

the waste “in the ground where it is” rather than expose the public to risk by transporting the waste to another site.

DOE cannot leave the waste at Battelle since to do so would violate the NRC requirements for continued storage of this waste. The waste is currently in aboveground storage, rather than “in the ground” and poses some continuing risk to the surrounding population. The waste will be transported to another site in NRC approved TRU waste casks that are sealed to prevent leakage. The WIPP site is an existing deep underground disposal site that is designed to isolate the waste from humans and the environment.

One commenter stated that DOE cannot choose WCS as a storage site for the Battelle West Jefferson waste. The commenter asserted that, because WCS was not included as an alternative in the WM PEIS and because DOE has not conducted an analysis of the environmental impacts of storage at the WCS site, DOE cannot choose WCS as a storage site without completing a supplemental WM PEIS that includes WCS as an alternative. The commenter also asserted that storage at WCS is inappropriate because WCS, as a non-DOE site, is unable to prepare the waste for shipment to WIPP, while SRS (and other DOE sites considered in the WM PEIS) could. The commenter further asserted that the definition of interim storage contained in the WCS license would prevent storage of the Battelle West Jefferson Waste because the waste does not meet WIPP waste acceptance criteria. In addition, the commenter states that DOE should have considered Oak Ridge National Laboratory (ORNL) and Idaho National Laboratory (INL) as possible alternative storage sites for this waste and it should have provided a more extensive discussion of the alternative of continued onsite storage at the Battelle West Jefferson site.

Although the WM PEIS did not analyze waste management actions at commercial sites, DOE is not precluded from using such sites. Further, based on the conclusions in the SA, DOE does not believe that a supplemental EIS is needed.

There is no requirement that a site be a DOE site before a waste characterization program can be established at that site. The definition of interim storage does not prevent WCS from storing the Battelle West Jefferson waste. Under the definition cited by the commenter, the waste would have to be properly packaged and meet the waste acceptance criteria for “an authorized disposal facility, or an authorized federal agency.” However, even if the waste does not meet the waste

acceptance criteria for WIPP (the authorized disposal facility), the waste will meet the waste acceptance criteria for a DOE site (e.g. SRS) before it would be sent to WCS for storage. This would be sufficient to meet the definition of the WCS license.

The alternatives of sending the waste to ORNL or INL were considered in the WM PEIS and not chosen in the original Record of Decision. DOE is not reconsidering that decision at this time. The alternative of continued storage at Battelle is unacceptable because NRC has indicated it will not renew the Battelle license for this waste.

The SA reviewed the potential health and environmental impacts of the new proposed action as compared to those identified in the WM PEIS, the WIPP SEIS-II, and the SRS Waste Management EIS. The potential impacts of the proposed action are very small and would not add significantly to those previously reported.

DOE has determined, therefore, that the proposed actions would not, either under incident-free or accident conditions, present a substantial change relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Therefore, DOE determined that a supplemental EIS or a new EIS is not required under 40 CFR 1502.9(c) or 10 CFR 1021.314(c) to implement this proposal.

Issued in Washington, DC, this 12th day of October 2005.

Dr. Inés R. Triay,

Acting Assistant Secretary for Environmental Management.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7984-9]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“Act”), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address petitions for review filed by the American Chemistry Council, the General Electric Company and the Coke Oven Environmental Task Force (collectively “petitioners”). *Stan*

Stephens, et al. v. EPA, Nos. 04-1112, 04-1117, 04-1118, and 04-1119 (D.C. Cir.). In April 2004, petitioners filed petitions for review challenging the final EPA rule entitled “National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); Final Rule” (“OLD”). 69 FR 5038 (February 3, 2004). Under the terms of the proposed settlement agreement, EPA has agreed that: On or before October 31, 2005, the EPA Administrator will sign a notice of proposed rulemaking to amend the OLD as provided in Attachment A to the Settlement Agreement; As part of the proposed amendments to the OLD, EPA will include language in the preamble as provided in Attachment B to the Settlement Agreement; and within 180 days of the date the comment period on the proposed amendments closes, EPA will sign a notice of final rulemaking.

DATES: Written comments on the proposed settlement agreement must be received by November 17, 2005.

ADDRESSES: Submit your comments, identified by docket ID number OGC-2005-0014, online at <http://www.epa.gov/edocket> (EPA’s preferred method); by e-mail to oei.docket@epa.gov; mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Mike Thrift, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone: (202) 564-5596.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement

This case concerns challenges to the rule entitled “National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); Final Rule” (“OLD”). 69 FR 5038 (February 3, 2004). These standards are based on the performance of Maximum Achievable Control Technology (MACT), and implement section 112 (d) of the Clean Air Act.

Under the terms of the proposed settlement agreement, EPA has agreed that: (1) On or before October 31, 2005, the EPA Administrator will sign a notice of proposed rulemaking to amend the OLD as provided in Attachment A to the Settlement Agreement; (2) As part of the proposed amendments to the OLD, EPA will include language in the preamble as provided in Attachment B to the Settlement Agreement; (3) Within 180 days of the date the comment period on the proposed amendments closes, EPA will sign a notice of final rulemaking.

Petitioners have agreed to dismiss their petitions for review if EPA takes final action amending the OLD in a manner substantially the same as the amendments set forth in Attachment A and not substantially inconsistent with the language in Attachment B.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement

A. How Can I Get A Copy Of the Settlement?

EPA has established an official public docket for this action under Docket ID No. OGC-2005-0014 which contains a copy of the settlement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA

Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the ADDRESSES section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD-ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: October 6, 2005.

Brenda Mallory,

*Acting Principal Deputy General Counsel,
Office of General Counsel.*

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7984-5]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 128(a); Notice of Grant Funding Guidance for State and Tribal Response Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) will begin to accept requests, from December 1, 2005 through January 31, 2006, for grants to supplement State and Tribal Response Programs. This notice provides guidance on eligibility for funding, use of funding, grant mechanisms and process for awarding funding, the allocation system for distribution of funding, and terms and reporting under these grants. EPA has consulted with state and tribal officials in developing this guidance.

The primary goal of this funding is to ensure that state and tribal response programs include, or are taking reasonable steps to include, certain elements and a public record. Another goal is to provide funding for other activities that increase the number of response actions conducted or overseen by a state or tribal response program. This funding is not intended to supplant current state or tribal funding for their