

Consideration of Reliability Impacts in Commission Decision-Making Process

37. The Final Blackout Report's Recommendation 9³³ recommends that the Commission integrate a formal reliability impact consideration into our regulatory decision-making to ensure Commission actions improve, or at a minimum do not harm, reliability. In response to this recommendation, the Commission will continue its policy of considering the reliability implications of Commission decisions, as appropriate.

Funding of NERC

38. The Final Blackout Report's Recommendation 2³⁴ recommends that the U.S. and Canadian regulatory authorities develop a regulator-approved mechanism for funding NERC and the regional reliability councils, to ensure their independence from, the parties they oversee. In response, the Commission will appoint a staff task force to report to the Commission on potential mechanisms for funding NERC, the regional reliability councils, and, should energy legislation be passed, the Electricity Reliability Organization, to ensure independence from the utilities they oversee. This staff task force will be directed to work closely with our Canadian counterparts, as well as State regulatory authorities, NERC, the regional reliability councils, and industry participants, to develop funding options and recommendations. Such options should take into account funding mechanisms for current entities, such as NERC and the regional reliability councils, and entities created by the passage of reliability legislation.

Memorandum of Understanding with NERC

39. The Final Blackout Report recommends that government agencies in the U.S. and Canada decide whether to develop individual memoranda of understanding (MOUs) with NERC that would define the agency's working relationship with NERC, government oversight of NERC activities, if appropriate, and the reliability responsibilities of the signatories.³⁵ In response to this recommendation, the Commission directs staff to draft a MOU which will define NERC's working relationship with the Commission. In addition, this MOU will clarify the appropriate Commission oversight of NERC and the respective reliability responsibilities of both NERC and the Commission. This MOU will be signed

by the Chairman, on behalf of the Commission.

G. Limitations on Liability

40. In view of the Commission's interpretation in this Policy Statement that Good Utility Practice includes compliance with NERC reliability standards and NERC compliance audit recommendations, the Commission will consider, on a case-by-case basis, proposals by public utilities to amend their OATTs to include limitations on liability. While this issue has not been resolved on a standardized basis, the Commission has entertained RTO transmission providers' specific proposals to amend their OATTs to include provisions addressing limitations on liability.³⁶ Such proposals should address the standard for liability (e.g., gross negligence and willful misconduct) and the types of damages for which the public utility may be liable (e.g., direct damages and not consequential or indirect damages).

By the Commission.

Magalie R. Salas,
Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[RCRA-2004-0002, FRL-7653-5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Storage, Treatment, Transportation and Disposal of Mixed Wastes, EPA ICR Number 1922.03, OMB Control Number 2050-0181

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of

³⁶ See Wholesale Market Power Platform White Paper (April 28, 2003) (stating that a standard tariff provision limiting liability for transmission providers would be included in the Final Rule Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design). See also Midwest Independent Transmission System Operator, Inc., 100 FERC ¶ 61,144 (2002) (conditionally accepting for filing a proposed OATT revision that would limit the liability of the Midwest ISO and Midwest ISO transmission owners for certain damages related to services provided under the Midwest ISO OATT); and ISO New England, *et al.*, 106 FERC ¶ 61,280 (2004).

Management and Budget (OMB). This is a request an existing approved collection. This ICR is scheduled to expire on August 31, 2004. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 25, 2004.

ADDRESSES: Submit your comments, referencing docket ID number RCRA-2004-0002, to EPA online using EDOCKET (our preferred method), by e-mail to RCRA-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, RCRA Docket, mail code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kathleen Rafferty, Office of Solid Waste and Emergency Response, 5303W, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-308-0589; fax number: 703-308-8609; e-mail address: rafferty.kathy@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number RCRA-2004-0002, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing

³³ Final Blackout Report at 147.

³⁴ *Id.* at 143.

³⁵ *Id.*

copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

Affected entities: Entities potentially affected by this action are businesses, state and local governments and tribes.

Title: Storage, Treatment, Transportation and Disposal of Mixed Wastes; EPA ICR Number 1922.03, OMB Control Number 2050-0181.

Abstract: On May 16, 2001, EPA published the Storage, Treatment, Transportation, and Disposal of Mixed Waste final rule (66 FR 27218). This rule amended the RCRA regulations at 40 CFR parts 261, 266, and 268, to provide increased flexibility to facilities in managing low-level mixed waste (LLMW) and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste, and to reduce dual regulation of LLMW, which is subject to RCRA and the Atomic Energy Act (AEA), as amended. The storage and treatment conditional exemption in the 2001 rule conditionally exempts LLMW from the regulatory definition of hazardous waste, so long as the use of tanks or containers to store or treat the waste meets the specified conditions and is generated under a single Nuclear Regulatory Commission (NRC) or an NRC Agreement State license. Under the transportation and disposal conditional exemption, LLMW and hazardous NARM waste are exempted from RCRA manifest, transportation, and disposal requirements, so long as generators still comply with manifest, transport, and disposal requirements under the NRC (or NRC-Agreement State) regulations for low-level radioactive waste (LLW) or eligible NARM. Responses are voluntary, however they are required to obtain benefits. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information

Average Annual Reporting and Recordkeeping Hour Burden: 3,079 hours.

- Estimated Average Burden Hours Per Response: 3.68 hours.
- Proposed Frequency of Response: on occasion.
- Estimated Number of Likely Respondents: 835.

Average Annual Reporting and Recordkeeping Cost Burden: \$4,000.

- Capital and Start-up Cost: \$0.
- Operation and Maintenance: \$4,000.

Dated: March 27, 2004.

Robert Springer,

Director, Office of Solid Waste.

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ENVIRONMENTAL PROTECTION AGENCY

[IN161-1; FRL-7653-4]

Approval of Section 112(l) Delegation of Maximum Achievable Control Technology Standards; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this action is to announce that EPA approved a request for delegation of the Maximum Achievable Control Technology (MACT) standards for polyurethane foam, portland cement, hazardous waste combustion, oil and natural gas production, natural gas transmission and storage, publically owned treatment works, pulp and paper—non-combustion, phosphoric acid manufacturing, phosphate fertilizer production, tanks—level 1, containers, surface impoundments, individual drain systems, closed vent systems, equipment leaks—level 1, equipment leaks—level 2, oil-water separators, storage vessels—level 2, generic MACT, pesticide active ingredient production, mineral wool production, and wool fiberglass manufacturing (i.e., 40 CFR part 63, subpart III, LLL, EEE, HH, HHH, VVV, S, AA, BB, OO, PP, QQ, RR, SS, TT, UU, VV, WW, YY, MMM, DDD, and NNN respectively) pursuant to section 112(l) of the Clean Air Act (CAA). The State's mechanism of delegation involves State rule adoption of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards was a letter from EPA To the Indiana Department of Environmental Management (IDEM) dated December 29, 2003.

DATES: This action will become effective May 26, 2004.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location:

EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois 60604.

Please contact Sam Portanova at (312) 886-3189 to arrange a time if inspection of the submittal is desired.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, portanova.sam@epa.gov.

SUPPLEMENTARY INFORMATION: