RCRA section 3004(j) will generally focus on those facilities that store mixed wastes for which treatment technology is commercially available or fail to manage any mixed waste in an environmentally responsible manner.

In addition, generators of the affected mixed waste must be following prudent waste management practices to store their mixed wastes in a manner that minimizes risk to public health and the environment. In determining the civil enforcement priority of RCRA section 3004(j) storage violations at particular mixed waste generator facilities, the Agency recognizes a variety of indicators of environmentally responsible operation. These factors are

described in Section IV of this document.

EPA is currently developing an Advance Notice of Proposed Rulemaking that will request comment on several strategies to address overlapping regulatory requirements for mixed waste with low levels of radioactivity that is subject to both Nuclear Regulatory Commission and EPA oversight. The Agency expects to request comments on options for mixed waste storage and treatment, including storage for decay, and alternative suggestions for providing regulatory flexibility for mixed waste management.

B. Limitations on Scope

This policy affects only the priority placed on potential civil judicial and administrative enforcement actions that would arise from storing mixed wastes subject to the LDR in contravention of RCRA section 3004(j). This policy does not limit the Agency's enforcement authority, including its authority under RCRA section 7003 relating to imminent and substantial endangerment. The policy also is limited to those mixed waste streams for which treatment technology or disposal capacity is not commercially available. The mixed wastes covered by this policy must be mixed wastes when generated; a generator may not commingle radioactive waste streams with hazardous waste in order to come within the scope of this policy.

EPA intends that this policy apply both to mixed wastes generated during the term of the policy, and to existing inventories of mixed wastes already in storage. The policy does not cover other violations of RCRA storage requirements, such as the storage facility standards of Subparts I through L and DD of 40 CFR Parts 264 (permitted facility standards) or 265 (interim status facility standards), or their state equivalents. EPA emphasizes that this policy does not affect any requirement under RCRA to obtain a storage permit, which is generally required if mixed wastes are stored for greater than 90 days. The policy does not extend to potential criminal violations of RCRA, for which prosecutorial discretion rests solely with the United States Attorney General.

EPA intends to apply this policy to executive branch federal facilities, except facilities owned or operated by the Department of Energy (DOE) or by the joint Navy/DOE Naval Nuclear Propulsion Program (NNPP). The Federal Facilities Compliance Act of 1992 (FFCA), 42 U.S.C. 6912, 6939c and 6961, section 102(c)(3)(B) requires DOE

and NNPP to be in compliance with (1) an approved plan to develop capacities and technologies to treat a facility's mixed waste; and (2) any order requiring compliance with such plan issued in accordance with RCRA section 3021(b), 42 U.S.C. 6939c. With respect to DOE and NNPP, EPA enforcement of RCRA section 3004(j) will be based on the terms contained in the plans and orders developed pursuant to RCRA section 3021, and not on the terms of this policy.

III. Applicability

Mixed waste is regulated by EPA in states that are not authorized for the RCRA base program. As of June 30, 1998, three states and four territories have not received RCRA base authorization. These states and territories are Alaska, American Samoa, Hawaii, Iowa, Northern Mariana Islands, Puerto Rico, and Virgin Islands. In these states and territories, EPA alone administers the RCRA program and therefore this policy applies in these states.

This policy is not applicable in states that are authorized for the RCRA "base" program but are not authorized for mixed waste because in these states, mixed waste is not subject to RCRA jurisdiction. As of June 30, 1998, those states are the District of Columbia, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia.

Mixed waste is regulated by EPA and the state in those states that are authorized for both the base program and for mixed waste. In states authorized for mixed waste that are not authorized to implement any or all of the LDR regulations, EPA implements the LDR provisions for all waste codes which the state has not yet been authorized. As of June 30, 1998, Indiana, Kentucky, Louisiana, Montana, Nebraska, New Hampshire, South Dakota, and Washington do not have authorization for a significant portion of the LDR program and thus this policy is applicable to many wastes generated in these states.

In states that are authorized for both mixed waste and portions of the LDR program, the state, as well as EPA, has authority to enforce those portions of the LDR program for which the state is authorized. This policy affects only the EPA enforcement programs. States that are authorized for both mixed waste and the LDR may choose to follow this federal policy, however, it is not binding on them. Therefore, generators should consult with their states for clarification of the state's policy with

respect to storage of LDR prohibited mixed waste.

During the term of this policy, additional states may receive authorization for mixed waste or portions of the LDR program. Facility owners and operators should track the authorization status of their state programs in order to ascertain whether they are covered by this policy, or whether other restrictions based on state law might apply to mixed waste storage. Information on a state's authorization status for mixed waste can be found on the EPA Mixed Waste HomePage previously cited. EPA's State Authorization HomePage at "<http://www.epa.gov/epaoswer/hazwaste/state/index.htm>" also provides information on the status of authorization for mixed waste and LDR.

IV. Responsible Management of Mixed Waste

In order to demonstrate that they are pursuing environmentally responsible management of their mixed wastes (and therefore should be accorded a reduced civil enforcement priority for RCRA section 3004(j) violations), owners and operators of facilities generating and storing mixed wastes should undertake at least the following steps.

A. Inventory and Compliance Assessment of Storage Areas

RCRA regulations applicable to hazardous waste storage require facilities to maintain a record identifying each physical location or unit where mixed waste is stored and the method of storage, i.e., container or tank, see 40 CFR 264.73(b) or 265.73(b). The regulations also require regular inspection of these storage areas for compliance with applicable RCRA standards and permit requirements, including an assessment of compliance with the storage facility standards of 40 CFR Part 264 or Part 265, Subparts I-J and DD, or the state counterparts to these standards (see 40 CFR 264.15 or 265.15). Facilities must maintain records containing the results of the inspections as required by 40 CFR 264.73(b)(5) or 265.73(b)(5). EPA encourages facility owner/operators to take action promptly to correct any deficiencies, since EPA expects to focus its enforcement efforts regarding RCRA section 3004(j) violations on situations that indicate a disregard for compliance with the RCRA Subtitle C requirements.

B. Identification of Mixed Wastes

Facility owner/operators should maintain sufficient information to identify their mixed wastes. The identification should include the RCRA

waste codes for the hazardous components, the source of the hazardous constituents and discussion of how the waste was generated (if known), the generation rate and volumes of mixed wastes in storage, and any process information relied upon to identify mixed wastes or make determinations that wastes are subject to the LDR (see 40 CFR 264.73 or 265.73).

C. Waste Minimization Plans

EPA understands that many mixed waste generators have undertaken active measures to avoid the generation of mixed wastes. EPA continues to encourage mixed waste generators to develop a waste minimization plan (see 58 FR 31114, May 28, 1993, for guidance) to reduce or eliminate mixed wastes, to minimize the volume of regulated wastes generated, and to substitute non-hazardous materials.

D. Good Faith Efforts

This policy is limited in scope to those LDR-prohibited mixed wastes for which no treatment technology or disposal capacity is commercially available. Because additional treatment technology or disposal capacity may become available at any time in the future, facility owner/operators should be prepared to demonstrate ongoing good faith efforts to locate treatment technology and disposal capacity for each of their mixed wastes and to utilize any and all such treatment technology and disposal capacity.

Dated: October 31, 1998.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Sylvia Lowrance,

Acting Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 98-29819 Filed 11-5-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6186-3]

National Advisory Council for Environmental Policy and Technology; Environmental Capital Markets Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the Environmental Capital Markets Committee of the National Advisory

Council for Environmental Policy and Technology (NACEPT), which provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The Environmental Capital Markets Committee has been evaluating practical ways for the financial services industry to include the environmental performance of its clients as an integral part of its core credit, investment, and underwriting processes. Some of the major issues the Committee has been addressing are:

- The extent to which—and why—the financial services industry currently takes environmental factors into account in its credit, investment, and underwriting processes.
- The characteristics of current (and projected) environmental management systems (EMS) and practices that could help correlate environmental performance and financial performance.
- How information flowing from these EMSs/practices might be quantified in a manner that could be integrated into the financial service industry's credit, investment, and underwriting processes.

The ultimate goal of the Committee is to identify concrete actions that EPA, on its own or in cooperation with other Federal or state agencies, could take to help the financial services industry incorporate this environmental information into its core decision-making processes.

DATES: The Environmental Capital Markets Committee will hold a one day public meeting on Tuesday, December 1, 1998 from 9:00 a.m. to 6:00 p.m.

ADDRESSES: The meeting will be held at the Sheraton City Centre Hotel, 1143 New Hampshire Avenue N.W., Washington, D.C. Materials or written comments may be transmitted to the Committee through Mark Joyce, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, Environmental Capital Markets Committee, at 202-260-6889.

Dated: October 28, 1998.

Mark Joyce,

Designated Federal Officer.

[FR Doc. 98-29815 Filed 11-5-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6186-5]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Reinvention Criteria Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The NACEPT Reinvention Criteria Committee(RCC) has been asked to help the Agency understand how incentives can be used most successfully to inspire firms, companies, communities, and individuals to go beyond mere compliance with existing regulations and to begin the process of addressing outstanding environmental problems. In particular, the committee is focusing on the following questions:

- What opportunities exist for EPA to use incentives to promote environmental stewardship in industry? In local communities? In the general public?
- How can EPA evaluate the effectiveness of incentives to encourage environmental stewardship that leads to improved environmental results? How can EPA measure the impact that incentives have on public confidence? What criteria should be used to decide whether the use of incentives is appropriate?
- How can the concept of performance ladders be used to tailor incentives most effectively?

This meeting is being held to provide the EPA with perspectives from representatives of state, local, and tribal governments, environmental organizations, academia, industry, and NGOs.

DATES: A two-day public meeting will be held Tuesday, December 8 and Wednesday, December 9, 1998 from 8:30 am to 5:00 pm.

ADDRESSES: The RCC will hold a two-day public meeting at the Embassy Suites Hotel, located at 1900 Diagonal Road in Alexandria, VA. Materials or written comments may be transmitted to the committee through Gwendolyn Whitt, Designated Federal Officer,