

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 430

[FRL-5924-9; 2040-AD05]

RIN 2040-AD05

Amendments to the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today EPA is proposing two amendments to 40 CFR Part 430, the Pulp, Paper and Paperboard Point Source Category. The first affects only existing direct discharging mills in Subpart B (Bleached Papergrade Kraft and Soda Subcategory) that choose to enroll in the Voluntary Advanced Technology Incentives Program being promulgated in the final Pulp and Paper "Cluster Rules," found elsewhere in today's **Federal Register**. Today's proposal would require such mills to submit a plan (referred to as the "Milestones Plan") specifying research, construction, and other activities leading to achievement of the Voluntary Advanced Technology BAT effluent limitations in § 430.24(b) of the final "Cluster Rules," with accompanying dates for achieving these milestones.

The purpose of the plan would be to provide the permitting authority with mill-specific information upon which to base permit requirements reflecting reasonable interim milestones as required by § 430.24(b)(2).

The second amendment proposed today would authorize mills in Subpart B to demonstrate compliance with applicable chloroform limitations and standards, (also being promulgated today in the "Cluster Rules") in lieu of monitoring at a fiber line, by certifying that the fiber line is not using elemental chlorine or hypochlorite as bleaching agents and that they also maintain certain operational conditions specified in the proposed regulation. This second amendment would reduce the reporting burden for those mills that choose to certify.

In addition, although EPA is not proposing totally chlorine-free (TCF) technologies and associated process wastewater flow reduction technologies as the basis for new source performance standards or pretreatment standards for new sources for mills in Subpart B at this time, EPA today is requesting comments and data on the feasibility of TCF processes for this subcategory, especially the range of products made and their specifications. EPA is also requesting comments and data regarding effluent reduction performance of TCF processes for this subcategory.

DATES: Comments on the proposed rule, as well as information and data regarding the feasibility of TCF bleaching processes for new sources in

the Bleached Papergrade Kraft and Soda Subcategory, must be received by June 15, 1998.

ADDRESSES: Send comments on this proposal, as well as information and data regarding TCF processes, in triplicate to Mr. J. Troy Swackhammer, Office of Water, Engineering and Analysis Division (4303), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460. In addition to submitting hard copies of the comments, the public may also send comments via e-mail to:swackhammer.j-troy@epamail.epa.gov. The public record (excluding confidential business information) for this rulemaking is available for review at the EPA's Water Docket, 401 M Street, SW, Washington DC. For access to docket materials, call (202) 260-3027 between 9:00 a.m. and 3:30 p.m. for an appointment. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. J. Troy Swackhammer at (202) 260-7128.

SUPPLEMENTARY INFORMATION:

Regulated entities. Entities potentially regulated by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp and/or bleached paper/paperboard. Regulated categories and entities include:

Category	Applicable proposed amendment	Examples of regulated entities
Industry—Bleached Papergrade Kraft and Soda Subcategory.	<ul style="list-style-type: none"> • Submittal of Milestones Plan • Certification in place of chloroform monitoring. 	<ul style="list-style-type: none"> • Pulp and paper mills that choose to enroll in the Voluntary Advanced Technology Incentives Program. • Pulp and Paper Mills that choose to certify to the use of Elemental Chlorine-Free processes and certain other processes and operational controls in lieu of monitoring for chloroform.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 430.20 of the final Pulp and Paper "Cluster Rules" found elsewhere in today's **Federal Register**. If you have questions regarding the applicability of this action

to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Overview

This preamble describes the legal authority of this proposed rule, background information to the development of the proposed amendments, and the rationale for the proposed Milestones Plan and the proposed chloroform certification provisions. This preamble also solicits comments and data regarding the proposed amendments, as well as information and data regarding the

feasibility of Totally Chlorine-Free bleaching processes as a basis for new source performance standards (NSPS) or pretreatment standards for new sources (PSNS) for mills in Subpart B (Bleached Papergrade Kraft and Soda Subcategory).

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I. Legal Authority

This proposed regulation would establish requirements for submitting a "Milestones Plan" by mills that choose to enroll in the Voluntary Advanced Technology Incentives Program and would reduce the monitoring burden on mills that certify that they use elemental chlorine-free processes and other operational controls. These amendments to 40 CFR Part 430 are proposed under the authorities of Sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361, as amended.

II. Background

A. Voluntary Advanced Technology Incentives Program

EPA is establishing a Voluntary Advanced Technology Incentives Program for Subpart B to encourage direct discharging mills to move beyond today's baseline BAT and NSPS technologies toward the "mill of the future," which EPA believes will have a minimum impact on the environment. See 40 CFR 430.24(b) and 430.25(c). Mills that enroll in the incentives program (hereafter AT mills) can choose between two or three different levels of ultimate performance requirements (i.e., existing mills can choose Tier I, Tier II, or Tier III; new source mills can choose Tier II or Tier III). In any tier, existing AT mills must meet "stage 1" limitations, interim milestones, and "stage 2" limitations (i.e., the ultimate performance requirements for the particular tier). New source AT mills must meet the ultimate Tier performance requirements upon commencement of discharge. For further details on this voluntary program, see Section IX of the preamble for the promulgated "Cluster Rules" for the

pulp and paper industry published elsewhere in today's **Federal Register**.

In order to facilitate achievement of the ultimate BAT limitations required by this program, EPA is proposing today to require all existing mills enrolled in the voluntary incentives program to submit plans (referred to as "Milestones Plans") detailing the strategy the mill will follow to develop and implement the technologies or processes it intends to use to achieve the Voluntary Advanced Technology BAT limitations associated with the chosen incentive tier.

B. Demonstrating Compliance With Chloroform Limitations

In response to comments, EPA considered in connection with the final Cluster Rules whether certification of Elemental Chlorine-Free (ECF) bleaching processes can be used in lieu of monitoring as a basis for compliance with the regulations published elsewhere in the **Federal Register** today. EPA determined that the information available at this time does not demonstrate that ECF certification alone is sufficient to ensure compliance with the regulations promulgated today. Therefore, the effluent limitations guidelines promulgated today do not allow certification of ECF bleaching to replace monitoring for any regulated pollutant. However, EPA is proposing here to allow mills in Subpart B that demonstrate compliance with the applicable chloroform limitations or standards through required monitoring over a two-year period to demonstrate continuing compliance with chloroform limitations and standards by certifying that they use ECF bleaching processes and also maintain process and operation conditions in use during the initial two-year monitoring period. See Section IV. EPA is requesting data to further inform its final decision in this matter. See Section V.

C. Availability of Totally Chlorine-Free Technologies

With respect to Totally Chlorine-Free (TCF) bleaching processes, several non-U.S. mills have reported the production of TCF softwood kraft pulp at full market brightness. However, EPA's data are not sufficient to confirm that TCF bleaching processes are technically demonstrated for the full range of market products currently served by the bleached kraft process. EPA is also unable, based on the information available today, to define a segment of the Bleached Papergrade Kraft and Soda subcategory for which TCF bleaching processes and, if appropriate, flow reduction technologies similar to those incorporated in the Voluntary Advanced Technology Incentives program, are

known to be technically feasible and thus could be the basis for NSPS or PSNS. EPA believes that progress being made in developing TCF bleaching processes and process wastewater flow reduction technologies is substantial, and that additional data may demonstrate that TCF processes and flow reduction technologies are indeed available for the full range, or a substantial portion, of market products. To this end, EPA is soliciting additional data and comment on the full range of market specifications currently being achieved for TCF kraft pulp (e.g., brightness, strength, and cleanliness). EPA also will further evaluate whether the performance of TCF and associated process wastewater flow reduction technologies would be superior environmentally to the performance of the technology basis of the new NSPS/PSNS standards for Subpart B mills published elsewhere in today's **Federal Register**. Depending on these findings, EPA will determine whether to propose revisions to NSPS/PSNS based upon TCF for Subpart B mills.

III. The Milestones Plan

A. Rationale for Submittal of the Plan

EPA has determined that the Milestones Plan described in today's proposed amendment to 40 CFR 430.24 will provide information necessary for the development of interim limitations or permit conditions under 40 CFR 430.24(b)(2) that lead to achievement of the Voluntary Advanced Technology BAT limitations codified at 40 CFR 430.24(b)(3) and (4). See CWA section 308(a). Once incorporated into NPDES permits, these milestones will be enforceable and will provide valuable benchmarks for reasonable inquiries into progress being made by participating mills toward achievement of the interim and ultimate Tier limits. EPA believes that requiring each mill enrolled in the Voluntary Advanced Technology Incentives Program to submit an individualized Milestones Plan to its permitting authority will provide the necessary flexibility to the mill and the permit writer so that the milestones selected to be incorporated into the mill's NPDES permit reflect the unique situation at that mill. These interim milestones will represent reasonable further progress toward the achievement of the six-year milestone limits for Tiers II and III and the ultimate Advanced Technology BAT limitations for all Tiers. As developed by each individual mill, these milestones should reflect the planning process under which the mill

determined the ultimate Tier limits to be economically achievable.

B. Scope of the Milestones Plan

As proposed today, the Milestones Plan would describe each envisioned new technology component or process modification the mill intends to implement in order to achieve the Voluntary Advanced Technology BAT limits. In addition, the mill would be required to include a master schedule in the plan showing the sequence of implementing the new technologies and process modifications and identifying critical-path relationships within the sequence. For each individual technology or process modification, the Milestones Plan would need to include: (1) A schedule that lists the anticipated dates that associated construction, installation, and/or process changes will be initiated; (2) the anticipated date that those steps will be completed; (3) the anticipated date that the Advanced Technology process or individual component will be fully operational; (4) and the anticipated reductions in effluent quantity and improvements in effluent quality as measured at the bleach plant (for bleach plant, pulping area and evaporator condensates flow and BAT parameters other than Adsorbable Organic Halides (AOX) and at the end of the pipe (for AOX). For those technologies or process modifications that are not commercially available or demonstrated on a full-scale basis at the time the plan is developed, the plan would be required to include a schedule for research (if necessary), process development, and mill trials. The schedule for research, process development, and mill trials would need to show major milestone dates and the anticipated date the technology or process change will be available for mill implementation. The plan also would need to include contingency plans in the event that any of the technologies or processes specified in the Milestones Plan need to be adjusted or alternative

approaches developed to ensure that the ultimate tier limits are achieved by the dates outlined in the master schedule.

EPA is proposing new regulatory language describing the Milestones Plan in § 430.24(c).

C. Permit Writers' Responsibilities

EPA expects the permitting authority to use the information contained in those plans, as well as its own best professional judgment, to establish enforceable interim milestones applying all statutory factors. EPA also expects permit writers to include reopener clauses in the permits to adjust these interim milestones as necessary to reflect the results of research, process development, mill trials, and contingencies as appropriate.

D. Estimates of Burden for Milestones Plan

EPA has estimated the reporting burden associated with the required Milestones Plan, and is developing a draft Information Collection Request (ICR) under the Paperwork Reduction Act, described in Section VI.C. These estimates reflect the burden of preparing the Milestones Plan, and are based on the assumption that plans will follow the outline given as an example in the "Voluntary Advanced Technology Incentives Program Technical Support Document" (DCN 14488). The labor hour and cost estimates are based on the anticipated level of complexity of the Tier plans, and reflect greater complexity at higher Tiers. It should be noted that the burden estimates include preparation and submittal of the Milestones Plan and for Tiers II and III plan development, a budget to perform scoping studies to determine implementability at the mills.

EPA estimated 56 hours for the preparation and submittal of the Milestones Plan for mills enrolling in Tier I of the Voluntary Advanced Technology Incentives Program. This assumes the mill will implement readily-available technology and will

not perform research and development activities. EPA estimates that 14 mills will enroll at the Tier I level.

EPA estimates 154 hours for the preparation and submittal of the Milestones Plan for mills enrolling in Tier II of the Voluntary Advanced Technology Incentives Program in addition to an estimate of approximately \$14,000 for each scoping study, which may be performed by a consultant. This assumes the mill, upon implementing the Milestones Plan, will conduct one research and development project related to condensate reuse, but otherwise will implement readily-available technology. The cost of the research and development project, which is estimated as part of EPA's estimates for compliance with the Voluntary Advanced Technology Incentives Program, is not included in this burden estimate. EPA estimates that 13 mills will enroll at the Tier II level.

EPA estimates 328 hours for the preparation and submittal of the Milestones Plan for mills enrolling in Tier III of the Voluntary Advanced Technology Incentives Program in addition to an estimate of approximately \$26,000 for each scoping study, which may be performed by a consultant. This assumes the mill upon implementing the Milestone Plan, will conduct six research and development projects designed to upgrade condensate quality from evaporators, to improve treatment of condensates, to provide advanced process control, to optimize water balance strategies to nearly closed loop processing, and to remove minerals and/or chloride. The cost of the research and development projects, which are estimated as part of EPA's estimates for compliance with the Voluntary Advanced Technology Incentives Program, are not included in this burden estimate. EPA estimates that 2 mills will enroll at the Tier III level.

The following chart reflects the underlying basis for the hour estimates:

	Tier I		Tier II		Tier III	
	Engineer hours	Management hours	Engineer hours	Management hours	Engineer hours	Management hours
Overview of Technical Strategy	12	4	20	8	24	8
Description of Technology Elements	10	2	20	4	32	8
Master Schedule	20	4	46	8	64	16
Research and Development Schedule	0	0	24	8	112	40
Appendix of Supporting Documentation ¹	4	0	16	0	24	0
Total Hours	56		154		328	

¹ Includes vendor documentation or preliminary studies at all Tier levels, feasibility studies, research proposals and reports, and literature on minimum effluent technology at Tier II and III levels, and literature on closed cycle technology for Tier III.

Assuming a salary rate (inclusive of benefits) of \$65 per hour for process engineering time and \$100 per hour for senior management time, the costs for preparing milestone plans are estimated at \$246,400 as a one-time cost for mills anticipated to enroll in the program. The total cost of the milestones plan preparation inclusive of estimates for scoping studies is approximately \$481,000.

IV. Certification in Lieu of Monitoring for Chloroform

Commenters to EPA's July 15, 1996 Notice of Availability on the pulp and paper effluent limitations guidelines and standards, 61 FR 36835, suggested that EPA consider allowing certification of process changes (specifically elimination of elemental chlorine and hypochlorite, but no other process factors) in lieu of monitoring to demonstrate compliance with the chloroform limitations and standards EPA had proposed. EPA did not include a certification option in the final Cluster Rules because the information available at this time does not demonstrate that ECF certification alone is sufficient to ensure compliance with the regulations published elsewhere in today's **Federal Register**. EPA based this conclusion on its finding that pulping and bleaching processes and related factors also have an effect on the rates of generation of chlorinated pollutants as measured in mill wastewaters. See DCN 14497, Vol. 1.

Nevertheless, EPA believes that it may be appropriate to allow mills to demonstrate compliance with chloroform limitations and standards promulgated today through a certification that accounts for those process and operating conditions. EPA has reason to believe that these conditions are relevant to compliance with the promulgated chloroform limitations and standards. Among the process and related factors that EPA believes may influence compliance are: residual lignin content of unbleached pulp (kappa number); the bleaching chemicals used (e.g., chlorine dioxide, or chlorine monoxide assuming elemental chlorine and hypochlorite have been eliminated); and, their application rates, kappa factor, and other physical factors (e.g., mixing with other wastewaters with differing properties prior to monitoring point, etc.) plus the types of bleach plant washers used (e.g., high air flow drum washers, low air flow washers, etc.).

Therefore, EPA is proposing new regulatory language in 40 CFR 430.02(f) that would allow Subpart B mills to certify in lieu of the requirement to

monitor for chloroform at a fiber line to which the limitations or standards apply, if: (1) The discharger demonstrates, based on two years of monitoring conducted in accordance with the minimum monitoring requirements of the final regulation, that it is achieving the applicable limitations or standards for chloroform; (2) the discharger certifies at that time and annually thereafter to the permitting or pretreatment control authority that the fiber line does not use elemental chlorine or hypochlorite as bleaching agents and that it is maintaining certain other process and operating conditions in use at the fiber line during the initial compliance demonstration period; and, (3) the discharger maintains records of the process and operating conditions for the fiber line. These process and operating conditions include, for example, maintaining a kappa factor and/or chemical application rate that does not exceed that for which compliance has been demonstrated at that fiber line, achieving a pre-bleaching kappa number that does not exceed that for which compliance has been demonstrated, and using precursor-free raw material. Examples of additional operational factors that may be required as part of the certification are the mixing (or separation) of acid and alkaline filtrates prior to the monitoring point and other physical factors such as types of bleach plant washers (e.g., high air flow drum washers, low air flow washers, etc.).

EPA is proposing that the certification be made annually, rather than once every permit cycle, because the certification includes operational factors in addition to chemical use or substitution. These factors require greater oversight and control on the part of the mill than can be achieved by monitoring mill chemical purchases.

EPA believes that additional data will allow it to further document and confirm the specific process and operating conditions that are necessary to provide an adequate basis for establishing compliance with the promulgated chloroform limitations and standards. EPA believes that if additional data becomes available that further document and confirm pertinent process and operating conditions, then it would be appropriate to provide flexibility to allow ECF mills to certify that they consistently maintain these process changes and operating conditions subsequent to the two-year period of monitoring for compliance demonstration. Thus, additional data will be critical to EPA's final decision on the certification being proposed today for Subpart B mills.

The certification alternative for chloroform being proposed today is not limited to the timeframes during which monitoring is required at the minimum monitoring frequencies specified in 40 CFR 430.02(b) and (c), but may apply as an alternative to monitoring that would be otherwise be required by a permit writer or pretreatment control authority in accordance with 40 CFR 122.44(i) or 40 CFR Part 403, as applicable.

EPA anticipates that the cost of certifying, when compared to the cost of monitoring, would be negative. EPA also recognizes that certification is voluntary and is not being required of mills that prefer to monitor. EPA has therefore not included costs of certification in the overall cost estimates of this proposal.

V. Solicitation of Data and Comments

EPA is seeking comment on today's proposed amendments to Part 430, which would require submission of a plan for achieving the Voluntary Advanced Technology BAT limits codified in Subpart B. Specifically, EPA solicits comment on the overall scope of the plan and the suggested content, including the effectiveness of the milestones required, critical-path schedule, contingency alternatives, and identification of major milestones, in the form of numeric or narrative limitations and/or conditions, that could or should be incorporated in an NPDES permit. EPA also solicits comment on the reasonableness of the response burden that such a plan would impose. (See Sections III.D and VI.C of today's proposal for discussions of the burden estimated to be associated with the Milestones Plan).

EPA is also seeking additional bleach plant chloroform data from Subpart B ECF mills, along with corresponding process and operating information and data, to determine whether an ECF certification process for chloroform should also require certification that relevant process and operating factors are consistently maintained. Currently available data and any new data that are received will be used by EPA as a basis for its final decision on whether to promulgate the certification being proposed today and the extent to which process and related factors are incorporated.

EPA also is soliciting comment and data on TCF processes and associated process wastewater flow reduction technologies that may serve as the technology basis for NSPS/PSNS for Subpart B mills. EPA specifically solicits data on the range of market pulp and paper products that are commercially manufactured by TCF

processes in the U.S., Canada, Europe, and elsewhere. EPA also solicits and will seek to gather additional performance data for full scale TCF mills that could serve as the basis for NSPS/PSNS that may be proposed at a later date.

Interested parties wishing to gather and submit data at ECF mills for chloroform generation and related process variables, and for the performance and products of TCF processes and flow reduction technologies, are strongly encouraged to contact EPA to ensure that the data gathering to be undertaken will be of adequate scope, will utilize appropriate analytical methods where necessary, and will include sufficient documentation to be useful. (Consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposal.)

Finally, EPA is soliciting comment on the estimated burden associated with preparing the Milestones Plan (see Sections III.D and VI.C of today's notice for detailed discussions of the estimated burden).

VI. Administrative Requirements

A. Executive Order 12866

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action." As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act of 1996

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), whenever a federal agency is required by section 553 of the Administrative Procedure Act (or any other law) to publish a general notice of proposed rulemaking for any proposed rule, the Agency generally must prepare an initial regulatory flexibility analysis (IRFA) describing the economic impact of the regulatory action on small entities. The Agency must prepare an IRFA for a proposed rule unless the head of the agency certifies that it will not have a significant economic impact on a substantial number of small entities. EPA is today certifying, pursuant to section 605(b) of the RFA, that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Agency did not prepare an IRFA.

The proposal, if promulgated, will not have a significant economic impact on a substantial number of small entities for the following reasons. The RFA defines "small entity" to mean a small business, small organization or small governmental jurisdiction. The proposal to allow certification in lieu of monitoring for chloroform would reduce the economic cost of compliance for any direct discharging mill that chooses to certify, including any mill that is a small business. Therefore, the proposal to allow certification, if adopted, would not have a significant economic impact on a substantial number of small entities.

With respect to the Milestones Plan proposal, EPA has determined that there are only three mills in Subpart B that are small businesses. These mills would be subject to the proposed Milestones Plan requirement only if they choose to enroll in the Voluntary Advanced Technology Incentives Program (VATIP). EPA does not believe three to be a substantial number. Furthermore, EPA has concluded that the cost of the Milestones Plan requirement to any mill choosing to enroll in VATIP that is a small business is not significant. EPA has calculated the cost of the Milestones Plan requirement to be between \$4,000 and \$50,000 per mill, depending on whether the mill chose Tier I, II or III. This amount is a small fraction of the total cost of the new effluent guideline requirements for Subpart B, which EPA has already certified as not having a significant impact elsewhere in today's **Federal Register**. Furthermore, the requirement to submit a Milestones Plan would only affect those mills that

voluntarily choose to enroll in the program. In these circumstances, the Milestones Plan requirement would not, if promulgated, have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, following the 60 day comment period of this notice and incorporation/consideration of those comments received on the burden of the information collection requirements. An Information Collection Request (ICR) document will be prepared by EPA for submission to OMB. However, EPA is using today's notice to solicit public comments on the estimates associated with the burden of the Milestones Plan for Tier I, Tier II, and Tier III Advanced Technology mills prior to submitting the ICR document to OMB (See Section III.D of today's notice for a discussion of the burden estimates). EPA will publish a notice in the **Federal Register** when the ICR is submitted to OMB for approval, allowing for additional public comments to be submitted to OMB on the burden estimates. The information requirements are not effective until OMB approves them and today's proposed amendments are promulgated.

As discussed in Section III.A of today's notice, EPA believes the Milestones Plan is necessary to provide NPDES permit writers with the information necessary to design a permit that contains mill specific "interim milestones" required by the Voluntary Advanced Technologies Incentives Program. See § 430.24(b)(2) of the final Pulp and Paper "Cluster Rules," found elsewhere in today's **Federal Register**. The Milestones Plan will allow permit writers to set milestones on a schedule that the mill believes is realistic for its facility.

EPA does not believe the second proposed amendment in today's notice—certification in lieu of monitoring for chloroform—will cause any additional burden on those mills choosing to certify. In fact, EPA believes that for mills that choose to make the certification, the burden associated with monitoring will be reduced because they will no longer need to monitor for chloroform.

As discussed in more detail in Section III.D of today's notice, the total burden for the Milestones Plan is listed by Tier in the following table:

MILESTONES PLAN—ESTIMATED INDUSTRY BURDEN

Tier	Hours/Mill	Estimated number of enrolled mills	Total hours	Scoping study estimate (\$)	Total cost (\$)
Tier I	56	14	784	0	55,900
Tier II	154	13	2,002	182,130	325,000
Tier III	328	2	656	52,320	100,000
Total for all Tiers		29	3,442	234,450	480,900

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.

An Agency may not conduct or sponsor a collection of information, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with

applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This rule would impose a reporting burden on the private sector of less than 3,500 burden hours (costed at less than \$250,000) as a one-time expense. This rule does not affect tribal governments at all, will ease the burden on State governments responsible for implementing final regulations published elsewhere in this **Federal Register** today, and may ease the compliance monitoring burden of local governments responsible for implementing final regulations published elsewhere in this **Federal Register** today. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments for the same reasons cited above.

E. Executive Order 12875

To reduce the burden of Federal regulations on States and small governments, the President issued

Executive Order 12875 on October 28, 1993, entitled Enhancing the Intergovernmental Partnership (58 FR 58093). In particular, this executive order requires EPA to consult with representatives of affected State, local, or tribal governments on Federal matters that significantly or uniquely affect their communities. This rule does not affect tribal governments at all, will ease the burden on State governments responsible for implementing final regulations published elsewhere in this **Federal Register** today, and may ease the compliance monitoring burden of local governments responsible for implementing final regulations published elsewhere in this **Federal Register** today.

F. Executive Order 12898

Executive Order 12898 directs Federal agencies to "determine whether their programs, policies, and activities have disproportionately high adverse human health or environmental effects on minority populations and low-income populations." (Sec. 3-301 and Sec. 3-302). This proposed rule will not have adverse health or environmental effects.

G. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act ("NTTAA"), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards.

The Agency does not believe that this proposed rule addresses any technical standards subject to the NTTAA. A

commenter who disagrees with this conclusion should indicate how the notice is subject to the Act and identify any potentially applicable voluntary consensus standards.

List of Subjects in 40 CFR Part 430

Environmental protection, Chloroform, Effluent guidelines, Elemental chlorine-free, Incentives, Milestones Plan, Pulp and paper industry, Totally chlorine-free, Water pollution control.

Dated: November 14, 1997.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, title 40 chapter I of the Code of Federal Regulations, part 430, is proposed to be amended as follows:

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

1. The authority citation for part 430 continues to read as follows:

Authority: Secs. 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, (33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361), and section 112 of Clean Air Act (42 U.S.C. 7412).

2. Section 430.02 is amended by adding paragraph (f) to read as follows:

§ 430.02 Monitoring requirements.

* * * * *

(f) *Certification in Lieu of Monitoring.* A discharger subject to limitations and standards for chloroform under subpart B of this part is not required to monitor for chloroform at a fiber line to which the limitations or standards apply if:

(A) The discharger demonstrates, based on two years of monitoring conducted in accordance with paragraph (a) of this section, that it is achieving the applicable limitations or standards for chloroform;

(B) The discharger certifies at that time and annually thereafter to the

permitting or pretreatment control authority that the fiber line does not use either elemental chlorine or hypochlorite as bleaching agents, and that the mill consistently maintains process operation conditions representative of those employed during the two year compliance monitoring period required in paragraph (f)(1) of this section, including pre-bleaching kappa numbers, use of precursor-free raw materials, kappa factor and bleaching chemical application rates, and other factors pertinent to the initial compliance demonstration; and

(C) The discharger maintains records of the process and operating conditions referenced in paragraph (f)(2) of this section for the fiber line on site.

3. Section 430.24 is amended by revising paragraph (b)(2) and adding paragraph (c) to read as follows:

§ 430.24 Effluent limitations reflecting the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

* * * * *

(b) * * *

(2) *Best Professional Judgment Milestones:* Narrative or numeric limitations and/or special permit conditions, as appropriate, established by the permitting authority on the basis of his or her best professional judgment that reflects a reasonable interim milestones toward achievement of the effluent limitations specified in paragraphs (b)(3) and (b)(4) of this section, as applicable, after consideration of the Milestones Plan submitted by the discharger in accordance with paragraph (c) of this section.

* * * * *

(c) All dischargers enrolled or intending to enroll in the Voluntary Advanced Technology Incentives Program must submit to the NPDES permitting authority a Milestones Plan covering all fiber lines enrolled or

intending to be enrolled in that program at their mill by *[insert 14 months from date of publication of the final rule]* or the date the discharger applies for NPDES permit limitations consistent with paragraph (b) of this section, whichever is later. The Milestones Plan must include the following information:

(1) A description of each anticipated new technology component or process modification that is needed to achieve the limitations in paragraphs (b)(3) and (b)(4) of this section;

(2) A master schedule showing the sequence of implementing the new technology components or process modifications and identifying critical path relationships;

(3) A schedule for each individual new technology component or process modification that includes:

(i) The anticipated initiation and completion dates of construction, installation and operational “shakedown” period associated with the technology components or process modifications and, when applicable, the anticipated dates of initiation and completion of associated research, process development, and mill trials;

(ii) The anticipated date that the discharger expects the technologies and process modifications selected to achieve the limitations specified in paragraphs (b)(3) and (b)(4) of this section are operational on a full-scale basis;

(iii) Contingency plans should any technology or process specified in the Milestones Plan need to be adjusted or alternative approaches developed to ensure that the limitations specified in paragraphs (b)(3) and (b)(4) of this section are met; and

(4) A signature by the responsible corporate officer as defined in 40 CFR 122.22.

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[FR Doc. 98-9615 Filed 4-14-98; 8:45 am]

BILLING CODE 6560-50-P