

(APA), 5 U.S.C. 551 *et seq.* That section provides that an agency must provide public notice of, and an opportunity to comment on, a proposed rule unless the agency finds for good cause that providing notice-and-comment procedures for the rule are "impracticable, unnecessary or contrary to the public interest" (section 553(b)).

The Agency believes there is good cause for finding public notice and comment procedures unnecessary for this action to correct the designation of Lafourche Parish. As EPA explained in the notice of August 18, 1995, Lafourche Parish could not be designated to attainment if the area experienced a violation of the ozone NAAQS during the period for public comment on the notice. Lafourche Parish in fact experienced a violation during the public comment period, but the Agency did not withdraw its notice approving the redesignation. The Agency is now proposing to correct that error. Since the public had an opportunity to comment on the original notice and the Agency is only correcting a mistake with this action, public notice and comment on today's notice is not legally necessary. The Agency is nonetheless voluntarily using notice-and-comment procedures to make this correction.

As an action not subject to notice-and-comment requirements, this action is also not subject to the RFA requirement to prepare regulatory flexibility analyses. Moreover, this action will not establish any requirements applicable to small entities. It simply corrects the designation of the area by restoring the nonattainment designation that was erroneously changed to attainment. The RFA requires analyses of a rule's requirements as they would apply to small entities. If the rule does not apply to small entities, an RFA analysis is inapplicable.

Further, it is unlikely that this action will result in State imposition of control requirements that are different from those applicable in Lafourche Parish before the erroneous change in designation status. Under Title I of the Act, States are primarily responsible for establishing control requirements needed to attain and the maintain the NAAQS. Louisiana has adopted an implementation plan that includes control requirements that apply to particular sources or categories of sources, depending on a number of factors, including the designation status of the area in which a source is located. As a result of today's action, Louisiana will once again have to apply some of those control programs in Lafourche Parish. Some of those programs may ultimately impose requirements on

small entities in the Parish. However, these controls were applicable before the erroneous designation to attainment; correcting that mistake will only put the small entities in that area in the place they were prior to the mistake being made.

Beyond that, the purpose of the RFA is to promote Federal agency efforts to tailor a rule's requirements to the scale of the small entities that will be subject to it. That purpose cannot be served in the case of State control requirements. Some of the control requirements included in States' SIPs are prescribed to some extent by the Act. Even so, the only issue before EPA in actions such as this one is the proper designation of a particular area. The implementation consequences of a designation are beyond the scope of such actions, and indeed, beyond EPA's reach to the extent they are dictated by the Act itself or are left to States' discretion. In light of all the above, if the RFA were applicable to this action, the Agency would certify that it will not have a significant economic impact on a substantial number of small entities.

#### C. 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 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 this action 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. This Federal action simply proposes to correct an error in the designation for the reasons described above and does not, in itself, impose any mandates.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Ozone,

Reporting and recordkeeping, and volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks and wilderness areas, Designation of areas for air quality planning purposes.

**Authority:** 42 U.S.C. 7401-7871q.

Dated: July 8, 1997.

**Jerry Clifford,**

*Acting Regional Administrator.*

[FR Doc. 97-18858 Filed 7-16-97; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL 5857-6]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Bruin Lagoon Site from the National Priorities List and request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III announces its intent to delete the Bruin Lagoon Site (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 EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Pennsylvania have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment. **DATES:** Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before August 18, 1997.

**ADDRESSES:** Comments may be submitted to Garth Connor, (3HW22), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 566-3209.

Comprehensive information on this Site is available through the public docket which is available for viewing at

the Site Information Repositories at the following locations:

U.S. EPA Region III, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566-5363.

Bruin Borough Fire Hall, 161 Water Street, Bruin, PA 16022, (412) 753-2622.

**FOR FURTHER INFORMATION CONTACT:** Mr. Garth Connor (3HW22), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566-3209.

#### **SUPPLEMENTARY INFORMATION:**

Table of Contents:

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

#### **I. Introduction**

The Environmental Protection Agency (EPA) Region III announces its intent to delete the Bruin Lagoon Site, Bruin Borough, Butler County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this 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 § 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 on the proposal to delete this Site from the NPL for thirty calendar days after publication of this document in the **Federal Register**.

Section II of this document 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 the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all

appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

(iv) In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), the NCP at 40 CFR 300.430(f)(4)(ii) and EPA policy, OSWER Directive 9320.2-09, dated August 1995, provide that a subsequent review of the site will be conducted at least every five years after the initiation of the first remedial action to ensure that the site remains protective of public health and the environment. In the case of this Site, EPA conducted a "five year review" in April, 1993. Based on this review, EPA determined that conditions at the Site remain protective of public health and the environment. As explained below, the Site means the NCP's deletion criteria listed above. Five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. Releases shall not be deleted from the NPL until the state in which the release was located has concurred on the proposed deletion. 40 CFR 300.425(e)(2).

All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site can be restored to the NPL without application of the Hazard Ranking System. 40 CFR 300.425(e)(3).

#### **III. Deletion Procedures**

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent in the Federal Register and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed; and,

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate, after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the **Federal Register** and places the final deletion package, including the Responsiveness Summary, in the Site repositories. Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As stated in Section II of this document, § 300.425(e)(3) of the NCP provides that the deletion of a site from the NPL does not preclude eligibility for future response.

#### **IV. Basis for Intended Site Deletion**

The Bruin Lagoon Site occupies nearly six fenced acres, and is located in Bruin Borough, Butler County, Pennsylvania approximately 45 miles north of Pittsburgh. The Site is partially situated in the 100-year flood plain of the South Branch of Bear Creek, a tributary of the Allegheny River. The Site is bounded on the west by State Route 268 and residential properties, on the north by a residential property, on the east by the South Branch of Bear Creek, and on the south by an unnamed tributary of Bear Creek. A tributary of the Allegheny River.

Operations began at the Site in the 1930s when it was used as a disposal area for petroleum refining wastes. For over forty years, Bruin Lagoon was used for the disposal of sludge from production of white oil (mineral oil), motor oil reclamation wastes, settlings from crude storage tanks, and spent bauxite from white oil filtration. Other wastes which may have been deposited in the lagoon during this period include sodium hydroxide, sodium bicarbonate, refined oils, ash and coal fines.

The Bruin Lagoon Site gained national attention in 1968 when the lagoon overflowed its dike into the adjoining Bear Creek. As a result of the spill, an estimated three million fish were killed in the Bear Creek and the Allegheny River. The Site was proposed to the National Priority List in October, 1981 and was finalized in September, 1983. In June 1981, EPA began a fund-lead Remedial Investigation and

Feasibility Study (RI/FS) at the Site. EPA installed monitoring wells and collected samples from surface water, lagoon sludge, and liquids contained in onsite tanks. A Record of Decision (ROD) was signed in June, 1982 which called for onsite containment and dike stabilization at the Site.

In April, 1984, toxic gases were released from the lagoon when a previously unidentified crust layer was broken during the remedial construction. The gas was found to contain dangerous concentrations of carbon dioxide, sulfuric acid mist and hydrogen sulfide. Based on these findings, EPA suspended the cleanup activity at the Site, and began an immediate removal action to prevent a further release of toxic gas into the nearby residential community. As part of this removal action, the open lagoon was covered, sludges were stabilized, gas monitoring wells were installed, and additional soil and sludge samples were collected for further analysis. The removal action was completed in September, 1984.

In January 1985, EPA began a second RI/FS at the Site. In September 1986, a second ROD for the Site was signed. The remedy in this ROD included onsite stabilization of sludges in the lagoon area, completion of the dike reinforcement, installation of a new monitoring well network and capping the lagoon area with a multi-layer cap. This construction was completed in March, 1992. Approximately 80,000 cubic yards of contaminated waste were stabilized and placed under the multi-layer cap.

A five-year review has been conducted and was completed in April, 1993. The five-year review confirmed that the remedy is in place, the multi-layer cap is working properly, and the ground surface is covered with vegetation. It is therefore apparent that the remedy is still protective of the public health and the environment. The next five-year review must be completed by April 30, 1998. Subsequent five-year reviews will be conducted pursuant to OSWER Directive 9355.7-02. "Structure and Components of Five-Year Reviews," or other applicable guidance where it exists.

Long-term operation and maintenance activities at this Site are performed by the State of Pennsylvania. These activities includes annual inspections of the Site to ensure that erosion control measures are effective, routine mowing of the onsite vegetation, maintenance of the perimeter fence and periodic sampling of the onsite monitoring wells.

The remedies selected for this Site has been implemented in accordance with

the two RODs, as modified and expanded in the EPA-approved Remedial Designs. The completion of the cleanup has resulted in the significant reduction of the long-term potential for release of contaminated wastes within the lagoon area to the surrounding environment. Human health threats and potential environmental impacts from the Site have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with the concurrence of the State of Pennsylvania, believes that all the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: June 24, 1997.

**W. Michael McCabe,**

*Regional Administrator, USEPA Region III.*

[FR Doc. 97-18405 Filed 7-16-97; 8:45am]

BILLING CODE 6560-50-M

## **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

### **45 CFR Chapter XII and Part 1201**

#### **Service of Process; Production or Disclosure of Official Material or Information**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of proposed rulemaking; Request for public comment.

**SUMMARY:** The Corporation for National and Community Service (Corporation) proposes to remove its obsolete regulations on standards of conduct which have been superseded by the Office of Government Ethics Uniform Standards of Conduct (5 CFR Part 2635). In place of those obsolete regulations the Corporation seeks to replace Part 1201 with a provision for the disclosure of litigation-related information. The Corporation expects this proposed rule will promote consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources.

**DATES:** All comments must be received at the address listed below before August 18, 1997.

**ADDRESSES:** All comments must be mailed to the attention of Britanya Rapp, Associate General Counsel, Corporation for National and Community Service, 1201 New York Ave, Suite 8200, Washington, DC 20525. Facsimiles will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Britanya Rapp, Associate General Counsel, Corporation for National and Community Service at (202) 606-5000, ext. 258.

**SUPPLEMENTARY INFORMATION:** The Corporation proposes this rulemaking in order to clarify policies, procedures, and responsibilities regarding:

(1) the service of legal process on the Corporation and any individuals connected with the Corporation;

(2) the production of official Corporation information in matters of litigation; and

(3) the appearance of, and testimony by, any individuals connected with the Corporation in matters of litigation.

The Corporation expects this proposed rule will promote consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources. This rule is intended only to inform the public about Corporation procedures concerning the service of process and responses to demands or requests and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the Corporation or the United States.

The proposed regulations are not subject to the provisions of the Paperwork Reduction Act, the Freedom of Information Act, or the Government in the Sunshine Act because they do not contain any information requirements within the meaning of those Acts. These regulations also do not signify a "significant regulatory action" as defined by Executive Order 12866, and thus do not fall within the requirements of that Order. Nothing in this part otherwise permits disclosure of information by the Corporation or any individuals connected to the Corporation except as provided by statute or other applicable law.

#### **List of Subjects in 45 CFR Part 1201**

Administrative practice and procedure, Courts, Freedom of information.

#### **The Proposed Regulations**

Accordingly, and under the authority of 42 U.S.C. 12501 *et seq.*, the Corporation proposes to amend Chapter XII of title 45 of the Code of Federal Regulations as follows:

1. The heading for Chapter XII is revised to read as follows:

#### **CHAPTER XII—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

2. Part 1201 is revised to read as follows: