Branch-NY, Project Officer, and CAPT R.A. Knee, Fifth Coast Guard District Legal Office, Project Counsel.

Background and Purpose

The Route 9 Bridge across Nacote Creek, mile 1.5, at Smithville, Atlantic County, NJ, has a vertical clearance of 5′ above mean high water (MHW) and 8′ above mean low water (MLW) in the closed position. The current regulations require the bridge to open on signal at all times.

Review of the bridge logs provided by NJDOT reveals that from 11 p.m. to 7 a.m., there were no requests for bridge openings in 1992 and 1993, and only 13 requests for openings in 1994 during these hours. NJDOT is seeking relief from the requirement that a bridgetender be present during the hours of 11 p.m. to 7 a.m. when there are minimal requests for openings.

The New Jersey Department of Transportation requested that the Coast Guard make a permanent change to the regulations governing operation of the Route 9 Bridge to require the draw to open on signal except from 11 p.m. to 7 a.m., which would require a two-hour advance notice. At all other times, the bridge would open on signal. The bridgetenders would be on call to open the draw when the advance notice is given. A 24-hour special telephone number would be posted on the bridge and maintained by the NJDOT.

Accordingly, a new provision allowing the draw of the Route 9 bridge, at mile 1.5, to remain closed during late night and early morning hours unless two hours advance notice is given will be designated as paragraph (a). The current provision allowing the draw of the Atlantic County (Rte. 575) bridge, at mile 3.5, to remain closed unless eight hours advance notice is given will be designated as paragraph (b). A general provision requiring the passage of Federal, State, and local government vessels used for public safety through all drawbridges in published at 33 CFR 117.31, and is no longer required to be published for each waterway. Therefore, this proposal would remove a provision requiring passage of public vessels from section 117.732.

Regulatory Evaluation

The proposed action is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the rule will not prevent mariners from transiting the bridge. It will only require mariners to plan their transits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and it has been determined that this proposal will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, July 29, 1994), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.732 is revised to read as follows:

§ 117.732 Nacote Creek.

(a) The Route 9 bridge, mile 1.5, shall open on signal except that from 11 p.m. to 7 a.m., the draw shall open if at least two hours advance notice is given.

(b) The draw of the Atlantic County (Rte. 575) bridge, mile 3.5, at Port Republic, shall open on signal if at least eight hours advance notice is given.

Dated: November 22, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–30967 Filed 12–19–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–5399–8]

Proposed Removal of Federal Water Quality Standards for Surface Waters of the Sacramento River, San Joaquin River, and San Francisco Bay and Delta of the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In December 1994, under the authority of the Clean Water Act (CWA), the Environmental Protection Agency (EPA) promulgated a rule establishing four sets of water quality criteria to protect the designated uses for the surface waters of the Sacramento River, San Joaquin River, and San Francisco Bay and Delta of the State of California (Bay/Delta). Subsequent to this promulgation, the State of California adopted water quality standards for the Bay/Delta and submitted them to EPA for approval. On September 26, 1995, the Regional Administrator for EPA Region IX approved the state water quality standards as protective of the designated uses for the relevant waterbodies. Currently, the State of California is in the process of implementing these state-adopted and EPA-approved water quality standards through a state water rights hearing

process. Accordingly, EPA's promulgated water quality standards are no longer needed to meet the requirements of the Clean Water Act. Therefore, EPA proposes to remove the rule.

DATES: Comments on this proposal will be accepted until March 19, 1996.

ADDRESSES: Comments should be addressed to Palma Risler, Water Management Division, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: Palma Risler, Water Management Division, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, 415–744–2017. The public record for this rulemaking is available through this contact at this same address.

SUPPLEMENTARY INFORMATION:

Background

In December 1994, under the authority of section 303 of the CWA, EPA promulgated a rule establishing four sets of water quality criteria to protect the designated uses for the surface waters of the Sacramento River, San Joaquin River, and San Francisco Bay and Delta of the State of California (Bay/Delta)(60 FR 4664, January 24, 1995). These criteria consisted of estuarine habitat criteria (consisting of a salinity requirement measured at three different locations in Suisun Bay for a specified number of days during the critical spring months), fish migration criteria (consisting of an indexed value representing successful fish migration on the Sacramento River and the San Joaquin River), fish spawning criteria on the lower San Joaquin River (consisting of a salinity requirement measured at various points in April and May), and narrative criteria protecting the brackish tidal marshes in Suisun Marsh. A description of these criteria are provided in the preamble to the final rule and in the rulemaking record.

Prior to federal promulgation of the water quality standards for the Bay/Delta, EPA, the Bureau of Reclamation and Fish and Wildlife Service of the U.S. Department of Interior, and the National Marine Fisheries Service of the U.S. Department of Commerce worked with the State of California to attempt to resolve the water quality issues in the Bay/Delta underlying EPA's rulemaking. This effort led to an agreement, informally called the ''Bay Delta Accords'' signed by the federal agencies, California state agencies, and interested stakeholders. These Bay Delta Accords, signed by all the parties in December 1994, articulate both substantive measures and processes to protect the Bay/Delta estuary, and laid out the framework for the adoption, review, and approval of the new State standards.

On May 22, 1995, the California State Water Resources Control Board adopted water quality standards for the Bay/Delta in its water quality control plan (1995 WQCP). After these revised standards were approved by the California Office of Administrative Law in accordance with California law, the revised standards were submitted to EPA for its review under section 303(c) of the CWA on July 27, 1995. On September 26, 1995, the EPA Regional Administrator for Region IX approved these standards as protective of the designated uses for the Bay/Delta. The reasons for this approval are set forth in the approval letter and are supplemented by additional information in the rulemaking record. Both the approval letter and this supporting information are included in the public record for this rulemaking.

The CWA gives the states primary responsibility for adopting water quality standards. Throughout the rulemaking process to promulgate federal water quality standards for the Bay/Delta, EPA has maintained that it would withdraw the federal standards if the State adopts and submits standards to the Agency that meet the requirements of the Act. EPA also indicated this intent in the Bay Delta Accords.

EPA recognizes that with the exception of the Suisun Bay narrative criteria,[1] the State's 1995 WQCP provisions are not precisely identical to the federal promulgation. Nevertheless, for the reasons set forth in EPA's approval, the Technical Support Memorandum dated September 21, 1995, underlying the approval, and this rulemaking record, EPA found that the provisions in the 1995 WQCP protect the designated uses of the estuary and otherwise meet the requirements of the CWA. The state is currently implementing these standards. Accordingly, the EPA rule is no longer needed to meet the requirements of the CWA, and EPA proposes to remove the rule at 40 CFR 131.37.

EPA understands that the 1995 WQCP is the subject of state court litigation raising both procedural and substantive challenges to the plan. Although EPA believes that the State Board should ultimately prevail in this litigation, there is always a possibility in such litigation for adverse court actions affecting the 1995 WQCP. Should EPA proceed to final withdrawal of the federal water quality standards as proposed in this notice, and the 1995 WQCP is subsequently rejected or remanded, there would be no water quality standards in effect in California carrying out the Bay Delta Accords. EPA intends to work with the State so that if this situation were to arise, the requirements of the Clean Water Act and the purposes of the Bay Delta Accords are achieved.

Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (56 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the order (i.e, Regulatory Impact Analysis and review by the Office of Management and Budget). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this order. Pursuant to the terms of this order, EPA has determined that the withdrawal of this rule would not be ''significant.''

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is certifying that a withdrawal of this rule would not have significant impact on a substantial number of small businesses.

C. Paperwork Reduction Act

There are no information collection requirements associated with the withdrawal of this rule that are covered under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

[1] The State's 1995 WQCP includes a description of ''beneficial uses'' of the Bay/Delta waters and a set of ''objectives'' that protect those beneficial uses. In its review of the 1995 WQCP, and in keeping with past practice, EPA is treating the State's beneficial uses and objectives as the ''designated uses'' and ''criteria'' required under the federal Clean Water Act. To avoid confusion, this document will generally use the federal terms ''designated uses'' and ''criteria.''

D. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.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.

Today's proposal contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, or tribal governments or the private sector. In fact, removing the federal water quality standards for the Bay/Delta will facilitate the State of California's implementation of the state adopted and EPA-approved water quality standards for the Bay/Delta.

List of Subjects in 40 CFR Part 131

Environmental protection, Indians—lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control, Water quality standards, Water quality criteria.

Dated: December 14, 1995.

Carol M. Browner,

Administrator.

Part 131 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 131—[AMENDED]

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

§ 131.37 [Removed and reserved]

2. Section 131.37 is removed and reserved.

[FR Doc. 95–30985 Filed 12–19–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR PART 300

[FRL–5346–9]

Lewisburg Dump Superfund Site, Lewisburg, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete.

SUMMARY: The Environmental Protection Agency (EPA), Region IV, announces its intent to delete the Lewisburg Dump site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated by EPA, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Tennessee Department of the Environment & Conservation have determined that the site no longer poses a significant threat to public health or the environment and, therefore, further CERCLA remedial measures are not appropriate.

DATES: A 30-Day Public Comment Period (December 11, 1995 to January 11, 1996) has been established for the Lewisburg Dump site deletion proposal. Comments concerning the proposal may be submitted by January 11, 1996.

ADDRESSES: Comments may be mailed to: Femi Akindele, U.S. Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia, 30365.

Comprehensive information on this site is available for review at the following site information repositories.

Marshall County Memorial Library, 310 Farmington Pike, Lewisburg, TN 37091.

U.S. EPA Record Center, 345 Courtland St., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Femi Akindele, U.S. Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia, 30365, 404–347–3555 EXT. 2042 or 1–800–435–9233 EXT 2042.

SUPPLEMENTARY INFORMATION:

Introduction

This notice is to announce EPA's intent to delete the Lewisburg Dump site from the NPL. It also serves to request public comments on the deletion proposal.

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions. EPA accepts comments on the proposal to delete a site from the NPL for thirty days after publication of this notice in the Federal Register.

NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

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

(ii) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary.

(iii) Remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

Deletion Procedures

The following procedures were used for the intended deletion of this site:

(1) EPA Region IV issued a Final Close Out Report in September 1993, which addressed the site conditions, quality assurance and control during construction, and technical criteria for satisfying the completion requirements.

(2) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete.

(3) EPA has made all relevant documents available for public review at the information repositories.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, Section 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the deletion of this site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the Federal Register.