

goals, EPA developed principles regarding prevention; remediation; and Federal, State, and local responsibilities. These principles are set forth and their implementation by this rule summarized below.

(1) With respect to prevention: groundwater should be protected to ensure that the nation's currently used and reasonably expected drinking water supplies, both public and private, do not present adverse health risks and are preserved for present and future generations. Groundwater should also be protected to ensure that groundwater that is closely hydrologically connected to surface waters does not interfere with the attainment of surface water quality standards, which is necessary to protect the integrity of associated ecosystems. Groundwater protection can be achieved through a variety of means including: pollution prevention programs; source controls; siting controls; the designation of wellhead protection areas and future public water supply areas; and the protection of aquifer recharge areas. Efforts to protect groundwater must also consider the use, value, and vulnerability of the resource, as well as social and economic values.

This rule for uranium mill tailings protects groundwater by requiring that disposal piles be designed to avoid any new contamination of groundwater that would threaten human health or the environment in the future. Water is scarce in the Western States where these disposal sites occur. Currently almost half of the water consumed in Arizona and New Mexico and 20 to 30 percent of the water consumed in Utah, Colorado, Idaho, and Texas is groundwater. The population in the Mountain States is expected to increase more than that of any other region between now and the year 2010. In particular, the population in Colorado, New Mexico, Arizona, and Utah is expected to increase dramatically. Thus, in order to ensure that all currently used and reasonably expected drinking water supplies near these sites, both public and private, are adequately protected for use by present and future generations, these rules apply drinking water standards to all potable groundwater. The rule also requires that hydrologically-connected aquifers and surface waters, including designated wellhead protection areas and future public water supply areas, be identified and protected, and that other beneficial uses of groundwater besides drinking be identified and protected, including the integrity of associated ecosystems. In this regard we note that DOE has not identified any critical aquatic habitats that have been or could be adversely affected by contamination from these sites.

(2) With respect to remediation: groundwater remediation activities must be prioritized to limit the risk of adverse effects to human health risks first and then to restore currently used and reasonably expected sources of drinking water and groundwater closely hydrologically connected to surface waters, whenever such restorations are practicable and attainable.

Pursuant to our responsibilities under Section 102(b) of UMTRCA, EPA advised DOE in 1979 concerning the criteria which should govern the order in which these sites should be cleaned up. Those criteria specified, in essence, that sites capable of affecting the health of human populations the most should be remediated first. As a result DOE has divided the 24 sites into three levels of priority, based on the populations affected. In order to facilitate implementation of these principles, we have, in this rule, provided DOE with flexibility to prioritize their cleanup activities so as to first minimize human exposure, then restore reasonably expected drinking water sources, and finally to clean up groundwater only when restoration is practicable and attainable. This has been done by relaxing the requirements for cleanup of water:

(a) If it is not a current or potential source of drinking water (i.e., it meets the definition of limited use),

(b) Where natural processes will achieve the standards and there is no current or planned use,

(c) Where adverse environmental impact will occur, and (d) where cleanup is technologically impracticable.

(3) With respect to Federal, State, and local responsibilities: the primary responsibility for coordinating and implementing groundwater protection programs has always been and should continue to be vested with the States. An effective groundwater protection program should link Federal, State, and local activities into a coherent and coordinated plan of action. EPA should continue to improve coordination of groundwater protection efforts within the Agency and with other Federal agencies with groundwater responsibilities.

In the case of the sites covered by these regulations, UMTRCA specifies a primary role for Federal rather than State agencies. However, since these regulations are modeled after existing RCRA regulations, this will serve to insure coherence and coordination with similar prevention and remediation actions by EPA, the States, and other Federal agencies. For example, the concentration limits in groundwater for listed constituents at the sites covered by this rule are the same as those specified for cleanup and disposal at

RCRA sites by EPA and the States and at uranium mill sites licensed by NRC.

#### Executive Order 12866

Under Executive Order 12866 (58 FR 51735; October 4, 1993), EPA must determine whether a rule is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is may be a "significant regulatory action," because it may qualify under criterion #4 above on the basis of comments submitted to EPA by letter on January 15, 1993, as a result of OMB review under the previous Executive Order 12291. This action was therefore resubmitted to OMB for review. Comments from OMB to EPA for their review under the previous Executive Order and EPA's response to those comments are included in the docket. Any changes made in response to OMB suggestions or recommendations as a result of the current review will be documented in the public record.

#### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1986, the Agency is required to state the information collection requirements of any standard published on or after July 1, 1988. In response to this requirement, this standard contains no information collection requirements and imposes no reporting burden on the public.

#### List of Subjects in 40 CFR Part 192

Environmental protection, Groundwater, Radiation protection, Uranium.