burden of 12 hours and $432 per response for minor related responses, based on an estimated 18 such responses per year. The expected frequency of all responses is on occasion. These average burden estimates include the following costs: The cost of capital equipment and supplies, annualized over expected useful life, is estimated to be $14,000. An annual recordkeeping burden of 150 hours is estimated at an annual cost of $2,700. ISO facility registration and document upgrade is estimated to require 2128 hours per year at a cost of $200,944.

The Agency's total annual burden to process these responses is estimated to be 1015 hours at an estimated cost of $44,460. Annual contractual services are estimated to require $300,000.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: September 30, 1997

Gary J. Foley,

Director, National Exposure Research Laboratory.

[FR Doc. 97–26530 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5906–5]

Acid Rain Program: Notice of Annual Adjustment Factors for Excess Emission Penalty

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of annual adjustment factors for excess emissions penalty.

SUMMARY: Under the Acid Rain Program, affected units must hold enough allowances to cover their sulfur dioxide emissions and meet an emission limit for nitrogen oxides. Under 40 CFR 77.6, units that do not meet these requirements must pay a penalty without demand to the Administrator based on the number of excess tons emitted times $2000 as adjusted by an annual adjustment factor that must be published in the **Federal Register**.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide and nitrogen oxides under 40 CFR part 77 for compliance year 1997 is 1.2624. This value is derived from the Consumer Price Index for 1990 and 1997, as defined in 40 CFR part 72, and corresponds to a penalty of $2525 per excess ton of sulfur dioxide or nitrogen oxides emitted.

The annual adjustment factor for adjusting the penalty for excess emissions of sulfur dioxide and nitrogen oxides under 40 CFR part 77 for compliance year 1998 is 1.2905. This value is derived from the Consumer Price Index for 1990 and 1998, as defined in 40 CFR part 72, and corresponds to a penalty of $2581 per excess ton of sulfur dioxide or nitrogen oxides emitted.

FOR FURTHER INFORMATION CONTACT: Donna Deneen, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 at (202) 233–9089.

Dated: September 29, 1997.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–26531 Filed 10–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5906–6]

Project XL Final Project Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Project Agreement with HADCO Corporation and Response to Public Comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing the signing of its Final Project Agreement (FPA) with HADCO Corporation, New York and New Hampshire, under EPA's Project XL program. Through this notice, EPA is also responding to public comments received on the draft FPA. As the comments below indicate, many suggested changes were incorporated into the FPA.

FOR FURTHER INFORMATION CONTACT: Kenneth Rota, EPA Region I, (617) 565–3349; Jim Sullivan, EPA Region 2, (212) 637–4138; or Lisa Hunter, EPA Headquarters, (202) 260–4744.

SUPPLEMENTARY INFORMATION:

Background:

HADCO, EPA, the New Hampshire Department of Environmental Services (NH DES), the New York State Department of Environmental Conservation (NYS DEC) signed an agreement applicable to HADCO's facilities in New Hampshire and New York under EPA's ''Project XL'' initiative.

HADCO is one of the first companies accepted into EPA's Project XL program. EPA created Project XL in 1995 as an initiative providing regulatory flexibility for industry to achieve environmental performance that is superior to what would be achieved through compliance with existing and reasonably anticipated future regulations. The HADCO FPA was developed by EPA staff in Regions I, II and its Headquarters, the NH DES, the NYS DEC, and HADCO Corporation (''the parties''). The FPA is the document that memorializes the parties intentions concerning Project XL for the HADCO facilities in Owego, NY, Hudson, NH, Derry, NH and Salem, NH.

This XL project concerns the classification under RCRA Subtitle C of wastewater treatment (WWT) sludge generated from printed wire board manufacturing facilities (SIC 3672). Presently this WWT sludge is classified as a listed hazardous waste, having the waste code F006, pursuant to regulations promulgated under the Resource Conservation and Recovery Act (40 CFR 261.31(a)). Because of this hazardous waste designation, HADCO, and others in the PWB industry, must currently ship this waste to a separate facility licensed to handle hazardous wastes before it can be reclaimed. The project seeks to test whether (a) classifying the WWT sludge generated by HADCO as an F006 waste pursuant to Subtitle C is not necessary to protect human health and the environment, (b) the WWT sludge can be safely reclaimed without all of the strict regulatory controls imposed by RCRA Subtitle C; and (c) a conditional delisting or solid waste variance will yield substantial economic and environmental benefits.

The HADCO FPA details a procedure through which HADCO will extensively test its sludge generated from the treatment of wastewater associated with circuit board manufacture. This data will be reviewed by EPA, NH DES and NYS DEC, in order to determine if such data supports removal of the sludge from regulation as a hazardous waste, as

defined in RCRA. If this determination can be made, off-site treatment would no longer be required prior to reclamation. Such a determination by EPA, NH DES, and NYS DEC is wholly contingent upon HADCO shipping the sludge off-site for reclamation of copper contained in the sludge. The four (4) HADCO facilities that are involved in this project collectively generate approximately 600 tons per year of this sludge.

HADCO has agreed to direct all of its cost savings realized towards the reclamation of non-hazardous copper containing dusts that are land filled currently (or other pollution prevention activities). If HADCO does not substantially reduce the amount of copper dusts currently land filled, the project may be terminated. HADCO must also consider the installation of sludge driers to reduce sludge volume at its New Hampshire facilities, if feasible.

This draft FPA provides an overview of the parties' intentions under the XL agreement. The parties to the agreement have considered public comments received during a 30-day public comment period that began January 23, 1997 (as noticed at 62 FR 3508, January 23, 1997) and at an informal public hearing held at the HADCO facility located in Owego, New York on February 12, 1997. After considering these comments, the parties modified the agreement as necessary. The FPA is not legally binding, but states the plans and intentions of the parties regarding the project. It is not a rule or other final agency action; public notice and opportunity for comment were provided as a matter of EPA policy.

In addition to the EPA contacts listed in the section entitled **FOR FURTHER INFORMATION CONTACT,** above, questions concerning Project XL and the HADCO project may also be directed to: Ken Marschner, NH DES, (603) 271–2943, Mark Moroukian, NYS DEC, (518) 457–2553, or Lee Wilmot, HADCO Corporation, (603) 896–2424. General information about Project XL may be obtained by accessing EPA's internet site for Project XL, at http://www.epa.gov/Project XL. A copy of the HADCO FPA is posted at this location.

Agency Response to Comments

The Agency received written public comments from five interested parties. Additionally, on February 12, 1997, oral comments were received and discussed during an informal public hearing held at the HADCO facility located in Owego, New York. The notable comments are listed below, along with the Agency's response. The comments received are as follows:

1. Use of Atlantic States Legal Foundation (''ASLF'') Offices as a Depository for the Project Records

ASLF suggested that either the NY DEC regional office in Syracuse or its own offices in Syracuse be used a repository for the records generated by this project, including all raw data. ASLF notes that at present, the closest depository to its office is 75 miles away in Owego. ASLF notes that it cannot actively participate unless the information is made available at a more convenient location.

Response: The ASLF Syracuse office will be used as an additional depository. Records kept at this office will be available to the public on terms similar to those of other repositories.

2. Use HADCO's Cost Savings to Enable Stakeholders to Participate More Actively

One commenter suggested that HADCO should have to use some of its cost savings to enhance the stakeholders' ability to participate.

Response: According to HADCO's current projections, its initial cost savings will not be very substantial. For this project to provide tangible environmental benefits, those savings must be channeled into copper dust reclamation at a minimum. EPA believes that since all data and any portions of the record will be made available to any stakeholder upon request, there is no imminent need to require HADCO to channel its cost savings to enhance stakeholder participation.

EPA believes that substantial stakeholder participation is ensured because all parties are available to discuss the project via telephone or through correspondence. In addition, any stakeholder can participate in meetings through telephone hookups provided by HADCO, if he cannot afford the time and expense to attend a meeting in person.

Thus far, three stakeholder meetings have been held at HADCO's Derry, New Hampshire facility. Two stakeholder meetings and one public hearing have been held at HADCO's Owego, New York facility. The public hearing was advertised in the local newspapers and through radio announcements. Throughout the FPA development process, drafts of the FPA and other supporting information were made readily available. The parties have always stressed that any specific information or data can be made available upon request. In addition, the FPA, as revised includes five local repositories for this project's relevant records; a requirement to mail the FPA, executive summaries of the annual reports (''executive summaries'') to the interested stakeholders; posting of the final FPA (as signed) and executive summaries on the HADCO's world wide web page; a requirement to hold additional on-site stakeholder meetings with those stakeholders who request meetings to review project progress; and the filing of press releases at critical junctures. EPA believes that the FPA provides ample opportunity and resources to ensure adequate stakeholder support. In addition, most of the participating stakeholders agree with this assessment.

3. Dust Reclamation

One commenter noted that Section VI.C. of the FPA does not require HADCO to carry out dust reclamation in the most environmentally beneficial manner. The commenter suggests that there is no reason why HADCO should not be required to do something better with these dusts regardless of what happens to the sludge. The commenter suggests the removal of the second sentence in paragraph 29 to address this issue.

Response: The inclusion of this suggestion would provide no incentive for HADCO to participate in this project. According to cost documentation submitted by HADCO, the copper dust reclamation proposed is an expensive undertaking. From HADCO's perspective, the implementation of copper dust reclamation would require it to make a substantial investment.

The potential grant of regulatory relief provides HADCO with an incentive to make such an investment. Current State and Federal laws and regulations do not require that copper drilling and edging dusts be recycled. These dusts are currently land filled. As such, no legal mechanism currently exists that requires HADCO to handle this waste in a more environmentally beneficial manner. However, through proper implementation, this agreement, and any resulting grant of regulatory flexibility, can ensure better management of this waste stream. Therefore, if regulatory relief is granted, EPA believes that the project is environmentally superior to what would occur if the project did not proceed. If the Agencies determine that HADCO's WWT sludge is eligible for a conditional delisting or a solid waste variance, the Agencies will only grant such relief if HADCO uses its cost savings to recycle those copper dusts (or implements an acceptable pollution prevention activity in the alternative). For these reasons, the

second sentence of paragraph 29 in the draft version of the FPA will remain.

4. HADCO Should Complete an Enhanced Pollution Prevention Survey

One commenter suggested that the parties add another section to the FPA that requires HADCO to complete an enhanced pollution prevention (''P2'') analysis. The commenter also notes that HADCO has had some success implementing P2 under EPA's 33/50 program; however, HADCO should be required to expand its P2 efforts and examine the entire waste stream and explore P2 options.

Response: HADCO has already achieved significant success implementing P2. While further P2 is always desirable, and EPA understands that HADCO will continue exploring further waste reduction methods, EPA believes that the project already provides superior performance for the reasons discussed above, and that adding further conditions to the project would no longer make it attractive enough for the company to participate.

5. Uses of Pollution Prevention Methods Should be Encouraged

The same commenter later specifies that he has no objection to recycling drilling and edging dusts and reclaiming the copper contained in such dusts; however, the commenter notes that pollution prevention is the preferable solution. The commenter believes that HADCO should have to demonstrate that there is no P2 alternative before it uses reclamation.

Response: EPA agrees that P2 solutions are always the preferred to reclamation solutions. However, as discussed above, EPA believes that the project results will be environmentally superior to what would have occurred otherwise, and that the additional P2 requirements would make it too unattractive for HADCO to continue. In addition, HADCO has already invested a substantial amount of time and effort in developing a feasible reclamation solution. Nevertheless, the parties have agreed to adjust paragraph 29 of the FPA by using language that encourages HADCO to identify and implement P2 activities, in addition to or in lieu of the reclamation solution. If a P2 activity is not pursued, HADCO must implement the dust reclamation program.

6. Reservation of Rights

One commenter objected to the inclusion of Section X. of the FPA, which is entitled ''Reservation of Rights.'' The commenter noted that by singling out criminal enforcement authority, the language improperly implies that civil enforcement authority is somewhat undermined. The commenter was also concerned that this section's language could somehow undermine citizen suit viability.

Response: EPA agrees, and the parties have agreed to strike this section. Since the FPA is not an enforceable document, there is no need to include a specific reservation of rights. EPA agrees the language of this section could be read to improperly imply that entry of the FPA affects civil enforcement authority for EPA, the State Agencies and concerned citizens, which was not the parties' intent. Similarly, the deletion of this section from the FPA should in no way be understood to infer or imply that the Agency is relinquishing its authority to respond in any of the situations referred to in the now-deleted section reserving the Agency's rights. Further, any rules promulgated as a result of this project will be fully enforceable by EPA, State Agencies, or the public.

7. Specifically Identify Each Party's Obligations Under the FPA

One commenter noted that much of the wording of the FPA is confusing. The commenter noted that Section VI, in particular, addresses a number of unrelated subjects and is difficult to follow. The commenter suggested that the FPA use a structure where the different parties' obligations were ''spelled out.''

Response: EPA agrees that some portions of the FPA require clarification, and the parties have agreed to make some limited changes. In response to this comment, a few portions of the FPA have been reworded to further clarify each party's obligations. Each party is acutely aware of its obligations under the FPA. For the most part, the parties' obligations are listed in a chronological order. For example, the sampling program and analyses precede the section regarding federal and state rulemaking implementation. Approval of Reclamation Facilities logically follows the rulemaking provisions.

With regard to Section VI of the FPA, which is entitled ''Verification of Environmental Benefits,'' the parties believe that each subject included under that section deals with a different facet of demonstrating the environmental benefits that result from this project. Additional language was added to each subsection to emphasize this connection.

8. The FPA Creates a Preference for Reclamation at Primary Copper Smelters

Response: One commenter noted that any relief from classification of HADCO's F006 as hazardous waste should be available regardless of whether the waste is shipped to a primary smelter, or to an intermediate processor. Specifically, this commenter objected to the sentence in paragraph 24 of the proposed FPA that stated:

> * * * The primary recipients of HADCO's sludges will be primary copper smelters, where the sludge will comprise a feedstock substitute for natural ore or other recycled product streams. Alternative reclamation processes will require prior approval by the EPA and relevant State Parties.

In response, EPA wishes to make clear that no final decision as to the precise conditions of any variance or delisting has been made at this time (nor, since the FPA has no legal or regulatory effect, could such a decision be made until final action is taken on a variance or delisting). Accordingly, the sentence referred to by this commenter has been replaced with the statement that:

> HADCO will request approval by the EPA and relevant State Parties, prior to the shipment of its sludge to such facility. If EPA and the relevant State Parties reject HADCO's request for approval because the shipment of the WWT sludge to such reclamation facility would not foster the goals of this project, this project will be terminated in accordance with the provisions of Sections I.E. and V. of this FPA.

This sentence makes clear that EPA and the relevant states will require, as a condition for participating in Project XL, that HADCO must request and obtain approval from EPA and the relevant states for any facility to which it wishes to ship waste for which a variance or delisting has been granted. EPA and the states have reserved this right in order to ensure that the goals of the project are furthered—specifically, that the proposed arrangement is environmentally superior and represents an approach that warrants investigation as a potentially transferable regulatory option. To date, HADCO's proposal has been to authorize shipment to a direct recycler, and having studied this proposal in depth, EPA and the States both believe that such shipment would further the above goals. EPA and the states have not, however, evaluated other specific options at this time.

9. The Sampling and Analyses Plan Should Include Additional Organic Analyses

One commenter stated that the organic constituent sampling is not adequate and that more complete data on the organic content are required to ascertain whether HADCO's F006 sludge should be regulated for factors

other than those related to the original listing and to also render a ''toxics along for the ride'' assessment of the proposed recycling activity. The commenter suggested that additional organic constituents may originate from materials used by HADCO in the course of its manufacturing process. This commenter suggested that EPA conduct a rigorous review of all materials used by HADCO at its facilities or require a broader sampling of organic chemicals.

Response: EPA does not believe that HADCO's sludge poses any significant risks from volatile organic compounds based upon prior inspections conducted by EPA at HADCO and EPA's prior evaluations of waste analyses conducted by the company on its sludge and other waste streams. HADCO has also conducted a corporate phase out of solvents such as methylene chloride from its manufacturing process since the time of EPA's inspection of the facility. However, volatile organic compound testing conducted by HADCO for its wastewater effluent has detected trace amounts of some volatile organic solvents in the parts per billion range. Therefore, EPA believes this commenter does raise valid concerns about the potential for volatile organic compounds that could be present in the waste which is a reasonable assumption.

EPA has reassessed its sampling protocol and agrees to require additional organics testing on the F006 sludge. Based on a review of the types of compounds previously identified by EPA, the following analytical procedures will be included in the testing protocol: Method 8240B (volatile organics), Method 8250A (semi-volatile organics) and Method 8315 (carbonyl compounds).

10. Call for Additional Notice and Comment

A commenter identified the lack of a formal public notice and comment period in the FPA if a solid waste variance is selected as the most appropriate relief mechanism. The commenter felt that EPA should expressly provide for the same level of participation under either a conditional delisting or solid waste variance process to maintain the transparency of the XL process.

Response: EPA agrees with this comment and EPA will post notice in the **Federal Register** for all interested parties and stakeholders if a solid waste variance is selected. Such **Federal Register** notice would have no legal effect, per se, since the variances would be effectuated under state law. The notice would simply provide another means to alert stakeholders to a significant milestone in this project's development.

If a variance is pursued in New York, the applicable rules provide ample opportunity for notice and comment With reason, a commenter may request that NYSDEC hold a legislative public hearing to listen to oral comments. After evaluating public comment NYSDEC would render a final determination.

11. Time Frames for the Agencies' Data Review Are Limited

A commenter also identified the time frames listed in the FPA as extremely short and expressed concern that EPA would not be able to conduct an adequate review of this project.

Response: EPA does not consider the time frames set out in the FPA to be binding for any review or decisions that the Agency must make in the course of this project. EPA and HADCO have agreed to use the dates identified in the FPA as target dates. Should EPA fail to meet one of these target dates, HADCO would not obtain a conditional delisting or solid waste variance by default. Conversely, should HADCO fail to submit information by a targeted date, this project would not terminate by default.

12. Reclamation Options

During the public hearing, one participant asked whether there were procedures other than smelting that can be used to extract the copper from HADCO's sludge.

Response: Copper can be extracted from different media by a variety of physical separation processes, but that extricated copper would generally be sent to a high temperature furnace, such as a smelter, to remove entrained or bound impurities. The copper could then be purified and formed into a commercial grade ingot, which would maximize the reclaimed copper's future uses.

13. Chemicals Used at the HADCO Facilities

During the public hearing, one participant asked if chemicals used in the process could be identified and screened to improve sludge quality.

Response: EPA has reviewed HADCO's Material Safety Data Sheets ('MSDSs') which identify all chemicals used in their process and believes that the substitution of ammonium chloride for chrome sulfuric acid as an etchant had significantly ''greened'' or reduced the toxicity of the WWT sludge. Also, as a member of EPA's 33/50 Program, HADCO has substituted other less or non-toxic raw materials for previously employed toxic materials.

14. If Data Exhibit Hazardous Characteristics

During the public hearing, one participant asked whether the Agency would terminate the project if HADCO's sludge exhibited a characteristic of a hazardous waste (e.g., the toxicity characteristic for lead).

Response: EPA believes that the project could continue, but that it could impact the type of relief sought by HADCO. This may not be a significant issue if a variance from classification as a solid waste is pursued because the variance primarily investigates the degree to which the reclaimed material is like an analogous raw material. However, such circumstances would preclude a traditional delisting since delisting is based on inherent risk associated with the material. Nevertheless, the conditional delisting sought by HADCO remains an option, depending on degree of sludge toxicity.

15. Potential for Transferability of the Project

During the public hearing, one participant inquired about the transferability of the project.

Response: As indicated in Appendix A of the draft Final Project Agreement, the Agency believes the proposal may be transferable to other PWB manufacturers not using chrome-based etchants. However, the specific relief that may be provided when this project is implemented is not being made more generally available at this time. Other manufacturers may continue to use usual processes for delisting their sludge or seeking a variance from classification of a sludge as solid waste.

16. Eligible Smelters

During the public hearing, one participant asked whether a domestic smelter could receive HADCO's sludge.

Response: EPA notes that the sludge could be received by any domestic primary smelter which had successfully demonstrated, in accordance with 40 CFR 266.112, that the properties of its residues (e.g., slag or slag tailings) were not adversely impacted by the co-processing of hazardous waste. If the regulatory relief sought in this project is granted, then HADCO's sludge could be accepted by any primary smelter.

Dated: September 30, 1997.

Christopher Knopes,

Acting Director, Project XL.

[FR Doc. 97–26532 Filed 10–6–97; 8:45 am]

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