

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6504-1]

Inadequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes: Houston Attainment Demonstration Plan**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of inadequacy status.

SUMMARY: In this document, EPA is notifying the public of its finding of inadequacy of the motor vehicle emissions budgets (budgets) in the State Implementation Plan (SIP) submitted on May 19, 1998, for purposes of demonstration of attainment of ozone National Ambient Air Quality Standards in the Houston nonattainment area, because the SIP did not include any budgets for volatile organic compound and nitrogen oxide. On March 2, 1999, the D.C. Circuit Court ruled that submitted SIPs cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. Since the May 19, 1998, submittal does not contain adequate budgets, this attainment demonstration can not be used for future transportation conformity determinations. No comments were received during the public comment period.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, or Mr. Ken Boyce, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202; telephone (214) 665-7247 or (214) 665-7259, behnam.jahanbakhsh@epamail.epa.gov or boyce.kenneth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Transportation conformity is required by section 176(c) of the Clean Air Act. The EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The criteria by which EPA determines whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). An adequacy review is separate from EPA's completeness review, and it should not be used to prejudice EPA's ultimate approval of the

SIP. Even if we find a budget adequate, the SIP could later be disapproved.

On March 2, 1999, the D.C. Circuit Court of Appeals ruled that budgets contained in submitted SIPs cannot be used for conformity determinations unless EPA has affirmatively found the conformity budget adequate. Where EPA finds a budget inadequate, it cannot be used for further conformity determinations. We have described our process for determining the adequacy of submitted SIP budgets in the policy guidance dated May 14, 1999, and titled *Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision*. You may obtain a copy of this guidance from EPA's conformity web site: <http://www.epa.gov/oms/traq> (once there, click on "conformity" and then scroll down) or by contacting us at the address above.

By this notice, EPA is announcing the inadequacy determination that we have already made. On May 19, 1998, we received the Houston attainment demonstration SIP which did not contain volatile organic compound and nitrogen oxide budgets. Notice that we had received this SIP was posted on the EPA's website for a 30 day public comment period. The public comment period closed on August 21, 1999. We did not receive any comments. After the public comment process, we sent a letter to the Texas Natural Resource Conservation Commission stating that this SIP is inadequate for transportation conformity determinations.

This means that the SIP cannot be used for transportation conformity determinations. As stated in the May 14, 1999, guidance, EPA's adequacy review is not to be used to prejudice EPA's ultimate approval or disapproval of the submitted SIPs. Approvability of the SIPs will be addressed in a future rulemaking.

Therefore, the ozone attainment demonstration SIP as referenced above cannot be used for transportation conformity by the Metropolitan Planning Organization in Houston.

Dated: November 24, 1999.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 99-31663 Filed 12-6-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6504-2]

42 U.S.C. 122(I)**Proposed Prospective Purchaser Agreement and Covenant Not To Sue****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice; proposal of prospective purchaser agreement and covenant not to sue under CERCLA section 9601 *et seq.*, as amended, for the Circle Smelting Corporation Superfund Site.

SUMMARY: U.S. EPA is proposing to execute a Prospective Purchaser Agreement and Covenant Not to Sue (Agreement) under CERCLA section 9601 *et seq.*, as amended, for the Circle Smelting Corporation Superfund Site. The Prospective Purchaser has agreed to the reuse and redevelopment of the property, thereby creating jobs and economic growth as well as preventing the Site from remaining abandoned, and in return will receive a covenant not to sue and contribution protection from EPA. EPA today is proposing to execute this Agreement because it achieves a benefit for the community where the site is located by encouraging the reuse or redevelopment of property at which the fear of Superfund liability may have been a barrier. The Circle Smelting Site would likely have remained an abandoned lot had EPA not entered into this Prospective Purchaser Agreement and Covenant Not to Sue with the Prospective Purchasers. Therefore, this Agreement provides for the reuse and redevelopment of the Site, thereby fulfilling EPA's Brownfields initiatives and priorities.

DATES: Comments on this proposed settlement must be received on or before January 6, 2000.

ADDRESSES: A copy of the proposed Agreement is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Ms. Allison S. Gassner at (312) 886-2250, prior to visiting the Region 5 office.

Comments on the proposed Agreement should be addressed to Allison S. Gassner, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code C-14J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Allison S. Gassner at (312) 886-2250, of the U.S. EPA, Region 5, Office of Regional Counsel.

SUPPLEMENTARY INFORMATION: The Circle Smelting Corporation Site is located on

a 28-acre parcel of land situated along Illinois State Highway 50 in the northeast corner of the Village of Beckemeyer, Clinton County, Illinois. The Site was originally constructed as a primary zinc smelter in 1904 and was later converted into a secondary zinc smelter in 1920. The Site also includes areas, such as walkway paths and residential driveways, in the Village of Beckemeyer where hazardous substances came to be located due to smelter operations disposal. Cinders from the smelter were also used in certain areas within the Village as a surface material for walking paths, driveways, and alleys.

Asarco, Inc., entered into an agreement with EPA in 1997 to clean up the former smelter property and the effected residential areas. Under the 1997 Administrative Order on Consent, Asarco, Inc., is required to investigate the nature and extent of the hazardous substances from the former smelter operations and to remove those hazardous substances that exceed EPA's standards. The Administrative Order on Consent requires Asarco, Inc., to remediate the former smelter property to levels suitable for commercial use. Asarco, Inc., began cleanup activities in Fall of 1998. Future cleanup work at the smelter property will include demolishing the remnants of the furnaces, clearing the remaining buildings, and consolidating these materials in a capped repository that will be constructed on a portion of the property. The stockpiled yard, soil, and slag waste remaining on the property will also be consolidated and moved to the repository. The remainder of the site will then be graded and paved with a concrete barrier and a new driveway will be constructed connecting the property to Highway 50.

In exchange for completing the activities described the Prospective Purchaser Agreement, Asarco, Inc. will transfer title of a portion of the Site property to LEAR Enterprises, LLC. LEAR Enterprises, LLC ("LEAR"), is a corporation duly registered in the State of Illinois located at 451 West First Street, Beckemeyer, Illinois. Virgil Holthaus is the Manager of LEAR and is the President of Holthaus Truck Service, Inc. ("Holthaus Truck"). LEAR will lease to Holthaus Truck the portions of the Site to which LEAR takes title. Virgil Holthaus and a wholly owned company which he formed to take ownership of the Site, LEAR Enterprises, LLC, have executed the proposed Prospective Purchaser Agreement.

LEAR intends to acquire a majority portion of the Site in exchange for Holthaus Truck conducting 95% of the

interim remedial actions at the Property. The remedial action is mandated in the Administrative Order on Consent entered into between the United States and Asarco, Inc., the current owner of the Site. Holthaus Truck is a heavy-haul trucking service that will redevelop the property for vehicle maintenance and parking, creating lime slurry for resale to local industry, and possible future warehousing activity. Holthaus Truck employs approximately fifteen individuals and expects that after redevelopment it will expand its operations and possibly create more jobs for the community.

The Prospective Purchaser's use of the Site is for limited activities that will not aggravate or contribute to the existing contamination, will not interfere with the remedy approved by EPA, and will not pose a health risk to the community. The Prospective Purchaser is financially viable and capable of fulfilling all obligations under this Prospective Purchaser Agreement. As part of the remedial activities on the Site, Asarco, Inc., will construct a soil repository on the Site and Settling Respondents will indefinitely maintain the fence and any necessary vegetation control for the soil repository. The Prospective Purchaser has had no involvement with the Site prior to this proposed purchase.

The Settling Parties are purchasers of the property who intend to reuse, redevelop, and resell the property.

A 30-day period, commencing on the date of publication of this document, is open for comments on the proposed Agreement pursuant to section 122(I) of CERCLA, 42 U.S.C. 9622(I). Comments should be sent to the addressee identified in this document.

William E. Munro,

Director, Superfund Division, Region 5.

[FR Doc. 99-31664 Filed 12-6-99; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-3151-EM]

Puerto Rico; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency for the Commonwealth of Puerto Rico (FEMA-3151-EM), dated November 17, 1999, and related determinations.

EFFECTIVE DATE: November 20, 1999.

FOR FURTHER INFORMATION CONTACT:

Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective November 20, 1999.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Robert J. Adamcik,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 99-31655 Filed 12-6-99; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1309-DR]

U.S. Virgin Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the U.S. Virgin Islands (FEMA-1309-DR), dated November 23, 1999, and related determinations.

EFFECTIVE DATE: November 23, 1999.

FOR FURTHER INFORMATION CONTACT:

Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 23, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in the U.S. Virgin Islands, resulting from Hurricane Lenny on November 17, 1999, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93-288, as amended ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the U.S. Virgin Islands.