

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_x) reasonably available control technology (RACT) for two major sources located in Pennsylvania. In the final rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by September 22, 1997.

ADDRESSES: Written comments on this action should be addressed to David J. Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 566-2182, at the EPA Region III office or via e-mail at quinto.rose@epamail.epa.gov. While information may be requested via e-

mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_x RACT determinations for individual sources located in Pennsylvania, provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: July 22, 1997.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 97-22063 Filed 8-20-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5878-4]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Amendment of Montrose Chemical Corporation Site Listing.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act") requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), found at 40 CFR part 300, include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is found in Appendix B of 40 CFR part 300.

The principal mechanism for placing sites on the NPL is the Hazard Ranking System (HRS). Under the HRS various conditions at a site (for example, volumes of waste present or relative toxicity of pollutants) are assigned numerical values to develop a total score that measures the relative risk at a site compared with other sites. The HRS is found in Appendix A of 40 CFR part 300. A site with a total score in excess of 28.5 under the HRS is eligible for listing on the NPL.

The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the

site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

EPA is proposing today to add to the Montrose Chemical Corporation National Priorities Listing certain DDT- and PCB-contaminated sediments found on the seafloor off the coast of the Palos Verdes Peninsula in Southern California. EPA is also soliciting comments from the public on this proposal consistent with 40 CFR 300.425(d)(5)(i).

DATES: Comments on this proposal must be submitted (postmarked) on or before October 20, 1997.

ADDRESSES: *By Mail:* Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; (703) 603-9232.

By Overnight Mail: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to SUPERFUND.DOCKET@EPAMAIL.EPA.GOV. E-mailed comments must be followed up by an original and three copies sent by mail or Federal Express.

If you wish to view documents themselves, requests for appointments or copies of the background information from the public docket should be directed to:

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office (Mail Code 5201G); Crystal Gateway #1, 1st Floor; 1235 Jefferson Davis Highway; Arlington, VA 22202. Phone: (703) 603-9232; Hours: 9:00 a.m. to 4:00 p.m. Monday through Friday excluding Federal holidays. (Please note this is the viewing address only. Do not mail documents to this address.)

FOR FURTHER INFORMATION CONTACT: Carolyn Douglas, NPL Coordinator, U.S. EPA Region 9, (415) 744-2343.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Contents of This Proposed Rule
- III. Executive Order 12866
- IV. Unfunded Mandates
- V. Effect on Small Businesses

I. Introduction

The Palos Verdes Shelf area that is subject to this rulemaking is an extremely important commercial and recreational fishing area and an area of high marine productivity that has become highly contaminated with

hazardous substances that have the potential to severely impact human health and the environment. This area has been the subject of intense investigation by federal agencies charged with protection of human health and the environment and has generated complex litigation.

In view of the serious potential public health and environmental risks associated with this area, EPA is proposing to add the Palos Verdes Shelf contamination to the existing Montrose Chemical Corporation National Priorities Listing. A discussion of background on this issue follows.

Statutory and Regulatory Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (“CERCLA” or “the Act”), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (“SARA”), Public Law No. 99–499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include “criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action.

* * *

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List (“NPL”).

CERCLA section 105(a)(8)(B) defines the NPL as a list of “releases” and as a list of the highest priority “facilities.” CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly

referred to as the “Superfund”) only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

However, under 40 CFR 300.425(b)(2) placing a site on the NPL “does not imply that monies will be expended.” EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted at 48 FR 40659 (September 8, 1983).

Three mechanisms for placing sites on the NPL are included in the NCP at 40 CFR 300.425(c). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (“HRS”), which EPA promulgated as Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air.

The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism is provided by the NCP at 40 CFR 300.425(c)(2). Statutory authority for this provision is provided in CERCLA section 105(a)(8)(B) which provides that, to the extent practicable, the NPL include one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.

- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on April 1, 1997 (62 FR 15572).

The NPL serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the NPL does not require an owner or operator to undertake any action, nor does it assign liability to any person. Separate government action in the form of remedial or removal actions or enforcement actions would be necessary in order to do so, and these actions would be attended by all procedural safeguards required by law.

The purpose of the NPL is primarily to serve as an informational and management tool. The identification of a site on the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA response actions, if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation and potentially, cleanup activities.

The Palos Verdes Shelf

General History. From 1947 until 1982, Montrose Chemical Corporation of California, Inc. (Montrose) operated a manufacturing facility in Los Angeles for the production of dichloro-diphenyl trichloroethane (DDT), an agricultural pesticide. During this period, Montrose was among the largest producers of DDT in the United States.

There were numerous releases of DDT and other hazardous substances from the Montrose plant as a result of spills of contaminated wastewater, storage and disposal of contaminated wastewater in an unlined pond, surface water runoff, and aerial dispersion. In addition, Montrose discharged process wastewater containing large quantities of DDT into the sewer system maintained by County Sanitation District No. 2 of Los Angeles County (LACSD). This contaminated wastewater flowed to a wastewater treatment plant owned by LACSD and was discharged to the Pacific Ocean through submarine outfalls on the Palos Verdes Shelf,

resulting in DDT contamination of the sediments on the Shelf.

DDT and other hazardous substances from the Montrose plant also reached the Pacific Ocean via surface water runoff that was carried via stormwater channels to the Consolidated Slip in the Los Angeles harbor.

EPA began investigating releases from the Montrose plant in 1982. In 1984 EPA proposed to add the Montrose Chemical Corporation site to the NPL. (49 FR 40320, October 15, 1984) Following further investigation, on October 4, 1989, EPA issued a final regulation amending the NPL to add several sites, including the Montrose Chemical Corporation Site (Montrose NPL Site). (54 FR 41015) The administrative record supporting the 1989 listing decision includes an EPA study concluding that the DDT contamination on the Palos Verdes Shelf resulted from the DDT releases at the Montrose plant:

Montrose sewer discharges (which have now been controlled) have created a large "reservoir" of the pesticide in offshore sediment * * *.

According to recent EPA estimates * * * consumption of seafood from the Whites Point area may present an elevated health risk due to DDT contamination.

United States EPA Region 9, Toxics and Waste Management Div., Investigative Report, No. C (83) E002 (April 11, 1983) at 7, included in U.S. EPA Hazard Ranking Package and Support Document for the Montrose NPL Site (Reference 13). Also in the administrative record for the 1989 listing decision is an October 7, 1970, *Los Angeles Times* article attributing 75% of the DDT contamination in the Santa Monica Bay to the Montrose plant.

The PCB contamination in sediments on the Palos Verdes Shelf originated, in part, at a plant operated in Los Angeles County by Westinghouse Electric Corporation (Westinghouse). From 1956 to the mid-1990's, Westinghouse manufactured and repaired electrical equipment at this plant. Like DDT from the Montrose Chemical plant, PCBs from the Westinghouse plant and other plants in the Los Angeles area entered the LACSD sewer system, flowed to the LACSD treatment plant, and were discharged to the Pacific Ocean via outfalls located on the Palos Verdes Shelf.

In June, 1990, the United States and the State of California filed suit in U.S. district court in California against various parties associated with the Montrose and Westinghouse plants under Section 107 of CERCLA. *United States v. Montrose Chemical*

Corporation of California, et al., No. CV 90-3122-AAH(Jrx) (C.D. Cal.). Two claims are asserted in that action. First, federal and state natural resource trustees—e.g., the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service, the National Park Service, the California Department of Fish and Game, the California State Lands Commission and the California Department of Parks and Recreation—seek to recover natural resource damages for injury to trust resources as a result of DDT and PCB contamination on the Palos Verdes Shelf and other marine areas. Second, EPA is seeking compel the implementation of response actions and to recover response costs incurred and to be incurred by the United States under CERCLA in connection with the releases from the Montrose plant and related operations to the soil, groundwater, and the stormwater and sewer pathways.

Several response actions are currently underway to address these releases. Montrose is performing an RI/FS concerning contaminated soil and groundwater at and in the vicinity of the Montrose plant. EPA is conducting a removal action to identify and excavate DDT-contaminated fill in several nearby residential properties and has begun an investigation of DDT dust that may have been released from the Montrose plant and deposited in nearby residential and commercial/industrial areas. EPA is also conducting an investigation of the historic and current stormwater pathway from the Montrose plant to the Consolidated Slip in Los Angeles Harbor. EPA is pursuing removal of DDT-contaminated sediments in the LACSD sewer lines adjacent to and downstream from the Montrose plant.

While EPA has been conducting response actions at and in the vicinity of the Montrose plant, the federal and state CERCLA natural resource trustees (the trustees) have conducted an investigation of DDT and PCB contamination on the Palos Verdes Shelf and of the impact of this contamination on natural resources in the area. The results of the trustees' damage assessment investigation, including extensive expert evaluations, were made available to EPA and the public in October 1994.

These studies indicate that there are approximately 100 metric tons of DDT and 10 metric tons of PCBs in a well-defined deposit of sediment covering a 16 square mile area on the shelf and adjacent continental slope in the vicinity of the LACSD wastewater outfall. These studies further confirm extremely elevated levels of DDT and

PCBs in the tissue of fish and eggs of birds in this offshore area.

After reviewing the federal and state natural resource trustees' damage assessment reports, EPA in December 1994 began to consider whether it should undertake response actions directed at the DDT and PCB contamination on the Palos Verdes Shelf. EPA had long been addressing DDT contamination at and emanating from the Montrose plant, including contamination through the groundwater, through stormwater runoff channels, into neighboring properties, through the sewer system, and into the consolidated slip. The information in the trustees' damage assessments confirmed that the DDT and PCBs on the Palos Verdes Shelf pose a continuing threat to natural resources in the area.

In July 1996, EPA initiated its own CERCLA investigation of the Palos Verdes Shelf. In a memorandum, dated July 9, 1996 and approved on July 10, 1996, EPA decided to initiate a Superfund removal investigation, known as an Engineering Evaluation and Cost Analysis (EE/CA), to evaluate the need for action and to evaluate alternatives for addressing the contaminated sediment on the Palos Verdes Shelf.¹ This memorandum extensively documents the threat to human health and the environment posed by the DDT and PCB contamination on the Palos Verdes Shelf. By this memorandum, EPA staff was authorized to gather information regarding whether response activities should be undertaken to address the contamination on the Palos Verdes Shelf and, if so, to evaluate possible cleanup actions.

At the same time EPA also decided that the investigation of the Palos Verdes Shelf should be managed as part of the response activities being conducted by EPA in connection with the Montrose NPL Site. Finding that the majority of the DDT present on the Palos Verdes Shelf originated at the Montrose plant, EPA concluded that a consolidated management approach would facilitate the funding, staffing, and administration of its investigation. The memorandum memorializing this decision was issued at the same time as the memorandum approving the EE/CA.²

¹ This memorandum is titled "Engineering Evaluation and Cost Analysis Approval Memorandum for Addressing Contaminated Marine Sediments on the Palos Verdes Shelf," from Andrew Lincoff and Michael Montgomery, Remedial Project Managers, to Keith Takata, Acting Director, Hazardous Waste Management Division, EPA Region 9.

² This memorandum is titled "Management of EPA Superfund Response Activities as Part of EPA

II. Contents of This Proposed Rule

EPA is proposing to amend the Montrose Chemical Corporation National Priorities Listing to include the DDT and PCB contamination on the Palos Verdes Shelf, discussed above. EPA's proposal is based on an HRS score for the Palos Verde Shelf of 50, well above the HRS score of 28.50 necessary for NPL eligibility. However, rather than proposing the Palos Verdes Shelf as a separate site, EPA is instead proposing to amend the existing Montrose Chemical Corporation National Priorities Listing to include the DDT and PCB contamination on the Palos Verdes Shelf. In this regard, EPA is applying its site aggregation policy. The site aggregation policy is discussed in a memorandum to the file, from Carolyn Douglas, NPL Coordinator, EPA Region 9, dated August 13, 1997, which is included in the listing package.

By this proposed rulemaking, EPA intends to make clear to the public that the Agency believes there are immediate and serious public health and environmental risks associated with the Palos Verdes Shelf, as reflected in the HRS evaluation, and that the Agency believes the Palos Verdes Shelf should be designated as part of the Montrose Chemical Corporation National Priorities Listing.

Public Comment

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in EPA Region 9. The dockets are available for viewing, by appointment only, after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. The hours of operation of the Region 9 docket are from 8 a.m. to 5 p.m., Monday through Friday, excluding Federal holidays.

Docket Coordinator, Headquarters, U.S.

EPA CERCLA Docket Office, (Mail Code 5201G), Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603-9232.

(Please note this is the viewing address only. Mail comments to address listed in ADDRESSES section above.)

Carolyn Douglas SFD5, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, 415/744-2343.

The Headquarters docket for this rulemaking contains the following information for the Palos Verdes Shelf: HRS score sheets; a Documentation Record describing the information used to compute the score; pertinent information regarding application of the EPA Aggregation Policy in this matter; and a list of documents referenced in the Documentation Record. The Region 9 docket in this matter contains all of the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon and cited by EPA in calculating the HRS score for the Palos Verdes Shelf.

The Headquarters docket also contains an "Additional Information" document which provides a general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, and the economic impacts of NPL listing.

EPA will consider all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Region 9 docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters and Regional dockets on an "as received" basis. EPA cannot delay its final decision in this matter solely to accommodate late comments.

Comments that include or rely on complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects the individual HRS factor values. See *Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988). EPA will make its final decision in this matter after considering the relevant comments received during the comment period.

III. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

IV. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. 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. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory 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 small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Reform Act.

V. Effect on Small Businesses

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial

Response Actions Taken in Connection With the Montrose Chemical NPL Site," from Andrew Lincoff and Michael Montgomery, Remedial Project Managers, to Keith Takata, Acting Director, Hazardous Waste Management Division, EPA Region 9.

number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes to revise the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

EPA does not expect the listing of this site to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: August 14, 1997.

Timothy Fields, Jr.,

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

[FR Doc. 97-22066 Filed 8-20-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-180, RM-9105]

Radio Broadcasting Services; Hawthorne, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Bruce Elving proposing the allotment of Channel 293A to Hawthorne, Wisconsin, as that community's first local broadcast service. There is a site restriction 5.4 kilometers (3.3 miles) west of the community at coordinates 46-29-37 and 91-55-34. Canadian concurrence will be requested for the allotment of Channel 293A at Hawthorne.

DATES: Comments must be filed on or before October 6, 1997, and reply comments on or before October 21, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Bruce Elving, P.O. Box 336, Esko, MN 55733-0336.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-180, adopted August 6, 1997, and released August 15, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857-3800, facsimile (202) 857-3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-22112 Filed 8-20-97; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-177; RM-9131]

Radio Broadcasting Services; Kenova, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Billy R. Evans proposing the allotment of Channel 250A at Kenova, West Virginia, as the community's first local aural transmission service. Channel 250A can be allotted to Kenova in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.5 kilometers (1.6 miles) south to avoid a short-spacing to the licensed site of Station WZQQ(FM), Channel 250C3, Hyden, Kentucky. The coordinates for Channel 250A at Kenova are North Latitude 38-22-38 and West Longitude 82-34-33.

DATES: Comments must be filed on or before October 6, 1997, and reply comments on or before October 21, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Billy R. Evans, 111 Picardy Ct., Elizabethtown, Kentucky 42701 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-177, adopted August 6, 1997, and released August 15, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The