

**BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE** [www.bredl.org](http://www.bredl.org)







**CLEAN AIR** 

[Home](#)   [Campaigns](#)   [Alerts](#)   [News](#)   [Chapters](#)   [Links](#)   [About](#)   [Search](#)

## BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

[www.BREDL.org](http://www.BREDL.org) ~ PO Box 88 Glendale Springs, North Carolina 28629 ~ Phone (336) 982-2691 ~ Fax (336) 982-2954 ~ [BREDL@skybest.com](mailto:BREDL@skybest.com)

October 7, 2002

Air and Radiation Docket and Information Center (6102)  
 Attention: Docket No. A-99-20  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, NW  
 Washington, DC 20460  
[a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)

Re: Proposed Rules for National Emission Standards for Hazardous Air  
 Pollutants for Site Remediation, 40 CFR 63, Subpart GGGGG

Request for Comments - 67 FR 49398, July 30, 2002

Dear Air and Radiation Docket:

On behalf of the Blue Ridge Environmental Defense League (BREDL), I write to comment on the proposed Environmental Protection Agency (EPA) rule for National Emission Standards for Hazardous Air Pollutants (NESHAP): Site Remediation, 40 CFR 63, Subpart GGGGG. BREDL was founded in 1984 in response to the Department of Energy's Crystalline Repository Project which selected 12 sites in the eastern states for a high-level nuclear waste dump. From the beginning we have worked with others who are concerned with environmental problems across the United States. Since 1984 we have expanded our scope to include environmental education on a wide variety of issues including the contamination at the Savannah River Site in South Carolina.

The remarks in this document are similar to those expressed by Concerned Citizens for Nuclear Safety in New Mexico. We have familiarized ourselves with the relevant documents and the issues raised by the proposed EPA action. However, our concerns center on the impact of ionizing radiation and hazardous air pollutants in and around the Central Savannah River Area. BREDL has an office in Augusta, Georgia which is dedicated to monitoring public health hazards and environmental contamination in this region.

1. Congress declared that one of the purposes of the CAA was "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C.A. §7401(b)(1). The EPA has not met this

congressional goal; public health and welfare continue to suffer, and child and adult asthma rates are rising. The human health effects associated with exposure to organic hazardous air pollutants (HAP) and volatile organic compounds (VOC) include cancer and leukemia and non-cancer related-illnesses, including aplastic anemia, reproductive and central nervous system problems, upper respiratory tract irritation, liver and kidney damage, and neurotoxic effects (e.g., headache, dizziness, nausea, tremors). 67 FR 49403, I.E.

Low-level ozone created by the photochemical reaction of VOC with nitrogen oxides in the atmosphere at levels exceeding the national ambient air quality standards (NAAQS) can result in adverse health effects, such as lung structure changes and respiratory infections. Id.

2. The proposed site remediation rule exempts facilities that conduct cleanup activities involving mixed wastes (wastes containing both radioactive and non-radioactive hazardous constituents) and low-level radioactive wastes as regulated by the Atomic Energy Act (AEA) and the Nuclear Waste Policy Act (NWPA). 67 FR 49406. These facilities are "unique contamination situations" and should not be included in a general site remediation rule. 67 FR 49415, III.D. In order to protect public health and safety and the environment, EPA must regulate the site remediation activities at such facilities.

EPA should not exempt facilities conducting mixed and low-level waste cleanups from the proposed site remediation rules because of the existing harm and damage done to the public health and welfare, their workers, and the environment by the facilities regulated under the AEA and NWPA. RECA, Employees Occupational Illness Compensation Program Act (EEOICPA), I-131 Fallout Studies.

DOE and its predecessors have contaminated soil, surface and ground water and air, as well as the public and its workers, with short and long-lived radionuclides and hazardous materials. Id. Cleanup or remediation costs are estimated to be **\$212 billion**. Paths to Closure, U.S. DOE, March 2000.

DOE does not know or has limited knowledge about the contents of the containers, tanks, etc. that are currently storing mixed and low-level wastes. Waste Management Programmatic Environmental Impact Statement (WM PEIS), DOE/EIS-0200-F (May, 1997). In balancing the "need for effective HAP emissions control with the overall goal of removing the threat to human health and the environment posed by hazardous substances in the remediation material," EPA should not exempt the federal government from monitoring and reporting emissions from such activities. 67 FR 49399, I.B.

Heavy construction equipment is frequently used to move large quantities of soil, sludges and sediments contaminated with HAP. Such movement of the earth can release large amounts of HAP and VOC into the atmosphere. In some situations, wetting the excavation site can control the amount of HAP emissions. People who witnessed excavation activities at Hanford's Site 300, on the banks of the Columbia River, report airborne particulates were released because DOE did not wet the soil before or while operating large construction equipment. We recommend that EPA develop a NESHAP for excavation operations and land treatment activities. 67 FR 49414, III.C.

We strongly urge EPA to withdraw the proposed exemption for facilities conducting mixed and low-level waste cleanups from the proposed site remediation rules.

3. The proposed site remediation rules would exempt actions under the requirements of the Comprehensive Environmental Response and Compensation Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). 67 FR 49406. However, EPA uses the Off-site Waste and Recovery Operations (OSWRO) affected source regulations as justification for the exemption. The OSWRO regulations are limited to process vents, remediation material management units, and equipment leaks. 40 CFR 63, Subpart DD. CERCLA and RCRA allow for on-site waste and recovery operations that are more

expansive than and may exceed the limited OSWRO requirements for affected sources. EPA is creating a loophole for activities that are broader than OSWRO activities.

In addition, the Clean Air Act (CAA) maximum achievable control technology (MACT) was promulgated on September 30, 1999 to fill the regulatory gaps in the environmental statutes and regulations, including CERCLA and RCRA, that allowed HAP to be released into the environment and threaten or impacted public health and welfare. 42 U.S.C.A. §112. The MACT was widely supported by the general public.

The proposed rule will gut the existing MACT standards, create loopholes for activities that are broader than that covered by the OSWRO regulations, and is a major step backwards in terms of public health and welfare and protection of the air, soil and surface and ground water. There are no comparable air emission regulations in CERCLA or RCRA.

Exempting CERCLA and RCRA activities will harm public health and the environment. EPA should not exempt CERCLA and RCRA actions from the proposed site remediation rules.

4. EPA should not allow any exemption for short-duration site remediations. 67 FR 49407, II.A.; 67 FR 49415, III.D. EPA references spills as an example for the exemption, but does not address the issue of the transient receptor receiving a yearly dose from one exposure. This is an issue that has been raised during the CAA audits at LANL.

The concern is that a "transient receptor," which might be a jogger or hiker, who runs or walks past the site, and is exposed, receives a yearly dose. The exposure calculations are averaged over a year, and thus do not reflect the possibility that a person could receive a yearly dose with one exposure. Until this matter is settled, EPA should withdraw the exemption for short-duration site remediations.

5. We question the proposed requirements for remediation material sent off-site and the lax requirements for transferring or receiving it. 67 FR 49409, II.F. Under RCRA, manifests are used to document the transfer and receipt of hazardous materials, under a "cradle to grave" regulatory structure. We believe the site remediation exemption under the CAA will provide a loophole and allow hazardous materials to be lost in transit, causing harm to public health and welfare, unsuspecting workers, and the environment.

6. We question the continuous compliance provisions and the possibility of a facility requesting a waiver under Subpart A, 40 CFR §63.1 - 15 under the proposed rule. 67 FR 49410, II.I, J. How many Subpart A waivers has EPA granted?

7. EPA should correct its reference for major source from 40 CFR §71.2 to §71.22. 67 FR 49411, II.K.2.

8. We request that EPA reconsider its proposed rule not to regulate metals and other inorganic compounds listed as HAP in CAA §112(b). 67 FR 49413, III.B.2. Heavy metals cause harm to public health and welfare. One of the listed heavy metals is beryllium, which for a person who is genetically sensitive and exposed, a small particle will cause berylliosis.

In addition, heavy metals and inorganic compounds can damage the health of children. EPA should reexamine its justification regarding compliance with Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. CCNS believes that the two requirements in the Executive Order are met through the proposed site remediation rule exemption of mixed and low-level waste, considering DOE's history of contamination alone. This is a "significant regulatory action" that will have an effect on the environment and public health and safety in excess of \$100 million per year. E.O. 12855, Regulatory Planning and Review. DOE is the largest polluter in the U.S. with a \$212 billion price tag for its cleanup activities. At LANL and Sandia National Laboratories alone, the

cleanup costs are estimated to exceed **\$2 billion**. Paths to Closure, U.S. DOE, March 2000. These facts alone necessarily mean that DOE's activities will have a disproportionate effect on children. EPA is required to evaluate the environmental health and safety effects that the exemptions for mixed and low-level waste and CERCLA and RCRA activities will have on children.

9. DOE is proposing "accelerated cleanup" activities at many of its sites around the country which will create more waste and transportation of site remediation wastes. We believe that the air emissions from these activities may exceed the levels established by the 1997 information that forms the basis for the rule. 67 FR 49416, IV.A. We request that EPA conduct an analysis of the site-specific Performance Management Plans to determine if in fact the 1997 information will be exceeded.

10. We also request that EPA state the basis for its statement that the proposed rule will reduce HAP and VOC emissions by 50%. 67 FR 49416, IV.A.

11. Facilities with mixed and low-level wastes, which operate portable or mobile remediation equipment, should not be exempted from the proposed rule. 67 FR 49411, II.K.; 67 FR 49415, III.G. For example, DOE is currently using mobile remediation equipment to repackage mixed transuranic (TRU) wastes at Argonne East. DOE is proposing to install two mobile units at LANL. One of the issues that was raised during the third CAA audit at LANL was whether the mobile units were required to be monitored as a point source. DOE claimed that the HEPA filters would serve as the control. However, we believe that the independent technical audit team (RAC) will find that the emissions from the mobile units meet the monitored point source standards and should be continuously monitored. 40 CFR §§61.90 - 61.97.

12. We request that EPA determine if the organic and inorganic HAP chemicals found in the waste acceptance program (WAP) for WIPP are included in and are representative of the database for the OSWRO NESHAP which serves as the basis for the site remediation NESHAP. 67 FR 49413, III.B. We believe that the WIPP WAP will not be entirely covered by the proposed rule, thus giving another example of why mixed and low-level waste should not be exempted from the proposed site remediation rule.

13. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Site remediation activities on tribal lands include some of the largest projects in the nation, including the remediation of land and water surrounding uranium mines and mills. We urge EPA to correct its statements to reflect the actual situation. 67 FR 49417, V.C.

In conclusion, The Blue Ridge Environmental Defense League joins with others who urge the EPA to withdraw the proposed exemption of mixed and low-level wastes and CERCLA and RCRA activities from the proposed site remediation rule.

We understand that the formal comment deadline was September 30, 2002 but we ask that these comments be included in the public record on this matter. We learned of the EPA action only last week. We also request an extension of the comment deadline in order to prepare and submit further remarks.

Respectfully submitted,

Louis Zeller

cc: Mr. Greg Nizich  
Waste and Chemical Processes Group  
Emissions Standards Division (C439-03)  
U.S. EPA  
Research Triangle Park, NC 27711

[nizich.greg@epa.gov](mailto:nizich.greg@epa.gov)