

## ENVIRONMENTAL PROTECTION AGENCY (EPA)

### Statement of Regulatory Priorities

#### An Era of Opportunity

As the next century approaches, consensus is emerging that a new environmental management system is needed to move us beyond the environmental and public health achievements of the past 25 years. While advocates and critics alike agree that remarkable improvements have been made, it is becoming increasingly obvious that we are nearing a plateau or point of diminishing returns where continued gains are uncertain. This realization of the need for new approaches is occurring at a time when the President and the Vice President are strongly committed to creating a Federal Government that works better and costs less. Together, these two forces represent an unprecedented opportunity for evaluating what works and what doesn't and applying this information to the development of a new system that can meet the challenges of today and the next century.

#### Building a Better System

EPA's efforts to produce such a new system are focused on improvements in four priority areas: Eliminating unnecessary regulations and reporting requirements, improving environmental compliance, regulating for greater results, and increasing community participation and partnerships. These improvements are being pursued through every possible venue—internally and externally—and results are already being seen. Internally, EPA management has been streamlined, programs have been restructured, and EPA employees have been given broader responsibilities: Enforcers are emphasizing compliance assistance, permittees are paying more attention to pollution prevention and market mechanisms, and rule writers are adopting innovative alternatives proposed by regulated industries. Externally, stakeholders in businesses, State and local governments, labor, or public interest groups are joining us at the table and participating in designing novel, more effective, and less costly approaches for improving conditions in their communities. These actions, and others like them, are increasing flexibility, promoting local stewardship, and helping establish and strengthen partnerships between the public and private sectors—without sacrificing environmental or public health protection.

#### *Eliminating Unnecessary Regulations*

The Agency continues to examine existing environmental regulations and reporting requirements in order to simplify and streamline compliance for the regulated community. As a result of the President's announcement in February 1995 for all Federal agencies to conduct a line-by-line review of their regulations and eliminate those that were obsolete or redundant, EPA is making changes to more than 70 percent of its regulations and working to eliminate 1,400 pages of obsolete rules—some 10 percent of EPA's total regulations. In keeping with the goal of reducing paperwork requirements by as much as 25 percent, over 1.5 million hours of requirements have been cut with an additional 8 million hours scheduled for elimination by the end of 1996. These hours are being turned back to communities and businesses for investment in more beneficial activities.

Other mechanisms are being created for similar purposes. New electronic systems are being established that allow facilities to transfer environmental permitting and compliance data on-line. This capability can save businesses and other regulated facilities time and money, help bring quicker decisions on permitting and compliance actions, improve data accuracy, and create better access to information for the public. A new policy allows facilities to significantly cut routine water quality monitoring and reporting requirements and focus on other activities, as long as they achieve and maintain strong compliance records. Another mechanism allows companies to certify that low-risk pesticides comply with regulatory requirements, a major enhancement to the registration process.

#### *Improving Environmental Compliance*

Along with its responsibility for establishing regulatory requirements that protect public health and our environment, EPA also has a responsibility to ensure that businesses and others understand and comply with these requirements, particularly small businesses and communities that may have added difficulty because of limited staff and resources. To help improve understanding, EPA is establishing compliance assistance centers to serve as a direct, readily available source of information on the latest regulatory requirements. EPA also is offering to reduce or eliminate penalties for violations if facilities establish programs to detect, publicly disclose, and fix problems found—as long as the

violation does not involve criminal activity or a serious risk to public health or the environment. In addition to making life easier for businesses and other regulated facilities, these steps can help prevent pollution and the burden and expense of cleanup.

#### *Increasing Community Participation and Partnerships*

EPA recognizes that a new and improved system of environmental protection will depend to a large extent on the establishment of stronger partnerships between public and private sectors and a stronger role for the individual in local, community-based decisionmaking. EPA is working hard to address both needs. EPA is developing joint Performance Partnership Agreements with the States which provide them with greater opportunity to address their most pressing environmental and public health problems. Brownfields grants and Sustainable Development Challenge grants are being provided to help communities cleanup and restore environmental quality and economic prosperity for the people that live there. EPA continues to strengthen the public's ability to access environmental data and information specific to their community—over 3.5 million EPA documents are retrieved electronically every month.

EPA is consulting regularly with regulated industries earlier in its rule development processes, relying sometimes on formal consensus-based rulemaking, such as regulatory negotiations, and more frequently on informal outreach to potentially affected parties. EPA has long been prominent among Federal agencies in reaching out to small businesses, and the Agency continues to place a strong emphasis on helping these entities understand and comply with environmental regulatory requirements. The Agency's Small Business Ombudsman, the Office of State and Local Relations, and trade representatives and public interest groups routinely assist with our outreach efforts.

The goal of creating a new system of environmental protection that delivers truly superior performance will not be accomplished through these actions alone. But, collectively, these actions do represent a strong step in the right direction and demonstrate EPA's commitment to finding more cost-effective, common-sense procedures that make sense to those that participate in them. This commitment can be seen in EPA actions underway, as well as in

its plans for the immediate future, including this annual plan for regulatory development. The entries in this year's plan feature multiple opportunities for building upon the progress that has been made and creating a new system of environmental and public health protections for the benefit of present and future generations.

#### Highlights of EPA's Regulatory Plan for 1996

The entries contained in EPA's regulatory plan reflect the Agency's intention to streamline and simplify its regulatory programs to achieve better public health and environmental results at less cost. Many of these entries are designed to implement the new directions discussed above. While many of EPA's new directions are non-regulatory in nature, since this document is the annual regulatory plan, it necessarily focuses on regulatory actions. A number of the entries below are deregulatory in nature. Others propose new regulatory requirements, generally required by statute, but benefit from the "cleaner, cheaper, smarter philosophy" at work in the Agency. Here are some of the highlights:

#### *Office of Air and Radiation*

EPA is committed to using flexibility granted by the Clean Air Act to enable companies, communities, and individuals to protect public health by meeting clean air goals using innovative approaches at lower costs. The Office of Air and Radiation is committed to nearly 200 changes in existing rules, and is changing many forthcoming rules to reflect the common-sense principles of the reinvention effort.

EPA recently issued a proposal requiring additional reduction of nitrogen oxides, hydrocarbons, and particulate matter from mobile heavy-duty engines. This action initiates work on a rulemaking to establish standards for model year 2004 and later heavy-duty engines. A similar proposal is expected next year covering heavy-duty engines that are not used in highway vehicles. These rulemakings seek to bring together potentially affected industries, States, regional air management organizations, public health, and environmental interest groups to further their mutual goal of reducing emission of harmful air pollutants. To address the nitrogen oxides problem on another front, EPA will issue a second-phase regulation on NOx emissions from electric power plants.

Building on successful State programs, EPA has been working with stakeholders to develop a more streamlined process for permit revisions to help facilities obtain required operating permits from State or local agencies. Under the proposed changes, States would have greater flexibility to decide the amount of EPA and public review for most permit revisions by matching the level of review to the environmental significance of the change.

EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance air quality and thus protect public health. In this regard, EPA will issue a final policy for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility for companies to trade emission credits without prior State or Federal approval. EPA believes this action will help areas to meet or maintain the established ozone standard at far less cost and provide greater incentive for companies to develop innovative emission reduction technologies.

EPA also plans to modify requirements in two other significant air regulatory programs. We have proposed changes to simplify and streamline the New Source Review program which requires newly built facilities or those undergoing major modification to obtain a permit to ensure that emissions will not cause or contribute to air pollution problems.

In addition, EPA plans to amend the original transportation conformity rule to streamline the conformity process and provide additional flexibility for State and local transportation and air quality agencies. The conformity process is a set of procedures ensuring that transportation planning "conforms" to the Clean Air Act; i.e., that the planning process adequately considers the air quality effects of transportation improvements, such as road-building. This rulemaking, initiated in response to stakeholder concerns, will further enhance State and local governments' ability to meet requirements under the Clean Air Act in common-sense, cost-effective ways and assure that transportation plans do not exacerbate existing air quality problems.

Other significant activities related to EPA's air programs include legally required reviews of the national ambient air quality standards (NAAQS) for ozone

and particulate matter. These reviews seek to incorporate new scientific and technical information that has become available since the last reviews. EPA is also developing an implementation strategy for any revised standards that may result from these NAAQS reviews.

EPA will issue a final rule implementing a 49-State, low-emission vehicle program. It is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's low emissions vehicle program. EPA anticipates that this program would relieve the 13 States in the Northeast of the December 1994 regulatory obligation to adopt their own motor vehicle programs. The rulemaking also harmonizes Federal and California low-emission vehicle standards and test procedures to enable automakers to design and test vehicles to one set of standards nationwide.

In further efforts to provide flexibility and adhere to common-sense principles, EPA will issue a final rule for medical waste incinerators and an advance notice of proposed rulemaking to support a participatory process to develop a requirement for several classes of industrial incinerators. EPA has already completed a final rule for municipal waste combustion which incorporates comments from industry and many small entities. The emissions limits established under these rules are part of EPA's integrated combustion strategy, whereby EPA will regulate various forms of combustion, including municipal, medical, and industrial, under a coordinated plan.

EPA will propose an integrated rule for the pulp and paper industry that deals with both effluent guidelines and air emission standards to control the release of pollutants to both water and air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable industry to more effectively plan compliance via a multimedia approach.

Realizing that the ozone-smog problem in the cities cannot be solved by emissions reductions from cars and factories alone, in the Clean Air Act, Congress directed EPA to reduce emissions from smaller sources of smog-causing volatile organic compounds (VOCs). EPA is now developing final rules to require such reductions from

consumer products and architectural coatings. These rules are being developed with extensive input from the regulated industries (especially small businesses) and are being designed to maximize their cost-effectiveness and sensitivity to small business concerns.

EPA is developing a final rule that will introduce additional flexibility into its air emissions monitoring program (Compliance Assurance Monitoring). This action focuses on preventing pollution rather than imposing additional command-and-control regulations. This is a significant change in Agency direction for implementation of the monitoring and compliance certification requirements in Titles V and VII of the Clean Air Act. The goal of the action is to provide reasonable assurance of compliance rather than a direct connection between monitoring and certification and will reduce the emphasis on assuring compliance through the threat of enforcement. Instead, this approach will assure compliance by placing the burden on regulated sources to monitor their performance and act independently to minimize emission exceedances.

From discussions with affected industries, EPA has learned that many companies find it difficult to know what is expected of them under the complex regulatory system that has been put in place over the last 25 years. In many cases, there may be duplicative, overlapping, or inconsistent requirements, especially in the areas of monitoring, recordkeeping, and reporting. In response to these problems, early next year, EPA will propose a rule intended to consolidate and synchronize all Federal air regulations applicable to a single industry—in this case, the Synthetic Organic Chemical Manufacturing industry. If this pilot program proves successful, it will later be expanded to cover air rules for other industries and possibly to water and waste requirements as well.

EPA will also carry out its statutory responsibility to certify by rule whether the Department of Energy's Waste Isolation Pilot Plant (WIPP) complies with applicable regulations governing the disposal of radioactive waste. EPA will also establish health and safety standards for the high-level nuclear waste repository at Yucca Mountain in Nevada and will set safety standards to be met in cleanup of radioactively contaminated sites.

#### *Office of Water*

On August 6, President Clinton signed the Safe Drinking Water Act Amendments of 1996. The Office of Water is responsible for implementing this Act. Passage of these Amendments will bring substantial changes to the national drinking water program for EPA, States, and water utilities, as well as greater protection and information to the 240 million Americans served by public water systems. Significant areas of change in the law include new and stronger approaches to prevent contamination of drinking water, including establishment of a new source water protection program, and better information for consumers, which will include consumer confidence reports from water suppliers to their customers. The law eliminates the requirement to regulate 25 chemicals every 3 years and replaces that with increased requirements for research, cost-benefit analysis, and data. The Amendments also create a new billion-dollar drinking water State revolving fund. EPA is currently developing an implementation plan for the new law, which it intends to complete this fall. As regulatory and program changes are identified, EPA will make the necessary additions to the regulatory agenda.

EPA is streamlining four of its water-related programs to reduce burdens associated with them and to provide additional flexibility: National Pollutant Discharge Elimination System (NPDES) permits, national primary drinking water regulations, the pretreatment program, and water quality planning and management. EPA estimates that 80 percent of regulations published under the jurisdiction of the Office of Water are undergoing change or modification. The following are highlights of efforts underway.

In the NPDES permits program (part 122), EPA is removing outdated requirements, streamlining permit application and modification procedures, and reducing monitoring and reporting requirements. For example, EPA will consolidate and revise industrial and municipal permit application requirements and forms and streamline the application process. EPA has published guidance to revise the permit application requirements for municipal separate storm water sewer systems to reduce the cost and burden of reapplication for succeeding permit terms. EPA will not require resubmission of information available from the earlier application or information which is not pertinent to the approval process.

EPA will streamline and revise regulations in the NPDES pretreatment program for publicly owned treatment works (POTWs) (part 403) to delete obsolete requirements, simplify program operation, and eliminate unnecessary reporting requirements. For example, under streamlined procedures a POTW's NPDES permit would include only the most significant elements of an approved pretreatment program, eliminating the need for a permit revision every time small changes are made to the pretreatment program.

EPA is undertaking revisions in its requirements for water quality planning and assessment and for the listing of water bodies by State water quality management programs.

In addition, the Agency will be pursuing innovative, non-regulatory approaches, such as effluent trading within watersheds, to realize cost savings and reduce water pollution.

#### *Office of Prevention, Pesticides and Toxic Substances*

The Office of Prevention, Pesticides and Toxic Substances (OPPTS) is responsible for implementing the Food Quality Protection Act, which was signed into law by the President on August 3, 1996. This new law significantly modifies the two statutes that govern pesticide safety and use and therefore affects a number of EPA's existing policies and procedures under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act (FFDCA). This pesticide regulation establishes new policies in the areas of setting pesticide tolerances (including special protections for children), minor uses of pesticides, emergency exemptions, antimicrobial and public health pesticides, reduced-risk pesticides, and fees. The Agency is currently studying the implications of the new law, but it is clear that, over the next 2 years, EPA will be engaged in an intensive implementation effort, which will include new regulations, guidance, and programs. EPA intends to issue a comprehensive implementation plan for the new legislation this fall. As regulatory and program changes are identified, EPA will make the necessary additions to the regulatory agenda.

In addition, OPPTS intends to continue its efforts to improve the public's right to know about toxic chemicals in their community by expanding the information made available to the public in the Toxic Release Inventory (TRI) program of the Emergency Planning and Community

Right-to-Know Act (EPCRA). The TRI is a data base that provides communities with information on releases to air, water, and land for approximately 600 toxic chemicals. TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Armed with this information, communities can better understand the nature of the releases at the local level, assess their risk, and make informed decisions about local priorities.

This fall, EPA issued an advanced notice of proposed rulemaking announcing the Agency's intent to expand the public's right to know by requiring facility reporting of chemical use information and seeking public comment on various aspects of this initiative. EPA believes that increased information on chemical use—amounts of a toxic chemical coming into a facility, amounts transferred into products and wastes, and the resulting amounts leaving the facility site—will provide the local public with a more comprehensive picture of environmental performance and toxic chemicals in the community. EPA is also evaluating whether to lower the reporting threshold amount for those toxic chemicals that are highly toxic at very low dose levels or which have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, which bioaccumulate through the food chain. In addition, EPA intends to issue a final rule that will expand the universe of industry sectors required to provide information to the TRI data base.

In early 1997, EPA plans to issue a final rule that will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). This rulemaking is the first comprehensive review of the PCB regulations in 17 years. The modification will allow currently prohibited activities which do not pose an unreasonable risk of injury to health and the environment and is expected to result in significant cost savings for the regulated community.

Pursuant to its data consolidation initiative, EPA recently issued a notice seeking comment on its initiative for developing a uniform facility identification system. A uniform facility identification system would collect

common facility information separately from any other reporting requirement. The facility would receive a single identification number that would be used by the facility whenever it provided information to EPA or the States. This number would also be used to link data reported by the facility under various Federal environmental laws. This initiative is intended to improve access to information reported to EPA under the various Federal mandates (for EPA, States, and the public) and is intended to help reduce regulatory burden for facilities.

EPA intends to propose amendments to the TSCA Inventory Update Rule to require chemical manufacturers to report data on exposures and the industrial and consumer end uses of the chemicals they produce. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, the quantity produced, and the locations of manufacturing facilities. About 2,400 facilities reported data on about 8,300 unique chemicals during the last reporting cycle. EPA and others would use this additional data to: Better understand the potential for chemical exposures and then screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management, and prevention programs and monitor their progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts.

EPA also intends to issue the remaining regulations mandated by the Residential Lead-Based Hazard Reduction Act of 1992, which requires EPA to promulgate regulations that establish standards for determining hazards associated with lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA has recently finalized the regulations (section 402) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified. (In addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program.) This fall, EPA will finalize the regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work and will propose

the regulations identifying the paint conditions and lead levels in dust and soil that would result in adverse human health effects. (On July 14, 1994, EPA issued guidance on section 403 to provide preliminary information while a proposal is being developed.)

Finally, EPA will continue its efforts to evaluate existing pesticide and toxic regulations to identify those regulatory requirements that can be eliminated or otherwise modified to reduce regulatory burden. EPA welcomes comments from the public and affected entities to help in the development of specific recommendations to reduce burden or duplication, or streamline requirements. As these actions are developed, they will be included in the regulatory agenda as appropriate.

#### *Office of Solid Waste and Emergency Response*

The Office of Solid Waste and Emergency Response (OSWER) is planning to propose a number of actions to streamline and simplify compliance under the Resource Conservation and Recovery Act (RCRA). As part of its effort to refocus hazardous waste regulations on high-risk wastes, EPA is undertaking a number of actions in 1996 to tailor standards to the nature or degree of risk posed by particular wastes. One example is the regulation being developed for the management of cement kiln dust. The proposed standards for this large volume waste from the cement kiln manufacturing process will be tailored to protect public health and the environment while imposing minimal burden on the regulated community.

EPA is developing a rule entitled "Hazardous Waste Identification: Contaminated Media" to resolve problems with the current RCRA cleanup program by deregulating large volumes of low-risk contaminated media (e.g., soil). The Agency is also creating a more common-sense regulatory structure for those cleanup wastes that remain regulated.

EPA is also streamlining the regulation of materials that themselves contain substances listed as hazardous waste. Certain current regulations are overly-broad—applying regardless of the concentrations of the listed wastes or the mobility of the toxicant in the waste. As a result, they regulate certain low-risk wastes and, in particular, treatment residuals, as if they posed high risk. EPA's common-sense approach exempts these low-risk wastes from the full management requirements intended for

the "listed" hazardous wastes themselves.

On May 1, 1996, EPA published an advance notice of proposed rulemaking seeking comment on several alternative approaches to the cleanup of contamination at hazardous waste management facilities. EPA believes final regulations are needed in this area to promote national consistency, clarify cleanup requirements, and reduce the number of site-specific negotiations and costly litigation.

EPA also plans to establish new emissions standards for hazardous waste combustors under joint Clean Air Act and RCRA authority. These revised standards will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry while providing important public health and environmental protections from risks posed by chlorinated dioxins and furans.

Finally, EPA will propose new streamlined rules governing the definition of solid waste, making it easier for companies to determine what wastes/processes are and are not subject to RCRA jurisdiction. In addition, EPA is streamlining the requirements for managing recycled hazardous waste to provide more clarity and to remove disincentives to safe recycling.

*Summary*

In developing all of these actions, EPA is committed to flexible, common-sense, cost-effective regulatory programs that protect public health and the environment.

**EPA**

**PRERULE STAGE**

**94. DATA CONSOLIDATED INITIATIVE: KEY FACILITATOR INFORMATION**

**Priority:**

Other Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:**

Undetermined

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.

**Legal Authority:**

FIFRA, TSCA, RCRA, CAA, SDWA, PPA, etc.

**CFR Citation:**

Not yet determined

**Legal Deadline:**

None

**Abstract:**

Using the various EPA regulatory authorities, the Environmental Protection Agency (EPA) is developing a proposed regulation for collecting uniform facility identification information under one regulation. The uniform facility information will be used to link data reported under various Federal environmental laws, and is expected to reduce regulatory burden for facilities. This action will provide more meaningful access to environmental data and is the foundation for moving forward the longer-term vision of full data integration and uniform reporting.

**Statement of Need:**

Facilities currently subject to Federal environmental data collections must submit facility identification information with each of a variety of individual data submissions to EPA or the States. The Key Facility Information Initiative is a necessary first step toward consolidation of such reporting requirements. The facilities involved must now periodically supply and update varying combinations of facility identification data to different data collections. Many of these facility data elements are common among the reporting requirements, such as name, address, standard industrial classification (SIC) code, and parent company identification. The burden to continually supply such data in varying formats could be reduced by establishing one authoritative record for each facility. A new, unique identification number would be supplied to the facility which would become the "key" to the basic identification information for the facility. Entering this key id number on any given reporting form would signal that the Agency or State has a detailed identification record for the facility on file. It would also allow for information related to that facility to be linked together, regardless of how the data was reported to the Agency or State.

**Alternatives:**

An alternative to this initiative would be to amend rules authorizing each current, individual data collection to require a uniform set of facility identification data elements. This approach may provide the same data elements submitted but would not

necessarily promote the establishment and maintenance of a uniform record for each facility, because such forms may be completed with differing entries over time, and would require the submission of the same data to the Agency or State multiple times at a greater burden to the regulated community.

**Anticipated Costs and Benefits:**

Cost estimates are not yet available. Benefits to the facility include lower overall reporting burden and the ability to determine the status of its submission records maintained by EPA and the State. EPA and the State will increase their data management efficiency by having this common identifier for the facility in each relevant data system. This action will also provide the foundation for the later consolidated reporting initiatives.

**Risks:**

This rule will assist in the evaluation of risks to human health and the environment by improving the coordination of existing environmental data sources.

**Timetable:**

Action	Date	FR Cite
Notice	10/00/96	
NPRM	06/00/97	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Additional Information:**

SAN No. 3630.

**Agency Contact:**

Mary Hanley  
 Environmental Protection Agency  
 Office of Prevention, Pesticides and Toxic Substances  
 (7407)  
 Washington, DC 20460  
 Phone: 202 260-1624  
 Email: hanley.mary@epamail.epa.gov  
 Sam Sasnett  
 Environmental Protection Agency  
 Office of Prevention, Pesticides and Toxic Substances  
 Phone: 202-260-8020  
 Email: sasnett.sam@epamail.epa.gov

**RIN:** 2070-AD01

**EPA****95. • REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW****Priority:**

Economically Significant. Major status under 5 USC 801 is undetermined.

**Legal Authority:**

PL 9909-499

**CFR Citation:**

40 CFR 372

**Legal Deadline:**

None

**Abstract:**

The Toxics Release Inventory (TRI) currently requires reporting from facilities which manufacture or process at least 25,000 pounds of a listed chemical, or otherwise use 10,000 lbs of a listed chemical. These thresholds were initially established under the Emergency Planning and Community Right-to-know Act (EPCRA) section 313(f)(1). Section 313(f)(2) of EPCRA gives the Administrator the power to "establish a threshold amount for a toxic chemical different from the amount established by paragraph (1)" and that such altered thresholds may be based on "classes of chemicals." EPA is considering lowering the thresholds for those chemicals which it determines to be highly toxic at very low dose levels and/or have physical, chemical, or biological properties that make the chemicals persist for extended periods in the environment, and/or bioaccumulate through the food chain. Persistent bioaccumulative toxic chemicals are of particular concern in ecosystems such as the Great Lakes Basin due to the long retention time of the individual lakes and the cycling of the chemicals from one component of the ecosystem to another. EPA is currently conducting analysis to determine which chemicals present the specific problems described above, and to determine what the altered threshold value(s) should be.

**Statement of Need:**

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI

has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet because of the current reporting thresholds, TRI does not collect release and transfer data on small quantities of chemicals that may persist and bioaccumulate in the environment. Even small releases of such chemicals can have significant impacts on human health and the environment. Congress gave EPA the authority to adjust reporting thresholds, because it recognized that this might be necessary in order to address the American public's right to know what is happening to the environment near their homes, schools, and businesses.

**Summary of the Legal Basis:**

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA S313

**Alternatives:**

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

**Anticipated Costs and Benefits:**

The anticipated costs related to this action are unknown at present. At this point the Agency is still unsure how low to set reporting thresholds or for what specific list of chemicals the lower reporting thresholds should apply. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

**Risks:**

Currently communities do not have access to TRI data on chemicals that, although released in relatively small quantities, pose a potential risk to human health and the environment because they persist and bioaccumulate. By lowering the reporting thresholds for such chemicals the public will be able to determine

if such chemicals are being released into their communities and whether any action should be taken to reduce potential risks.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/00/97	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions

**Government Levels Affected:**

Federal

**Sectors Affected:**

20 Food and Kindred Products; 21 Tobacco Products; 22 Textile Mill Products; 23 Apparel and Other Finished Products Made from Fabrics and Similar Materials

**Analysis:**

Regulatory Flexibility Analysis; RIA

**Additional Information:**

SAN No. 3880.

**Agency Contact:**

Susan B. Hazen  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
(7408)

Washington, DC 20460

Phone: 202 260-1024

Fax: 202 401-8142

Email: hazen.susan@epamail.epa.gov

RIN: 2070-AD09

**EPA****96. • DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW****Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

42 USC 11013/EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

**CFR Citation:**

40 CFR 372

**Legal Deadline:**

None

**Abstract:**

The original Toxics Release Inventory (TRI) required reporting from manufacturing facilities on the releases and transfers of toxic chemicals and wastes including waste treatment and

disposal methods. This requirement was imposed under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313(g). Information on waste management practices, including recycling, energy recovery, and source reduction activities, were added to TRI pursuant to the 1990 passage of the Pollution Prevention Act. EPA is currently considering whether additional data elements related to a mass balance/materials accounting program should be considered for incorporation into the TRI database. The additional data elements included for consideration include: quantity brought on site; quantity produced on site; quantity consumed on site; quantities manufactured, processed or otherwise used; quantity contained in or as product; quantity stored on site as waste, and beginning and ending raw materials inventory. The issue of collecting mass balance/materials accounting information has been debated for over a decade. Congress, in enacting EPCRA, directed the National Academy of Sciences (NAS) to study this issue further. NAS recommended that the issue of adding materials accounting data merited further analysis.

#### Statement of Need:

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet TRI would be enhanced by collecting chemical use/ materials accounting data. This additional data would provide the public with the information to measure source reduction progress, better participate in pollution prevention planning, identify source reduction opportunities and follow the flow of toxic chemicals into the community, through the manufacturing process and leaving the plant not only as transfers and releases, but also in products. Materials accounting information also allows a method of checking data reported to TRI, provides a better picture for regulatory integration and can be used

for others objectives such as research and priority-setting. Congress gave EPA the authority to expand TRI, both in terms of the data reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools, and businesses.

#### Summary of the Legal Basis:

42 USC 11013; 42 USC 11023; 42 USC 11048; 42 USC 11076; EPCRA S313

#### Alternatives:

EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to minimize this burden while ensuring the public's right-to-know. As such, all available alternatives will be identified and evaluated.

#### Anticipated Costs and Benefits:

The anticipated costs related to this action are unknown at present. At this point the Agency is still unsure about what data elements need to be added to TRI, whether this data will even need to be collect or is already available and therefore is unable to estimate any costs. The information reported in TRI increases the knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

#### Risks:

Currently communities do not have access to chemical use/ materials accounting data on the TRI. By adding such data to the TRI the public will have a more complete picture of the use and distribution of toxic chemicals in their communities as well as potential risks that might result from such use. The public will also be able to better assess how pollution prevention activities may be reducing potential risks in their communities.

#### Timetable:

Action	Date	FR Cite
ANPRM	10/00/96	
ANPRM	11/00/96	
NPRM	11/00/97	

#### Small Entities Affected:

Businesses, Governmental Jurisdictions

#### Government Levels Affected:

Federal

#### Sectors Affected:

20 Food and Kindred Products; 21 Tobacco Products; 22 Textile Mill Products; 23 Apparel and Other Finished Products Made from Fabrics and Similar Materials

#### Analysis:

Regulatory Flexibility Analysis; RIA

#### Additional Information:

SAN No. 3877.

#### Agency Contact:

Susan B. Hazen  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
(7408)  
Washington, DC 20460  
Phone: 202-260-1024  
Fax: 202-401-8142  
Email: hazen.susan@epamail.epa.gov

RIN: 2070-AD08

#### EPA

#### 97. • WASTE ISOLATION PILOT PLANT (WIPP) COMPLIANCE CERTIFICATION RULEMAKING

#### Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

#### Unfunded Mandates:

Undetermined

#### Legal Authority:

PL 102-579

#### CFR Citation:

Not yet determined

#### Legal Deadline:

Other, Statutory, October 31, 1997, See additional information.

#### Abstract:

EPA regulates the release of radioactivity from the management, storage and disposal of radioactive waste to protect public health and the environment from radiation contamination. The waste isolation pilot plant (WIPP), which is under development by the Department of Energy (DOE), is a potential geologic disposal facility for transuranic radioactive waste generated as by-products from nuclear weapons

production. If the WIPP opens, waste will be stored approximately 2,100 feet underground in excavated, natural salt formations near Carlsbad, New Mexico.

Before DOE can dispose of waste at the WIPP, it must demonstrate that the WIPP complies with EPA's radioactive waste disposal standards at subparts B and C of 40 CFR 191. DOE must submit an application to EPA showing how the WIPP facility will meet the standards. The compliance criteria at 40 CFR 194, which are specific to the WIPP, will be used by EPA to implement the radioactive waste disposal standards. The purpose of this rulemaking is to certify, through the use of the compliance criteria, whether the WIPP complies with the disposal standards...before waste disposal can begin.

#### Statement of Need:

The DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a potential deep geologic repository for the disposal of defense transuranic (TRU) radioactive waste currently being stored on Federal reservations in 10 states, including Washington, Ohio, Idaho, New Mexico, Tennessee, South Carolina, Nevada, and Colorado. TRU waste consists of materials containing one or more elements having atomic numbers greater than 92, in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste, with half-lives greater than twenty years. Most TRU waste consists of items that have become contaminated (e.g., rags, equipment, tools, and organic and inorganic sludges) as a result of activities associated with the production of nuclear weapons. TRU waste is often mixed with hazardous chemical constituents. Before beginning disposal of radioactive waste at the WIPP, DOE must demonstrate that the WIPP complies with the EPA's radioactive waste disposal standards at subparts B and C of 40 CFR 191.

The WIPP LWA specifies that underground emplacement of transuranic wastes for disposal at the WIPP may not commence until EPA makes a positive compliance certification decision. If the Agency certifies compliance, the WIPP LWA requires EPA to subsequently conduct periodic re-certifications of continued compliance throughout waste disposal operations (estimated to last about 30 years) at the WIPP. Now that the final compliance criteria are promulgated as Agency regulations (40 CFR 194 on 2/1/96), DOE is responsible for

submitting a compliance application to EPA. The Agency will review the application and make a decision as to WIPP's compliance with the disposal regulations. The WIPP compliance certification rule will be limited to consideration of the WIPP's compliance with the disposal regulations found in subparts B and C of 40 CFR 191 (which include containment requirements, assurance requirements, individual protection requirements, and groundwater protection requirements).

#### Summary of the Legal Basis:

Under the authority of the Atomic Energy Act, as amended, of 1954, EPA has the responsibility to protect people and the environment from the harmful effects of ionizing radiation. In addition, Reorganization Plan No. 3 of 1970 provides EPA with the authority to establish standards for the protection of people and the environment from the effects of all radioactive materials. Finally, the WIPP Land Withdrawal Act of 1992 requires that EPA issue criteria to implement the Agency's radioactive waste disposal regulations specifically at the WIPP, and then certify, through use of such criteria, whether or not the WIPP complies with the regulations and should be allowed to open.

#### Alternatives:

The compliance certification rule is intended to determine whether or not the WIPP should be allowed to open. The Agency recognizes the uncertainty inherent in projections of the WIPP's performance during the 10,000-year regulatory period. Accordingly, the Agency requires a demonstration of a reasonable expectation that compliance will be achieved. This demonstration will be based on consideration of the entire application for certification submitted by DOE. The criteria against which the WIPP's compliance will be evaluated contain four subparts, consisting of:

(1) subpart A, which specifies general administrative requirements with which DOE must comply during the compliance application and subsequent rulemaking processes. Requirements are specified which contain format and protocols for the submission of applications plus any subsequent suspension, revocation or modification of compliance status.

(2) subpart B, which outlines the information necessary for inclusion with compliance applications. The criteria require DOE to analyze the performance of WIPP and predict release of waste, doses received by

individuals and doses received through ground water. The criteria list the information needs for such assessments. Subsequent applications for determinations must note any changes in such information that might have occurred since initial certification.

(3) subpart C, which implements the specific containment, assurance, individual and groundwater protection requirements of the disposal standards of 40 CFR 191. To account for the likelihood of human activity and human intrusion into the repository during the 10,000- year regulatory period, the criteria specify how the frequency and consequences of such events shall be determined. The results of compliance assessments of individual and groundwater protection shall be expressed to show the likelihood of a given exposure or greater occurring. To increase confidence in performance and compliance assessments, the criteria specify requirements on quality assurance methodologies and characterization of radioactive waste proposed for emplacement in the repository. Assurance requirements include criteria for —defense-in-depth,— such as institutional controls to warn potential intruders about the hazards of the waste, monitoring of the repository to detect

#### Anticipated Costs and Benefits:

The party primarily affected under this action is the DOE, owner and operator of the WIPP. The Agency prepared an Economic Impact Analysis (EIA) for the WIPP compliance criteria (40 CFR 194). This EIA estimated those costs imposed on the WIPP project in excess of those being incurred presently due to other applicable regulations or program requirements. While the total cost may have appeared sizeable, it did not appear to be so sizeable that it would have been "significant" as defined under the provisions of Executive Order No. 12866, i.e., more than \$100 million per year. The portion of the criteria concerning human intrusion into the WIPP was the only potential contributor to significant increases in cost (i.e., as much as \$20 million or less than one percent of the total cost; the total cost of the WIPP project is over \$8 billion to date). Additional costs could be incurred if compliance could only be achieved through redesign of the repository or treatment of waste in order to reduce the likelihood and consequences of human intrusion.

**Risks:**

Because this regulation is not setting standards, but implementing an existing standard (40 CFR 191) and making a compliance decision, no analysis of risk has been performed.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/00/96	
NPRM	05/00/97	
Final	11/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

Federal

**Additional Information:**

SAN No. 3873.

EPA is required under the WIPP LWA S8(d)(1)(B) to certify compliance within one year after receipt of the Department of Energy's compliance certification application which is expected to be received by EPA on October 31 1996. Therefore the rulemaking should be completed by October 31 1997.

**Agency Contact:**

Mary Kruger  
 Environmental Protection Agency  
 Air and Radiation  
 (6602-J)  
 Washington, DC 20460  
 Phone: 202-233-9025  
 Fax: 202-233-9626

**RIN:** 2060-AG85

**EPA**

**98. IMPLEMENTATION OF OZONE AND PARTICULATE MATTER (PM) NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND REGIONAL HAZE REGULATIONS**

**Priority:**

Other Significant

**Legal Authority:**

PL 95-95; PL 101-549

**CFR Citation:**

40 CFR 51; 40 CFR 81

**Legal Deadline:**

NPRM, Statutory, January 31, 1998.

**Abstract:**

EPA has established a process designed to provide for significant stakeholder involvement in the development of integrated implementation strategies for possible new or revised ozone and particulate matter national ambient air

quality standards, and development of a regional haze reduction program. This process involves a new subcommittee under the Clean Air Act Advisory Committee, established under the Federal Advisory Committee Act (FACA). The new subcommittee, the Subcommittee for Ozone, Particulate Matter and Regional Haze Implementation Programs, was established in September 1995 to address integrated strategies for implementation of potential new ozone and PM NAAQS, and a regional haze program. Since all three pollutants are products of interrelated chemical conversions in the atmosphere, new approaches will be needed to identify and characterize affected areas and to assign planning, management and control responsibilities.

The subcommittee is expected to examine key aspects of the implementation programs for ozone and PM to provide for more flexible and cost-effective implementation strategies, as well as to provide new approaches that could integrate broad regional and national control strategies with more localized efforts. In addition the subcommittee will consider new and innovative approaches to implementation, including market-based incentives. The focus of the subcommittee will be on assisting EPA in developing implementation control strategies, preparing supporting analyses, and identifying and resolving impediments to the adoption of the resulting programs. EPA will consider the subcommittee's recommendations in the development of an integration strategy for ozone and particulate matter, and a regional haze program.

**Statement of Need:**

Development of programs for ozone and PM are necessary to implement any revised NAAQS under Title 1 of the Clean Air Act.

**Anticipated Costs and Benefits:**

EPA is in the process of preparing a regulatory impact analysis (RIA) for implementing new ozone and PM NAAQS, as well as a regional haze reduction program. The RIA will be available at the time the implementation strategy is proposed in the Federal Register. The current schedule calls for publication of the notice of proposed rulemaking on Phase I of the implementation strategy in mid-1997.

**Timetable:**

Action	Date	FR Cite
ANPRM	11/00/96	

**- Phase I**

NPRM 06/00/97  
 Final Action 06/00/98

**- Phase II**

NPRM 06/00/98  
 Final Action 06/00/99

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3553.

SAN No. 3552 for Regional Haze

**Agency Contact:**

Denise Gerth  
 Environmental Protection Agency  
 Air and Radiation  
 OAQPS (MD-15)  
 Research Triangle Park, NC 27711  
 Phone: 919 541-5550

**RIN:** 2060-AF34

**EPA**

**99. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND NONROAD DIESEL ENGINES**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Unfunded Mandates:**

Undetermined

**Legal Authority:**

Clean Air Act secs 202(a), 211(c), 213(a), 301(a)

**CFR Citation:**

None

**Legal Deadline:**

None

**Abstract:**

The primary focus of this action will be reducing emissions of nitrogen oxides (NOx), non-methane hydrocarbon (NMHC) and particulate matter (PM) from diesel and gasoline fueled engines used in highway trucks and buses and in nonroad equipment and vehicles. Nitrogen oxides are a significant contributor to urban ozone pollution (smog), acid rain, and particulate pollution. Particulates, including those emitted directly and secondary particulates formed in the atmosphere, have been associated with

increased death and illness rates as well as impaired visibility. Non-Methane hydrocarbons also contribute to ozone pollution. Highway and nonroad engines and vehicles are very significant contributors to these air-quality problems. This initiative has been marked by an unprecedented degree of cooperation between EPA, the State of California, and the engine manufacturing industry, as well as the involvement of States, regional air-management organizations, and public interest and environmental organizations. The result has been a plan for very stringent new emission standards that have the support of the industry. EPA has proposed new standards for highway truck and bus engines, and discussions are progressing toward similar standards for nonroad diesel engines.

**Statement of Need:**

Ozone pollution poses a serious threat to the health and well-being of millions of Americans and a large burden to the U.S. economy. Many ozone nonattainment areas face great difficulties in reaching and maintaining attainment of the ozone health-based air quality standards in the years ahead. Recognizing this challenge, States, local governments, and others have called on the Environmental Protection Agency (EPA) to promulgate additional national measures to reduce nitrogen oxides (NOx), hydrocarbons and particulate matter in order to protect the public from the serious health effects of ozone pollution.

**Alternatives:**

EPA will consider alternatives for this rule as part of the notices of proposed rulemaking (NPRMs) planned for this initiative.

**Risks:**

Oxides of nitrogen comprise a family of highly reactive gaseous compounds that contribute to air pollution in both urban and rural environments. NOx is directly harmful to human health and the environment, contributes to particulate pollution, and plays a critical role in the formation of atmospheric ozone. Based on studies of human populations exposed to high concentrations of particles and laboratory studies of animals and humans, there are major human health concerns associated with PM. These include deleterious effects on breathing and respiratory systems, aggravation of existing respiratory and cardiovascular disease, alterations in the body's defense systems against foreign

materials, damage to lung tissue, carcinogenesis, and premature death.

**Timetable:**

Action	Date	FR Cite
ANPRM	08/30/95	60 FR 45580
NPRM Highway	06/27/96	61 FR 33421
ANPRM Nonroad	10/00/96	
NPRM Nonroad	03/00/97	
Final Action Highway	03/00/97	
Final Action Nonroad	12/00/97	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3645 and 3878

**Agency Contact:**

Tad Wysor  
 Environmental Protection Agency  
 Air and Radiation  
 2565 Plymouth Road  
 Ann Arbor MI 48105  
 Phone: 313 668-4332

**RIN:** 2060-AF76

**EPA**

**PROPOSED RULE STAGE**

**100. PESTICIDES; SELF-CERTIFICATION**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

7 USC 136 to 136y

**CFR Citation:**

40 CFR 152

**Legal Deadline:**

None

**Abstract:**

The Environmental Protection Agency (EPA) is evaluating self-certification as a possible approach to reinventing the registration process for pesticides. The

goal of this effort is to simplify, speed up, and increase the efficiency of the registration process while maintaining protection to human health and the environment.

**Statement of Need:**

EPA registers pesticides for sale and use in the United States under the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA). EPA has issued rules, notices, and guidance which specify how applicants may obtain approval for registration of pesticide products. Against a backdrop of declining resources and a continuous workload of pesticide applications, EPA is examining many possible ways of reinventing the registration process to handle applications faster, more efficiently, and with fewer resources. One of these approaches is self-certification, a concept in which a registrant may certify that a registration application (or part of it) complies with Agency requirements and may then obtain EPA approval for the registration after an abbreviated review or no review at all. EPA has several projects that are exploring the possible use of self-certification in different ways. First, EPA has reinvented the process by which registrants may accomplish amendment of products by notification or nonnotification. The revised process allows a registrant to certify that an application for amendment meets EPA's criteria as a low-risk amendment. This revised process is described in PR Notice 95-2 (May 31, 1995). To formally implement this type of self-certification, EPA has also revised existing rules (40 CFR 152.44 and 152.46) on notifications and nonnotifications.

Second, self-certification of acute toxicity and product chemistry data is being considered as a means of reducing the number of studies reviewed by EPA in connection with registration applications. While being done as two separate projects (acute toxicity and product chemistry), these efforts are being closely coordinated to assure consistency. One or more PR Notices will be drafted and made available for public comment before any final decisions are made in this area.

Third, possible options for self-certification of new products similar or identical to those already registered are being developed and evaluated. A draft issue paper will be made available for public comment before any final decisions are made about this kind of self-certification.

**Alternatives:**

Various alternatives to self-certification are being considered by EPA for reinventing or improving the registration process, including, but not limited to, sharing acute toxicity data reviews with the California Department of Pesticide Regulation, issuing guidance for acceptable acute toxicity data, exempting certain active ingredients from registration, developing computer software to standardize precautionary labeling, publishing a manual describing all labeling requirements, automating certain documents, piloting electronic labeling, making labeling policy documents publicly available, and developing internal guidance on how to process fast track registrations.

**Anticipated Costs and Benefits:**

EPA does not intend to perform cost analyses on self-certification per se, but will qualitatively evaluate the potential costs and benefits of different kinds of self-certification.

**Risks:**

EPA will determine whether self-certification will help or hinder protection of human health and the environment. EPA will not adopt any self-certification measure which does the latter.

**Timetable:**

Action	Date	FR Cite
Final Notification Rule	01/00/97	
<b>Self-Certification of Acute Toxicity and Product Chemistry Data</b>		
Draft PR Notices	10/00/96	
Final FR Notices	12/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 3932.

**Agency Contact:**

Jeff Kempter  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
401 M Street, S.W. (7505C)  
Washington, DC 20460  
Phone: 703 305-5448  
Email: kempter.jeff@epamail.epa.gov  
Debby Sisco  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
Phone: 703-305-7096  
Email: sisco.debby@epamail.epa.gov

**RIN:** 2070-AD00

**EPA****101. TSCA INVENTORY UPDATE RULE AMENDMENTS****Priority:**

Other Significant

**Legal Authority:**

15 USC 2607(a)

**CFR Citation:**

40 CFR 710

**Legal Deadline:**

None

**Abstract:**

This action would amend the current Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) to require chemical manufacturers to report to EPA data on exposures and the industrial and consumer end uses of chemicals they produce. Currently, EPA requires chemical manufacturers to report the names of the chemicals they produce, as well as the locations of manufacturing facilities and the quantities produced. About 2,400 facilities reported data on about 8,300 unique chemicals during the last reporting cycle under the IUR. Data obtained would be used by EPA and others to: better understand the potential for chemical exposures and then screen the chemicals now in commerce and identify those of highest concern; establish priorities and goals for their chemical assessment, risk management and prevention programs and monitor their progress; encourage pollution prevention by identifying potentially safer substitute chemicals for uses of potential concern; and enhance the effectiveness of chemical risk communication efforts. EPA has held meetings with representatives of the chemical industry, environmental groups, environmental justice leaders,

labor groups, State governments and other Federal agencies to insure public involvement in the Chemical Use Inventory project.

**Statement of Need:**

There are approximately 70,000 chemicals in commerce and listed on the updated TSCA Inventory. EPA faces the challenge of sorting through these chemicals to identify the ones of most concern and then taking action to mitigate unreasonable risks. The current IUR collects some of the key data, such as production volumes, that help to identify chemicals of concern, but information on how chemicals are used commercially, which is essential to determining possible exposure routes and scenarios and potential safer substitute chemicals, is not covered by IUR. This action will propose to modify the inventory update process so that data essential to an effective TSCA Inventory screening program are available to EPA.

In addition to the specifics of the kind and format of the desired end use data reporting, EPA will consider reforms of the IUR: How to include inorganic chemicals, which have been exempted from reporting in the past, so that risks from these chemicals can be better assessed and managed; How to ease the linkage of amended IUR data to other environmental data sources like the Toxic Release Inventory to enhance its usefulness; and How to change IUR reporting so that the frequency of submitter confidentiality claims is reduced so that the public can have better access to relevant data on toxics.

A national report will make data collected via the amended IUR publicly available. This report will not contain any information claimed to be confidential. Information claimed to be confidential.

**Alternatives:**

Several alternate approaches to securing the desired chemical use data have been evaluated. One of the alternatives considered was whether to add materials accounting and other data elements to the Toxic Release Inventory. EPA plans to evaluate this approach in a separate project.

**Anticipated Costs and Benefits:**

Total costs of this action depend on the amendments to IUR that are contained in a proposed rule. The amended IUR will assist EPA in screening chemicals not in commerce and identify those of highest concern; establishing priorities and goals for its

chemical assessment, risk management and prevention programs and monitor their progress; identifying potentially safer substitute chemicals for uses of potential concern; and enhancing the effectiveness of chemical risk communication efforts.

**Risks:**

This action will secure data on chemicals in commerce which describes how they are used which is essential to determining possible exposure routes and scenarios. EPA's toxics program will be able to better focus on chemical risks of most concern.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/96	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

Undetermined

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3301.

**Agency Contact:**

Ward Penberthy  
 Environmental Protection Agency  
 Office of Prevention, Pesticides and Toxic Substances  
 Office of Prevention, Pesticides and Toxic Washington, DC 20460  
 Phone: 202-260-1664  
 Email: penberthy.ward@epamail.epa.gov

**RIN:** 2070-AC61

**EPA**

**102. SELECTED RULEMAKINGS FOR ABATING LEAD HAZARDS**

**Priority:**

Economically Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:**

Undetermined

**Legal Authority:**

15 USC 2683; PL 102-550

**CFR Citation:**

40 CFR 745

**Legal Deadline:**

Final, Statutory, April 28, 1994.

Final, Statutory, April 28, 1994, (Sections 403: 402: 404).

Final, Statutory, April 28, 1994, Final.

Final, Statutory, April 28, 1994, Statutory April 28.

Final, Statutory, April 28, 1994, 1994 (Sections 403.

Final, Statutory, April 28, 1994, 402.

Final, Statutory, April 28, 1994, 404).

**Abstract:**

The Residential Lead-Based Hazard Reduction Act of 1992 requires EPA to promulgate regulations that establish standards for determining hazards associated with lead-based paint, lead-contaminated soil, and lead-contaminated dust. EPA is to (a) identify the paint conditions and lead levels in dust and soil that would result in adverse human health effects (on July 14, 1994, EPA issued guidance on section 403 to provide preliminary information while a proposal is being developed); (b) promulgate regulations (section 402) governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that contractors engaged in such activities are certified (in addition, EPA must promulgate a Model State program (section 404) which may be adopted by any State which seeks to administer and enforce a State Program); (c) promulgate regulations (section 406) requiring renovators to provide a lead hazard information brochure (developed separately by EPA) to clients before beginning work; (d) promulgate, with HUD, regulations (Section 1018) that require the following before the sale or lease of pre-1978 housing: disclosure of lead-based paint hazards, provisions of a lead-paint information brochure to the prospective buyer or renter, and for buyers, and the opportunity to conduct a lead risk assessment or inspection, and (e) promulgate regulations (Section 402(c)(3)) addressing lead risks from renovation and remodeling activities or state why no regulation is necessary.

**Statement of Need:**

Childhood lead poisoning is a pervasive problem in the United States, with 1.7 million young children (8.9%) having more than 10 ug/dl of lead in their blood, Center for Disease Control's level of concern. Elevated blood-lead levels can lead to reduced intelligence and neurobehavioral problems in young children, as well as causing other adverse health effects in children and adults. Although there have been dramatic declines in blood-lead levels due to reductions of lead in paint,

gasoline, and food sources, remaining paint in older houses remains the significant source of childhood lead poisoning. These rules are designed to reduce exposure to that source in a targeted and sensible manner.

**Alternatives:**

Alternatives to each of the mandated activities will be analyzed. However, in many cases (particularly regulations written under Sections 406 and 1018) the statute is very prescriptive. Under Section 403, the alternatives being considered include: (a) tiered standards; (b) integrated standards vs. independent standards; and (c) the possible acceptance of a usage factor in determining hazards.

**Anticipated Costs and Benefits:**

For rules promulgated under section 406 cost estimates have been provided with the proposed rule, and will be available with the final rule. For sections 402, 404 and 1018, the costs have been provided in the final economic impact analysis that was prepared in conjunction with the final rules. For section 403, costs will still need to be estimated in a draft economic impact analysis that will be prepared for the proposed rule. Since benefits depend on private sector implementation of certain lead hazard abatement activities which are not mandated by any of these rules, benefits will be difficult to quantify.

**Risks:**

These rules are aimed at reducing the prevalence and severity of lead poisoning, particularly in children.

**Timetable:**

**Section 1018**

NPRM 11/02/94 (59 FR 54984)  
 Final Action 03/06/96 (61 FR 9064)

**Section 402(c)(3)**

NPRM 12/00/97  
 Final Action 12/00/98

**Section 403**

NPRM 11/00/96  
 Final Action 09/00/97

**Section 406**

NPRM 03/02/94 (59 FR 11108)  
 Final Action 12/00/96

**Sections 402 and 404**

NPRM 09/02/94 (59 FR 45872)  
 Final Action 08/29/96 (61 FR 45778)

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

RIA

**Additional Information:**

SAN No. 3243.

403: 3243, 402/404: 3244; 406: 3242; 1018: 3499; Lead Hazard Standards (Section 403)(RIN 2070-AC63); Lead-Based Paint Activities Rules: Training, Accreditation and Certification Rule and Model State Plan Rule (Sections 402 and 404)(RIN: 2070-AC64); Lead-Based Paint Disclosure Requirements at Renovation of Target Housing (Section 406)(RIN: 2070-AC65; Lead-Based Paint Hazard Information Requirements at the Transfer of Target Housing: Joint with HUD (Section 1018)(RIN: 2070-AC75); Lead-Based Paint Activities, Training, and Certification: Renovation and Remodeling (Section 402(c)(3))(RIN: 2070-AC83).

Legal Deadlines: Statutory: (Sections 403: 402: 404) Final : Statutory April 28; 1994 (Sections 403; 402; 404), Other Statutory: (Sections 406: 1018) Final; Statutory; October 28; 1994 (Sections 406; 1018); Final Statutory; October 28; 1996 (Section 402(c)(3)).

**Agency Contact:**

Doreen Cantor  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
SE.  
Washington, DC 20460  
Phone: 202 260-1777  
Email: cantor.doreen@epamail.epa.gov

**RIN:** 2070-AD06

**EPA**

**103. STREAMLINING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REQUIREMENTS, INCLUDING GENERAL PRETREATMENT REQUIREMENTS**

**Priority:**

Economically Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

33 USC 1251/CWA 101; 33 USC 1311/CWA 301; 33 USC 1314/CWA 304; 33 USC 1317/CWA 307; 33 USC 1328/CWA 318; 33 USC 1342/CWA 402; 33 USC 1345/CWA 405

**CFR Citation:**

40 CFR 122; 40 CFR 403

**Legal Deadline:**

None

**Abstract:**

The Environmental Protection Agency (EPA) is revising regulations, guidance documents, and forms to streamline procedures for compliance with the National Pollutant Discharge Elimination System (NPDES) requirements. The rule and form revisions will eliminate redundant regulations, provide clarification, and remove unnecessary procedures which do not provide any environmental benefit. Revising and reducing burdensome procedures will promote efficiency and simplify the operation of the NPDES programs. Where possible, through the reliance on existing data and collection of data in electronic form, the burden on small businesses and other entities will be reduced.

**Statement of Need:**

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the NPDES Program, including pretreatment, and make the programs more efficient. EPA's June 1, 1995, Report to the President: Eliminating and Streamlining Regulations included commitments to streamline the NPDES Program.

**Summary of the Legal Basis:**

EPA has no statutory or court obligation to complete these rules.

**Anticipated Costs and Benefits:**

Firm cost-benefit data is not available at this time. While some of the rule revisions will include new requirements which have costs associated with them (e.g., the permit application forms and associated regulation revisions), most of the revisions will lead to cost savings. The proposals under development will consolidate application forms and clarify/streamline application procedures (e.g., minimize the need for sequential requests for additional information). The revisions are expected to reduce permit backlogs, the cost of duplicative work, and paperwork burdens and costs for State and local governments, businesses, and others that must comply with NPDES regulations.

**Risks:**

For the most part, EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection. While the Industrial, Municipal, and Sludge Permit Application Rules will include new requirements which have costs associated with them, they should make the permit process more efficient and predictable. The revised application requirements should make it easier for the Agency and States to collect the information they need regarding the discharge of toxic contaminants and support the development of permit limits that will protect the quality of our Nation's waters.

**Timetable:**

Action	Date	FR Cite
NPRM NPDES and Sludge Municipal Permit Application Forms and Rules	12/06/95	60 FR 62546
NPRM Procedures for Developing and Maintaining Approved POTW Program	07/30/96	61 FR 39804
NPRM Round II NPDES Streamlining Rule	10/00/96	
Final Action Procedures for Developing and Maintaining Approved POTW Program	03/00/97	
Final Action Round II NPDES Streamlining Rule	03/00/97	
NPRM NPDES Industrial Permit Application Form and Regulations	04/00/97	
NPRM General Pretreatment for Existing and New Sources of Pollution	06/00/97	
NPRM Round III NPDES Streamlining Rule	06/00/97	
Final Action NPDES and Sludge Municipal Permit Application Forms and Rules	08/00/97	
Final Action General Pretreatment for Existing and New Sources of Pollution	06/00/98	
Final Action Round III NPDES Streamlining Rule	12/00/98	
Final Action NPDES Industrial Permit Application Form and Regulations	01/00/99	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Tribal, Federal

**Additional Information:**

SAN No. 3861.

**Agency Contact:**

Traci Brown  
Environmental Protection Agency  
Water  
(4203)  
Washington, DC 20460  
Phone: 202 260-8487

**RIN:** 2040-AC69

**EPA**

**104. STREAMLINING REVISIONS TO THE WATER QUALITY PLANNING AND MANAGEMENT REGULATIONS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

33 USC 1313/CWA 303

**CFR Citation:**

40 CFR 130

**Legal Deadline:**

None

**Abstract:**

Section 303(d) of the Clean Water Act (CWA) requires States to identify waters still requiring total maximum daily loads (TMDLs). The TMDL is a tool for achieving State water quality standards. The TMDL process provides a framework for solving point and nonpoint source pollution problems in an integrated fashion. Current regulations implementing section 303(d) require States to submit their list of waters requiring TMDLs to the Environmental Protection Agency (EPA) every 2 years. This action would revise existing regulations to require States to submit their 303(d) list of waters still requiring TMDLs to EPA every 5 years rather than every 2 years. This revision is part of EPA's goal to comprehensively characterize State waters every five years. Currently, waters are identified on a number of

lists as required by the CWA sections 303(d), 305(b), 314(a), and 319 (a). The Federal Register notice proposing the revision will also announce the availability of supplemental TMDL guidance which will clarify the definition of a TMDL.

**Statement of Need:**

EPA identified this rule revision in response to the President's request to undertake a line-by-line review of the parts of the Code of Federal Regulations relevant to the Agency's programs. This revision should reduce the burdens associated with the Water Quality Planning and Management Program and make it more efficient. EPA's June 1 Report to the President: Eliminating and Streamlining Regulations included a commitment to streamline the Program.

**Summary of the Legal Basis:**

EPA has no statutory or court obligation to complete this rule.

**Anticipated Costs and Benefits:**

Firm cost-benefit data is not available at this time.

**Risks:**

EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health or environmental protection.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/97	
Final Action	12/00/98	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

State, Tribal, Federal

**Additional Information:**

SAN No. 3700.

**Agency Contact:**

Mimi Dannel  
Environmental Protection Agency  
Water  
(4503F)  
Washington, DC 20460  
Phone: 202 260-1897

**RIN:** 2040-AC65

**EPA**

**105. ENVIRONMENTAL PROTECTION AGENCY RADIATION SITE CLEANUP REGULATION**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

42 USC 2201/AEA 161; 42 USC 2021/AEA 274; Reorganization Plan No. 3 of 1970; 42 USC 2011-2296

**CFR Citation:**

40 CFR 196

**Legal Deadline:**

None

**Abstract:**

Under the authority of the Atomic Energy Act of 1954, as amended, and Reorganization Plan No. 3 of 1970, the Agency is proposing regulations to set standards limiting the amount of radiation that members of the public may receive from a contaminated site released from federal control.

EPA estimates that 4,947 sites may be contaminated with radioactive materials in the United States. Included are sites on EPA's National Priorities List, and other sites under the authority of various Federal agencies, predominately DOE and DoD, sites licensed by the NRC and NRC Agreement States, and sites licensed by States. Based on data provided by DOE, DoD, and NRC, many of those sites are non-Federal NPL sites or sites licensed by either the NRC or NRC Agreement States. There are also sites that are under the control of either DOE, DoD, or other Federal agencies. Contamination extends to all environmental media and includes all types of radioactive materials. It also includes mixed waste, which contains both radioactive and hazardous components. To date, progress in cleaning up these sites has been slow, largely due to the absence of a uniform, national radiation site cleanup standard.

Under current programs, cleanup standards for radioactive materials are determined on a site-by-site basis. A risk assessment is conducted to analyze the extent of the potential threat that the radioactive materials at the site pose to human health. However, direction is still needed on the level of human health and environmental protection to be achieved at these sites. To address this problem, the Agency

has developed standards that will establish cleanup levels for these sites.

**Statement of Need:**

EPA has estimated that there are approximately 5,000 sites contaminated with radioactive materials in the United States. Based on preliminary information, it is estimated that approximately 50 million cubic meters of radioactively contaminated soil are located at Federal facility and NRC licensee sites. Progress in conducting cleanups at many of these radioactively contaminated sites has been limited and slow. The lack of specific cleanup levels for radioactive materials has been a major impediment to progress in many contaminated site cleanups. Under current programs, cleanup standards for radioactive materials are determined on a site-by-site basis. The current uncertainty over setting cleanup levels for radioactively contaminated sites increases the expense and time devoted to cleanup planning. This, in turn, impedes investment in innovative, new cleanup technologies and therefore wastes resources that could be devoted to cleanup of sites. Time and effort is instead spent on continual planning, and negotiations over cleanup levels to be achieved.

**Alternatives:**

The Radiation Site Cleanup Regulation preamble provides information on alternatives for dose limits, cleanup levels, and land uses, period of exposure and compliance, and ground water.

**Anticipated Costs and Benefits:**

The Regulatory Impact Analysis (RIA) estimates that the incremental present-value cost at 15 mrem/yr would be \$1.5 billion and the benefit would be approximately 400 lives saved over 1,000 years.

**Risks:**

To analyze the benefits of the proposed and alternative cleanup standards, EPA evaluated the net health impacts to society of cleanup levels ranging from 100 mrem/yr to 0.1 mrem/yr in excess of background radiation levels.

To evaluate the impacts on society, the EPA quantitatively assessed and evaluated the following categories of health impacts: 1) Cancer fatalities in the general population averted due to site cleanup. These figures assume a given population moving onto or near a formerly radioactively contaminated site that has been released for a particular use. 2) Worker cancer fatalities and industrial fatalities due to

site cleanup. 3) Traffic fatalities among workers and the general population due to transporting wastes generated from cleanup to disposal facilities. 4) Cancer fatalities in the general population incurred due to the disposal of wastes from site cleanup. EPA also examined other effects qualitatively, such as ecological impacts, natural resource damages, and effects on cultural and historically significant sites.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/21/93	58 FR 54474
NPRM	10/00/96	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 2073.

**Agency Contact:**

John M. Karhnek  
Environmental Protection Agency  
Air and Radiation  
(6603J)  
Washington, DC 20460  
Phone: 202 233-9237  
Fax: 202 233-9650

**RIN:** 2060-AB31

**EPA**

**106. STREAMLINING REVISIONS TO THE NATIONAL PRIMARY DRINKING WATER REGULATIONS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 300/SDWA 1412

**CFR Citation:**

40 CFR 141

**Legal Deadline:**

None

**Abstract:**

As part of the Environmental Protection Agency's (EPA's) efforts to realign regulatory development priorities for the Drinking Water Program to maximize risk reduction and to focus

and improve implementation of the existing regulatory program, EPA is initiating work on several streamlining rules. First, EPA is reorganizing/reformatting Part 141 to make it easier for public water systems to understand and comply with and for States, local, and tribal governments to implement. EPA is also undertaking a comprehensive review of numerous monitoring and reporting requirements to identify opportunities to reduce the monitoring and reporting burden associated with both regulated and unregulated contaminants. Along with the comprehensive review of monitoring requirements, EPA is reexamining existing requirements that trigger increased monitoring of individual pollutants to try to raise the trigger and, thereby, reduce particular increased monitoring requirements. Finally, EPA is reviewing and streamlining existing public notification (PN) requirements which apply to systems which do not comply with drinking water standards. EPA plans to streamline PN requirements to allow States increased flexibility to design programs which will ensure notice to the public in a timely and effective manner.

**Statement of Need:**

EPA identified these rulemaking actions in response to the President's request to undertake a line-by-line review of the Parts of the Code of Federal Regulations relevant to the Agency's programs. These revisions should reduce the burdens associated with the National Primary Drinking Water Program and make the regulations easier to read and understand. EPA's June 1 Report to the President: Eliminating and Streamlining Regulations included commitments to streamline the Drinking Water Program.

**Summary of the Legal Basis:**

EPA has no Statutory or Court obligation to complete these rules.

**Anticipated Costs and Benefits:**

Firm cost-benefit data is not available at this time.

**Risks:**

EPA's streamlining efforts will address opportunities to reduce program implementation costs without jeopardizing public health protection.

**Timetable:**

Action	Date	FR Cite
NPRM Streamlining Drinking Water Monitoring Requirements	01/00/97	

Action	Date	FR Cite
Direct Final Rule Reformatting of Existing Drinking Water Regulations	02/00/97	
Final Action Streamlining Drinking Water Monitoring Requirements	01/00/98	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3862.

**Agency Contact:**

George Hoessel  
Environmental Protection Agency  
Water  
(4602)  
Washington, DC 20460  
Phone: 202 260-7097

**RIN:** 2040-AC66

**EPA**

**107. MODIFICATIONS TO THE DEFINITION OF SOLID WASTE AND REGULATIONS OF HAZARDOUS WASTE RECYCLING: GENERAL**

**Priority:**

Other Significant. Major status under 5 USC 801 is undetermined.

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6905/RCRA 1004; 42 USC 6921 to 6928/RCRA 3001 to 3008

**CFR Citation:**

40 CFR 261; 40 CFR 266

**Legal Deadline:**

None

**Abstract:**

Recycling of hazardous waste is governed by the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. The portion of these regulations known as the Definition of Solid Waste (DSW) specifies whether

hazardous materials that are recycled are regulated under RCRA or not. Other parts of the regulations set forth requirements for managing recycled hazardous waste. This regulatory action will revise the hazardous waste recycling regulations to address several issues. First, the recycling regulations have been criticized for being overly complex, difficult to understand, and for posing a barrier to safe hazardous waste recycling. Second, since the recycling regulations were promulgated in 1985, a number of court cases have clarified the scope of the Agency's authority under RCRA to regulate recycled materials. This regulatory action will revise both the Definition of Solid Waste and the requirements for managing recycled hazardous waste in an effort to simplify the recycling regulations, remove disincentives to safe recycling, and to respond to the court cases.

**Statement of Need:**

Revisions are needed to improve EPA's regulations for hazardous waste recycling by: (a) eliminating disincentives for the safe recycling of hazardous waste; (b) concentrating on higher-risk materials that pose greater hazards; and (c) developing simpler definitions and regulations.

**Summary of the Legal Basis:**

This action is not mandated by statute or court order. However, the Agency intends to respond to several court decisions by clarifying which recyclable materials are excluded from RCRA hazardous waste management requirements.

**Alternatives:**

At this time the Agency tentatively plans to co-propose two options for regulating hazardous waste recycling. These options take different approaches to defining what recycled materials are regulated, and the first includes revisions to the hazardous waste management regulations that will streamline the requirements for those recycled wastes that are regulated. These options are still under development, so the specifics of each will likely change, but a general description follows. The first option, known as the Transfer-Based Option, would regulate those materials that are recycled or managed in certain identified ways (e.g., burning for energy recovery or storage on the land) and materials that are transferred to an entity other than the generator for recycling. The proposal will include changes to the RCRA hazardous waste

management regulations (e.g., permitting) to streamline and simplify compliance for those materials that are regulated only because they are transferred to another entity for recycling. The second option, known as the In-Commerce option, would regulate only those materials that are recycled or managed in certain identified ways such as burning for energy recovery or storage on the land. These materials would be subject to the existing RCRA regulations for those activities.

**Risks:**

This action aims at more effective risk management by streamlining and tailoring management requirements for low-risk recyclers (including eliminating requirements that are redundant with other statutes). This will allow regulatory resources to be concentrated on those recyclers who engage in activities posing a greater threat to human health and the environment.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/97	

**Small Entities Affected:**

Undetermined

**Government Levels Affected:**

State, Tribal, Federal

**Additional Information:**

SAN No. 2872.

**Agency Contact:**

Charlotte Mooney  
Environmental Protection Agency  
Solid Waste and Emergency Response  
(5304W)  
Washington, DC 20460  
Phone: 703-308-7025

**RIN:** 2050-AD18

**EPA**

**108. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6924/RCRA 3004(u), 3004(v)

**CFR Citation:**

40 CFR 264; 40 CFR 270

**Legal Deadline:**

None

**Abstract:**

Past and present waste management practices at Resource Conservation and Recovery Act (RCRA) facilities have resulted in releases of hazardous constituents from some waste management units. These releases may cause contamination of soils, groundwater, surface water, and air. This regulation provides a framework for investigating and remediating releases at RCRA facilities as necessary to protect human health and the environment.

The Agency plans to issue the corrective action regulations in several phases. Phase I was issued in February 1993 (i.e., regulations concerning Corrective Action Management Units (CAMU)). An advance notice of proposed rulemaking (ANPRM) was published on May 1, 1996. The following phase (Phase II) will include assessing comments on the ANPRM, and striking the appropriate balance between finalizing certain provisions of the July 27, 1990 proposal, issuing a proposal that includes a reproposal of some provisions from the July 1990 notice and proposing new provisions. The last phase (Phase III) will involve finalizing any newly proposed provisions.

**Statement of Need:**

The corrective action program is currently being implemented using minimal regulatory authorities; the proposed Subpart S rule has been used as guidance since July 1990. The Agency thinks final regulations are needed to promote national consistency, clarify corrective action requirements, and reduce the amount of site-specific negotiations and legal challenges, thereby promoting faster, more efficient cleanups.

In addition, some stakeholders have told the Agency that the current corrective action process can be too slow and expensive. The Agency is currently exploring additional options which could make cleanups faster and more efficient, without sacrificing protectiveness or public involvement. This rulemaking may be used to propose regulatory changes necessary to implement these options.

**Alternatives:**

The Agency is currently evaluating a number of alternatives that are aimed at achieving the following primary objectives: (a) create a more consistent, holistic approach to cleanup at RCRA facilities; (b) establish protective, common-sense cleanup expectations; (c) encourage the regulated community to conduct voluntary/proactive cleanups; (d) provide meaningful and inclusive opportunities for public involvement throughout the cleanup process.

The Agency issued an ANPRM, (see schedule below) to discuss rulemaking alternatives in greater detail. Some of the alternatives currently under consideration include: relying on performance criteria rather than prescriptive requirements; allowing for greater consideration of industrial and other nonresidential land uses; and promoting greater consistency between cleanup actions at individual areas of a RCRA site.

**Anticipated Costs and Benefits:**

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

**Risks:**

The objective of establishing protective, common-sense cleanup expectations reflects, in part, the Agency's position that the scope of remedial actions should accurately reflect the risks posed by the contamination. The Agency intends to design the rule with flexibility sufficient to select smart and cost-effective remedies in order to achieve the Agency's risk-reduction objectives more efficiently. More quantitative evaluation of the risks and risk reduction associated with this rule will be included in the economic analysis.

**Timetable:**

Action	Date	FR Cite
NPRM	07/27/90	55 FR 30798
Final Rule (Phase I)	02/16/93	58 FR 8658
ANPRM	05/01/96	61 FR 19432
NPRM	09/00/97	
Final (Phase II/Reproposal)	12/00/97	
Final (Phase III)	12/00/98	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 2390.

The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations." The Subpart S rule is an important component of EPA's regulatory efforts to refocus hazardous waste regulation on high-risk wastes and to expedite cleanups.

**Agency Contact:**

Hugh Davis  
Environmental Protection Agency  
Solid Waste and Emergency Response  
(5303W)  
Washington, DC 20460  
Phone: 703 308-8633

RIN: 2050-AB80

**EPA****109. MANAGEMENT OF CEMENT KILN DUST (CKD)****Priority:**

Other Significant. Major status under 5 USC 801 is undetermined.

**Unfunded Mandates:**

This action may affect the private sector under PL 104-4.

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6903(5)(b)/RCRA 1004(5)(B); 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921(b)(3)/RCRA 3001(b)(3); 42 USC 6924(x)/RCRA 3004(x)

**CFR Citation:**

Not yet determined

**Legal Deadline:**

None

**Abstract:**

CKD is a high volume material by-product of the cement manufacturing process. While it contains potentially hazardous constituents such as lead, cadmium and chromium, it has been exempted since November 1980 from hazardous waste regulation under RCRA Subtitle C by the Bevill Amendment, which modified Section 3001 of RCRA to exempt certain special wastes until further studies could be completed and any applicable regulations were promulgated. In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices

associated with CKD. This was followed in January 1995 by an EPA regulatory determination published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted. In the regulatory determination EPA committed to develop additional tailored regulations under RCRA Subtitle C and, if necessary, the Clean Air Act. As part of its regulatory development effort, the Office of Solid Waste within EPA's Office of Solid Waste and Emergency Response has initiated further studies and has held informal discussions with stakeholders interested in regulations under RCRA Subtitle C for the management of CKD. The proposed regulations will be tailored to protect human health and the environment while imposing minimal burden on the regulated community.

#### Statement of Need:

This action follows EPA's RCRA mandated regulatory determination on CKD, published in the Federal Register (60 FR 7366, 2/7/95), which concluded that additional control of CKD is warranted in order to protect human health, and to prevent environmental damage associated with current disposal practices for this waste.

#### Alternatives:

EPA will develop a range of landfill management standards for sensitive and non-sensitive environments, each involving protections for groundwater and air pathways. It is anticipated that the base standards would be performance based, and form the basis for a conditional exclusion from Subtitle C regulation. If an owner/operator complied with the base performance standards, his CKD waste would not be subject to Subtitle C regulation. Alternatively, an owner/operator could comply with default technical requirements under Subtitle C.

It is anticipated that the conditions for exclusion and the default technical requirements would be similar and would include: fugitive dust controls, provisions and restrictions for landfills located in sensitive environments, groundwater monitoring requirements, performance standards for liners and caps, metals limits for CKD used as agricultural lime, and corrective action for currently active units. The Agency hopes to afford States considerable flexibility in setting and tailoring requirements in their own programs.

#### Anticipated Costs and Benefits:

Analysis of costs and benefits will be conducted as part of the economic analysis for this rule as required under Executive Order 12866.

#### Risks:

As explained in the regulatory determination for CKD, EPA believes that subjecting CKD waste to the full RCRA Subtitle C program would be prohibitively burdensome on the cement industry. EPA believes it is appropriate to apply only those components of Subtitle C that are necessary, based on our current knowledge of the cement industry and the human health and environmental concerns associated with CKD, thereby achieving a common sense result with respect to the hazards posed by CKD on a site-specific basis. EPA anticipates that any such standards would be designed to be protective, yet minimally burdensome, and may not necessarily apply to all facilities, or may not apply to all facilities in the same manner or to the same extent.

#### Timetable:

Action	Date	FR Cite
NPRM	09/00/97	
Final Action	10/00/98	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Additional Information:

SAN No. 3856.

#### Agency Contact:

Bill Schoenborn  
Environmental Protection Agency  
Solid Waste and Emergency Response  
(5306W)  
Washington, DC 20460  
Phone: 703 308-8483

RIN: 2050-AE34

#### EPA

#### 110. NAAQS: OZONE (REVIEW)

#### Priority:

Economically Significant

#### Legal Authority:

42 USC 7408 section 108 Clean Air Act;  
42 USC 7409 Section 109 Clean Air Act

#### CFR Citation:

40 CFR 50.9

#### Legal Deadline:

Final, Statutory, December 31, 1980,  
Review at 5-year interval thereafter.

#### Abstract:

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for ozone to incorporate new scientific and technical information. Based on the revised criteria, the EPA will determine whether revisions to the standards are appropriate.

#### Statement of Need:

In March 1993, the EPA concluded that revision of the NAAQS was inappropriate, based on the existing air quality criteria for ozone but decided to expedite the next review of the ozone criteria and NAAQS in light of potentially significant new information. On February 3, 1994, EPA announced an accelerated schedule for completing the new review. In litigation challenging the March 1993 decision, the EPA subsequently sought and received a voluntary remand of the decision so that it could be reconsidered in light of the new information. The EPA intends to complete the remand proceedings on the schedule announced in February. Consistent with that schedule, a draft Criteria Document was sent to the Clean Air Scientific Advisory Committee (CASAC) and made available for public review during August and September of 1995. The CASAC met in September 1995 to review the Criteria Document and Staff Paper and provided oral and written comments, which were considered by EPA in revising the draft documents. A subsequent CASAC meeting was held to review the revised drafts of the staff paper in March 1996. Letter of closure to finalize review by CASAC of the Criteria Document and Staff Paper were sent in November 1995 and April 1996 from the chairman of CASAC to the Administrator. Final versions of the Staff Paper and Criteria Document were completed and made available to the public in June 1996 and July 1996, respectively.

#### Alternatives:

Section 109 of the Clean Air Act requires periodic review of the NAAQS. This review is being undertaken to satisfy the statutory requirement.

#### Anticipated Costs and Benefits:

The anticipated costs and benefits resulting from implementation of this rulemaking by the States will be part of the Agency's regulatory impact

analysis. The Agency is just completing this analysis; therefore, the anticipated costs and benefits are not available at this time.

**Risks:**

As part of this review, EPA is preparing exposure/risk analyses. These analyses are undergoing review. Therefore the results are not available at this time.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	06/00/97	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions, Organizations

**Government Levels Affected:**

State, Local, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3353.

**Agency Contact:**

John Haines  
Environmental Protection Agency  
Air and Radiation  
MD-15  
Research Triangle Park, NC 27711  
Phone: 919 541-5533

**RIN:** 2060-AE57

**EPA**

**111. NAAQS: PARTICULATE MATTER (REVIEW)**

**Priority:**

Economically Significant

**Legal Authority:**

42 USC 7408 to 7409

**CFR Citation:**

40 CFR 50.6

**Legal Deadline:**

NPRM, Judicial, November 29, 1996.  
Final, Judicial, June 28, 1997.

**Abstract:**

The Environmental Protection Agency (EPA) is reviewing and updating the air quality criteria for particulate matter to incorporate new scientific and technical information that has become available since the last review. Based on the revised criteria, EPA will determine whether revisions to the standards are appropriate.

**Statement of Need:**

The EPA last completed a review of the particulate matter NAAQS in July 1987. Since that time a growing body of scientific information has associated particle pollution with excess-mortality and morbidity effects at levels below the existing 24-hour primary standard. Many in the scientific community believe that these effects are most likely associated with fine particles. In light of this, EPA has updated the air quality criteria for particulate matter and the associated staff paper. The Clean Air Scientific Advisory Completed its review of the revised air quality Criteria Document and Staff Paper on March 15, 1996 and June 15, 1996 respectively. November/December 1995.

**Alternatives:**

Section 109 of the Clean Air Act (42 USC 7409) requires periodic review of the NAAQS. This review is being undertaken to satisfy the satisfactory requirement.

**Anticipated Costs and Benefits:**

The anticipated costs and benefits resulting from implementation of this rulemaking by the States will be part of the Agency's regulatory impact analysis. The Agency is just completed this analysis; therefore, the anticipated costs and benefits are not available at this time.

**Risks:**

Particle pollution has been associated with excess mortality and with respiratory illness at levels below existing 24-hour standards. As part of this review, EPA will examine the risk associated with particle pollution.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/96	
Final Action	06/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Sectors Affected:**

10 Metal Mining; 12 Coal Mining; 14 Mining and Quarrying of Nonmetallic Minerals, Except Fuels; 33 Primary Metal Industries

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3448.

**Agency Contact:**

John Haines  
Environmental Protection Agency  
Air and Radiation  
MD-15  
Research Triangle Park, NC 27711  
Phone: 919 541-5533

**RIN:** 2060-AE66

**EPA**

**112. CONSOLIDATED FEDERAL AIR RULE FOR THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURING INDUSTRY**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 7401 et seq

**CFR Citation:**

40 CFR 60; 40 CFR 61; 40 CFR 63

**Legal Deadline:**

None

**Abstract:**

Over the past 25 years, EPA has issued a series of national air regulations, many of which affect the same facility. Some facilities are now subject to five or six national rules, sometimes affecting the same emission points. Each rule has emission control requirements as well as monitoring, record keeping and reporting requirements.

These requirements may be duplicative, overlapping, difficult to understand or inconsistent. It is often difficult for plant managers to determine compliance strategies to satisfy all requirements and for State and local permitting agencies to determine the applicability of different requirements for permitting purposes. Resources are often wasted by both industry and states and localities in "sorting out" and complying with the panoply of multiple requirements. Moreover, as the Agency continues to issue new air toxics rules, as mandated by the CAA, the problem is compounded.

All existing Federal air rules applicable to an industry sector will be reviewed to determine whether there provisions can be consolidated into a single new

rule. Affected industries, state agencies, and other stakeholders will be consulted to identify duplicative and conflicting provisions and to provide assistance in drafting the single rule. The chemical industry and state representatives have agreed to work on a pilot project with EPA's air programs to explore this approach. If the approach is successful with the chemical industry, it will be expanded to air rules for other industry sectors. EPA will then consider extending this program to water and waste requirements.

**Statement of Need:**

Both industry and regulatory agencies have expressed a great desire to streamline and simplify rules. This rule streamlines and simplifies by consolidating and collapsing the numerous federal rules that apply to the chemical industry, with resulting improved compliances.

**Alternatives:**

The main alternative is to do nothing and let the many rules with their many provisions remain in effect.

**Anticipated Costs and Benefits:**

This rule will result in considerable savings to the affected industry. There is significant burden reduction associated with recordkeeping and reporting. The rule will be easier to follow and understand. There will be no change in control stringency or applicability of the rules being consolidated

**Risks:**

This rulemaking deals with consolidated reporting to simplify existing rules. The risks addressed by each of these existing rules were addressed in those individual rulemakings.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Federal

**Sectors Affected:**

286 Industrial Organic Chemicals

**Additional Information:**

SAN No. 3748.

**Agency Contact:**

Rick Colyer  
 Environmental Protection Agency  
 Air and Radiation  
 Office of Air Quality Planning and  
 Research Triangle Park, NC 27711  
 Phone: 919 541-5262  
 Fax: 919 541-3470  
**RIN:** 2060-AG28

**EPA**

**113. ENVIRONMENTAL RADIATION PROTECTION STANDARDS FOR YUCCA MOUNTAIN, NEVADA**

**Priority:**

Other Significant

**Legal Authority:**

Energy Policy Act, section 801

**CFR Citation:**

40 CFR 197

**Legal Deadline:**

Final, Statutory, August 1, 1996.

**Abstract:**

This rulemaking is in response to section 801 of the Energy Policy Act of 1992 which directs the Administrator to "promulgate public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site." The only regulated entity is the U.S. Department of Energy.

**Statement of Need:**

In 1985, the Agency issued generic standards for the management and disposal of spent nuclear fuel and high-level radioactive waste. The Nuclear Waste Policy Amendments Act of 1987 mandated the study of Yucca Mountain, Nevada to determine its suitability to be a repository for spent nuclear fuel and high-level radioactive waste. The Waste Isolation Pilot Plant Land Withdrawal Act of 1992 exempted Yucca Mountain from coverage under the 1985 generic standards. Concurrently, the Energy Policy Act of 1992 gave EPA the responsibility of setting site-specific, radiation-protection standards for Yucca Mountain.

**Summary of the Legal Basis:**

The legal authority is derived from the Energy Policy Act of 1992.

**Alternatives:**

Since this action is legally mandated, there are no alternatives.

**Anticipated Costs and Benefits:**

Since the potential cost is dependent upon several factors whose determination has not yet been made, a precise assessment of the economic impact of the rulemaking is not possible at this time. Likewise, the benefits, i.e., the adverse effects averted (which are required to complete a cost-benefit analysis), cannot be determined in a meaningful manner at this time since the effect of these standards is to avert potential adverse health effects that may occur during very long periods into the future and are, therefore, quantifiable only with a high degree of uncertainty.

**Risks:**

The potential risks which would be allowed under these standards is dependent upon the level of protection and the regulatory time frame which is selected. Since the standards have not yet been proposed, it is not possible to estimate the potential risks.

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/96	
Final Action	02/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

Federal

**Additional Information:**

SAN No. 3568.

**Agency Contact:**

Ray Clark  
 Environmental Protection Agency  
 Air and Radiation  
 (6602J)  
 Washington, DC 20460  
 Phone: 202 233-9198  
 Fax: 202 233-9626  
 Email: CLARK.RAY@EPAMAIL.EPA.GOV  
**RIN:** 2060-AG14

**EPA**

**114. NAAQS: SULFUR DIOXIDE (REVIEW)**

**Priority:**

Economically Significant

**Legal Authority:**

42 USC 7409/CAA 109

**CFR Citation:**

40 CFR 50.4; 40 CFR 50.5

**Legal Deadline:**

NPRM, Judicial, November 1, 1994.

Final, Judicial, April 15, 1996.

**Abstract:**

On November 15, 1994, the Environmental Protection Agency (EPA) published a notice announcing a proposed decision not to revise the existing 24-hour and annual primary standards. The EPA sought public comment on the need to adopt additional regulatory measures to address the health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposure.

On March 7, 1995, EPA proposed implementation strategies for reducing short-term high concentrations of sulfur dioxide emissions in the ambient air.

On May 22, 1996, EPA published its final decision not to revise the primary sulfur dioxide NAAQS. The notice stated that EPA would shortly propose a new implementation strategy to assist States in addressing short-term peaks of sulfur dioxide.

**Statement of Need:**

Brief exposures to elevated concentrations of sulfur dioxide causes bronchoconstriction, sometimes accompanied by symptoms (coughing, wheezing, and shortness of breath), in mild to moderate asthmatic individuals. The existing sulfur dioxide National Ambient Air Quality Standard (NAAQS) provides a substantial protection against short-term peak sulfur dioxide levels. At issue is whether additional measures are needed to further reduce the health risk to asthmatic individuals. is presently assessing the public comments on the November 1994 proposal as well as the related implementation and air quality surveillance requirements and will announce a final decision on April 15, 1996.

**Alternatives:**

The November 15, 1994, proposal notice sought public comment on three alternatives to further reduce the public health risk to asthmatic individuals posed by short-term peak sulfur dioxide exposures. These included: (a) a new 5-minute NAAQS; (b) a new program under section 303 of the Act; and (c) a targeted monitoring program to ensure sources likely to cause or contribute to high 5-minute peaks are in attainment with the existing standard. The 5/22/96 final decision discussed EPA's intent to propose a program under section 303 of the Act that will assist States in addressing high 5-minute peaks.

**Anticipated Costs and Benefits:**

A draft regulatory impact analysis was completed and made available for public comment at the time of proposal.

**Risks:**

Exposure analyses were completed and made for public comment at the time of proposal. These analyses indicate from the national perspective that the likelihood of exposure to high 5-minute sulfur dioxide concentrations is very low. Asthmatic individuals in the vicinity of certain sources or source categories, however, may be at higher risk of exposure than the population as a whole.

**Timetable:**

Action	Date	FR Cite
NPRM	11/15/94	59 FR 58958
NPRM NAAQS SO2 Implementation Plans (Part 51)	03/07/95	60 FR 12492
Final Action	05/22/96	61 FR 25566
NPRM Revised NAAQS SO2 Implementation Plans (Part 51)	10/00/96	
Final NAAQS SO2 Implementation Plans (Part 51)	08/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Local, Federal

**Additional Information:**

SAN No. 1002.

(Primary Standard) and SAN No

**Agency Contact:**

John Haines  
Environmental Protection Agency  
Air and Radiation  
(MD-15)  
Research Triangle Park, NC 27711  
Phone: 919 541-5533

**RIN:** 2060-AA61

**EPA**

**115. INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

42 USC 7412; 42 USC 7414; 42 USC 7601; Clean Air Act Amendments of 1990 section 112, 114, and 301; 33 USC

1311, 1314, 1316, 1317, 1318, and 1361; Clean Water Act section 301, 304, 306, 307, 308, and 501

**CFR Citation:**

40 CFR 63; 40 CFR 430

**Legal Deadline:**

Final, Statutory, November 15, 1997.

**Abstract:**

The Clean Air Act (CAA) Amendments of 1990 direct the Environmental Protection Agency (EPA) to set National Emission Standards for Hazardous Air Pollutants (NESHAP) for new and existing sources under section 112 and to base these standards on maximum achievable control technology (MACT). The Clean Water Act (CWA) directs EPA to develop effluent guidelines for certain categories and classes of point sources. These guidelines are used for setting discharge limits for specific facilities that discharge to surface waters or municipal sewage treatment systems. For the pulp and paper industry, EPA is developing an integrated regulation that includes both effluent guidelines and air emission standards to control the release of pollutants to both the water and the air. The regulations are being developed jointly to provide greater protection to human health and the environment, to promote the concept of pollution prevention, and to enable the industry to more effectively plan compliance via a multimedia approach.

This Regulatory Plan entry also includes RIN 2040-AB53, Effluent Guidelines and Standards for the Pulp, Paper, and Paperboard Category, reported in full in Part III of this issue of the Federal Register.

**Statement of Need:**

This action will limit surface water discharges of toxic, conventional, and nonconventional pollutants and emissions of hazardous air pollutants (HAPs) from pulp and paper mills. The NESHAP will limit the release of HAPs such as chloroform, formaldehyde, acetaldehyde, and methanol. The effluent guidelines will limit the discharge of dioxin, furan, and other toxic and conventional pollutants to rivers and other surface waters. The Statutory authorities and deadlines are cited above. Additionally, EPA is required to promulgate these effluent guidelines to satisfy a provision in a Consent Decree entered in settlement of Environmental Defense Fund and National Wildlife Federation v. Thomas, Civ. No. 85-0973 (D.D.C.).

**Alternatives:**

Both the CAA and the CWA specify that these regulations be established on a technology basis. The CAA specifies that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing similar source. The CWA specifies that effluent limitations guidelines and standards be based on specific technology levels, such as the best available technology economically achievable. For the integration of air and water standards, EPA developed regulatory alternatives from combinations of process changes and pollution control technologies. The Agency considered the combined costs and impacts of these alternatives while remaining responsive to the statutory requirements under both laws.

**Anticipated Costs and Benefits:**

The proposed integrated air and water rules comprise effluent guidelines for all pulp and paper mills and MACT standards for the noncombustion sources at all Kraft, soda, sulfite, and semi-chemical pulp and paper mills. The Agency plans to propose MACT standards for the chemical recovery combustion sources at these mills at the same time the Agency promulgates the integrated air and water rules. For the rulemaking components that have been proposed, the Agency estimated total annualized costs of \$600 million (1992 dollars). The Agency has received extensive public comments on the cost estimates; revisions are likely, but the magnitude of those revisions has not been determined.

The types of benefits associated with the proposed integrated rule include improvements to air and water quality and reduced human health risks. The estimated reductions in HAP emissions exceed 120,000 tons per year. An estimated reduction in volatile organic compound emissions of 700,000 tons per year and a reduction in total reduced sulfur emissions of 300,000 tons per year are also projected to occur as a result of the proposed integrated rule. Projected reductions in specific toxic pollutant effluent discharges are approximately 2,800 tons per year; conventional pollutant reductions of over 200,000 tons per year are projected. Some categories of the benefits can be expressed in monetary terms; they are in the range of \$160 million to \$980 million.

**Risks:**

Two types of pollutants found in pulp and paper wastestreams, dioxin and

uran, are of particular concern due to their carcinogenic risk and their toxicity to aquatic life. Reducing the discharge and emission of these and other toxic pollutants reduces the exposure risks to human health and the environment.

**Timetable:****For NESHAP Sources**

Final Action 11/00/97

**NESHAP for Combustion Sources - Phase II**

NPRM 11/00/96

Final 11/00/97

**NESHAP for Nonchemical and Other Pulp and Paper Mills - Phase III**

NPRM 12/00/96

**NESHAP for Noncombustion and Effluent Guidelines - Phase I**

Final 12/00/96

**NESHAP for Noncombustion Sources and Effluent Guidelines -Phase 1**

NPRM 12/17/93 (58 FR 66078)

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Local, Federal

**Additional Information:**

SAN No. 3105 Guidelines

ADDITIONAL AGENCY CONTACT: Jeff Telander (Combustion Sources)

ADDITIONAL AGENCY CONTACT: Elaine Manning (Nonchemical and other Pulp and Paper Mills)

ADDITIONAL AGENCY CONTACT: Debra Nicoll (Effluent Guidelines) Office of Water, 4303, Washington, DC 20460, 202-260-5386

See also RIN 2040-AB53.

**Agency Contact:**

Penny Lassiter  
Environmental Protection Agency  
Air and Radiation  
(MD-13)

Research Triangle Park, NC 27711

Phone: 919 541-5427

Donald F. Anderson  
Environmental Protection Agency  
Air and Radiation

Phone: 202-260-7189

**RIN:** 2060-AD03

**EPA****116. NONROAD SPARK-IGNITION ENGINES AT OR BELOW 19 KILOWATTS (25 HORSEPOWER)(PHASE 2)****Priority:**

Other Significant. Major under 5 USC 801.

**Legal Authority:**

42 USC 7547/CAA 213

**CFR Citation:**

40 CFR 90

**Legal Deadline:**

Final, Statutory, November 15, 1992.

NPRM, Judicial, May 31, 1997, Non-hand-held engines (5/31/97) Hand-held engines (12/31/97).

NPRM, Judicial, December 31, 1997, Non-hand-held engines(5/31/97) Hand-held engines (12/31/97).

**Abstract:**

This action will establish the second phase of emissions standards for new nonroad spark-ignition engines at or below 19 kilowatts (25 horsepower), as required by section 213(a)(3) of the Clean Air Act as Amended. The Environmental Protection Agency (EPA) had been developing the second phase of small-engine regulations through a negotiated rulemaking, with representation by engine manufacturers, equipment manufacturers, emissions control manufacturers, equipment dealers, environment and public health interests, and State air programs. The negotiations came to an end on February 16, 1996 with no consensus reached. EPA will now develop the rulemaking through other means.

The affected engines are used in lawn, garden, and utility equipment, such as lawnmowers, string trimmers, chain saws, and small pumps and generators. The first phase was established July 3, 1995 (60 FR 34582), effective for the 1997 model year, and was very similar to the tier 1 small-engine regulations developed by California for the same engines. Regulated pollutants are hydrocarbons, carbon monoxide, and oxides of nitrogen.

**Statement of Need:**

Nonroad engines contribute significantly to total ozone precursor and CO emissions in areas that have failed to attain the National ambient air quality standards (NAAQS) for ozone and CO. Requirements for emissions reductions will help many areas achieve the NAAQS. The second phase will include additional controls not achievable in the timeframe of the first phase, which are necessary for continued attainment of NAAQS.

**Alternatives:**

Regulation of this category of engines was split into two phases on the recommendation of the regulated industry, in order to obtain some early

reductions quickly while providing sufficient lead-time to develop and implement an appropriate second phase. The regulatory negotiation committee was convened for the second phase to ensure that all possible options for achieving appropriate emissions reductions from this sector were considered.

**Anticipated Costs and Benefits:**

The regulatory negotiation committee is developing the rule, including setting of emissions standards levels, based on a cost/benefit analysis that considers cost per ton of emissions reduced as well as cost per engine. Until that process is complete, the specific costs and benefits are unknown. The benefits of phase 1 were a 32 percent reduction in hydrocarbons and a 7 percent reduction in carbon monoxide from these engines, at a cost of \$266 per ton of hydrocarbons reduced.

**Risks:**

Over 89 million small engines contribute to unhealthy ozone and carbon monoxide levels in nearly 100 cities across the country. An estimated 6.8 million tons of air pollution are generated from lawn and garden equipment each year. Carbon monoxide is an odorless, colorless poisonous gas. Hydrocarbons and oxides of nitrogen contribute to the formation of ground-level ozone, which is a noxious pollutant that impairs lung functioning and is a key ingredient in smog.

**Timetable:**

Action	Date	FR Cite
NPRM Non-hand-held engines	05/00/97	
NPRM Hand-held engines	12/00/97	
Final Hand-held engines	00/00/00	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3361.

**Agency Contact:**

Betsy McCabe  
 Environmental Protection Agency  
 Air and Radiation  
 National Vehicle and Fuel Emissions Lab  
 Ann Arbor MI 48105  
 Phone: 313 668-4344

**RIN:** 2060-AE29

**EPA**

**FINAL RULE STAGE**

**117. FACILITY COVERAGE AMENDMENT; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW**

**Priority:**

Other Significant. Major under 5 USC 801.

**Unfunded Mandates:**

This action may affect the private sector under PL 104-4.

**Legal Authority:**

42 USC 11013/EPCRA 313; 42 USC 11023; 42 USC 11048; 42 USC 11076

**CFR Citation:**

40 CFR 372

**Legal Deadline:**

None

**Abstract:**

The original Toxics Release Inventory (TRI) required reporting from facilities in Standard Industrial Classification (SIC) codes 20-39. These SIC codes cover manufacturing facilities only. This requirement was imposed under the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313(b)(1)(A). The Environmental Protection Agency (EPA) is considering expanding this original list. EPCRA section 313(b)(1)(B) and (b)(2) provide the Administrator with the authority to add or delete SIC codes and the discretion to add particular facilities based on a broad set of factors. EPA is currently conducting analysis to determine which SIC codes (or portions thereof) should be considered for coverage in TRI. Facilities in a broad set of industries are under consideration, including but not limited to, electric utilities, waste management facilities, mining, oil and gas production, materials recovery and recycling, and some warehousing activities.

**Statement of Need:**

TRI is the most complete and accessible source of information for the public on toxic chemical releases in communities across the United States. The intention of Congress was for TRI, and indeed all of EPCRA, to provide information to local communities. Communities need this information to better understand the nature of the releases

at the local level. The intent of TRI has been to share information on releases with local communities to help in their assessments of the risks. This basic local empowerment is the cornerstone of the right-to-know program.

Yet TRI collects data from only the manufacturing sector, and for only a subset of the toxic chemicals that are introduced into the environment. Congress gave EPA the authority to expand TRI, both in terms of the chemicals reported and the facilities required to report, because it recognized that the American public has a right to know what is happening to the environment near their homes, schools and businesses. Manufacturing facilities account for only a portion of the toxic chemicals released in the United States. EPA recognizes the reporting burden inherent in TRI, and is continuing to take every reasonable opportunity to reduce this burden.

The industries under consideration for addition to TRI would conceivably add significantly to the data available to the public on toxic chemical releases. For this proposal, industry sectors were selected based on a number of factors including the importance of the releases to the community, the relative rank of release estimates, the relationship of activities in these industries to manufacturing, and the compatibility of these activities with current reporting requirements.

**Alternatives:**

Although data on releases from many of the facilities under consideration can be found, there is no centralized, publicly available, comprehensive, easily understandable, or consistently collected source of information for the public on toxic chemical releases from facilities outside of manufacturing. EPA has examined all available sources, including information reported under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act, as well as other sections of EPCRA, State data collection programs, and available data provided by industry. EPA can find no information comparable to the data which TRI provides the American public. Consequently, there are only two alternatives to the expansion of TRI reporting requirements to cover additional facilities: voluntary reporting by facilities or a determination that any additional information TRI might collect from these facilities is of little or no value in terms of community right-to-know.

**Anticipated Costs and Benefits:**

As indicated in the economic impact analysis prepared and made available for comment in conjunction with the proposed rule, EPA estimates that first year costs may be \$191 million, with subsequent estimated to \$118 million each year. The addition of facilities to TRI is intended to expand upon the past success of the program in enabling all interested parties to establish credible baselines and to set realistic goals over time. The information reported in TRI increases knowledge levels of pollutants released to the environment and pathways to exposure, improving scientific understanding of the health and environmental risks of toxic chemicals; allows the public to make informed decisions on where to work and live; enhances the ability of corporate lenders and purchasers to more accurately gauge a facility's potential liability; and assists Federal, State, and local authorities in making better decisions on acceptable levels of toxics in communities.

**Risks:**

Manufacturing facilities, which are currently required to report to TRI, represent only a portion of the facilities that release toxic chemicals in the United States. Although what portion of releases these facilities represent is uncertain, the Congressional Office of Technology Assessment has estimated that the original chemical and facility coverage of TRI in 1987, resulted in data on only 5 percent of releases in the U.S. EPA believes that the public has a right to know about such releases and about what facilities are doing to manage wastes. The public can then use this data to evaluate potential risks from these facilities and to determine how to avoid these risks.

**Timetable:**

Action	Date	FR Cite
NPRM	06/27/96	61 FR 33588
NPRM	06/27/96	61 FR 33588
Final Rule	01/00/97	
Final Action	01/00/97	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Sectors Affected:**

20 Food and Kindred Products; 21 Tobacco Products; 22 Textile Mill Products; 23 Apparel and Other Finished Products Made from Fabrics and Similar Materials

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3034.

**Agency Contact:**

Susan B. Hazen  
 Environmental Protection Agency  
 Office of Prevention, Pesticides and Toxic Substances  
 (7408)  
 Washington, DC 20460  
 Phone: 202 260-1024  
 Email: hazen.susan@epamail.epa.gov  
 Brian Symmes  
 Environmental Protection Agency  
 Office of Prevention, Pesticides and Toxic Substances  
 Phone: 202-260-9121  
 Email: symmes.brian@epamail.epa.gov

**RIN:** 2070-AC71

**EPA**

**118. CFR REGULATORY REVIEW RELATED INITIATIVES**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

40 USC 11013 EPCRA 313

**CFR Citation:**

40 CFR 150 to 189; 40 CFR 372; 40 CFR 700 to 799

**Legal Deadline:**

None

**Abstract:**

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. The Office of Prevention Pesticides, and Toxic Substances (OPPTS) has reviewed regulations under its purview, that is, those issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). As a result of that review, OPPTS identified a number of

regulations that can be eliminated from the CFR; in addition, OPPTS also identified a significant number of potential burden-reduction and streamlining opportunities through modifications to regulations and is further evaluating other regulations to determine if they can be simplified or streamlined. The Agency plans to involve the public as much as possible by soliciting comments and conducting stakeholder meetings and consultations.

**Statement of Need:**

There are many regulations currently on the books that pertain to pesticides and toxic chemicals. Some regulations are obsolete or are no longer applicable to the Agency's current needs, some are confusing, and many have become overly burdensome to all concerned, both the public and EPA. The goal of this project is to assess the regulations from a common-sense approach. The objectives are multifold: to identify regulations in the CFR that are confusing, contradictory, unnecessary, or not written in plain English; evaluate the underlying programs described by the regulations for streamlining possibilities; and seek opportunities to reduce reporting and recordkeeping burdens. OPPTS has identified regulations in the CFR which would benefit from modifications or which require evaluation prior to proposing specific recommendations. Current activities focus on determining the extent to which its regulations could be changed to achieve the objectives of the Regulatory Review initiative without sacrificing health or environmental protection. Changes are being considered at all levels and include, in addition to regulatory changes, procedural changes, policy changes, administrative changes, and legislative changes.

**Alternatives:**

Alternatives are being explored continually. Public suggestions and recommendations for deregulation activities and streamlining efforts are being evaluated to the extent they can be practicably implemented without increasing risk to the public health or environment.

**Anticipated Costs and Benefits:**

This is a streamlining exercise, therefore overall costs to the regulated community are expected to decrease. Benefits include reduced regulation, decreased paperwork, less burden, and increased Agency efficiency. No comprehensive analyses have been done to date. When specific regulatory

objectives and alternatives are identified, costs and benefits will be evaluated.

**Risks:**

The principal objective of this project is to improve the infrastructure of the pesticide regulation system. Each recommendation for change is assessed for potential impact on public health and environmental protection. In considering modifying existing regulations, any alternatives must be at least as protective as current requirements.

**Timetable:**

Action	Date	FR Cite
Direct Final Pesticide Programs Line-by-Line Review	06/19/95	60 FR 32094
Direct Final Toxic Programs Line-by-Line Review	06/19/95	60 FR 31917
Final	11/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Tribal, Federal

**Additional Information:**

SAN No. 3755.

A number of program activities and regulations are being evaluated for the regulatory reform initiative. As these activities are developed, they will be included in the Regulatory Agenda when appropriate. Current regulatory reform initiatives are identified in the Regulatory Agenda individually.

**Agency Contact:**

Angela Hofmann  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
401 M Street, S.W. (Mailcode 7101)  
Washington, DC 20460  
Phone: 202 260-2922  
Fax: 202-260-0951  
Email: hofmann.angela@epamail.epa.gov  
Pat Johnson  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
Phone: 202-260-2893  
Fax: 202-260-0951  
Email: johnson.patriciaa@epamail.epa.gov

**RIN:** 2070-AC97

**EPA**

**119. POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

15 USC 2605(e)/TSCA 6(e)

**CFR Citation:**

40 CFR 761

**Legal Deadline:**

None

**Abstract:**

This rulemaking will make over 50 modifications, additions, and deletions to the existing PCB management program under the Toxic Substances Control Act (TSCA). A notice of proposed rulemaking was published on December 6, 1994 and covered the manufacture (including import) processing, distribution in commerce, export use, disposal, and marking of PCBs.

**Statement of Need:**

This rulemaking is the first comprehensive review of the PCB regulations in the 17-year history of the program. The Agency has become aware of a number of instances where the existing regulations do not allow for activities which do not pose an unreasonable risk of injury to health and the environment or where they require unreasonable, unrealistic, or non-cost-effective solutions to PCB problems.

**Summary of the Legal Basis:**

TSCA section 6(e) bans the manufacture, processing, distribution in commerce and use (except in a totally enclosed manner) of PCBs. It also directs EPA to establish standards for disposal and marking of PCBs. However, section 6(e) allows the EPA to modify these bans, through rulemaking, where it finds no unreasonable risk of injury to health and the environment.

**Alternatives:**

On December 6, 1994, EPA proposed a number of alternatives to the existing statutory bans in section 6(e). The proposal also included new options

and standards for disposal (including remediation) of PCBs.

**Anticipated Costs and Benefits:**

The EPA projects significant cost savings from authorizations for existing uses and the disposal of large-volume wastes such PCB-contaminated environmental media. In addition, the relaxation of certain administrative requirements should increase the speed of remediation of contaminated sites and accelerate the removal from use of PCBs. EPA projects minimal implementation costs and is reviewing comments which highlight areas for additional cost savings over the proposal.

**Risks:**

The EPA estimates that millions of tons of PCB-contaminated environmental media will be remediated under this rule, thus preventing large quantities of this long-lived, bioaccumulating chemical from entering the food chain.

**Timetable:**

Action	Date	FR Cite
NPRM	12/06/94	59 FR 62788
Final Action	12/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Local, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3860.

**Agency Contact:**

Tony Baney  
Environmental Protection Agency  
Office of Prevention, Pesticides and Toxic Substances  
401 M Street S.W. (Mailcode 7404)  
Washington, DC 20460  
Phone: 202 260-3933  
Email: baney.tony@epamail.epa.gov

**RIN:** 2070-AD04

**EPA**

**120. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: HAZARDOUS WASTE IDENTIFICATION RULE (HWIR); WASTE**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will

revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6905/1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6922/RCRA 3002; 42 USC 6926/RCRA 3006

**CFR Citation:**

40 CFR 260; 40 CFR 261; 40 CFR 262; 40 CFR 264; 40 CFR 268

**Legal Deadline:**

Final, Judicial, February 13, 1997.

**Abstract:**

Under the current Resource Conservation and Recovery Act (RCRA) mixture and derived from rules, some low-risk wastes are currently regulated by the Environmental Protection Agency's (EPA's) hazardous waste regulations. To address this problem, this deregulatory action will make modifications to the mixture and derived from rules, and establish new criteria that would exempt certain low-risk wastes from the hazardous waste regulations. In developing the proposal, EPA has considered the views of all members of a Federal Advisory Committee Act (FACA) committee. Because this action is deregulatory, it is not expected to have adverse impacts on small business. The cost savings for small quantity generators is less certain and depends on the degree to which they aggregate their wastes and work cooperatively with each other to cost-effectively gain exemption. This action will be implemented by EPA and authorized States.

**Statement of Need:**

EPA has proposed to amend its regulations under RCRA for hazardous waste identification. The amendment would establish exemption criteria for low-risk listed hazardous wastes, waste mixtures, and derivatives.

Under the amendment, low-risk listed hazardous wastes, waste mixtures, and derivatives meeting the exemption criteria would no longer be subject to hazardous waste management requirements under subtitle C of RCRA.

The provisions of the final rule will reflect a balancing of the Agency's informational needs for oversight and enforcement with the practical resource considerations of the generator. This rule would reduce the demand on scarce subtitle C landfill capacity and would not increase risk to humans or the environment, because the exempt

waste would be low-risk and not warrant management under subtitle C. This rule will also promote pollution prevention, waste minimization, and development of innovative waste treatment technology.

This notice will also contain the Agency's response to a petition for rulemaking submitted by the Chemical Manufacturers Association.

**Alternatives:**

A variety of alternatives for establishing the exemption criteria and the implementation requirements were identified by a FACA committee co-chaired by EPA and the States. EPA is forging a strong partnership with the States in the interest of our co-regulator, co-implementor roles. The proposal included a basic exit option and requested comment on contingent management alternatives.

**Anticipated Costs and Benefits:**

The proposal estimated that 64 million tons of wastewater and 0.40 million tons of non-wastewaters would be exempted, providing annual cost savings to industry of approximately \$75 million. Additional options examined in the proposal could vary these volumes estimates upwards, providing industry annual cost savings of \$99-245 million.

**Risks:**

This rule would maintain current levels of risk protection.

**Timetable:**

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
NPRM Withdrawn	10/30/92	57 FR 49280
NPRM Reproposal	12/21/95	60 FR 66344
Final Action	02/00/97	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 3328.

Reinventing Government: The rule was highlighted as one of the top regulatory reform initiatives in the President's March 16, 1995 report, "Reinventing Environmental Regulations."

**Agency Contact:**

William A. Collins, Jr.  
Environmental Protection Agency  
Solid Waste and Emergency Response  
(5304W)  
Washington, DC 20460  
Phone: 703-308-8748

RIN: 2050-AE07

**EPA**

**121. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

42 USC 6924/RCRA 3004; 42 USC 6925/RCRA 3005; Clean Air Act Amendments section 112

**CFR Citation:**

40 CFR 60; 40 CFR 63; 40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 265; 40 CFR 266; 40 CFR 270; 40 CFR 271

**Legal Deadline:**

Final, Judicial, December 1996, See additional information.

Final, Judicial, December 1999, See additional information.

**Abstract:**

The Environmental Protection Agency's (EPA's) strategy for hazardous waste minimization and combustion and a judicial settlement agreement commit EPA to upgrade its standards for burning hazardous waste in incinerators, boilers, and industrial furnaces. These standards would be applicable during the construction and operation of these combustion facilities.

**Statement of Need:**

Under the Clean Air Act (CAA) Amendments of 1990, EPA is required to establish National Emission Standards for Hazardous Air Pollutants (NESHAPs) for most hazardous waste combustors (HWCs) (i.e., incinerators, cement kilns, boilers, and some types of smelting furnaces). In addition, under the Resource Conservation and Recovery Act (RCRA), EPA is required to establish standards for all HWCs as necessary to ensure protection of human health and the environment. EPA is concerned that its current RCRA standards for HWCs may not be adequately protective given that there are no emission standards for chlorinated dioxins and furans and that there have been advances both in risk

assessment and control technologies since promulgation of the current standards.

Consequently, the Agency plans to establish new emissions standards for HWCs under joint CAA and RCRA authority. This will avoid duplicative Agency effort and piecemeal regulation of the hazardous waste management industry.

#### Alternatives:

Under provisions of the CAA, the Agency plans to consider the cost-effectiveness of emission limits more stringent than the minimum limits mandated by the statute. Further, the Agency plans to evaluate approaches to reduce emissions of hazardous air pollutants by improving good operating practices (e.g., controlling the way in which problematic materials such as toxic metals are introduced into the combustor).

#### Anticipated Costs and Benefits:

EPA's analysis of the proposed rule indicates that some combustion facilities may experience a substantial change in the cost of burning waste, but that this change is likely to have a limited impact on combustion markets. In terms of effects on waste-burning cost structure, cement kilns and lightweight aggregate kilns (LWAKs) are most affected by the regulation. This is primarily a product of their relatively low baseline costs of burning, meaning that incremental compliance costs represent a large increase in their overall cost of burning waste. For incinerators, compliance costs are lower, represent smaller additions to baseline costs, and change little across regulatory options. The analysis concludes that cement kilns have the lowest waste burning costs even after regulation, and so will continue to have the greatest leverage to increase prices.

To the extent that compliance costs cannot be passed through to generators and fuel blenders, the profitability of waste burning in kilns will fall. Nonetheless, waste burning kilns are expected to have healthy operating profit margins after the rule. Market exit in all sectors is concentrated among facilities that burn small quantities of hazardous waste. While as many as 98 combustion facilities may stop burning hazardous wastes as a result of the proposed MACT options, the small quantities these facilities burn suggest that market dislocations will be minor.

Overall, the social costs of the rule are balanced by a set of potentially substantial benefits. Given the severity of the potential adverse health effects from dioxin and mercury (cancer, adverse developmental effects in children, severe neurological effects in adults, and bioaccumulation in ecosystems), EPA believes the substantial reductions of these pollutants from hazardous waste burning sources under the MACT standard justifies moving ahead with the proposed above the floor (ATF) option. An alternative way of valuing benefits is the potential increase in property values around closed or more stringently regulated combustion facilities. The fact that this approach also suggests potentially substantial benefits strengthens EPA's belief that the costs of moving forward with the proposed ATF option are justified.

#### Risks:

EPA has estimated that hazardous waste incinerators and hazardous-waste burning cement and light weight aggregate kilns currently emit a total of 0.94kg toxicity equivalent (TEQ) per year. Therefore, hazardous waste burning sources represent about 9 percent of total anthropogenic emissions of dioxins in the U.S.

EPA estimates that dioxin emissions from hazardous waste-burning sources will be reduced to 0.07kg TEQ per year at the floor levels and to 0.01kg TEQ per year at the proposed beyond the floor standard. These reductions would result in decreases of approximately 8 and 9 percent, respectively, in total estimated anthropogenic U.S. emissions. EPA expects that reductions in dioxin emissions from hazardous waste-burning sources, in conjunction with reductions in emissions from other dioxin-emitting sources, will help reduce dioxin levels over time in foods used for human consumption and, therefore, reduce the likelihood of adverse health effects, including cancer, occurring in the general population.

EPA has estimated that hazardous waste incinerators and hazardous waste-burning cement and lightweight aggregate kilns currently emit a total of 10.1 Mg of mercury per year. Based on these estimates, hazardous waste-burning sources represent about 4 percent of total anthropogenic emissions of mercury in the U.S.

EPA estimates that mercury emissions from hazardous waste-burning sources will be reduced to 3.3Mg per year at the proposed floor levels and to 2.0Mg per year at the proposed beyond the

floor standard. These reductions would result in reductions of total anthropogenic U.S. emissions of approximately 3 percent. EPA expects that reductions in emissions from other mercury-emitting sources, will help reduce mercury levels in fish over time and therefore, fish consuming populations.

#### Timetable:

Action	Date	FR Cite
NPRM Industrial Furnaces and Incinerators	04/19/96	61 FR 17358
Final Rule	12/00/96	
NPRM Boilers	09/00/98	
Final Rule	12/00/99	

#### Small Entities Affected:

Businesses

#### Government Levels Affected:

State

#### Analysis:

Regulatory Flexibility Analysis

#### Additional Information:

SAN No. 3333.

EPA has signed a settlement agreement to promulgate revised rules for industrial furnaces and incinerators by December 1996 and boilers by December 1999. EPA may seek to extend the first date.

#### Agency Contact:

Larry Denyer  
Environmental Protection Agency  
Solid Waste and Emergency Response  
5302W  
Washington, DC 20460  
Phone: 703 308-8770

RIN: 2050-AE01

#### EPA

#### 122. LAND DISPOSAL RESTRICTIONS—PHASE IV: PAPERWORK REDUCTION; TREATMENT STANDARDS FOR WOOD PRESERVING, MINERAL PROCESSING AND CHARACTERISTIC METAL WASTES; RELATED MINERAL PROCESSING ISSUES

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6905/RCRA 1006; 42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004

**CFR Citation:**

40 CFR 148; 40 CFR 261; 40 CFR 268; 40 CFR 271

**Legal Deadline:**

Final, Judicial, October 15, 1996.  
 NPRM, Judicial, April 15, 1997, (Mineral Processing and Characteristic Metal Wastes).  
 Final, Judicial, April 15, 1997, (Wood Preserving Wastes).  
 Final, Judicial, April 15, 1998, (Mineral Processing and Characteristic Metal Wastes).

**Abstract:**

The Hazardous and Solid Waste Amendments of 1984 require the Environmental Protection Agency (EPA) to promulgate regulations establishing treatment standards that must be met before hazardous waste may be disposed of on land. The proposed rulemaking establishes treatment standards for characteristic mineral processing wastes, wood preserving wastes, and TC metal wastes.

**Statement of Need:**

Land disposal of hazardous wastes can result in the contamination of groundwater and surface water and the emission of hazardous constituents to the air. Studies have indicated that these hazardous constituents can cause adverse human health and environmental effects. In addition, land disposal of untreated hazardous wastes can have significant economic effects, as demonstrated in the high costs of cleaning up past land disposal sites.

As a result of these problems, Congress, in section 3004 of RCRA, mandated that land disposal of hazardous waste is prohibited, unless the waste is treated to minimize threats to human health and the environment. In the Phase IV final rule, EPA is satisfying its statutory mandate to promulgate treatment standards for wood preserving, toxicity characteristic metal, and mineral processing hazardous wastes. In order to delineate what constitutes a mineral processing waste, EPA is considering amending the definition of solid waste for secondary materials that result from mineral processing and are recycled legitimately within that industry sector.

**Summary of the Legal Basis:**

Portions of the rule are subject to a consent decree that requires promulgation of final treatment standards for wood preserving and toxicity characteristic metal wastes, and hazardous mineral processing wastes.

**Alternatives:**

Under RCRA, the Agency was instructed to promulgate treatment standards for a waste within six months of the Agency identifying or listing it as a hazardous waste. The Agency missed this deadline for a number of newly identified or listed wastes and consequently was sued. Under the resulting consent decree, EPA must establish treatment standards for wood preserving and toxicity characteristic metal waste, and for hazardous mineral processing wastes.

Treatment standards for wood preserving and toxicity characteristic metal wastes, as well as for hazardous mineral processing wastes, are based upon the performance of best demonstrated available technologies (BDAT). Section 3004(m) of RCRA requires that the treatment standards ensure substantial reductions in hazardous waste toxicity and mobility, such that threats to human health and the environment arising from subsequent land disposal are minimized. Variances from these treatment standards may be granted if a petitioner can show EPA that the waste is different from the waste EPA used to set the treatment standard or the technology on which the standard is based is inappropriate for a particular waste. In addition, if treatment is unavailable on a nationwide basis, or on a case-by-case basis, EPA may postpone the effective date of the treatment standards for up to four years.

**Anticipated Costs and Benefits:**

The Agency estimates annual incremental compliance costs of \$1 to \$23 million.

**Risks:**

The Agency expects a small reduction in cancer cases and other human health effects. The rule may prevent groundwater contamination that damages ecosystems.

**Timetable:**

Action	Date	FR Cite
ANPRM	10/24/91	56 FR 55160
NPRM	08/22/95	60 FR 43654
NPRM Supplemental Proposal	01/25/96	61 FR 2338

Action	Date	FR Cite
NPRM Supplemental (Mineral Processing and Characteristic Metal Wastes)	04/00/97	
Final Action (Wood Preserving Wastes)	04/00/97	
Final Action (Mineral Processing and Characteristic Metal Wastes)	04/00/98	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 3366.  
 Reinventing Government: This rule will reduce the paperwork burden on the regulated community by revising a number of the LDR program's administrative requirements. Other regulatory changes will eliminate outdated regulations and clarify areas of the regulations that are confusing.

**Agency Contact:**

Sue Slotnick  
 Environmental Protection Agency  
 Solid Waste and Emergency Response  
 5302W  
 Washington, DC 20460  
 Phone: 703 308-8462

**RIN:** 2050-AE05

**EPA**

**123. REQUIREMENTS FOR MANAGEMENT OF HAZARDOUS CONTAMINATED MEDIA COMMONLY REFERRED TO AS HAZARDOUS WASTE IDENTIFICATION RULE FOR CONTAMINATED MEDIA OR HWIR-MEDIA**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 6912(a)/RCRA 2002(a); 42 USC 6921/RCRA 3001; 42 USC 6924/RCRA 3004; 42 USC 6926/RCRA 3006; 42 USC 6927/RCRA 3007

**CFR Citation:**

40 CFR 260; 40 CFR 261; 40 CFR 264; 40 CFR 268; 40 CFR 269; 40 CFR 271

**Legal Deadline:**

None

**Abstract:**

The goal of this regulation is to establish a new regulatory framework under the Resource Conservation and Recovery Act (RCRA) for the management of contaminated media and other remediation wastes that are generated from remediating hazardous waste sites. The new regulation would reform the current standards by creating more flexibility for Agency and State decision makers in setting remediation waste management requirements, and by better aligning the RCRA regulations with the actual risks posed by managing remediation wastes. In general, the proposed rule would allow certain lower risk contaminated media to be exempted from the current RCRA regulations and would set treatment standards for higher risk media that reflect the differences between contaminated media (e.g., soils, groundwater) and newly generated hazardous wastes. The regulations would also simplify and streamline RCRA permit requirements for management of remediation wastes and State Authorization requirements for RCRA revisions. Also in this proposal, the Agency proposed an exemption from RCRA Subtitle C for dredged materials managed by the US Army Corps of Engineers under Clean Water Act or Marine Protection, Research and Sanctuaries Act permits. Finally, the Agency proposed to withdraw the regulations for Corrective Action Management Units. The Agency will reevaluate the date listed for publication of the final rule after review of public comment.

**Statement of Need:**

Since 1980, the Environmental Protection Agency (EPA) has promulgated comprehensive regulations under subtitle C of RCRA governing the treatment, storage, disposal, and transportation of hazardous wastes. These regulations have been designed primarily to discourage hazardous waste generation, and for those wastes generated, to prevent future environmental contamination by ensuring safe management and disposal. In contrast, the primary objective of the cleanup program is to achieve environmental improvement as quickly and effectively as possible.

In 1993, EPA, States, and representatives from industry, environmental groups, and the hazardous waste treatment industry

(constituting a Federal Advisory Committee (FACA)) reached a tentative agreement on a harmonized approach to address this issue. This approach distinguishes between higher and lower level (bright line) contaminated media based on assessment of potential human health and environmental risks. The bright line would be set at a relatively high-risk level to allow States and EPA to identify hot spots that would be subject to subtitle C requirements (land-disposal regulations and MTR). Media above bright-line concentrations would be subject to specific national treatment requirements; media below the bright line would be eligible for exemption from Subtitle C if subject to enforceable site-specific management plans by the overseeing agency.

**Alternatives:**

Alternative regulatory approaches for this rule were proposed and analyzed.

**Anticipated Costs and Benefits:**

Analyses of costs and benefits will be conducted as part of the economic analysis for this rule required under Executive Order 12866.

**Risks:**

One of the primary objectives of this rule is to establish requirements for management of contaminated media and other remediation wastes that more accurately reflect the risks posed by such wastes. Thus, the rule is expected to result in cleanups that achieve the Agency's risk reduction objectives in a more efficient and expeditious manner. More quantitative analysis of the risks associated with this rule will be included in the economic analysis.

**Timetable:**

Action	Date	FR Cite
NPRM	05/20/92	57 FR 21450
Withdrawal of NPRM	10/30/92	57 FR 49280
Second NPRM	04/29/96	61 FR 18780
Final Action	06/00/97	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Federal

**Additional Information:**

SAN No. 2982.

Reinventing Government: The rule was highlighted as one of the Agency's top regulatory reform initiatives in the President's March 16, 1995 report, Reinventing Environmental Regulations. The HWIR Media rule is an important component of EPA's

regulatory efforts to make the RCRA hazardous waste program more risk based and to expedite cleanups at RCRA, UST, CERCLA and State cleanup sites.

**Agency Contact:**

Carolyn Loomis Hoskinson  
Environmental Protection Agency  
Solid Waste and Emergency Response  
(5303W)  
Washington, DC 20460  
Phone: 703 308-8626

RIN: 2050-AE22

**EPA****124. COMPLIANCE ASSURANCE MONITORING PROGRAM (PREVIOUSLY ENHANCED MONITORING PROGRAM)****Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

Clean Air Act Amendments of 1990, sections 114(a)(3), 503(b),; 504(b)

**CFR Citation:**

40 CFR 64; 40 CFR 70; 40 CFR 71

**Legal Deadline:**

Final, Statutory, November 1992.

NPRM, Judicial, September 30, 1993.

Final, Judicial, July 1, 1997.

**Abstract:**

This action is required by the 1990 Clean Air Act (the Act) Amendments to assure better compliance with existing rules. This rule will require major stationary sources who must obtain permits under title V of the Act to conduct monitoring that provides reasonable assurance of ongoing compliance of the significant emission units with applicable requirements. Affected sources will use the monitoring data in conjunction with other compliance-related data to certify compliance with emission standards and other permit conditions.

**Statement of Need:**

The Clean Air Act Amendments of 1990 require major stationary sources to provide ongoing monitoring and periodic certification of compliance. Current compliance data based on initial or periodic performance testing, provide only snapshots of the compliance status of stationary sources. Current minimal operation and maintenance monitoring of control technology performance, if applied,

provides little assurance of continued good pollution control and little incentive for the source owner or operator to maintain or improve performance. The compliance assurance monitoring (CAM) rule would require owners or operators of emission sources to increase awareness of the operational status of pollution control technology and to act on discrepancies in that operation to reduce emissions. Certification of compliance would be based on a combination of compliance testing or other compliance data and demonstration of continued good control technology performance and appropriate and timely corrective action.

#### Alternatives:

The CAM program is designed to assure ongoing compliance with requirements under the Act. If owners or operators are already required to determine continuous compliance with emission limitations or standards, that satisfies the purpose of CAM and no additional assurance of compliance is necessary. If these circumstances do not exist, CAM would use a two-pronged approach to assure compliance. First, CAM would require that owners or operators have reasonable information available to them that can indicate potential problems in emission control performance. Second, CAM would require that owners or operators act on that information in a timely fashion to avoid (if preventable) or reduce (if not preventable) emission control problems that could result in excess emissions. This type of monitoring does not need to be so rigorous as to exactly determine or predict emission levels, but rather should be sufficient to allow for reasonable optimization of the method used by a source to achieve ongoing compliance with emission limitations or standards under the Act.

This approach is consistent with President Clinton's regulatory reform initiatives and EPA's Common Sense Initiative in that it focuses on preventing pollution rather than imposing additional command-and-control regulations on regulated sources. This represents a significant change in Agency direction for implementation of the monitoring and compliance certification requirements in titles V and VII of the Act. The goal of CAM is to provide a reasonable assurance of compliance. Rather than a direct connection between monitoring and certification, CAM allows for an indirect, symbiotic relationship between these two methods for assuring compliance. The

result of this change will be to reduce the emphasis on assuring compliance through the threat of enforcement. Instead, CAM emphasizes assuring compliance by placing the burden on regulated sources to monitor their performance and take proactive steps to minimize emission exceedances.

#### Anticipated Costs and Benefits:

In keeping with Executive Order 12866, EPA will prepare a detailed regulatory impact analysis (RIA) that will provide costs and benefits associated with the CAM rule.

EPA believes that the adoption of CAM can result in tangible benefits for a facility. Although a self-monitoring program may not always be justified purely on the basis of economic benefit to a source, self-monitoring can, in some situations, reduce operating costs. For example, monitoring data can be used to increase combustion efficiency in an industrial boiler or to increase capture and reuse of solvents at a coating plant. The CAM approach will also alert owners or operators that potential control device problems may exist. The owner or operator can use this information to target control devices for routine maintenance and repair, and reduce the potential for costly breakdowns.

The Agency also believes that the CAM approach will result in tangible benefits to the general public health and welfare. A primary benefit of CAM will be a reduction in overall emissions through increased compliance with the requirements of the Act. The key elements of CAM that will provide these reductions are (a) the emphasis on monitoring that alerts owners or operators to deteriorating control conditions and (b) the requirement that steps be taken to correct those conditions. This approach emphasizes minimizing emissions by avoiding or remedying as quickly as possible situations that may involve emissions in excess of applicable requirements. In addition to the direct environmental benefit of decreased emissions, increased compliance rates will also achieve a corollary economic benefit. As a general matter, increased compliance rates with existing rules will lower the long-term overall cost of air pollution control by decreasing the need for additional regulations to obtain necessary emission reductions, especially for nonattainment areas.

#### Risks:

Compliance Assurance Monitoring will apply to over 50,000 emission units

nationally. The establishment of CAM requirements is estimated to impact about 97 percent of the emissions of carbon monoxide, nitrogen oxide, particulate matter, sulfur dioxide, and volatile organic compounds, as well as certain hazardous air pollutants such as benzene and mercury; exact reductions which will be obtained are yet to be determined. The CAM provisions will apply to existing Clean Air Act standards only; new regulations will incorporate continuous compliance monitoring provisions. As these new rules are developed, pollution reduction will be achieved beyond those obtained through CAM.

#### Timetable:

Action	Date	FR Cite
NPRM	10/22/93	58 FR 54648
Supplemental Proposal	12/28/94	59 FR 66844
Final Action	07/00/97	

#### Small Entities Affected:

None

#### Government Levels Affected:

None

#### Additional Information:

SAN No. 2942.

#### Agency Contact:

Peter R. Westlin  
Environmental Protection Agency  
Air and Radiation  
OAQPS - MD19  
Research Triangle Park, NC 27711  
Phone: 919 541-1058

RIN: 2060-AD18

#### EPA

#### 125. NEW SOURCE REVIEW (NSR) REFORM

#### Priority:

Other Significant

#### Reinventing Government:

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

#### Legal Authority:

Clean Air Act as amended in 1990, title I

#### CFR Citation:

40 CFR 51.160 to 51.166; 40 CFR 52.21; 40 CFR 52.24

#### Legal Deadline:

None

**Abstract:**

The purpose of this action is to revise the Clean Air Act new source review (NSR) regulations, which govern the preconstruction air quality review and permitting programs that are implemented by States and the Federal Government for new and modified major stationary sources of air pollution. This rulemaking seeks to deregulate, that is, exclude from major NSR program requirements those activities of sources that, with respect to air pollution, have little environmental impact. The rulemaking will encourage pollution control and pollution prevention projects at existing sources. Control technology requirements will be clarified with respect to when and how they apply to sources that are covered. The action will more clearly define the roles and requirements of sources, permitting authorities and Federal land managers in the protection of air-quality-related values in Federal Class I areas (i.e., certain national parks and wilderness areas) under the new source review regulations. State, local, and tribal permitting agencies will be given more flexibility to implement program requirements in a manner that meet their specific air quality management needs. Consequently, the rulemaking decreases the number of activities that are subject to NSR requirements and also expedites the permitting process for those sources that are subject to NSR. This action is designed to reduce the regulatory burden over all industries without respect to commercial size or capacity; therefore, it should have no detrimental impact on small businesses. Finally, this action also addresses several pending petitions for judicial review and administrative action pertaining to new source review applicability requirements and control technology review requirements. Regulations that will be affected are State implementation plan requirements for review of new sources and modifications to existing sources (40 CFR 51.160-166), the Federal prevention of significant deterioration program (40 CFR 52.21), and Federal restriction on new source construction (40 CFR 52.24) to be proposed in another rulemaking action.

**Statement of Need:**

In August 1992, EPA voluntarily initiated a comprehensive effort to reform the NSR process. This effort was initiated to examine complaints from the regulated community that the current regulatory scheme is too complex, needlessly delays projects,

and unduly restricts source flexibility. Currently there are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. The goal of this effort is to address industries' concerns without sacrificing the environmental benefits embodied in the present approach; that is, protecting and improving local air quality, and stimulating pollution prevention and advances in control technologies.

In August 1992 and March 1993, public workshops were held to obtain ideas and comments and discuss options for reforming NSR, but not to attempt to reach consensus with the group. In July 1993, the New Source Review (NSR) Reform Subcommittee was formed under the auspices of the Clean Air Act Advisory Committee. The Subcommittee's purpose is to provide independent advice and counsel to EPA on policy and technical issues associated with reforming the NSR rules.

The Subcommittee is composed of representatives from industry, State/local air pollution control agencies, environmental organizations, EPA headquarters and regions, and other Federal agencies (Federal Land Managers, National Park Service and Forest Service), Department of Energy, and the Office of Management and Budget). Six subgroups were formed to address Class I area and control technology issues identified by the Subcommittee. Another two subgroups were formed at the November 1993 meeting, one to address NSR applicability issues and the other to address the impact of existing sources on Class I areas.

**Summary of the Legal Basis:**

There are no applicable statutory or judicial deadlines for the NSR reform rulemaking effort. However, the rule will address two outstanding settlement agreements: CMA Exhibit B and Top-down BACT. The pending settlement on WEPCO may impose a judicial deadline on the rulemaking.

**Alternatives:**

The Subcommittee discussed numerous options for implementing NSR reform. However, EPA's primary focus will be to consider the specific recommendations developed by the Subcommittee and, where appropriate, use them in this rulemaking effort.

**Anticipated Costs and Benefits:**

From a cost perspective, this rulemaking represents a decrease in applications and recordkeeping costs to

industry of at least \$13 million per year, as compared to the preexisting program, based primarily on the fact that fewer sources will need to apply for major source permits. In addition, the cost to State and local agencies will be reduced by approximately \$1.4 million per year. The Federal Government should realize a savings of approximately \$116,000 per year. Additional cost reductions, which are difficult to quantify, will be realized due to the streamlining effect of the rulemaking on the permitting process, for example, the opportunity costs for shorter time periods between permit application and project completion and reduced uncertainty in planning for future source growth.

**Risks:**

This is a procedural rule applicable to a wide variety of source categories. Moreover, it applies to criteria pollutants for which NAAQS have been established. This action is considered environmentally neutral. However, any potential risks are considered in the NAAQS rulemaking from a national perspective.

**Timetable:**

Action	Date	FR Cite
NPRM	07/23/96	61 FR 38249
Final Action	09/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Local, Federal

**Additional Information:**

SAN No. 3259.

**Agency Contact:**

Dennis Crumpler  
New Source Review Section  
Environmental Protection Agency  
Air and Radiation  
MD-12  
Research Triangle Park, NC 27711  
Phone: 919 541-0871

RIN: 2060-AE11

**EPA****126. OPERATING PERMITS: REVISIONS (PART 70)****Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden

or duplication, or streamline requirements.

**Legal Authority:**

42 USC 7661 et seq

**CFR Citation:**

40 CFR 70; 40 CFR 71; 40 CFR 51

**Legal Deadline:**

None

**Abstract:**

In response to litigation on the part 70 regulations, to several problems identified through implementation of part 70, and to comments provided in response to notices of proposed rulemaking, parts 51, 70, and 71 are being revised. The changes include the following: streamlined procedures for revising stationary-source operating permits issued by State and local permitting authorities or the Environmental Protection Agency (EPA) under title V of the Clean Air Act; changes to the certification of compliance that is required to be submitted as part of the permit documentation; clarification of the title I and title V permitting requirements for certain smaller research and development facilities; and changes in procedural requirements in order to clarify the flexibility States possess in processing minor new source review actions under title I of the Act.

**Statement of Need:**

These revised rules will establish a simpler, more flexible system for revising operating permits. These revisions reflect the principles articulated in the President's and the Vice President's March 16, 1995 report Reinventing Environmental Regulation. That report established as goals for environmental regulation the building of partnerships between EPA and State and local agencies, minimizing costs, providing flexibility in implementing programs, tailoring solutions to the problem, and shifting responsibility to State and local programs.

**Alternatives:**

The Clean Air Act requires that EPA develop regulations which set minimum standards for State operating-permit programs. The Clean Air Act also requires that EPA promulgate and administer a Federal operating-permits program for States that have not obtained EPA approval by November 15, 1995. In response to concerns expressed in response to comments on the initial notice of proposed rulemaking, the EPA sought further

input from representatives from State and local permitting authorities, industry and environmental groups to learn more directly of their implementation concerns. This action incorporates many of those recommendations into a final rule.

**Anticipated Costs and Benefits:**

Costs were estimated in terms of the administrative burden on permitting authorities, EPA, and permitted sources. Administrative costs include a range of costs which cover the source's preparing an application through EPA's and the permitting authority's effort to complete the process. The administrative costs of implementing these revisions to parts 70 and 71 is estimated to be approximately \$33 million. In comparison, implementing the current part 70 permit revision system is estimated to be approximately \$118 million in administrative burden. The actual impact of implementing the revised regulations represents a significant reduction in costs over implementing the current regulations.

**Risks:**

All major sources of air pollution are required to have a permit to operate by the Clean Air Act and are subject to the emission requirements of the State Implementation Plans. No adverse effect on the public health or ecosystems should result from this action.

**Timetable:**

Action	Date	FR Cite
NPRM	08/29/94	59 FR 44460
NPRM Supplemental Proposal for Part 71	04/27/95	60 FR 20804
NPRM Supplemental Proposal for Part 70	08/31/95	60 FR 45530
FINAL	02/00/97	

**Small Entities Affected:**

Governmental Jurisdictions

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3412.

**Agency Contact:**

Ray Vogel  
 Environmental Protection Agency  
 Air and Radiation  
 Information Transfer and Program  
 Research Triangle Park, NC 27711  
 Phone: 919 541-3153  
 Fax: 919 541-5509  
 RIN: 2060-AF70

**EPA**

**127. TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING**

**Priority:**

Economically Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

42 USC 7521(a)/CAA 176(c)

**CFR Citation:**

40 CFR 51; 40 CFR 93

**Legal Deadline:**

None

**Abstract:**

The Clean Air Act Amendments (CAAA) of 1990 recognized that transportation planning and air quality planning must be coordinated towards achieving the National Ambient Air Quality Standards (NAAQS). The transportation conformity rule was promulgated in November of 1993, in response to CAAA concerns. Conformity ensures that transportation planning does not (a) produce new air quality violations, (b) worsen existing violations, and (c) delay timely attainment of the NAAQS. This rulemaking is the third in a series of amendments to the original transportation conformity rule. This rulemaking will streamline the original rule to simplify the conformity process in response to conformity stakeholder concerns. Flexibility will be added for rural nonattainment areas. Difficulties associated with the build/no-build test and adding transportation projects to plans will be resolved, and non-Federal projects will have additional flexibility through these amendments.

**Statement of Need:**

This rulemaking will streamline the original transportation conformity rule

in response to stakeholder concerns. This rulemaking will continue to ensure attainment and maintenance of the CAAA's air quality standards in order to protect public and environmental health.

**Alternatives:**

This rulemaking amends the original transportation conformity rule to simplify the conformity process for State and local transportation and air quality agencies. Conformity stakeholders have assisted EPA and the Department of Transportation (DOT) in formulating a new approach to reaching attainment through the conformity process. Several alternative approaches to conformity revisions have been considered by involved stakeholders. Since this rulemaking is a direct result of the stakeholder process, opting for the alternative (i.e., maintaining the original transportation conformity rule as currently written) would not address stakeholder concerns in a satisfactory manner.

**Anticipated Costs and Benefits:**

There are no significant direct monetary costs associated with this rulemaking as stipulated in Executive Order 12866. Benefits associated with this rulemaking include all benefits connected to attaining the NAAQS. In addition, by involving transportation and air quality agencies during initial planning processes, long-term planning will become more efficient by ensuring that transportation investments do not interfere with clean air goals.

**Risks:**

This rulemaking addresses risks which are associated with not attaining the NAAQS.

**Timetable:**

Action	Date	FR Cite
NPRM	07/09/96	61 FR 36112
Final Action	12/00/96	

**Small Entities Affected:**

Governmental Jurisdictions

**Government Levels Affected:**

State, Local, Tribal, Federal

**Additional Information:**

SAN No. 3740.

**Agency Contact:**

Kathryn Sargeant  
Environmental Protection Agency  
Air and Radiation  
2565 Plymouth Road  
Ann Arbor MI 48104  
Phone: 313 668-4441

**RIN:** 2060-AG16

**EPA**

**128. MEDICAL WASTE INCINERATORS (MWI)**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Unfunded Mandates:**

This action may affect the private sector under PL 104-4.

**Legal Authority:**

Clean Air Act of 1990, section 129

**CFR Citation:**

40 CFR 60

**Legal Deadline:**

Final, Statutory, November 1992.

NPRM, Judicial, February 1995.

Final, Judicial, July 1997.

**Abstract:**

The Environmental Protection Agency (EPA) is developing new source performance standards (NSPS) for new MWIs and emission guidelines (EG) for existing MWIs under sections 111 and 129 of the Clean Air Act. The NSPS are to reflect the maximum degree of reduction in emissions that is achievable for new units. The EG may be less stringent than the standards for new units. States must submit plans for implementing and enforcing the guidelines. Section 129 requires that emission limits be established for particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins, and dibenzofurans.

EPA is working intensively with MWI owners and operators, as well as with other stakeholders, to assure that this rule is based on the best understanding of the industry, and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways, including the transfer of wastes to larger, more efficient regional facilities. based on the best understanding of the industry, and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways,

including the transfer of wastes to larger, more efficient regional facilities.

**Statement of Need:**

The medical waste incinerator rules will establish emission limits for dioxins, particulate matter, carbon monoxide, cadmium, lead, mercury, sulfuric acid, hydrochloric acid, and nitrogen oxide. These rules will establish emission limits that will reflect maximum achievable control technology (MACT), as defined by section 129, to reduce emissions of the above pollutants.

**Alternatives:**

The Clean Air Act specifies that the emission guidelines and the new source performance standards be based on MACT, and that MACT for existing sources can be no less stringent than the average emission limitations achieved by the best-performing 12 percent of units; and for new sources, can be no less stringent than the best-performing similar source. All control technologies for each pollutant as stringent as the floor or more stringent have been analyzed during the development of the standard.

**Anticipated Costs and Benefits:**

The annualized cost of the proposed standards for new incinerators will be in the range of \$75 million to \$215 million. The annualized cost of implementing the proposed guidelines for existing incinerators will be in the range of \$350 million to \$1.2 billion. The combined proposed standards and guidelines will result in reductions of dioxin emissions by more than 99 percent, as will reductions in the 90 percent to 98 percent range for particulate matter, cadmium, lead, mercury, hydrogen chloride, and carbon monoxide.

**Risks:**

Medical waste incinerators are among the larger sources of dioxin emissions in the country. Because of the adverse effects of dioxin emissions on the public health and ecosystems, it is one of the Agency's highest priorities to reduce the exposure to dioxin emissions.

**Timetable:**

Action	Date	FR Cite
NPRM	02/27/95	60 FR 10654
Final Action	07/00/97	

**Small Entities Affected:**

Businesses, Governmental Jurisdictions

**Government Levels Affected:**

State, Local, Tribal, Federal

**Additional Information:**

SAN No. 2719.

**Agency Contact:**

Rick Copland  
 Environmental Protection Agency  
 Air and Radiation  
 (MD-13)  
 Research Triangle Park, NC 27711  
 Phone: 919 541-5265

**RIN:** 2060-AC62

**EPA**

**129. VOC REGULATION FOR ARCHITECTURAL COATINGS**

**Priority:**

Other Significant

**Legal Authority:**

42 USC 7401; Clean Air Act section 183

**CFR Citation:**

40 CFR 59

**Legal Deadline:**

Final, Statutory, March 15, 1997.

**Abstract:**

This regulation will control volatile organic compound (VOC) emissions from architectural coatings. These coatings are applied to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. Traditional VOC limitations, market-based approaches, and phased-in approaches are all being considered. The EPA is working with coating manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

**Statement of Need:**

This regulation will establish VOC content limits for over 50 categories of architectural coatings. These limits will reduce the VOC emissions from architectural coatings and will reflect best available controls, as defined by Section 183(e) of the Clean Air Act (CAA). The architectural coatings category is a significant contributor of VOC emissions in ozone nonattainment areas.

**Summary of the Legal Basis:**

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone

nonattainment areas and establish a schedule for regulating the categories. The architectural coatings category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

**Alternatives:**

There are many alternatives to the proposed rule that were or are being considered, including: alternative VOC content limits for some types of coatings; issuance of a control techniques guideline in lieu of a national rule; low-volume exemptions; payment of fees, if desired, to exceed the VOC content limits; variances based on economic hardship; and an incentive to recycle paint. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

**Anticipated Costs and Benefits:**

The proposed rule would impose an estimated cost of \$25 million per year for coating manufacturers and would reduce VOC emissions from architectural coatings by an estimated 106,000 tons per year. VOC are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

**Risks:**

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The architectural coating category is one of the largest contributors.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/96	61 FR 32729
Final Action	03/00/97	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Local

**Additional Information:**

SAN No. 3351.

**Agency Contact:**

Ellen Ducey  
 Environmental Protection Agency  
 Air and Radiation  
 Research Triangle Park, NC 27711  
 Phone: 919 541-5408

**RIN:** 2060-AE55

**EPA**

**130. NATIONAL VOC EMISSION STANDARDS FOR CONSUMER PRODUCTS**

**Priority:**

Other Significant

**Legal Authority:**

42 USC 7401 et seq

**CFR Citation:**

40 CFR 59

**Legal Deadline:**

Final, Statutory, March 1997.

**Abstract:**

This regulation will reduce volatile organic compound (VOC) emissions from 24 types of consumer products which are currently regulated by California and several other States. The EPA is working with consumer product manufacturers and other stakeholders to ensure that this rule is based on the best possible understanding of the industry and that it affords the flexibility to achieve the necessary emission reductions in the most sensible, cost-effective ways.

**Statement of Need:**

This regulation will establish VOC content limits for 24 types of consumer products. These limits will reduce the VOC emissions from these products and will reflect best available controls, as defined by Section 183(e) of the Clean Air Act. The consumer products category is a significant contributor of VOC emissions in ozone nonattainment areas.

**Summary of the Legal Basis:**

Section 183(e) of the CAA requires that the EPA list those categories of consumer and commercial products (CCP) that account for at least 80 percent of VOC from all CCP in ozone nonattainment areas and establish a schedule for regulating the categories. The consumer products category was included on the list and schedule published March 23, 1995, and is in the group of categories to be regulated by March 1997.

**Alternatives:**

Alternatives to requirements in the proposed rule that were or are being considered, include alternative VOC content limits; issuance of a control techniques guideline in lieu of a national rule; variances based on economic hardship; and an incentive for innovative product development. The requirements in the proposed rule are based on product reformulation, a pollution prevention method.

**Anticipated Costs and Benefits:**

The rule would impose an estimated cost of \$27 million per year for consumer product manufacturers and would reduce VOC emissions from the products by an estimated 90,000 tons per year. VOC are a main component in formation of ground-level ozone which can damage lung tissue and cause serious respiratory illness.

**Risks:**

In the past, the CAA has focused on reducing VOC emissions from mobile sources (cars and trucks) and stationary sources, such as power plants and factories. Requiring additional controls on these sources may be very costly for the emissions reductions achieved. Regulating consumer and commercial products may prove to be a more cost-effective way of substantially reducing VOC emissions nationwide. Consumer and commercial products, such as surface coatings, personal care products, and household cleaning products, contribute about six million tons (approximately 30 percent) annually of VOC emissions nationwide. The consumer products category is one of the largest contributors.

**Timetable:**

Action	Date	FR Cite
NPRM	04/02/96	61 FR 14531
Final Action	12/00/96	

**Small Entities Affected:**

Businesses

**Government Levels Affected:**

State, Local, Tribal

**Sectors Affected:**

284 Soaps, Detergents, and Cleaning Preparations, Perfumes, Cosmetics, and Other Toilet Preparations; 287 Agricultural Chemicals; 289 Miscellaneous Chemical Products

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3658.

**Agency Contact:**

Bruce Moore  
Environmental Protection Agency  
Air and Radiation  
(MD-13)  
Research Triangle Park, NC 27711  
Phone: 919 541-5460

**RIN:** 2060-AF62

**EPA**

**131. OPEN-MARKET TRADING GUIDANCE**

**Priority:**

Other Significant

**Reinventing Government:**

This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

**Legal Authority:**

Clean Air Act, sections 182 and 187

**CFR Citation:**

40 CFR 51

**Legal Deadline:**

None

**Abstract:**

The Environmental Protection Agency (EPA) will issue a final policy for open-market trading of ozone smog precursors (volatile organic compounds and oxides of nitrogen) that will provide more flexibility than ever before for companies to trade emission credits without prior State or Federal approval. Once a rule is in the State implementation plan (SIP), companies could engage in emissions trades without prior regulatory approval as long as accountability is ensured in accordance with the guidance. The intended benefits of an active market in emissions trading are compliance with the ozone standard at far less cost and an increased incentive to develop innovative emission-reduction technologies. standard at far less cost and an increased incentive to develop innovative emission-reduction technologies.

**Statement of Need:**

In the last 25 years great progress has been made toward achieving healthy air quality, yet more than 50 million people still live in areas that do not meet the ozone health standard. Continued reductions in ozone precursor emissions are important to protect public health, but additional

emission reductions are increasingly more costly to obtain. Emissions trading is one way to lower the overall cost of achieving additional reductions. Historically, the volume of emissions trading under EPA's existing trading policies has been low, suggesting high transaction costs associated with the delays of trade-by-trade government review. Additionally, there have been significant problems of quality control, reducing the environmental effectiveness of the program. EPA's policy on open-market emissions trading is intended to establish a trading program that minimizes transaction costs and harnesses the power of the marketplace to enhance quality control.

**Alternatives:**

The EPA endorses several forms of emissions trading, including interfacility and intrafacility emissions bubbling under the 1986 Emissions Trading Policy Statement, and emissions budget programs which cap areawide emissions from major emitters. The open-market program is yet another form of emissions trading that can reduce the overall cost of compliance with the ozone standard.

**Anticipated Costs and Benefits:**

Market-based emissions trading programs allow for greater and/or faster reductions in emissions, lower the cost of pollution control, reduce the adverse impacts of regulation on industry and consumer prices, lower the human health consequences, and improve the environment by achieving early reductions, and provide incentives to develop lower-costs pollution control methods. The actual benefits of open-market trading programs depend on a number of variables, including the number of States that adopt such programs and the number of sources that participate. Estimates of costs savings from established emissions-trading programs such as the nationwide acid rain trading program, the RECLAIM program in the Los Angeles area, and the lead phasedown range from nearly 20 to over 40 percent.

**Risks:**

Not applicable.

**Timetable:**

Action	Date	FR Cite
NPRM	08/03/95	60 FR 39668
Notice - Inclusion of Proposed Model Rule	08/25/95	60 FR 44290
Final Action	12/00/96	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Local, Tribal, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3660.

**Agency Contact:**

Scott Mathias  
 Environmental Protection Agency  
 Air and Radiation  
 OAQPS AQSSD (MD-15)  
 Research Triangle Park, NC 27711  
 Phone: 919 541-5310  
 Fax: 919 541-0839

**RIN:** 2060-AF60

**EPA**

**132. NATIONAL 49-STATE LOW-EMISSION VEHICLES PROGRAM**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

Clean Air Act secs 202 and 301(a)

**CFR Citation:**

None

**Legal Deadline:**

None

**Abstract:**

This rulemaking is a voluntary emissions standards program applicable to manufacturers of light-duty vehicles and trucks beginning in model year 1997. This program would apply only to those manufacturers that chose to opt into the program. This program is designed to be an alternative national program that provides emissions reductions equivalent to the Northeast Ozone Transport Commission's (OTC's) low-emission vehicle (LEV) program.

**Statement of Need:**

If agreement is reached between the OTC states and the auto makers on a voluntary 49-State LEV program, this rulemaking will establish the regulations for the LEV program. Under these regulations, auto makers would be able to volunteer to comply with more stringent tailpipe standards for cars and trucks (light-duty). Once an auto maker opted into the program, EPA would enforce the standards in the same manner as any other federal

motor vehicle pollution control requirement. EPA is proposing that this program would relieve the 13 states in the Northeastern part of the country (OTR) of the December, 1994, regulatory obligation to adopt their own motor vehicle programs. This rulemaking also harmonizes Federal and California motor vehicle standards and test procedures to enable auto makers to design and test vehicles to one set of standards nationwide.

**Alternatives:**

Under the CAA, EPA is prohibited from adopting more stringent auto tailpipe standards prior to fiscal year 2004. The OTC petitioned the Environmental Protection Agency (EPA) in 1994 and was granted approval to adopt the California Low-Emission Vehicle Program in the OTR. This rulemaking would establish a voluntary LEV program in 49 states.

**Anticipated Costs and Benefits:**

The annualized costs of the OTC LEV Program will be roughly \$400 million. The National LEV program created in this rulemaking is expected to have an annual cost of \$1.1 billion. The OTC program would only apply to 2 million vehicles sold in the OTR. The National LEV program would apply to all new vehicles sold in 49 States comprising a vehicle fleet of 12.5 million vehicles sold annually. On a per car basis, EPA expects vehicle price to increase \$100. The National LEV program will provide air pollution reductions throughout the country. There are currently 38 ozone nonattainment areas outside the OTR and CA with a combined population of approximately 45 million that will benefit from this voluntary national program.

**Risks:**

Motor vehicles are a significant cause of smog because of emissions of volatile organic compounds (VOC) and nitrogen oxide (NOx). EPA has projected that, without the California LEV in the OTR, highway vehicles will account for roughly 38 percent of NOx and 22 percent of VOC emissions in 2005. EPA currently estimates that VOC emissions should be reduced by roughly 95 tons per day and NOx emissions by approximately 195 tons per day as a result of the National LEV program.

**Timetable:**

Action	Date	FR Cite
NPRM	10/10/95	60 FR 52734
Final Action	11/00/96	

**Small Entities Affected:**

None

**Government Levels Affected:**

State, Federal

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3646.

**Agency Contact:**

Mike Shields  
 Environmental Protection Agency  
 Air and Radiation  
 (6401)  
 Washington, DC 20460  
 Phone: 202 260-7757  
 Fax: 202 260-6011

**RIN:** 2060-AF75

**EPA**

**133. REVIEW OF THE FEDERAL TEST PROCEDURE FOR EMISSIONS FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES**

**Priority:**

Economically Significant. Major under 5 USC 801.

**Legal Authority:**

PL 101-549, sec 208

**CFR Citation:**

40 CFR 86

**Legal Deadline:**

NPRM, Judicial, January 31, 1995. Final, Statutory, May 15, 1992. Final, Judicial, July 30, 1996. Other, Judicial, May 15, 1993.

Original statutory deadline (5/15/92) is from 11/90 Clean Air Act Amendments. Other Judicial date: per U.S. District Court Consent Decree, EPA issued a preliminary technical report on 5/15/93.

**Abstract:**

Section 206(h) of the Clean Air Act requires the Environmental Protection Agency (EPA) to review and revise as necessary the regulations governing the Federal Test Procedure (FTP) to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude. The driving behavior used for the FTP was adopted over 20 years ago, and accumulated research suggests that it no longer adequately represents overall vehicle

emission control performance under current driving conditions.

This action revises the FTP used to design all Federal emissions test methods, as well as all federally approved methods of estimating and projecting emissions from automobiles. This revision will advance the Agency's strategic aim of using better science and better data by assuring that automobiles can be accurately tested for compliance with Federal standards, and it will also enable EPA and others to obtain accurate emission inventories and projections to assist in planning for attainment of national air quality standards.

#### Statement of Need:

Extensive surveys of current driving behavior conducted by the EPA indicate significant difference between actual driving behavior and the current FTP. New test cycles determined from the driving behavior surveys were used to compare emissions predicted by the FTP with emissions that occur in actual driving. The test results support the need to control emissions at high speeds, acceleration, and during air conditioner operation, modes that are not adequately controlled with the current test procedures.

#### Summary of the Legal Basis:

EPA is under court order to revise the FTP.

#### Alternatives:

The Clean Air Act specifies that the test procedures reflect actual driving conditions. Extensive research indicates that the existing procedures are severely deficient in the areas of high speeds, high accelerations, and air conditioning operation. The most appropriate method of controlling emissions during these conditions have been analyzed during the development of this rulemaking.

#### Anticipated Costs and Benefits:

The per vehicle cost to comply with the test procedure revisions is expected to be well under \$10 and the annualized cost less than \$100 million. Overall hydrocarbon emissions from light-duty vehicles and trucks are expected to be reduced by about 6 percent, carbon monoxide emission by about 18 percent, and NOx emissions by about 12 percent. On a national basis, the cost of reducing non-methane hydrocarbon and NOx emissions is expected to be about \$200 per ton.

#### Risks:

The risks addressed by this action are those associated with not attaining the National Ambient Air Quality Standards for ozone, carbon monoxide, nitrogen oxides, and particulates. These risks have been extensively detailed as part of the individual rulemakings setting these national standards. Achievement and maintenance of attainment of the standards depend in part on accurate knowledge of the emissions characteristics of sources, including automobiles. This action will increase the accuracy of such knowledge by incorporating the latest techniques of emission measurement.

#### Timetable:

Action	Date	FR Cite
NPRM	02/07/95	60 FR 7404
Final Action	10/00/96	

#### Small Entities Affected:

Undetermined

#### Government Levels Affected:

Undetermined

#### Additional Information:

SAN No. 3323.

#### Agency Contact:

John German  
Chief, Special Projects Staff  
Environmental Protection Agency  
Air and Radiation  
National Vehicle and Fuel Emissions Lab  
2565 Plymouth Road  
Ann Arbor, MI 48105  
Phone: 313 668-4214

RIN: 2060-AE27

#### EPA

### 134. ACID RAIN PHASE II NITROGEN OXIDES REDUCTION PROGRAM

#### Priority:

Economically Significant. Major under 5 USC 801.

#### Legal Authority:

Section 407 of the Clean Air Act Amendments of 1990

#### CFR Citation:

40 CFR 76 (Revision)

#### Legal Deadline:

Final, Statutory, January 1, 1997.

#### Abstract:

Title IV of the Act authorizes EPA to establish the Acid Rain Program to reduce the adverse effects of acidic deposition. The Nitrogen Oxides

Emission Reduction Program Final Rule would set lower Group 1 emission limits and establish emission limits for several other types of coal-fired boilers (Group 2) in Phase II. (Group 1 boilers include coal-fired dry bottom wall-fired boilers and tangentially fired boilers; Group 2 boilers include boilers applying cell-burner technology, cyclone boilers, wet bottom boilers, and other types of coal-fired boilers). The annual cost of these additional reductions would be approximately 199 million dollars, at an average cost-effectiveness of 220 dollars per ton of NOx removed. By the year 2000, the proposed Phase II reductions would achieve an additional reduction of 900,000 tons of NOx annually.

A utility can choose to comply with the rule in one of three ways: (1) meet the standard annual emission limitations (2) average the emissions rates of two or more boilers, which allows utilities to over-control at units where it is technically easier and less expensive to control emissions, or, (3) if a utility cannot meet the standard emission limit, it can apply for a less stringent alternative emission limit (AEL) if it uses the appropriate NOx emission control technology on which the applicable emission limit is based.

#### Statement of Need:

EPA is exercising its discretion to revise the Phase II, Group 1 NOx emission limitations because (a) NOx emissions have significant, adverse effects on human health and the environment and there is a need to make significant, regional NOx reductions, (b) NOx emissions are projected to increase nationwide after 2002, (c) the revision of Phase II, Group 1 emission limitations is a cost-effective means of achieving additional NOx reductions, and (d) the additional reductions from the revision therefore represent a reasonable step toward achieving necessary NOx reductions. For the same reasons, EPA also concludes that the adoption of the Group 2 emission limitations set forth in today's rule is supported by the environmental impact of the emission reductions that will result.

#### Alternatives:

EPA investigated new ways to minimize the impact of the final rule on State, local government, and privately owned utilities while carrying out the requirements of section 407. These investigations include: (1) investigation of what, if any,

requirements of the rule imposed an inordinately high burden on any specific utility; and (2) investigation of incremental environmental and economic impacts of varying the size cutoff for wet bottom and cyclone boilers affected by this rulemaking. The results of these investigations were used in developing the emission limits and applicability requirements that are now being promulgated.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law. In the final rule, the Agency discusses several regulatory options and their associated costs. As discussed above, the Agency has completed other regulatory options beyond the options discussed in the proposal. The Agency believes that the final rule is the least costly, most effective, and least burdensome alternative that achieves the objectives of title IV and section 407 in particular.

**Anticipated Costs and Benefits:**

The final rule would tighten the Group 1 emission limits and would establish limits for several other types of coal-fired boilers (i.e. cyclones, cell burners, wet bottoms, and vertically fired

boilers). The final rule would, by the year 2000, achieve an additional 900,000 tons of NOx reductions per year. The annual cost for these additional reductions would be approximately \$199 million with an average cost-effectiveness of \$220 per ton of NOx removed. The nationwide impact on electricity rates would be approximately 0.2 percent. The final rule does not have any disproportionate budgetary effects on any particular region of the nation, any State, local, or tribal government, or urban or rural or other type of community. Further, the rule will result in only a minimal increase in average electricity rates and will not have a material effect on the national economy.

**Risks:**

Electric utilities are a major contributor to NOx emissions nationwide: in 1994, electric utility emissions represented about 33 percent of the total 1994 NOx emissions. Approximately ninety percent of the emissions estimated for electric utilities were attributed to coal combustion. Much of the NOx emissions discharged into the atmosphere from the burning of fossil fuels reacts quickly to form nitrogen dioxide (NO2) and, over longer periods of time, is transformed into other pollutants, including ozone and fine particles. These secondary pollutants are harmful to public health and the environment. NO2 has been documented to cause eye irritation, either by itself or when oxidized photochemically into peroxyacetyl nitrate (PAN). Ozone is a highly

reactive chemical compound which can have serious adverse effects on human health, plants, animals, and materials. Fine particles at current ambient levels contribute adversely to morbidity and mortality. NO2 and airborne nitrate also degrade visibility and contribute to acidification of lakes and streams, and excessive nitrogen loadings to estuaries.

**Timetable:**

Action	Date	FR Cite
NPRM	01/19/96	61 FR 1442
Final Action	01/00/97	

**Small Entities Affected:**

None

**Government Levels Affected:**

None

**Sectors Affected:**

491 Electric Services

**Analysis:**

Regulatory Flexibility Analysis

**Additional Information:**

SAN No. 3575.  
(combined with SAN 3571)

**Agency Contact:**

Peter Tsirigotis  
Environmental Protection Agency  
Air and Radiation  
(6204J)  
Washington, DC 20460  
Phone: 202 233-9133  
Fax: 202 233-9595

**RIN:** 2060-AF48

**BILLING CODE** 6560-50-F