

Dated: September 27, 2011.

**Maria A. Pallante,**

*Register of Copyrights.*

[FR Doc. 2011-25230 Filed 9-29-11; 8:45 am]

BILLING CODE 1410-30-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2010-0406; FRL-9473-8]

#### Approval and Promulgation of Implementation Plans; North Dakota; Regional Haze State Implementation Plan; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Regional Haze; Correction of Public Hearing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; Correction of Public Hearing.

**SUMMARY:** EPA is changing the public hearing arrangements for our proposed action on North Dakota's State Implementation Plans (SIPs) addressing regional haze and the interstate transport of pollutants that interfere with programs to protect visibility in other states. We are making this change in response to a letter that the Governor of North Dakota submitted on September 9, 2011.

**DATES:** Public hearings will be held October 13-14, 2011.

**ADDRESSES:** The public hearings will be held at the North Dakota Department of Health, Environmental Training Center, 2639 East Main Avenue, Bismarck, ND 58506.

**FOR FURTHER INFORMATION CONTACT:** Gail Fallon, EPA Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, CO, 80202-1129, (303) 312-6281, [Fallon.Gail@epa.gov](mailto:Fallon.Gail@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 21, 2011 we published a proposed rule partially approving and partially disapproving a revision to the North Dakota SIP addressing regional haze and disapproving a revision to the North Dakota SIP for interstate transport of pollutants that interfere with programs to protect visibility in other states. See 76 FR 58570. To accommodate the Governor of North Dakota's request submitted in a letter dated September 9, 2011 for additional hearing time, we have changed the location to the North Dakota Department of Health's Environmental Training Center, 2639 East Main Avenue, Bismarck, ND 58506. We have changed

the schedule to provide four different hearing sessions. Public hearings will now be held on Thursday, October 13, 2011 from 1 p.m. until 5 p.m., and again from 7 p.m. until 9 p.m. A second day of public hearings will be held on Friday, October 14, 2011 from 8 a.m. until 12 p.m., and again from 1 p.m. until 5 p.m.

The public hearings will provide interested parties the opportunity to present information and opinions to EPA concerning our proposal. Interested parties may also submit written comments, as discussed in the proposal. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearings. We will not respond to comments during the public hearings. When we publish our final action, we will provide written responses to all oral and written comments received on our proposal.

At the public hearings, the hearing officer may limit the time available for each commenter to address the proposal to 5 minutes or less if the hearing officer determines it to be appropriate. The limitation is to ensure that everyone who wants to make a comment has the opportunity to do so. We will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. Any person may provide written or oral comments and data pertaining to our proposal at the public hearings. Verbatim transcripts, in English, of the hearings and written statements will be included in the rulemaking docket.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2011.

**James B. Martin,**

*Regional Administrator, Region 8.*

[FR Doc. 2011-25293 Filed 9-29-11; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-R04-SFUND-2011-0749; FRL-9472-9]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Martin-Marietta/Sodyeco Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the Martin-Marietta/Sodyeco Superfund Site (Site), which is a portion of the Clariant Corporation property located at 11701 Mount Holly Road in Charlotte, North Carolina, from the National Priorities List (NPL) and requests comment on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA, with the concurrence of the State of North Carolina, through the Department of Environment and Natural Resources (DENR), has 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 Superfund if deemed necessary by EPA.

**DATES:** Comments must be received by October 31, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-R04-SFUND-2011-0749, by one of the following methods:

- *Online:* <http://www.regulations.gov>. Follow instructions for submitting comments.

- *E-mail:* [townsend.michael@epa.gov](mailto:townsend.michael@epa.gov).
- *Fax:* 404 562-8788 Attention: Michael Townsend.

- *Mail:* Michael Townsend, Remedial Project Manager, Superfund Remedial Section, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

- *Hand delivery:* U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Such deliveries are only accepted during the public docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional EPA Office is open for business Monday through Friday, 8:30 am to 4:30 pm, excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID no. EPA-R04-SFUND-2011-0749. EPA's policy is that all comments received will be included in the docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless a 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 electronic files 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 hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at:

Regional Site Information Repository: U.S. EPA Record Center, Attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Hours of Operation (by appointment only): 8 a.m. to 4 p.m., Monday through Friday.

Local Site Information Repository: Mt. Holly Public Library, 235 West Catawba Avenue, Mt. Holly, North Carolina 28120-1603. Hours of operation: 10 a.m.-6 p.m., Monday, Tuesday, Thursday and Friday. 10 a.m.-2 p.m., Wednesday and Saturday.

**FOR FURTHER INFORMATION, CONTACT:** Michael Townsend, Remedial Project Manager, Superfund Remedial Section, Superfund Remedial Branch, Superfund Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960, (404) 562-8813, Electronic mail at: [townsend.michael@epa.gov](mailto:townsend.michael@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

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

#### I. Introduction

EPA Region 4 is announcing its intent to delete the Martin-Marietta/Sodyeco Superfund Site (Site), which is a portion of the Clariant Corporation facility, located at 11701 Mount Holly Road, Charlotte, NC, from the NPL and requests public comment on this proposed 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) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if warranted by future conditions.

EPA will accept comments on the proposal to delete the Site for thirty (30) 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 the Site and demonstrates that the deletion criteria are met.

#### II. NPL Deletion Criteria

The NCP establishes the criteria that EPA 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 such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further CERCLA action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the Hazard Ranking System.

#### III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of North Carolina prior to developing this Notice of Intent to Delete.

(2) The State of North Carolina, through DENR, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a major local newspaper, the Charlotte Observer. The newspaper notice announces the thirty (30) day comment period for the proposed action to delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and has made these items available for public inspection and copying at the Site's information repositories identified above.

If adverse comments on this deletion notice are received within the thirty (30) day public comment period, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public

comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and added to the Site's information repositories listed above.

Deletion of a site from the NPL does not itself create, alter or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. In addition, 40 CFR 300.425(e)(3) states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

#### IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

##### *Site Background and History*

The Martin Marietta/Sodyeco Superfund Site (EPA ID: NCD001810365) is located in Charlotte, Mecklenburg County, North Carolina. The Site is located within a 492-acre property referred to as the Sandoz Chemical Corporation, Mount Holly Plant, and is located on Highway 27 West in Mecklenburg County, North Carolina. The Site is comprised of five noncontiguous areas located within the facility's boundaries. Manufacturing, administrative and storage facilities cover about 362 acres. The remaining balance of the land is covered by woodlands and grassed areas.

The entire 492-acre facility is regulated under RCRA authority. DyeStuff Company began operations at the facility in 1936. Initially, the plant produced liquid sulfur dyes from purchased raw materials. American Marietta (which became Martin Marietta in 1961) purchased the facility in 1958. Martin Marietta's products included vat dyes, disperse dyes and specialty chemical products for the agrochemical, electronic, lithographic, pigment, plastic, rubber and general chemical industries. Sodyeco Inc. purchased the plant from Martin Marietta in 1983. Sodyeco Inc.'s early operations produced wastes that consisted of low-volume, aqueous, acidic or alkaline streams containing inorganic salts, which were discharged untreated to the Catawba River. Later, Sodyeco Inc.'s

operations were expanded and included organic solvent wastes. Among the materials placed in landfills at the Site were residual distillation tars from solvent recovery operations, empty drums and cartons, discarded chemicals, off-specification products, general plant wastes and construction debris. The first indication of potential groundwater contamination at the Site was the discovery of organic solvents in the Sodyeco's potable water well in September 1980. Contaminated groundwater was also detected in water supply wells adjacent to the Sodyeco Plant. In June 1982, a hazardous waste site investigation was conducted by EPA. Results of surface water, groundwater and sediment samples revealed the presence of organic contaminants in groundwater and small amounts in the surface water. The Site was proposed to the NPL on December 30, 1982 (47 FR 58476) and finalized on the NPL September 8, 1983 (48 FR 40674) due to the presence of potable water wells within a 3-mile radius and the presence of two municipal surface water intakes on the Catawba River.

The Site contains five contaminated areas designated as A, B, C, D, and E. Area A is an on-site landfill that operated between the 1930s and 1973. Area B is an on-site landfill that operated between 1973 and 1978. Area C consists of three covered pits that contained the remains of laboratory and production samples, distillation tars, and waste solvents. The two northern pits in Area C were excavated in March 1981 and the contents were trucked off site to a landfill in Pinewood, South Carolina. Removal of the remaining pit was conducted in 1983. After excavation activities, Area C was regraded and planted with grass. Area D formerly contained two wastewater settling ponds. The ponds were taken from service in 1966; one was cleaned out in 1973 and the other between 1976 and 1977. Area E is located down-gradient of the old plant and manufacturing area. No waste is known to have been disposed of in this area.

The current land use is heavy industrial. There are two business tenants located within the facility that occupy only a few buildings. Most of the land surrounding the Site is primarily undeveloped woodland. The Site is currently fenced and requires security clearance for access. The ground water aquifer underlying the Site is currently not used as a drinking water source; however, there are no controls preventing that use. Although the groundwater is not being used for drinking purposes, the aquifer is classified as a Class IIA aquifer, a

current source of drinking water. There are no residential properties that exist above or near the ground water contaminant plume at the Site.

##### *Remedial Investigation and Feasibility Study (RI/FS)*

In February 1986, Sandoz Chemical Corporation, the facility owner, entered into an Administrative Order on Consent with EPA to conduct the RI/FS to evaluate the extent of contamination and identify feasible alternative remedies.

Results of the RI showed the groundwater in the five identified CERCLA areas A through E were contaminated with toluene, chlorobenzene, ethylbenzene, xylene, o-dichlorobenzene, tetrachloroethylene, and trichloroethylene. The Site posed an unacceptable carcinogenic risk to human receptors via ingestion of local water fowl and small mammals and the ingestion of ground water. The Site also posed an unacceptable non-carcinogenic risk to human health via inhalation intake from Area D and the ingestion of onsite groundwater.

##### *Selected Remedy*

EPA issued the ROD for the clean-up of the Site in 1987. The remedial action objectives at the Site were to protect human health and the environment from exposure to contaminated on-site soils through inhalation and direct contact, and to restore contaminated groundwater to levels protective of human health and the environment. The cleanup consisted of the following elements:

- Extraction, treatment and discharge of contaminated ground water for all five areas;
- Excavation and off-site incineration for Area D;
- Installation of a landfill cap for Area B; and
- Implementation of one of the following activities after treatability studies were undertaken for Area C, including: (1) Flushing; (2) soil washing; (3) thermal processing; or (4) in-situ steam stripping and excavation and off-site incineration.

No soil remediation was deemed necessary for CERCLA Areas A and E during the RI/FS.

The initial cleanup approach for Area C was an interim action. The final cleanup plan for Area C was outlined in a 1994 Explanation of Significant Difference (ESD), and included in-situ soil flushing, with the flushing water being captured and treated by the existing ground water treatment system. The ESD also included continuation of a vacuum extraction pilot study to treat

soil stock-piled on site that was contaminated with VOCs. The vacuum extraction method eventually proved ineffective and EPA issued a second ESD in November 1998, which required off-site treatment and disposal for the stock-piled soil in Area C.

#### *Response Actions*

Installation of the asphalt cap for Area B was completed in October 1989. The off-site treatment and disposal of Area C stockpiled soils was completed in March of 1999. The installation of an in-situ flushing system for the Area C soil was completed during the third week of September of 1999. Remediation of Area D soil was completed in April 1999. A total of 397 tons of soils were removed in two phases, and sent off-site for treatment and disposal.

The groundwater system was designed to remove VOCs from the shallow (Areas C and D), intermediate (Areas A/B, D and E) and deep aquifers (Area D). The groundwater remediation involved extraction through recovery wells and treatment in the onsite RCRA wastewater treatment facility. The treated water is discharged to the Catawba River, as regulated by the National Pollutant Discharge Elimination System (NPDES) program. The groundwater extraction wells for Areas A through E were installed 1990. The contaminated groundwater continues to be treated in the RCRA-regulated on-site wastewater treatment facility, along with contaminated groundwater from the RCRA-regulated portions of the facility.

The remedial actions were completed by the responsible party, with oversight by the state RCRA program. The Preliminary Close-Out Report was issued by EPA on September 29, 1999.

Since the groundwater remedy was constructed, implementation has been conducted under the facility's RCRA permit and authority. The facility's permit incorporated the groundwater remediation goals and cleanup levels established in the 1987 ROD and requires ICs for limiting the use of groundwater from aquifers impacted by Site contaminants. At the time the Site was listed on the NPL, the RCRA Hazardous Solid Waste Amendments (HSWA) provisions had not been promulgated, and it was necessary to use CERCLA response authority to address the contamination at the Site outside of the regulated RCRA units (Areas A–E). Since the facility's RCRA permit and authority have been used to implement the groundwater cleanup and HSWA now provides the legal authority necessary to continue the treatment until cleanup levels are

achieved in the CERCLA areas outside of the RCRA regulated units, EPA has concluded that the groundwater risks originally identified in the 1987 ROD no longer need to be addressed by CERCLA authority.

Institutional controls were also necessary because the selected remedy resulted in hazardous substances, pollutants, or contaminants remaining at the Site above levels that would allow for unlimited use and unrestricted exposure in the soils. More specifically, the remedy capped soil in place in CERCLA Areas A and B, as well as left contaminated soils covered by clean soils in place in Area D. The Declaration of Perpetual Land Use Restrictions were implemented on 8/10/2011 with the Charlotte, Mecklenburg County, Register of Deeds.

The 1987 ROD, as amended by the ESDs, was further amended to select no further CERCLA action for groundwater and required institutional controls preventing disturbance of the caps and precluding direct contact with any onsite soils impacted by Site contaminants. The ROD amendment was signed on July 5, 2011.

#### *Cleanup Goals*

Contaminated soils above industrial cleanup levels were excavated and disposed of off-site or were capped in place in Areas B, C and D. Post-excavation sampling was conducted and described in the Preliminary Closeout Report issued by EPA on September 29, 1999.

#### *Operation and Maintenance*

For CERCLA Areas A, B, and C, the Clariant Corporation, under the existing RCRA C permit, is conducting the long-term monitoring, and operation and maintenance activities at the Site. The primary activities associated with O&M, associated with the Site, include:

- Visual inspection of the cap, assuring that it is stable and sound; and
- Monitoring of institutional controls.

Operation of the water treatment plant and associated groundwater monitoring is being conducted under the RCRA Subtitle C permit and is not part of the CERCLA response.

#### *Five-Year Reviews*

Three five year review reports for the Site have been issued, in 1996, 2002 and 2007. The 2007 five year review report concluded that the remedy selected in the ROD is protective in the short term, but recommended follow-up actions to analyze the extraction wells for their effectiveness in addressing groundwater contamination, conduct maintenance on the Area B cap, and to

evaluate the type of ICs that should be implemented at the Site. All recommended actions have been addressed. Additional groundwater studies are being conducted to address issues identified in the 2007 five year review report under RCRA oversight. These activities included installation of additional groundwater extraction and monitoring wells in Areas D and E. These activities were completed in 2007 and 2010. Repairs to surficial cracks on the Area B cap were completed in 2008. EPA incorporated institutional controls into a decision document in the July 5, 2011 ROD. The ICs preventing disturbance of the caps and precluding direct contact with any onsite soils impacted by site contaminants were implemented and filed on August 10, 2011 with the Charlotte, Mecklenburg County, Register of Deeds.

#### *Community Involvement*

EPA has conducted a range of community involvement activities at the Site to solicit community input and to ensure that the public remains informed about site-related activities throughout the cleanup process. Outreach activities have included public notices, interviews and public meetings on cleanup activities. In addition to publishing notices about its intent to delete the Site and amend the ROD in the **Federal Register** and in a local newspaper, EPA conducted a public meeting on May 12, 2011 to provide the public with the opportunity to comment on the proposed ROD Amendment. The ROD Amendment and Responsiveness Summary, addressing comments received during the comment period, have been included in the Administrative Record.

EPA has also prepared the deletion docket, which includes the documents which EPA relied on for its decision to propose deleting the Site from the NPL. Therefore, the public participation requirements, required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA Section 117, 42 U.S.C. 9617, have been satisfied.

#### *Determination That the Site Meets the Criteria for Deletion in the NCP*

The NCP specifies that EPA may delete a site from the NPL if "all appropriate responsible parties or other persons have implemented all appropriate response actions required." EPA, with concurrence of the State of North Carolina, through the Department of the Environment and Natural Resources, by a letter dated June 17, 2010, believes this criteria for deletion have been satisfied. The contaminated soils have been capped and institutional

controls are in place preventing unacceptable exposure. The contaminated groundwater is being addressed under the facility's RCRA permit and authority, therefore CERCLA response is not warranted. Therefore, EPA is proposing to delete this Site from the NPL.

#### 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.

Dated: September 13, 2011.

**Gwendolyn Keyes Fleming,**

*Regional Administrator, Region 4.*

For the reasons set out in this document, 40 CFR part 300 is proposed to be amended as follows:

1. The authority citation for part 300 continues to read as follows:

**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.

2. Table 1 of Appendix B to Part 300 is amended by removing “Martin-Marietta, Sodyeco, Inc.,” “Charlotte, NC.”

[FR Doc. 2011–25107 Filed 9–29–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[EPA–HQ–OEI–2011–0196; FRL–9472–5]

RIN 2025–AA31

#### Toxics Release Inventory (TRI) Reporting for Facilities Located in Indian Country and Clarification of Additional Opportunities Available to Tribal Governments Under the TRI Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to: require TRI reporting facilities located in Indian country to report to the appropriate Tribal government for the relevant area instead of the State; and improve and clarify certain opportunities allowing Tribal governments to participate more fully in the TRI Program. In 1990, EPA finalized regulations in the **Federal Register** (FR) requiring facilities in Indian country to submit annual TRI reports to EPA and

the appropriate Tribal government. These amendments, however, were inadvertently omitted from the Code of Federal Regulations (CFR), and the relevant provisions were later overwritten by a subsequent final rule, thus resulting in the exclusion of the intended requirement from the CFR. EPA intends to correct that inadvertent result by proposing this rule. Further, because Tribal governmental structures may vary, EPA is proposing to update its terminology to refer to the principal elected official of the Tribe as the “Tribal chairperson or equivalent elected official.” EPA is also amending its definition of “State” for purposes of 40 CFR part 372 to no longer include Indian country, so as to avoid any confusing overlap in terminology with the proposed express discussion of facilities in Indian country. With regard to the procedures for EPA to modify the list of covered chemicals and TRI reporting facilities, EPA proposes to clarify the opportunities available to Tribal governments. In particular, EPA proposes to include within the relevant provision an opportunity for the Tribal Chairperson or equivalent elected official to request that EPA apply the TRI reporting requirements to a specific facility located within the Tribe’s Indian country. Secondly, EPA is proposing that the Tribal Chairperson or equivalent elected official may petition EPA to add or delete a particular chemical respectively to or from the list of chemicals covered by TRI. By increasing the participation and engagement of Tribal governments in the TRI program, EPA is helping to increase awareness of toxic releases within Tribal communities, thereby increasing the understanding of potential human health and ecological impacts from these hazardous chemicals.

**DATES:** Comments must be received on or before November 29, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2011–0196, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [oei.docket@epa.gov](mailto:oei.docket@epa.gov).
- *Fax:* 202–566–0677
- *Mail:* Office of Environmental Information (OEI) Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave, NW., Washington, DC 20460. Such deliveries are only

accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–HQ–OEI–2011–0196. 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. For additional information about EPA’s public docket visit the EPA Docket Center homepage: <http://www.epa.gov/epahome/dockets.htm>.

**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 hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The 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.