

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Chapter I**

[FRL-6132-4]

Public Meeting to Discuss Issues Associated with Regulation of Cooling Water Intake Structures**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of public meeting.

SUMMARY: The Environmental Protection Agency will hold a public meeting to discuss specific issues associated with the development of regulations under section 316(b) of the Clean Water Act applicable to cooling water intake structures. The purpose of this meeting is to facilitate an exchange of information that will assist EPA in developing regulatory options relating to: determining what is best technology available (BTA); the role of cost determinations in implementing section 316(b) and, the role of mitigation in minimizing adverse environmental impacts from cooling water intake structures. This is a follow-on public meeting to the one the Agency held on June 29, 1998 (63 FR 27958, May 21, 1998) to discuss issues associated with defining and measuring adverse environmental impacts from cooling water intake structures. The meeting is open to the public.

DATES: The public meeting will be held on Thursday, September 10, 1998 and Friday, September 11, 1998. On Thursday, the meeting will begin promptly at 10:00 a.m. and end at approximately 4:30 p.m. On Friday, the meeting will begin promptly at 9:00 a.m. and conclude at approximately 12:00 noon.

ADDRESSES: The meeting will be held at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, Virginia 22314. For reservation information see

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Deborah Nagle, senior project manager, Office of Wastewater Management (4203), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460; phone number is (202) 260-2656 and E-mail address is nagle.deborah@epa.gov. For any updates on the issues that EPA will discuss at the meeting, refer to EPA's 316(b) web site at <http://www.epa.gov/owm/316b.htm>. To register for the meeting, please contact Betty Peterson of SAIC via FAX at (703) 903-1374 or via mail at 1710 Goodridge Drive (1-11-7), McLean, VA 22102. Please register by September 3, 1998.

SUPPLEMENTARY INFORMATION: In 1995, EPA entered into a Consent Decree that requires the Agency, no later than July 2, 1999, to propose regulations under section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), and to take final action with respect to the regulations no later than August 13, 2001. The Agency is currently developing these regulations for proposal. Section 316(b) provides that any standard established pursuant to section 301 or 306 of the Clean Water Act and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. A primary purpose of section 316(b) is to minimize the impingement and entrainment of fish and other aquatic organisms as they are drawn into a facility's cooling water intake.

The public meeting will focus on the following topics:

(1) BTA. The BTA determination is a critical element in implementing section 316(b). The Agency seeks input from stakeholders on appropriate technologies for satisfying the requirement of section 316(b) that the location, design, construction, and capacity of cooling water intake structures reflect the best technology currently available for minimizing adverse environmental impact from cooling water intake structures.

(2) Role of Costs in Implementing section 316(b). EPA seeks input on how cost should or should not be considered in implementing section 316(b).

(3) Mitigation. EPA is considering whether the section 316(b) regulations should include a national standard on the use of mitigation in minimizing adverse environmental impacts. EPA seeks input on whether and how to apply such a standard.

The public meeting will be divided into three discussion periods. Each discussion period will address one of the three topics outlined above. EPA will initiate the discussion in each period by defining the issue. EPA expects that stakeholders will then continue the discussion by providing their views. EPA does not intend for the public meeting to be a forum for formal testimony. However, EPA will accept written comments on the three issues at the meeting or until October 5, 1998.

The meeting will be held at the Holiday Inn Hotel & Suites, 625 First Street, Alexandria, Virginia 22314. A block of sleeping rooms has been reserved at the hotel for the nights of Wednesday, September 9 and Thursday, September 10. Contact the hotel to make

reservations at (703) 548-6300. The rooms are listed under "U.S. EPA Section 316(b) Meeting."

The hotel can be reached via hotel shuttle bus from Washington's National Airport (baggage claim area of Gate 5 in the new terminal). The shuttle runs on the half hour. The blue and yellow lines of Washington's subway system (Metro) stop at National Airport. The closest subway stop to the hotel is the "King Street" metro station. It is approximately 9 blocks from the hotel and is also on the blue and yellow lines of the subway system.

Tudor T. Davies,*Director, Office of Science and Technology.*

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 281**

[FRL-6130-6]

Virginia; Approval of Underground Storage Tank Program**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of tentative determination on Virginia's application for approval of underground storage tank program, public hearing and public comment period.

SUMMARY: The Commonwealth of Virginia (State) has applied for approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State's application and has made the tentative decision that the State's underground storage tank program satisfies all of the requirements necessary to qualify for approval. The State's application for approval is available for public review and comment. A public hearing will be held to solicit comments on the application unless insufficient public interest is expressed.

DATES: Unless insufficient public interest is expressed in holding a hearing, a public hearing will be held on September 11, 1998. However, EPA reserves the right to cancel the public hearing if sufficient public interest in a hearing is not communicated to EPA in writing by September 4, 1998. EPA will determine by September 9, 1998, whether there is sufficient interest to hold the public hearing. The State will participate in any public hearing held by EPA on this subject. All written comments on the State's application for

program approval must be received by 4:30 p.m. on September 4, 1998.

ADDRESSEES: Copies of the State's application for program approval are available between 8:30 a.m. to 4:00 p.m. at the following locations for inspection and copying:

Location: Department of Environmental Quality, Commonwealth of Virginia, Office of Spill Response and Remediation, 629 East Main Street, Richmond, Virginia 23240-0009.

Contact: Mary Ellen Kendall, Environmental Technical Services Administrator.

Telephone: 804-698-4499.

Location: United States Environmental Protection Agency, Docket Clerk, Office of Underground Storage Tanks, 1235 Jefferson Davis Highway, 1st Floor, Arlington, VA 22202.

Telephone: (703) 603-9231.

Location: United States Environmental Protection Agency, Region III Library, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

Telephone: (215) 814-5254.

Written comments should be sent to Rosemarie Nino, Program Manager, State Programs Branch, Waste & Chemicals Management Division (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, (215) 814-3377.

Unless insufficient public interest is expressed, EPA will hold a public hearing on the State's application for program approval on September 11, 1998, at 7:00 p.m. at the Department of Environmental Quality, Office of Spill Response and Remediation, Underground Storage Tank Program, 4949-A Cox Road, Glen Allen, Virginia 23060.

Anyone who wishes to learn whether or not the public hearing on the State's application has been cancelled should telephone after September 9, 1998, the EPA Program Manager listed above or Mary Ellen Kendall, Environmental Technical Services Administrator, Department of Environmental Quality, Office of Spill Response and Remediation, Underground Storage Tank Program, (804) 698-4499.

FOR FURTHER INFORMATION CONTACT: Rosemarie Nino, State Programs Branch (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, (215) 814-3377. Also, a copy of the fact sheet is available on the EPA Web Site at (www.epa.gov/reg3/wcmd/public_notices.htm).

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes EPA to approve the Commonwealth underground storage tank programs to operate in lieu of the Federal underground storage tank (UST) program. EPA may approve a State program if the Agency finds pursuant to section 9004(b), 42 U.S.C. 6991c(b), that the State's program is "no less stringent" than the Federal program in all seven elements set forth at section 9004(a)(1) through (7), 42 U.S.C. 6991c(a)(1) through (7), and meets the notification requirements of section 9004(a)(8), 42 U.S.C. 6991c(a)(8) and also provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)).

B. Virginia

The Virginia Department of Environmental Quality (VADEQ) is the implementing agency for UST activities in the State. The Underground Storage Tank Program, Office of Spill Response and Remediation of VADEQ is dedicating a substantial effort to prevent, control and remediate UST-related groundwater contamination. The Underground Storage Tank Program, Office of Spill Response and Remediation of VADEQ maintains a strong field presence and works closely with the regulated community to ensure compliance with regulatory requirements.

Virginia's requirements which exceed the stringency or scope of the Federal regulations include the following subject matter:

(1) Virginia's regulations do not allow for the installation of an UST system without corrosion protection under any circumstances, whereas EPA allows the installation of an UST system without corrosion protection if a corrosion expert determines that the site is not corrosive enough to cause the system to have a release due to corrosion during its operating life;

(2) Virginia's regulations require that owners and operators obtain a permit, undergo a State inspection, and/or obtain a certificate of use in accordance with the Virginia Uniform Statewide Building Code for the following circumstances: tank installation, tank repairs and release detection, and temporary closure, permanent tank closure, and changes-in-service. EPA's technical standards do not require permits or inspections of this nature, nor do they require conformance with State building codes;

(3) The Federal requirements at 40 CFR 280.20(e) allow six options for an

owner/operator to demonstrate compliance with the installation requirements of section 280.20(d). The State's regulations do not allow two of these options: certification by the installer or inspection and approval of the installation by the implementing agency;

(4) Virginia's regulations require that UST systems with impressed current corrosion protection systems must be installed so that they cannot be inadvertently shut off. EPA technical standards only require that the cathodic protection systems continuously provide corrosion protection;

(5) Virginia's regulations set forth the requirement that owners/operators file an application for and obtain a Corrective Action Permit (CAP) when corrective action is needed. The EPA's technical standards do not include such a requirement;

(6) Virginia's requirements for assessing the site at closure or change-in-service mirror the federal requirements with additional requirements for the testing of samples and submittal of test results, a description of the area sampled, and a site map;

(7) Virginia's state fund has been created to assist owners and operators in demonstrating financial responsibility; and

(8) Virginia's definition of "regulated substance" is more inclusive and therefore, broader in scope than the Federal definition.

The Virginia Department of Environmental Quality submitted to EPA a final application for approval on July 15, 1998. Prior to its submission, the State provided an opportunity for public notice and comment in the development of its underground storage tank program, as required by 40 CFR 281.50(b). EPA has reviewed the State's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final approval. However, EPA intends to review all timely public comments prior to making a final decision on whether to grant approval to the State to operate its program in lieu of the Federal program. Virginia's Petroleum Underground Storage Tank Financial Responsibility Requirements will become effective on or before August 30, 1998. EPA will not make a final decision on Virginia's Underground Storage Tank Program until after that date.

In accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR 281.50(e), the Agency will hold a public hearing on its tentative decision on September 11, 1998, at 7:00 p.m. at the

Department of Environmental Quality, Office of Spill Response and Remediation, Underground Storage Tank Program, 4949-A Cox Road, Glen Allen, Virginia 23060, unless insufficient public interest is expressed. The public may also submit written comments on EPA's tentative determination until September 4, 1998. Copies of the State's application are available for inspection and copying at the locations indicated in the **ADDRESSEES** section of this document.

EPA will consider all public comments on its tentative determination received at the public hearing, if a hearing is held, and during the public comment period. Issues raised by those comments may be the basis for a decision to deny approval to the State. EPA will give notice of its final decision in the **Federal Register**; the document will include a summary of the reasons for the final determination and a response to all significant comments.

C. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this action from the requirements of section 6 of Executive Order 12866.

D. Unfunded Mandates Reform Act

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 certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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. The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of \$100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the Virginia program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program. Virginia

participation in an approved UST program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Virginia program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, they are already subject to the regulatory requirements under existing state law which are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

E. Certification Under the Regulatory Flexibility Act

EPA has determined that this approval will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the regulatory requirements under existing State law which are being approved by EPA. EPA's approval does not impose any additional burdens on these small entities. This is because EPA's approval would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act: Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This rule approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by an information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

G. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the proposed rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks. As such, the proposed rule is not subject to the requirements of Executive Order 13045.

Authority: This notice is issued under the authority of Section 9004 of the Resource Conservation and Recovery Act as amended 42 U.S.C. 6991c.

Dated: July 17, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region 3.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6131-3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Frontera Creek Site from the National Priorities List; Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA), Region II, announces its intent to delete the Frontera Creek Superfund Site (Site) from the National