

assessments of the potential risk to human health posed by individual sites and facilities subject to this section, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

**(g) Cost recovery**

In any case in which a health assessment performed under this section discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 9607 of this title from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such release.

(Pub. L. 89-272, title II, §3019, as added Pub. L. 98-616, title II, §247(a), Nov. 8, 1984, 98 Stat. 3265.)

**§ 6939b. Interim control of hazardous waste injection**

**(a) Underground source of drinking water**

No hazardous waste may be disposed of by underground injection—

- (1) into a formation which contains (within one-quarter mile of the well used for such underground injection) an underground source of drinking water; or
- (2) above such a formation.

The prohibitions established under this section shall take effect 6 months after November 8, 1984, except in the case of any State in which identical or more stringent prohibitions are in effect before such date under the Safe Drinking Water Act [42 U.S.C. 300f et seq.].

**(b) Actions under Comprehensive Environmental Response, Compensation, and Liability Act**

Subsection (a) of this section shall not apply to the injection of contaminated ground water into the aquifer from which it was withdrawn, if—

- (1) such injection is—
  - (A) a response action taken under section 9604 or 9606 of this title, or
  - (B) part of corrective action required under this chapter<sup>1</sup>

<sup>1</sup> So in original. Probably should be followed by a comma.

intended to clean up such contamination;

(2) such contaminated ground water is treated to substantially reduce hazardous constituents prior to such injection; and

(3) such response action or corrective action will, upon completion, be sufficient to protect human health and the environment.

**(c) Enforcement**

In addition to enforcement under the provisions of this chapter, the prohibitions established under paragraphs (1) and (2) of subsection (a) of this section shall be enforceable under the Safe Drinking Water Act [42 U.S.C. 300f et seq.] in any State—

(1) which has adopted identical or more stringent prohibitions under part C of the Safe Drinking Water Act [42 U.S.C. 300h et seq.] and which has assumed primary enforcement responsibility under that Act for enforcement of such prohibitions; or

(2) in which the Administrator has adopted identical or more stringent prohibitions under the Safe Drinking Water Act [42 U.S.C. 300f et seq.] and is exercising primary enforcement responsibility under that Act for enforcement of such prohibitions.

**(d) Definitions**

The terms “primary enforcement responsibility”, “underground source of drinking water”, “formation” and “well” have the same meanings as provided in regulations of the Administrator under the Safe Drinking Water Act [42 U.S.C. 300f et seq.]. The term “Safe Drinking Water Act” means title XIV of the Public Health Service Act.

(Pub. L. 89-272, title II, §3020, formerly §7010, as added Pub. L. 98-616, title IV, §405(a), Nov. 8, 1984, 98 Stat. 3273; renumbered §3020, and amended Pub. L. 99-339, title II, §201(c), June 19, 1986, 100 Stat. 654.)

REFERENCES IN TEXT

Title XIV of the Public Health Service Act, referred to in subsec. (d), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, §2(a), 88 Stat. 1660, as amended, known as the Safe Drinking Water Act, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. Part C of the Act is classified generally to part C (§300h et seq.) of subchapter XII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was formerly classified to section 6979a of this title, prior to renumbering by Pub. L. 99-339.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-339, §201(c)(1), substituted “enforcement under the provisions of this chapter” for “enforcement under sections 6972 and 6973 of this title”.

**§ 6939c. Mixed waste inventory reports and plan**

**(a) Mixed waste inventory reports**

**(1) Requirement**

Not later than 180 days after October 6, 1992, the Secretary of Energy shall submit to the Administrator and to the Governor of each State in which the Department of Energy

stores or generates mixed wastes the following reports:

(A) A report containing a national inventory of all such mixed wastes, regardless of the time they were generated, on a State-by-State basis.

(B) A report containing a national inventory of mixed waste treatment capacities and technologies.

**(2) Inventory of wastes**

The report required by paragraph (1)(A) shall include the following:

(A) A description of each type of mixed waste at each Department of Energy facility in each State, including, at a minimum, the name of the waste stream.

(B) The amount of each type of mixed waste currently stored at each Department of Energy facility in each State, set forth separately by mixed waste that is subject to the land disposal prohibition requirements of section 6924 of this title and mixed waste that is not subject to such prohibition requirements.

(C) An estimate of the amount of each type of mixed waste the Department expects to generate in the next 5 years at each Department of Energy facility in each State.

(D) A description of any waste minimization actions the Department has implemented at each Department of Energy facility in each State for each mixed waste stream.

(E) The EPA hazardous waste code for each type of mixed waste containing waste that has been characterized at each Department of Energy facility in each State.

(F) An inventory of each type of waste that has not been characterized by sampling and analysis at each Department of Energy facility in each State.

(G) The basis for the Department's determination of the applicable hazardous waste code for each type of mixed waste at each Department of Energy facility and a description of whether the determination is based on sampling and analysis conducted on the waste or on the basis of process knowledge.

(H) A description of the source of each type of mixed waste at each Department of Energy facility in each State.

(I) The land disposal prohibition treatment technology or technologies specified for the hazardous waste component of each type of mixed waste at each Department of Energy facility in each State.

(J) A statement of whether and how the radionuclide content of the waste alters or affects use of the technologies described in subparagraph (I).

**(3) Inventory of treatment capacities and technologies**

The report required by paragraph (1)(B) shall include the following:

(A) An estimate of the available treatment capacity for each waste described in the report required by paragraph (1)(A) for which treatment technologies exist.

(B) A description, including the capacity, number and location, of each treatment unit

considered in calculating the estimate under subparagraph (A).

(C) A description, including the capacity, number and location, of any existing treatment unit that was not considered in calculating the estimate under subparagraph (A) but that could, alone or in conjunction with other treatment units, be used to treat any of the wastes described in the report required by paragraph (1)(A) to meet the requirements of regulations promulgated pursuant to section 6924(m) of this title.

(D) For each unit listed in subparagraph (C), a statement of the reasons why the unit was not included in calculating the estimate under subparagraph (A).

(E) A description, including the capacity, number, location, and estimated date of availability, of each treatment unit currently proposed to increase the treatment capacities estimated under subparagraph (A).

(F) For each waste described in the report required by paragraph (1)(A) for which the Department has determined no treatment technology exists, information sufficient to support such determination and a description of the technological approaches the Department anticipates will need to be developed to treat the waste.

**(4) Comments and revisions**

Not later than 90 days after the date of the submission of the reports by the Secretary of Energy under paragraph (1), the Administrator and each State which received the reports shall submit any comments they may have concerning the reports to the Department of Energy. The Secretary of Energy shall consider and publish the comments prior to publication of the final report.

**(5) Requests for additional information**

Nothing in this subsection limits or restricts the authority of States or the Administrator to request additional information from the Secretary of Energy.

**(b) Plan for development of treatment capacities and technologies**

**(1) Plan requirement**

(A)(i) For each facility at which the Department of Energy generates or stores mixed wastes, except any facility subject to a permit, agreement, or order described in clause (ii), the Secretary of Energy shall develop and submit, as provided in paragraph (2), a plan for developing treatment capacities and technologies to treat all of the facility's mixed wastes, regardless of the time they were generated, to the standards promulgated pursuant to section 6924(m) of this title.

(ii) Clause (i) shall not apply with respect to any facility subject to any permit establishing a schedule for treatment of such wastes, or any existing agreement or administrative or judicial order governing the treatment of such wastes, to which the State is a party.

(B) Each plan shall contain the following:

(i) For mixed wastes for which treatment technologies exist, a schedule for submitting all applicable permit applications, entering

into contracts, initiating construction, conducting systems testing, commencing operations, and processing backlogged and currently generated mixed wastes.

(ii) For mixed wastes for which no treatment technologies exist, a schedule for identifying and developing such technologies, identifying the funding requirements for the identification and development of such technologies, submitting treatability study exemptions, and submitting research and development permit applications.

(iii) For all cases where the Department proposes radionuclide separation of mixed wastes, or materials derived from mixed wastes, it shall provide an estimate of the volume of waste generated by each case of radionuclide separation, the volume of waste that would exist or be generated without radionuclide separation, the estimated costs of waste treatment and disposal if radionuclide separation is used compared to the estimated costs if it is not used, and the assumptions underlying such waste volume and cost estimates.

(C) A plan required under this subsection may provide for centralized, regional, or on-site treatment of mixed wastes, or any combination thereof.

#### **(2) Review and approval of plan**

(A) For each facility that is located in a State (i) with authority under State law to prohibit land disposal of mixed waste until the waste has been treated and (ii) with both authority under State law to regulate the hazardous components of mixed waste and authorization from the Environmental Protection Agency under section 6926 of this title to regulate the hazardous components of mixed waste, the Secretary of Energy shall submit the plan required under paragraph (1) to the appropriate State regulatory officials for their review and approval, modification, or disapproval. In reviewing the plan, the State shall consider the need for regional treatment facilities. The State shall consult with the Administrator and any other State in which a facility affected by the plan is located and consider public comments in making its determination on the plan. The State shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

(B) For each facility located in a State that does not have the authority described in subparagraph (A), the Secretary shall submit the plan required under paragraph (1) to the Administrator of the Environmental Protection Agency for review and approval, modification, or disapproval. A copy of the plan also shall be provided by the Secretary to the State in which such facility is located. In reviewing the plan, the Administrator shall consider the need for regional treatment facilities. The Administrator shall consult with the State or States in which any facility affected by the plan is located and consider public comments in making a determination on the plan. The Administrator shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

(C) Upon the approval of a plan under this paragraph by the Administrator or a State, the Administrator shall issue an order under section 6928(a) of this title, or the State shall issue an order under appropriate State authority, requiring compliance with the approved plan.

#### **(3) Public participation**

Upon submission of a plan by the Secretary of Energy to the Administrator or a State, and before approval of the plan by the Administrator or a State, the Administrator or State shall publish a notice of the availability of the submitted plan and make such submitted plan available to the public on request.

#### **(4) Revisions of plan**

If any revisions of an approved plan are proposed by the Secretary of Energy or required by the Administrator or a State, the provisions of paragraphs (2) and (3) shall apply to the revisions in the same manner as they apply to the original plan.

#### **(5) Waiver of plan requirement**

(A) A State may waive the requirement for the Secretary of Energy to develop and submit a plan under this subsection for a facility located in the State if the State (i) enters into an agreement with the Secretary of Energy that addresses compliance at that facility with section 6924(j) of this title with respect to mixed waste, and (ii) issues an order requiring compliance with such agreement and which is in effect.

(B) Any violation of an agreement or order referred to in subparagraph (A) is subject to the waiver of sovereign immunity contained in section 6961(a) of this title.

#### **(c) Schedule and progress reports**

##### **(1) Schedule**

Not later than 6 months after October 6, 1992, the Secretary of Energy shall publish in the Federal Register a schedule for submitting the plans required under subsection (b) of this section.

##### **(2) Progress reports**

(A) Not later than the deadlines specified in subparagraph (B), the Secretary of Energy shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a progress report containing the following:

(i) An identification, by facility, of the plans that have been submitted to States or the Administrator of the Environmental Protection Agency pursuant to subsection (b) of this section.

(ii) The status of State and Environmental Protection Agency review and approval of each such plan.

(iii) The number of orders requiring compliance with such plans that are in effect.

(iv) For the first 2 reports required under this paragraph, an identification of the plans required under such subsection (b) of this section that the Secretary expects to submit in the 12-month period following submission of the report.

(B) The Secretary of Energy shall submit a report under subparagraph (A) not later than 12 months after October 6, 1992, 24 months after October 6, 1992, and 36 months after October 6, 1992.

(Pub. L. 89-272, title II, §3021, as added Pub. L. 102-386, title I, §105(a)(1), Oct. 6, 1992, 106 Stat. 1508.)

#### CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

#### GAO REPORT

Section 105(c) of Pub. L. 102-386 provided that:

“(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act [Oct. 6, 1992], the Comptroller General shall submit to Congress a report on the Department of Energy’s progress in complying with section 3021(b) of the Solid Waste Disposal Act [42 U.S.C. 6939c(b)].

“(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall contain, at a minimum, the following:

“(A) The Department of Energy’s progress in submitting to the States or the Administrator of the Environmental Protection Agency a plan for each facility for which a plan is required under section 3021(b) of the Solid Waste Disposal Act and the status of State or Environmental Protection Agency review and approval of each such plan.

“(B) The Department of Energy’s progress in entering into orders requiring compliance with any such plans that have been approved.

“(C) An evaluation of the completeness and adequacy of each such plan as of the date of submission of the report required under paragraph (1).

“(D) An identification of any recurring problems among the Department of Energy’s submitted plans.

“(E) A description of treatment technologies and capacity that have been developed by the Department of Energy since the date of the enactment of this Act and a list of the wastes that are expected to be treated by such technologies and the facilities at which the wastes are generated or stored.

“(F) The progress made by the Department of Energy in characterizing its mixed waste streams at each such facility by sampling and analysis.

“(G) An identification and analysis of additional actions that the Department of Energy must take to—

“(i) complete submission of all plans required under such section 3021(b) for all such facilities;

“(ii) obtain the adoption of orders requiring compliance with all such plans; and

“(iii) develop mixed waste treatment capacity and technologies.”

#### § 6939d. Public vessels

##### (a) Waste generated on public vessels

Any hazardous waste generated on a public vessel shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of this chapter until such waste is transferred to a shore facility, unless—

(1) the waste is stored on the public vessel for more than 90 days after the public vessel is

placed in reserve or is otherwise no longer in service; or

(2) the waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

##### (b) Computation of storage period

For purposes of subsection (a) of this section, the 90-day period begins on the earlier of—

(1) the date on which the public vessel on which the waste was generated is placed in reserve or is otherwise no longer in service; or

(2) the date on which the waste is transferred from the public vessel on which the waste was generated to another public vessel within the territorial waters of the United States;

and continues, without interruption, as long as the waste is stored on the original public vessel (if in reserve or not in service) or another public vessel.

##### (c) Definitions

For purposes of this section:

(1) The term “public vessel” means a vessel owned or bareboat chartered and operated by the United States, or by a foreign nation, except when the vessel is engaged in commerce.

(2) The terms “in reserve” and “in service” have the meanings applicable to those terms under section 7293 and sections 7304 through 7308 of title 10 and regulations prescribed under those sections.

##### (d) Relationship to other law

Nothing in this section shall be construed as altering or otherwise affecting the provisions of section 7311 of title 10.

(Pub. L. 89-272, title II, §3022, as added Pub. L. 102-386, title I, §106(a), Oct. 6, 1992, 106 Stat. 1513.)

#### § 6939e. Federally owned treatment works

##### (a) In general

For purposes of section 6903(27) of this title, the phrase “but does not include solid or dissolved material in domestic sewage” shall apply to any solid or dissolved material introduced by a source into a federally owned treatment works if—

(1) such solid or dissolved material is subject to a pretreatment standard under section 1317 of title 33, and the source is in compliance with such standard;

(2) for a solid or dissolved material for which a pretreatment standard has not been promulgated pursuant to section 1317 of title 33, the Administrator has promulgated a schedule for establishing such a pretreatment standard which would be applicable to such solid or dissolved material not later than 7 years after October 6, 1992, such standard is promulgated on or before the date established in the schedule, and after the effective date of such standard the source is in compliance with such standard;

(3) such solid or dissolved material is not covered by paragraph (1) or (2) and is not pro-