

If we receive no adverse comment, we will not take further action on this proposal rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule.

We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For the various statutes and executive orders that require findings for rulemaking, EPA incorporates the findings from the direct final rulemaking into this companion notice for the purpose of providing public notice and opportunity for comment. For further information, please see the information provided in the **ADDRESSES** section of this document.

#### List of Subjects in 40 CFR Part 131

Environmental protection, Antidegradation, Water quality standards.

Dated: September 9, 2008.

**Stephen L. Johnson,**

*Administrator.*

[FR Doc. E8-21463 Filed 9-12-08; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1989-0011; FRL-8715-2]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Berks Landfill Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III is issuing a Notice of Intent to Delete the Berks Landfill Superfund Site (Site) located in Spring Township, Berks County, Pennsylvania, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP),

have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under CERCLA. **DATES:** Comments must be received by October 15, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-1989-0011, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.

- *E-mail:* [matzko.kristine@epa.gov](mailto:matzko.kristine@epa.gov).
- *Fax:* 215-814-3002, Attn: Kristine Matzko (3HS21).

- *Mail:* EPA Region III, Attn: Kristine Matzko (3HS21), 1650 Arch Street, Philadelphia, Pennsylvania 19103.

- *Hand delivery:* EPA Region III, Attn: Kristine Matzko (3HS21), 1650 Arch Street, Philadelphia, Pennsylvania 19103. Such deliveries are only accepted during business hours, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1989-0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at:

Regional Center for Environmental Information, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, 215-814-5254. Business hours are Monday through Friday 8 a.m. to 5 p.m.

Township of Spring Municipal Office, 2800 Shillington Road, Reading, Pennsylvania 19608, 610-678-5393. Business hours are Monday through Friday 8 a.m. to 5 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Kristine Matzko, Remedial Project Manager, U.S. Environmental Protection Agency, Region III, (3HS21) 1650 Arch Street, Philadelphia, Pennsylvania 19103, 215-814-5719, e-mail [matzko.kristine@epa.gov](mailto:matzko.kristine@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Berks Landfill Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final Notice of Deletion which is located in the Rules section of this **Federal Register**.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties,

Reporting and recordkeeping requirements, Superfund, 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: September 5, 2008.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. E8–21306 Filed 9–12–08; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### 43 CFR Part 419

**RIN 1006–AA48**

#### Operation of the Truckee River and Other Reservoirs

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Bureau of Reclamation is proposing this rule to comply with the requirements of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act. The Settlement Act requires that the operating agreement negotiated with the States of California and Nevada for the operation of Truckee River Reservoirs (the five Federal reservoirs in the Truckee River basin) be promulgated as a Federal Regulation.

**DATES:** Comments must be received by Reclamation no later than November 14, 2008.

**ADDRESSES:** You may submit comments, identified by 1006–AA48, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Search on docket identification number BOR–2008–0006 when submitting comments on this rule.

- *Mail:* Kenneth Parr, Bureau of Reclamation, 705 N. Plaza St., Carson City, NV 89701.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Parr, Bureau of Reclamation, 705 N. Plaza St., Carson City, NV 89701; telephone (775) 882–3436; or for a copy of the TROA, visit the TROA Web site at <http://www.usbr.gov/mp/troa/>.

**SUPPLEMENTARY INFORMATION:** Section 205(a)(2) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act, title II of Public Law 101–618, November 16, 1990 (Settlement Act or Act), directs the Secretary of the Interior (Secretary) to negotiate an operating agreement that must:

- Satisfy all applicable dam safety and flood control requirements;
- Provide for the enhancement of spawning flows available in the Lower Truckee River for the Pyramid Lake fishery (endangered cui-ui, and threatened Lahontan cutthroat trout) in a manner consistent with the Secretary's responsibilities under the Endangered Species Act, as amended (ESA);
- Carry out the terms, conditions, and contingencies of the Preliminary Settlement Agreement between the Pyramid Lake Paiute Tribe (Pyramid Tribe) and Sierra Pacific Power Company (Power Company), as modified by the Ratification Agreement of the United States (PSA);
- Ensure that water is stored in and released from Truckee River Reservoirs to satisfy the exercise of water rights in conformance with the Orr Ditch and Truckee River General Electric decrees, except for any rights voluntarily relinquished by the parties to the operating agreement; and
- Minimize the Secretary's costs associated with operation and maintenance of Stampede Reservoir.

The Act further provides that the following may be addressed in the operating agreement:

- Administration of the operating agreement;
- Means of assuring compliance with PSA;
- Operations of Truckee River system that will not change;
- Operations and procedures for using Federal facilities to meet the Secretary's responsibilities under ESA;
- Methods of reducing likelihood that Lake Tahoe will drop below its natural rim and improving the efficient use of Lake Tahoe during extreme drought situations;
- Procedures for managing and operating Federal reservoirs;
- Procedures for operating Federal reservoirs for instream beneficial uses;
- Operation of non-Federal reservoirs in the Truckee River basin to the extent owners of affected storage rights become partners to the operating agreement; and
- Procedures and criteria for implementing California's allocation of Truckee River water.

The Truckee River Operating Agreement (TROA) will, among other things: (1) Enhance conditions for threatened and endangered fishes in the Truckee River and its tributaries; (2) increase municipal and industrial (M&I) water supplies to provide drought protection for the Truckee Meadows (the Cities of Reno and Sparks, Nevada, metropolitan area); (3) improve river water quality downstream from the City of Sparks and below Derby Dam; (4)

enhance stream flows and recreational opportunities in the Truckee River basin; and (5) provide procedures for implementing the interstate allocation of Lake Tahoe basin and Truckee River basin waters between Nevada and California. While the Settlement Act also confirms the allocation of the waters of the Carson River and its tributaries between California and Nevada represented by the Alpine Decree, TROA by its terms does not affect the Carson River.

Section 205(a)(9) of the Settlement Act requires the Secretary to satisfy the requirements of the National Environmental Policy Act. Because the State of California is a mandatory signatory party, it is also necessary to comply with the California Environmental Quality Act. Consequently, the Department of the Interior and the California Department of Water Resources jointly prepared an Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). The Final EIS/EIR concludes that TROA will:

- Provide better conditions for threatened Lahontan cutthroat trout and endangered cui-ui in many reaches of the Truckee River and its tributaries;
- Provide greater potential for enhancing riparian vegetation along some reaches of the Truckee River in median hydrologic conditions and along all mainstem and tributary reaches under dry and extremely dry hydrologic conditions; and
- Enhance riparian habitat along some mainstem and tributary reaches under wet and median hydrologic conditions and along most mainstem reaches in dry and extremely dry hydrologic conditions.

Section 205(a)(9) also provides that the Secretary may not become a party to TROA if the Secretary determines that the effects of TROA, together with cumulative effects, are likely to jeopardize any threatened or endangered species or be adverse to designated critical habitat of such species. The Final EIS/EIR concludes that implementation of TROA will not adversely affect LCT or cui-ui, but in fact is likely to benefit both species. The U.S. Fish and Wildlife Service has concurred in that determination through the consultation process required by Section 7 of the Endangered Species Act of the 1973, as amended, 16 U.S.C. Sec. 1531 at *et seq.*

Since TROA is the result of negotiations and agreement among at least the five mandatory signatory parties and must be promulgated as a Federal regulation, the regulation we are proposing today would incorporate by