

considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Records of the Coast Guard indicate that as of December 31, 1997, there were 32,414 undocumented vessels numbered by the Coast Guard in Alaska. Of those, 7,107 vessels (23 percent) are owned by commercial entities (4,945 commercial fishing vessels, 1,656 commercial passenger-carrying vessels, and 506 rental or livery vessels), some of which may qualify as "small entities." Also, in 1997, the Coast Guard issued 6,377 original certificates of number, 5,053 renewal certificates of number, and 601 duplicate certificates of number or replacement validation stickers. The proposed fees would increase the cost of three-year original and renewal certificates of number by \$18.00 and \$10.00, respectively, for an annual rise in cost of about \$6.00 and \$3.33, respectively, where the fees applied at all. The fees would increase the cost of duplicate certificates of number and replacement validation stickers by \$8.00 and \$8.75, respectively, when needed. The Coast Guard estimates that the fees could increase costs about \$36,000, or about \$12,000 annually, for the entire fleet of currently numbered commercial-use vessels in Alaska. Again, however, under the general Federal statute on user fees, the Coast Guard is bound to recover its costs. But, under 5 U.S.C. 610 and Circular A-25, the Coast Guard is bound to review these fees every two years.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule would have a significant economic impact on your business or organization, please submit a comment to the Docket Management Facility explaining why you think it qualifies and in what way and to what degree this rule would economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The Coast Guard is complying with the general Federal statute on user fees, and the specific Federal statute for services provided under subtitle II of title 46.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph (34)(a), of Commandant Instruction M16475.IC, this proposed rule is categorically excluded from further environmental documentation. The rulemaking merely adjusts the fee amounts charged to owners of undocumented vessels for issuing vessel numbers and validation stickers. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 173

Marine Safety, Reporting and Recordkeeping Requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 173 as follows:

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

1. Revise the authority citation for Part 173 to read as follows:

Authority: 5 U.S.C. 610; 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A-25; 49 CFR 1.46.

2. Revise § 173.85 to read as follows:

§ 173.85 Fees levied by the Coast Guard.

(a) In a State where the Coast Guard is the issuing authority, the fees for issuing certificates of number are:

- (1) Original or transferred certificate of number and two validation stickers—\$24.00;
- (2) Renewal of certificate of number and two validation stickers—\$16.00;
- (3) Duplicate certificate of number—\$9.00; and
- (4) Replacement of lost or destroyed validation stickers—\$9.00.

(b) Fees are payable by check or money-order made payable to the "U.S. Coast Guard"; by major credit card (MasterCard or Visa); or, when the owner applies in person, in cash.

Dated: January 13, 1999.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 99-1986 Filed 1-29-99; 8:45 am]

BILLING CODE 4910-15-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

Facility Standards; Notice of Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of meeting.

SUMMARY: NARA will hold a public meeting to discuss its plans to revise regulations on facility standards for records centers used to store Federal records (36 CFR part 1228, subpart K). Additional background information on the planned regulation may be found in the October 1998 Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions, at page 61388 of the November 9, 1998, **Federal Register** (63 FR 61388).

DATES: The meeting will be held on February 18, 10 a.m. to noon.

ADDRESSES: The meeting will be held in Lecture Rooms B, C, and D, in NARA's College Park facility at 8601 Adelphi Road, College Park, MD 20740-6001.

FOR FURTHER INFORMATION CONTACT: Nancy Allard (301) 713-7360.

Dated: January 27, 1999.

Richard L. Claypoole,

Assistant Archivist for Regional Records Services.

[FR Doc. 99-2355 Filed 1-29-99; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[FRL-6227-8]

RIN 2050-AE60

180-Day Accumulation Time for Waste Water Treatment Sludges From the Metal Finishing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: As part of the Common Sense Initiative (CSI), the Environmental Protection Agency (EPA) is today proposing a cleaner, cheaper, and smarter opportunity for environmental

protection for the Metal Finishing Industry. EPA is proposing to allow generators of F006 waste (sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators meet certain conditions. The first condition is that F006 waste generators have implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery. The second condition is that they recycle the F006 waste by metals recovery. The third condition is that they accumulate no more than 16,000 kilograms of F006 waste at any one time. The final condition is that they comply with the applicable management standards. EPA believes that the 180-day accumulation time for F006 waste is protective of human health and the environment. The 180-day accumulation time would minimize economic barriers to the recycling of F006 waste through metals recovery, thus providing generators of F006 waste with an incentive to choose metals recovery over treatment and land disposal as their waste management option for F006 waste.

DATES: Written comments on this proposed rule should be submitted on or before April 2, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-1999-F06P-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-1999-F06P-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305G), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway One, First

Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page. The index and some supporting materials are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412-3323.

For more detailed information on specific aspects of this rulemaking, contact Jeffery S. Hannapel (5304-W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308-8826, hannapel.jeff@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The index and some supporting materials are available on the Internet. Follow these instructions to access the information electronically: www: <http://www.epa.gov/oswer/hazwaste/gener/f006acum.htm>

FTP: ftp.epa.gov

Login: anonymous

Password: your Internet address

Files are located in /pub/oswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

I. Authority

This proposed rule is issued under authority of sections 2002, 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the

Resource Conservation and Recovery Act of 1976, and as amended by the Hazardous and Solid Waste Amendments of 1984. 42 U.S.C. 6906, 6912, 6921-6925, 6937 and 6938.

II. Background

A. Purpose and Context for Proposed Rule

The Resource Conservation and Recovery Act (RCRA) directs EPA to promulgate standards for generation of hazardous waste as necessary to protect human health and the environment. RCRA Section 3002. Section 1003 of RCRA establishes a national objective of "minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitutions, materials recovery, properly conducted recycling and reuse, and treatment." In response to these provisions, EPA has endeavored to develop regulations that promote legitimate recycling of solid and hazardous waste while protecting human health and the environment against the development and use of unsafe or sham recycling practices. Today's proposed rule is an effort to promote the legitimate metals recovery of F006 wastes and to reduce the volume of F006 wastes that is land disposed. The Agency is proposing to provide flexibility in the RCRA regulations governing accumulation time limits for generators who accumulate wastewater treatment sludges from electroplating operations (*i.e.*, the listed hazardous waste, F006) and process these sludges for metals recovery.

Today's proposed rule would allow generators of F006 waste up to 180 days to accumulate F006 waste on site, without a RCRA permit or interim status, as an incentive to encourage metals recovery and pollution prevention practices for this waste. Under the rule as proposed today, F006 wastes that are not recycled by metals recovery would not be eligible for the 180-day accumulation time. In order to ensure that on-site accumulation of F006 waste is protective of human health and the environment, the management standards for 180-day on-site accumulation of F006 waste would be the same as those that currently apply to 90-day on-site accumulation.

This proposed rule is limited to generators of F006 waste. In 40 CFR 261.31, F006 waste is defined as:

Wastewater treatment sludges generated from electroplating operations, except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated

basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

In listing electroplating wastewater treatment sludges as hazardous waste, EPA identified several hazardous constituents, including cadmium, hexavalent chromium, nickel, and complexed cyanides that could pose a substantial hazard to human health or the environment if the sludge was mismanaged. The potential hazards associated with the constituents of concern in the sludge and the potential for improper management of the electroplating wastewater treatment sludges served as the basis for listing the sludge as the hazardous waste, F006. The listing status of the waste would not be affected by this proposed rule.

The physical form of F006 waste can generally be described as a mixed metal hydroxide wastewater treatment precipitate, which is 24 to 50 percent solids by weight. Other physical forms of this material can include spent ion exchange columns or iron precipitation solids. F006 sludges may contain metals with commercial value that can be recovered from the sludges. The metals recovered from these sludges are most often concentrates and intermediate materials that require further processing before a commercially usable metal is produced. Often, the metals contained in these industrial sludges are recovered in the form of a metal oxide or salt (e.g., lead oxide, lead chloride, lead sulfate) through High Temperature Metals Recovery (HTMR), such as smelting operations.

Currently, generators who generate greater than 1,000 kilograms of hazardous waste in a calendar month (i.e., large quantity generators) may accumulate hazardous waste on-site, without having to obtain a RCRA permit for the on-site accumulation activities, for a period of up to 90 days. Many generators of F006 wastewater treatment sludges indicate that this 90-day accumulation limit restricts their ability to generate a large enough volume of F006 sludge to make recycling more economically feasible when compared to treatment and land disposal. This is principally because of: (1) The relatively high cost of transportation of the hazardous sludge from a generator's establishment to a recycling or smelting facility (due, in part, to the longer distances to metals recovery facilities and the fact that generators are shipping partial truck loads) and (2) the surcharge that metals recovery facilities generally charge generators and waste brokers for

managing small quantities of F006 waste.

In today's proposed rule, EPA is proposing to allow generators of F006 electroplating sludge to accumulate F006 waste on site for up to 180 days in tanks, containers or containment buildings without a RCRA permit, if the generator: (1) Has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make the F006 waste more amenable for metals recovery, (2) recycles the F006 waste through metals recovery, (3) accumulates no more than 16,000 kilograms of F006 waste at any one time, and (4) complies with the applicable management standards in the rule. This proposal would not change any other requirements applicable to generators of hazardous waste. EPA believes that the 180-day accumulation period will allow generators of F006 waste to ship the waste off site less frequently (e.g., twice a year rather than four times a year under the existing 90-day accumulation rule), and thereby, reduce the costs associated with transporting F006 sludges to metals recovery facilities. Because generators can accumulate F006 waste on site for 180 days only if the waste is sent off site for metals recovery, EPA expects that the quantities of F006 waste that are recycled, rather than treated and land disposed, will increase. F006 waste metals recovery also promotes resource conservation because metals recovered from the sludges may serve as alternative feedstocks for primary metals in production and manufacturing processes.

EPA is basing this proposal, in part, on discussions under the Agency's Common Sense Initiative for the Metal Finishing Industry. The Common Sense Initiative, as well as broader changes in the regulation of F006 waste being considered as part of the Common Sense Initiative, are discussed in more detail below. The Agency notes that today's proposed rule only affects the amount of time generators of F006 waste may accumulate that waste on site, without a RCRA permit, prior to having it processed for metals recovery. At this time, EPA is proposing no other changes to the hazardous waste management standards governing generator activities. All other provisions governing hazardous waste management activities for large quantity generators under 40 CFR part 262 (e.g., unit specific standards, recordkeeping and reporting, and manifesting requirements) would remain unchanged and in effect with respect to large quantity generators of F006 waste.

B. Common Sense Initiative (CSI) for Metal Finishing Industry

Today's proposal is an outgrowth of activities conducted under the EPA's Common Sense Initiative (CSI), an innovative approach to environmental protection and pollution prevention. The CSI was established on October 17, 1994, through a charter pursuant to the Federal Advisory Committee Act (FACA). The goal of the CSI is to use consensus decision-making to recommend policy and program changes to the CSI Council and the EPA Administrator. EPA selected six industries to serve as CSI pilot industries: automobile manufacturing, computer and electronics, iron and steel, metal finishing, petroleum refining, and printing. These six industries comprise over 11 percent of the U.S. Gross Domestic Product, employ over 4 million people, and account for over 12 percent of the toxic releases reported by United States industry. As such, they offer excellent opportunities to test and refine CSI concepts, to create environmental solutions that can operate across industries, and to identify opportunities to expand CSI concepts to other relevant industries.

CSI is organized through an advisory committee referred to as the "CSI Council," that is comprised of high-level representatives from various stakeholder groups, including all involved industries. For each industry, known as a "sector" in CSI, the CSI Council establishes a subcommittee of stakeholders to look for cleaner, cheaper, and smarter opportunities for environmental protection in that sector. Sector subcommittees and work groups meet frequently to develop and discuss progress in various projects, policy considerations, and other issues. Team options, proposals, issues, and data are forwarded to the CSI Council for further action. The CSI Council considers matters from the sector subcommittees and makes recommendations to the Administrator. The CSI process is producing better, more applicable environmental protection strategies that are developed, in part, by the regulated community, and in concert with regulatory agencies and public interest groups.

Since beginning their work in January 1995, the sector subcommittees have developed nearly 40 projects involving more than 150 stakeholders who actively participate in sector subcommittees and subcommittee workgroups. Some of the projects are specific to individual sectors. Other projects explore solutions to common

issues such as alternative flexible regulatory systems, pollution prevention, reporting, compliance, permitting, and environmental technology.

Today's proposal stems primarily from CSI efforts in the metal finishing industry sector. The metal finishing industry consists of more than three thousand "job shops" (*i.e.*, independent metal plating firms that complete jobs on contract), which are mostly small businesses with limited capital and personnel, and more than eight thousand "captive" metal finishing operations within larger manufacturing facilities. The industry is geographically diverse, but concentrated in heavily industrialized states. Because of the cross-media impacts of their operations, metal finishers face a broad range of federal, state, and local environmental requirements (especially with regard to water use and waste disposal).

The CSI metal finishing subcommittee has 24 members representing metal finishing companies, trade associations, suppliers, environmental and community groups, organized labor, and state and local governments. Some of the representative organizations include the American Electroplaters and Surface Finishers Society, the National Association of Metal Finishers, the Natural Resources Defense Council, the AFL-CIO, the Barrio Planners of Los Angeles, the Water Environment Federation, and the Association of Metropolitan Sewerage Agencies. As part of its work under CSI, the metal finishing sector has developed a set of ambitious voluntary performance goals to promote pollution prevention and environmental management beyond what is currently required for the industry under federal regulations (*i.e.*, the Strategic Goals Program). The goals address resource utilization, hazardous emissions, economic pay backs, and compliance costs.

As a means towards meeting these goals, the metal finishing subcommittee has endorsed 14 projects, and supports an additional CSI small business sector project. In addition to these 14 projects, the action plan also contains "enabling actions" that all stakeholders have committed to undertake to help the industry meet the Strategic Goals. Allowing generators of F006 waste to accumulate the sludge for up to 180 days is one of the enabling actions to help remove unnecessary barriers to recycling and to promote the goals of the CSI effort.

Another one of the enabling actions includes a study conducted by EPA to examine whether the physical nature of F006 waste has changed as a result of

process improvements in the last twenty years, and if so, whether some type of regulatory, administrative, or other relief for the management of F006 waste is warranted. Phase I of this study (*i.e.*, sampling of F006 sludge from 30 metal finishing facilities in three cities) is expected to be completed shortly with the issuance of a report. Phase II of the study (*i.e.*, identifying additional data needs, if any, and examining potential regulatory and administrative strategies that may promote metals recovery of F006 waste, encourage pollution prevention practices related to the generation of F006 waste, and reduce or remove possible RCRA barriers to metals recovery of F006 waste) is now in process.

C. Current Accumulation Time for Large Quantity Generators

The current standards under 40 CFR part 262 for generators of hazardous waste who generate greater than 1,000 kilograms of hazardous waste per month limit the amount of time hazardous waste can be accumulated without a RCRA permit at the generator's site. Under the existing 40 CFR 262.34, generators of greater than 1,000 kilograms of hazardous waste per month may accumulate hazardous waste on site for up to 90 days without having to obtain a RCRA permit. This provision was established to provide generators sufficient time in all reasonable situations for waste accumulation to occur prior to waste management, without interfering with generator manufacturing processes. 51 FR 25487 (July 14, 1986).

Under the existing 90-day accumulation rule, the generator must comply with certain unit-specific standards (*e.g.*, tank, container, containment building, and drip pad standards) for accumulation units, marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements. 40 CFR 262.34(a). Generators may also petition the EPA Regional Administrator to grant an extension, up to 30 days, to the 90-day accumulation time limit due to unforeseen, temporary, and uncontrollable circumstances, on a case-by-case basis under 40 CFR 262.34(b).

As outlined above, and explained below in Section III, the Agency is proposing to allow generators of F006 wastewater treatment sludges to accumulate the waste prior to metals recovery for up to 180 days without a RCRA permit, provided the generators comply with certain conditions, as explained below. For the reasons explained below, the Agency believes

that the proposed 180-day accumulation time is appropriate for generators of F006 waste, without interfering with the generator's manufacturing processes. Today's proposed rule makes no changes to the requirements for 90-day accumulation under the current regulations.

D. Current Accumulation Time for Small Quantity Generators

The current federal RCRA regulations governing waste management requirements for hazardous waste generators provide for accumulation time limits for generators who generate more than 100 kilograms of hazardous waste, but less than 1,000 kilograms of hazardous waste in a calendar month, who are known as small quantity generators (SQGs). Section 262.34(d) of 40 CFR provides that SQGs may accumulate hazardous waste on site for 180 days or less without a permit or without having interim status, provided that the generator complies with certain provisions. These existing provisions include a restriction that the generator never accumulates more than 6,000 kilograms of hazardous waste on site. In addition, the generator must comply with certain unit-specific standards (*e.g.*, tank and container standards) for accumulation units, marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements. The Agency is not proposing in this action to change the current provisions governing the accumulation time periods for SQGs.

1. Transport More Than 200 Miles

Section 262.34(e) of 40 CFR provides that SQGs who must transport the waste, or offer the waste for transport, over a distance of 200 miles or more for off-site treatment, storage, disposal or recycling may accumulate hazardous waste on site for 270 days or less, without a permit or having interim status. Again, the generator must comply with certain unit-specific standards for accumulation units (*e.g.*, tank and container standards), marking and labeling requirements, preparedness and emergency procedure requirements, and release response requirements.

The Agency is not proposing, as part of today's proposal, to change the current provisions governing the accumulation time periods for SQGs that must transport the waste greater than 200 miles for treatment, storage, disposal, or recycling.

2. Unforeseen, Temporary, and Uncontrollable Circumstances

There may be instances, due to unforeseen, temporary, and uncontrollable circumstances, in which SQGs may need to accumulate hazardous wastes on site for a greater period of time than 180 days (or 270 days if the generator must transport waste more than 200 miles for off-site management). In such cases, the generator may petition the EPA Regional Administrator to grant an extension, up to 30 days, to the accumulation time limit due to unforeseen, temporary, and uncontrollable circumstances, on a case-by-case basis under 40 CFR 262.34(f). Today's proposed rule makes no changes to this provision for SQGs.

III. Discussion

A. Overview of Proposed Rule

1. Proposed Approach

Under the current regulatory scheme (*i.e.*, the 90-day accumulation time limit), many generators of F006 waste do not send their F006 waste off site for metals recovery due to economic reasons. Today's rule provides generators of F006 waste with incentives to minimize costs associated with off-site metals recovery so that these generators will be more likely to choose metals recovery over treatment and land disposal as their management option for F006 waste.

Of the approximately 6,000 generators of F006 waste in the metal finishing industry, at least an estimated 1,317 generators produce F006 waste in amounts that exceed the regulatory requirements for small quantity generators. Nonetheless, the amounts generated by this group of 1,317 metal finishers are generally not enough for a full truck load within 90 days. These generators are required to ship the F006 waste off site within 90 days (otherwise a RCRA storage permit would be required for the facility), so their shipments are partial truck loads. The transportation costs for these partial loads are disproportionately higher than they would be for full loads. There is generally some fixed cost associated with having a truck pick up a load of F006 waste regardless of whether the truck is picking up a partial or full load. For the fixed cost portion of the truck, the cost per unit of F006 waste for shipping the waste is more for partial loads than full loads (*e.g.*, the cost per unit of F006 waste for the fixed cost portion of the truck is twice as much for a half-filled truck compared to a full truck). Allowing generators of F006 waste to accumulate a full truck load of

F006 waste would, therefore, decrease the cost per unit of F006 waste associated with shipping F006 waste off site for metals recovery.

Similarly, smelters often charge generators proportionately more for small loads of F006 waste (due, in part, to the fixed administrative and transportation costs associated with handling such small loads).¹ Accordingly, the cost per unit of F006 waste sent to a smelter is more for small loads of F006 waste than for larger loads. Allowing generators of F006 waste to accumulate more F006 waste would, therefore, decrease the cost per unit of F006 associated with sending F006 waste to a smelter for metals recovery.

In addition, because of the usual per mile charge for transportation, transporting wastes longer distances costs more. Accordingly, many facilities seek to minimize shipping costs by finding the nearest RCRA permitted treatment, storage or disposal facility, which is most often a landfill. In the United States, there are significantly more landfills than metals recovery facilities that handle F006 wastes. Because there are fewer recycling facilities in the U.S. that can recover metals from F006 waste than landfills that accept F006 waste for disposal, the distances from generator's facilities to metals recovery facilities are generally greater than to landfills. Thus, many generators may not choose metals recovery for their F006 waste due to the higher costs associated with having to transport these wastes longer distances to recycling facilities as compared to landfills.

Under this proposed rule, generators of F006 waste would be allowed to accumulate the waste on site in tanks, containers, or containment buildings for 180 days or less without a RCRA permit, only if they meet the pollution prevention, metals recovery, and 16,000 kilogram accumulation limit conditions of the rule. An accumulation time of 180 days was chosen because it provided sufficient time for most of the F006 waste generators affected by this proposed rule to accumulate a full truck load of F006 waste. Metal finishing stakeholders in the CSI process also indicated that the 180-day (or the 270-day, if applicable) accumulation time would be sufficient time to accumulate F006 waste on site and make metals recovery a more cost effective management option for F006 waste. EPA requests comments on whether 180 days (or 270 days, if applicable) is the

appropriate accumulation time for F006 waste. The proposed rule would reduce a generator's overall hazardous waste transportation costs associated with shipping F006 waste off site for metals recovery. If a generator can accumulate enough F006 waste to fill a truck load, then its relative transportation costs would be less. Specifically, if the generator can store the F006 waste for twice as long as before (*i.e.*, 180 days as opposed to 90 days), then it would only have to ship the waste half as many times, thereby decreasing the associated transportation costs. Thus, with today's proposed rule generators of F006 waste would have an incentive to send the F006 waste off site for metals recovery (because generators can accumulate up to 180 days only if the F006 waste is sent off site for metals recovery).

In today's proposed rule, generators of F006 waste would be allowed up to 180 days (or up to 270 days, if applicable) time to accumulate F006 waste on site in tanks, containers or containment buildings without a RCRA permit, provided that the generator: (1) Has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, (2) recycles the F006 waste by metals recovery, (3) accumulates no more than 16,000 kilograms of F006 waste at any one time, and (4) complies with the applicable management standards in this rule. A brief discussion of these conditions is provided below.

a. Pollution Prevention Practices

As part of the proposed rule, generators must implement pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery. Within the metal finishing industry, facilities have implemented a variety of pollution prevention practices including: product substitution, drag-out and counter-current flow rinse systems, flow restrictors, evaporation recovery systems, plating bath reuse, filter press, sludge drying systems, ion exchange systems, and segregation of wastewater streams. Many companies have implemented pollution prevention measures to improve process efficiency, cut waste generation and waste management costs, and improve compliance. Table 1 summarizes several categories of pollution prevention practices that are commonly used within the metal finishing industry. These practices reduce the volume and toxicity of the F006 waste generated or make the F006 waste more amenable for metals recovery, albeit in varying degrees.

¹ NCMs/NAMF Pollution Control Assessment, ¶ 4 (1993).

Individual pollution prevention measures may reduce the toxicity or the volume of F006 waste generated from wastewater treatment. For example, rinse water reduction techniques reduce the volume of effluents discharged from metal finishing process. Drag-out reduction measures reduce the volume and can reduce the toxicity of effluents discharged from metal finishing processes. Implementation of these pollution prevention practices is protective of human health and the environment because the F006 sludge produced is reduced in volume or toxicity. Pollution prevention measures such as these may, however, also increase the concentration of pollutants in F006 sludge, including recyclable metals (e.g., copper, zinc, nickel) and non-recyclable toxic pollutants (e.g., cyanide, cadmium). Increasing the concentration of recoverable metals in F006 sludge can increase the sludge's value as a secondary material, but increasing the concentration of non-recyclable pollutants (e.g., cyanide, cadmium), which pass through the recovery process and must be properly managed and disposed in the environment, can pose potential problems for the management and handling of recycling residues.

Chemical substitution pollution prevention measures reduce or eliminate toxic substances used in the plating process and found in the wastes, and therefore, are desirable from an environmental perspective, wherever they can appropriately be applied. For example, trivalent chromium can be substituted for highly toxic hexavalent chromium in a few applications. In many applications, this substitution may not be possible. Many metal finishers have reduced or eliminated cyanide and cadmium use by substituting other materials, or by ceasing certain plating operations. Chemical substitution pollution prevention practices are generally more protective of human health and the environment because they eliminate or reduce the amount of toxic pollutants in the sludge, and produce sludge that is more amenable for metals recovery (by reducing the amount of non-recyclable toxic pollutants in the sludge).

Pollution prevention practices protect human health and the environment because they reduce the volume and toxicity of F006 sludge and make it more amenable for metals recovery. For example, dewatering F006 sludge makes the waste safer to manage (reduction in free liquids in waste reduces the potential for releases into the environment in the event of a spill) and more amenable for metals recovery

(because smelters generally have a moisture limit for incoming secondary materials such as F006 waste). In addition, chemical substitution pollution prevention measures can reduce, or eliminate, the toxic substances that do not get recycled in the metals recovery processes.

Based on available data, EPA believes that most metal finishing facilities have implemented at least one pollution prevention measure and many facilities have implemented several. The number and category of pollution prevention measures used at individual facilities vary broadly. The most common pollution prevention measures include drag-out and rinse water reduction methods, which may improve effluent quality and the amount of metals recovered from F006 sludge. The data available to EPA suggest that chemical substitution pollution prevention measures are used less frequently than rinse water and drag-out reduction techniques.

Today's proposed rule provides an incentive to encourage more metals recovery and less land disposal of F006 wastes by allowing 180 days to accumulate F006 waste, but only for those generators of F006 waste who recycle the F006 waste by metals recovery and have implemented pollution prevention practices that reduce the volume or toxicity of F006 waste or that make it more amenable for metals recovery. At the same time, EPA wishes to encourage facilities to make greater progress in reducing the quantity of non-recyclable toxic pollutants that pass through recovery processes and are ultimately disposed of in landfills. The Agency, therefore, urges facilities (although not specifically required by the proposed rule) to implement at least one chemical substitution pollution prevention measure that reduces or eliminates the amount of toxic pollutants (e.g., cadmium, cyanide, arsenic, hexavalent chromium, or halogenated or chlorinated solvents) contained in F006 sludge that are not economically recoverable from F006 waste. Nonetheless, any facility that already has pollution prevention practices in place that meet the requirements of this proposed rule would not be required to implement additional pollution prevention practices.

The Agency believes that a general condition requiring pollution prevention practices as part of the proposed rule is preferable to a more specific pollution prevention requirement. The technical and economic variables that affect the feasibility of using one or more specific

pollution prevention practices at a particular facility are so broad and complex that it would not be possible to specify by rule the best approach for all facilities. Accordingly, the Agency believes that it is appropriate to allow the facilities that want the 180-day accumulation time to implement pollution prevention practices that are best suited to individual facilities, based on their specific metal finishing processes and plating operations. With this approach, facilities can implement those pollution prevention practices that best facilitate metals recovery and protect human health and the environment. EPA requests comments on the general condition requiring pollution prevention practices and whether more specific pollution prevention requirements should be part of this rule.

The proposed rule requires both metals recovery and pollution prevention practices as conditions to accumulate F006 waste on site for up to 180 days without a RCRA storage permit. The rationale for the pollution prevention requirement is to encourage generators to make the F006 waste less hazardous for subsequent management and more amenable for metals recovery. While both pollution prevention and metals recovery are laudable goals, there is a potential tension between pollution prevention practices and metals recovery. For example, if a pollution prevention practice is successful in eliminating, or significantly reducing, the metals in the metal finishing waste stream, then the resulting F006 sludge could have relatively low metal values and could be less amenable to metals recovery. Of course, this tension between pollution prevention practices and metals recovery is highly dependent on the specific pollution prevention practice that is employed. For example, some recovery technologies such as ion exchange work better on dilute wastewaters than on wastewaters with higher metal content.

As alluded to above, the metal finishing industry can implement a wide variety of pollution prevention practices. Some pollution prevention practices can actually enhance the metals recovery process by concentrating metals in the F006 waste or by segregating waste streams into mono-metal or bi-metal sludges that can be more amenable to metals recovery. The use of several pollution prevention measures such as rinse water reduction techniques, chemical substitution, and waste stream separation can produce a sludge that is less hazardous to manage and more amenable to metals recovery. The Agency believes that requiring both

pollution prevention practices and metals recovery as conditions for the 180-day accumulation time is compatible with environmentally responsible metal finishing, is consistent with efforts of the metal

finishing industry to improve F006 sludge quality (*i.e.*, reduce the toxicity of the sludge and make it more amenable to metals recovery), and is protective of human health and the environment. The Agency requests

comments on how pollution prevention practices and metals recovery can best be used together to promote environmentally sound metals recovery and to protect human health and the environment.

TABLE 1.—EXAMPLES OF POLLUTION PREVENTION MEASURES

Method	Pollution prevention benefits
Improved Operating Practices	
Remove cadmium and zinc anodes from bath when it is idle. Anode baskets can be placed on removable anode bars that are lifted from tank by an overhead hoist.	<ul style="list-style-type: none"> • Eliminates cadmium/zinc buildup causing decanting of solution due to galvanic cell set up between steel anode basket and cadmium/zinc anodes.
Eliminate obsolete processes and/or unused or infrequently used processes.	<ul style="list-style-type: none"> • Maintains bath within narrow Cd/Zn concentration providing more predictable plating results. • Reduces risks associated with hazardous chemicals.
Waste stream segregation of contact and non-contact wastewaters	<ul style="list-style-type: none"> • Creates floor space to add countercurrent rinses or other P2 methods. • Creates safer and cleaner working environment.
Establish written procedures for bath make-up and additions. Limit chemical handling to trained personnel. Keep tank addition logs.	<ul style="list-style-type: none"> • Eliminates dilution of process water prior to treatment which can increase treatment efficiency. • Reduces treatment reagent usage and operating costs.
Install overflow alarms on all process tanks to prevent tank overflow when adding water to make up for evaporative losses.	<ul style="list-style-type: none"> • Prevents discarding process solutions due to incorrect formulations or contamination. • Improves plating solution and work quality consistency. • Improves shop safety.
Conductivity and pH measurement instruments and alarm system for detecting significant chemical losses.	<ul style="list-style-type: none"> • Minimizes potential for catastrophic loss of process solution via overflow. • Prevents loss of expensive chemicals.
Control material purchases to minimize obsolete material disposal	<ul style="list-style-type: none"> • Identifies process solution overflows and leaks before total loss occurs. • Alerts treatment operators to potential upset condition. • Reduces losses of expensive plating solutions. • Reduces hazardous waste generation. • Reduces chemical purchases. • Prevents discarding of solutions prematurely.
Use process baths to maximum extent possible before discarding. Eliminate dump schedules. Perform more frequent chemical analysis.	<ul style="list-style-type: none"> • Reduces chemical costs. • Improves work quality with chemical adjustments of baths. • Extends bath life.
Reduce bath dumps by using filtration to remove suspended solids contamination.	<ul style="list-style-type: none"> • Reduces solid waste generation by reusing filter cartridges. • Improves bath performance.
Process/Chemical Substitution	
Substitute cyanide baths with alkaline baths when possible	<ul style="list-style-type: none"> • Eliminates use of CN.
Substitute trivalent chromium for hexavalent chromium when product specifications allow.	<ul style="list-style-type: none"> • Reduces/eliminates use of hexavalent chromium.
Eliminate use of cadmium plating if product specifications allow	<ul style="list-style-type: none"> • Eliminates the use of cadmium.
Drag-Out Reduction Methods That Reduce Waste Generation	
Install fog rinses or sprays over process tanks to remove drag out as rack/part exits bath.	<ul style="list-style-type: none"> • Can inexpensively recover a substantial portion of drag out and does not require additional tankage.
Minimize the formation of drag out by: redesigning parts and racks/barrels to avoid cup shapes, etc. that hold solution; properly racking parts; and reducing rack/part withdraw speed.	<ul style="list-style-type: none"> • Reduces pollutant mass loading on treatment processes, treatment reagent usage, and resultant sludge generation.
	<ul style="list-style-type: none"> • May improve treatment operation/removal efficiency. • Reduces chemical purchases and overall operating costs.
Rinse Water Reduction Methods That Reduce Waste Generation	
Install flow restrictors to control the flow rate of water	<ul style="list-style-type: none"> • Reduces water use and aids in reducing variability in wastewater flow.
Install conductivity or timer rinse controls to match rinse water needs with use.	<ul style="list-style-type: none"> • Is very inexpensive to purchase and install. • Coordinates water use and production when properly implemented.
Use counter-current rinse arrangement with two to four tanks in series depending on drag-out rate.	<ul style="list-style-type: none"> • Provides automatic control of water use. • Can achieve major water reduction.
	<ul style="list-style-type: none"> • Has high impact on water bills.

TABLE 1.—EXAMPLES OF POLLUTION PREVENTION MEASURES—Continued

Method	Pollution prevention benefits
Track water use with flow meters and accumulators. Keep logs on water use for individual operations.	<ul style="list-style-type: none"> • May reduce the size of recovery/treatment equipment that is needed. • Identifies problem areas including inefficient processes or personnel. • Helps management to determine cost for individual plating processes.

Source: NCMS/NAMF. *Pollution Prevention and Control Technology for Plating Operations*. 1994

b. Metals Recovery

Today's rule would allow the 180-day accumulation time for generators who store F006 waste on site and recycle F006 waste by metals recovery off site. Accordingly, the proposed rule supports a preference of metals recovery over treatment and land disposal for F006 waste by allowing up to 180 days accumulation time only for those generators who engage in F006 waste metals recovery. The benefit of this provision would be available only if the accumulated F006 waste is sent off site for metals recovery, thereby providing an incentive for recycling of F006 waste over treatment and land disposal. The Agency requests comments on whether the 180-day accumulation time should be available only to those F006 waste generators that pursue F006 waste metals recovery and not to those who manage their F006 waste through treatment and land disposal.

Today's proposed rule distinguishes between metals recovery that is done on site or off site. If the metals recovery is done on site, the generator would not need additional time to accumulate the waste to reduce shipping costs associated with metals recovery. It may, however, be necessary to accumulate enough F006 waste to make some type of on-site batch metals recovery process or other type of on-site metals recovery more cost effective. Furthermore, if accumulating F006 waste for 180 days poses little, if any, potential harm to human health and the environment, as the damage incident history of F006 storage would suggest (a copy of which is in the docket for this rulemaking), then allowing 180-day accumulation for both on-site and off-site metals recovery could be justified. The Agency requests comments on whether the additional accumulation time should be allowed for both on-site and off-site metals recovery or, if so, under what circumstances would a generator need more than 90 days to accumulate F006 waste prior to on-site metals recovery.

c. Limit on the Amount of F006 Waste That Can Be Accumulated

As stated above, one rationale for allowing the 180-day accumulation time for F006 waste is to allow generators to

accumulate a full truck load before having to ship it off site. Accordingly, the proposed rule sets a limit of 16,000 kilograms (approximately 17.6 tons) of F006 waste that can be accumulated on site at any one time. This amount is equivalent to slightly more than a full truck load of F006 waste. Once a generator has accumulated a truck load of F006 waste (regardless of whether the waste has been accumulated for less than 180 days), the generator would be required to ship the F006 waste off site for metals or to obtain a RCRA storage permit. EPA believes that it is appropriate to set a quantity limit for accumulation because the permit exemption should be for the shortest time reasonably necessary to advance the recycling objectives of the proposal. Also, this is consistent with the underlying rationale of the land disposal restrictions (LDR) storage prohibition provision in which generators may store LDR restricted hazardous wastes in "tanks, containers or containment buildings [on site] solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal. * * * " (emphasis added) 40 CFR 268.50. In today's proposed rule, EPA has identified the quantity of F006 waste necessary to facilitate metals recovery to be one full truck load (*i.e.*, 16,000 kilograms). The Agency requests comments on whether a limit on the amount of F006 waste that can be accumulated is an appropriate condition and, if so, whether the 16,000 kilogram limit is the appropriate limit (as opposed to a different amount).

Furthermore, generators of F006 waste may implement pollution prevention practices whereby the metal constituents in the F006 sludge are isolated in separate waste streams (as opposed to an F006 sludge with several metals which is generally the case). Generating such mono-metal sludges makes the F006 waste more amenable to metals recovery, but each of the mono-metal sludges would need to go to different metals recovery facilities (*e.g.*, chromium F006 sludge to a chromium recovery facility and copper F006 sludge to a copper smelter).

Accordingly, the Agency asks whether a generator of F006 waste should be allowed to accumulate quantities of mono-metal F006 sludges that are necessary to facilitate proper metals recovery of that mono-metal sludge (*i.e.*, up to 16,000 kilograms of each mono-metal sludge). The Agency requests comments on whether the 16,000 kilogram accumulation limit should apply to the total quantity of F006 waste accumulated on site or to the quantity of separate F006 waste streams such as mono-metal sludges that must be sent off site to separate metals recovery facilities.

2. Additional Accumulation Time Under Certain Circumstances

a. 200 Miles or More

Under today's proposal, generators of F006 waste would have up to 270 days to accumulate F006 waste on site without a RCRA permit under certain conditions. If the generator must transport the waste, or offer the waste for transport, over a distance of 200 miles or more for off-site metals recovery, the generator would be able to accumulate the F006 waste on site for up to 270 days without a permit or without having interim status, provided the generator has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery, recycles the F006 waste by metals recovery, does not accumulate more than 16,000 kilograms of F006 waste at any one time, and complies with the applicable management standards in the proposed rule. This provision is analogous to the provision for small quantity generators in the existing generator accumulation regulations at 40 CFR 262.34(e).

As with the rest of the proposed provisions of this rule, this requirement is intended to allow generators sufficient time to accumulate enough F006 waste to make shipment of this waste off site more cost effective. Shipping F006 waste to a metals recovery facility that is located more than 200 miles away would cost more than shipping F006 waste to a local (*i.e.*,

less than 200 miles away) hazardous waste landfill. For those generators of F006 waste that do not accumulate enough F006 waste to fill a truck load (i.e., 16,000 kilograms of F006 waste) within 180 days and are located more than 200 miles from a metals recovery facility, treatment and disposal of the F006 waste in the local hazardous waste landfill may be the generator's preferred management option over metals recovery. For those generators of F006 waste that are located long distances from an appropriate metals recovery facility, the 270-day accumulation period is reasonable to allow generators to accumulate more F006 waste for a larger load being shipped off site. The generator would, however, still be subject to the pollution prevention condition, the metals recovery requirement, and the accumulation limit of 16,000 kilograms in this proposed rule. Accordingly, the 270-day accumulation period will be particularly helpful for generators of relatively small amounts of F006 waste (i.e., those that do not accumulate more than 16,000 kilograms of F006 waste in 180 days and that must ship the F006 off site more than 200 miles to a metals recovery facility) and may allow them to send their F006 waste to a metals recovery facility rather than to a treatment and disposal facility. The Agency requests comments on whether this additional accumulation time is warranted and appropriate for generators of F006 waste who must ship their F006 waste 200 miles or more to an off-site metals recovery facility.

b. Unforeseen, Temporary, and Uncontrollable Circumstances

This proposed rule also provides for an extension of the accumulation period, if the generator's F006 waste must remain on site for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances. The generator would be able to, under these circumstances, request that the EPA Regional Administrator or authorized state grant an extension up to 30 days. This provision is intended to provide the generator with some temporary relief until the unforeseen, temporary, and uncontrollable circumstances can be rectified. The Agency has previously identified the following circumstances as possible rationales for granting this extension: facility's refusal to accept waste, transportation delays, or labor strikes. See 47 FR 1248, 1249 (January 11, 1982). These extensions may, however, be granted at the discretion of the EPA Regional Administrator or the authorized state on a case-by-case basis.

This provision is analogous to the provision for other generators in the existing regulations at 40 CFR 262.34(b).

Because the proposed rule sets an accumulation limit of 16,000 kilograms of F006 waste that can be accumulated on site at any one time, the proposed rule would also allow a generator to request permission to accumulate more than 16,000 kilograms of F006 waste, if more than 16,000 kilograms must remain on site due to unforeseen, temporary, and uncontrollable circumstances. The rationale that is applicable for needing additional time to accumulate F006 waste on site due to unforeseen, temporary, and uncontrollable circumstances would be equally applicable for accumulating more than the set accumulation limit of 16,000 kilograms under certain conditions. EPA requests comments on these extensions due to unforeseen, temporary, and uncontrollable circumstances.

B. Rationale for Proposed Accumulation Rule for F006 Waste

In today's proposed rule, EPA is allowing only generators of F006 waste up to 180 days (or up to 270 days, if applicable) to accumulate F006 waste on site without a RCRA permit or interim status, provided that the generator has complied with the requirements of the rule. As part of the CSI for the Metal Finishing Industry, EPA and the other participating stakeholders have been examining the generation and management of F006 waste. Today's proposed rule is a product of the CSI stakeholders' efforts, has the support of the participating stakeholders, and is designed to encourage more recycling of F006 waste through metals recovery.

Given the large number of smaller waste generators in the metal finishing industry and the fact that F006 waste has recoverable amounts of metals, the Agency believes that today's proposal will encourage more recycling of F006 waste. While most F006 sludge contains recoverable amounts of metals, approximately only 20% of F006 sludge is currently being recycled through metals recovery. In addition, F006 waste is a diverse waste stream in which a number of different metals can be found, depending on the plating operations at a facility. The different metals are often subject to different economic factors (e.g., market value of metals) and technical feasibility issues that can impact metals recovery of F006 waste. Based on the information presented to the Agency on this matter, EPA believes that metals recovery will increase if metal finishers are given

sufficient time to accumulate full truck loads of F006 waste on site. Allowing the 180-day accumulation time for generators of F006 waste should help minimize economic barriers posed by the existing accumulation rule and is, therefore, likely to increase F006 waste recycling through metals recovery.

The 180-day accumulation time proposed in today's rule may be particularly helpful for generators of relatively small amounts of F006 waste, many of whom are small businesses. These small businesses, however, generate more than the regulatory limits for small quantity generators, and therefore, cannot take advantage of the 180-day accumulation provided for small quantity generators under the existing federal regulations. In many instances, it is these small businesses that are not recycling their F006 waste through metals recovery due, in part, to economic factors (e.g., increased costs associated with metals recovery). The 180-day accumulation time can make F006 waste metals recovery more cost effective, particularly for the small businesses that may generate smaller amounts of F006 waste.

In order to facilitate more F006 waste metals recovery, EPA has, in this proposed rule, set an accumulation limit (i.e., 16,000 kilograms of F006 waste) that would, based on waste generation patterns in the industry, allow generators of F006 waste to accumulate a full truck load for transport. Having a full load of F006 waste for transport will make F006 waste metals recovery more cost effective, thereby encouraging more F006 waste metals recovery. Although the 180-day accumulation time may allow individual F006 waste generators to accumulate more F006 waste on site at any one time, the total cumulative amount of F006 waste that is accumulated on site nationally at any one time will not increase substantially because of the accumulation limit. Based on F006 waste generation data, the Agency expects a slight increase in the cumulative amount of F006 waste accumulated on site nationally just after 90 days. Many generators will accumulate a full truck load of F006 waste shortly after 90 days. As individual generators accumulate the proposed limit of F006 waste (i.e., 16,000 kilograms), the F006 waste generator would have to ship that amount off site for metals recovery. At that point (i.e., just after 90 days) the amount of F006 waste accumulated on site nationally at any one time would remain relatively constant because the amount of F006 waste being shipped off site would be roughly equivalent to the additional amount of F006 waste being

generated and accumulated during the 180-day (or 270-day, if applicable) accumulation period. The accumulation limit is designed to encourage more F006 waste metals recovery (e.g., by allowing accumulation of a full truck load) and to ensure that the amount of F006 waste accumulated on site nationally at any one time does not increase significantly. Accordingly, the 180-day accumulation time, with the 16,000 kilogram accumulation limit, would not significantly increase the potential cumulative harm to human health and the environment resulting from the on-site accumulation of F006 waste.

The F006 waste would have to be accumulated on site in tanks, containers, or containment buildings that meet the applicable management standards.² These units are designed to minimize loss of hazardous waste to the environment. These are the same requirements that currently apply to generators under the existing accumulation rule. Most F006 waste generators accumulate the F006 waste in super sacks (sacks that are reinforced woven resin and designed to accommodate bulk shipments) or bulk storage containers. These super sack containers are designed to minimize loss to the environment. See 62 FR 25998, 26013 (1997). Allowing generators of F006 waste to accumulate the waste for a longer period of time in such containers does not pose any significantly increased potential harm to human health or the environment.

In addition, the 180-day accumulation time is expected to decrease the potential for releases of hazardous constituents from the handling of F006 waste. A recent review of damage incidents associated with the management of F006 waste (the damage incidents report was prepared as background for this proposed rulemaking) suggested that most of the reported incidents of releases of F006 waste were associated with the transfer of F006 waste from accumulation to transport vehicle, from transport vehicle to receiving facility, or while in transport. Because the 180-day accumulation time will mean that the F006 waste is transferred from generator to transporter to receiving facility less often and that fewer shipments of F006 waste will be made, today's rule should decrease the potential for releases of

F006 waste into the environment. Similarly, workers will be required to handle the F006 waste less often (because transfers will occur less often), thereby decreasing their potential exposure to the F006 waste.

In the event of a spill of a dewatered F006 sludge during the 180-day accumulation period (e.g., release caused by a rip or tear in a super sack), the potential risk of harm to human health and the environment would appear to be minimal as compared to a spill of a free liquid or dust. First, with the low moisture content of F006 sludge (a cake-like material resulting from dewatering), a spill of F006 waste could be contained relatively easily. Spilled F006 waste generally retains its shape and is not likely to run off as a free liquid or disperse in the wind like a dust. Second, the metals recovery requirement in today's rule would act as an incentive to recover any spilled F006 waste so that the material can be processed for metals recovery. Third, under the management standards applicable to the accumulation units in today's rule, spills and releases of F006 waste must be contained and remedied as soon as practicable. Accordingly, today's proposed rule includes sufficient safeguards to minimize the potential harm to human health and the environment that may be associated with spills of F006 waste during the 180-day accumulation period.

When more F006 waste is accumulated at a facility, the potential exists for bigger releases of F006 waste at a facility. Bigger releases of F006 waste during the proposed accumulation period would not be expected because F006 waste is generally accumulated in super sacks. A bigger release of F006 waste would, therefore, occur only if several super sacks failed (i.e., ripped or tore) at the same time. The likelihood of multiple failures of super sacks occurring simultaneously is fairly remote. In addition, the potential for a bigger release of F006 waste during the 180-day accumulation period is limited because the amount of F006 waste that can be accumulated at a facility under today's rule is restricted to 16,000 kilograms. In contrast, the existing 90-day accumulation rule has no limit on the amount of hazardous waste that can be accumulated (and, therefore, no limit on the amount of hazardous waste that could potentially be released during the 90-day accumulation period).

Accordingly, the potential for bigger releases of F006 waste during the 180-day accumulation period would appear to be minimal.

Finally, the 180-day accumulation time in today's rule is consistent with the rationale for the 90-day accumulation rule. In promulgating the 90-day accumulation rule, EPA allowed generators to accumulate waste on site without a RCRA permit or interim status, in part, because such activity was consistent with typical generator activities. The 180-day accumulation time in today's proposed rule would facilitate generators of F006 waste in appropriately managing the F006 waste off site for metals recovery. EPA believes that accumulating F006 waste on site up to 180 days (to encourage more recycling through metals recovery) is more like typical generator activity than typical treatment, storage, or disposal facility activities, because the 180-day accumulation is an on-site accumulation activity, prior to waste management activities. Today's proposed rule maintains the rationale of the 90-day accumulation rule.

C. Applicable Management Standards

Under today's proposed rule, the same hazardous waste management requirements governing 90-day on-site accumulation of hazardous waste under 40 CFR 262.34, other than the length of time that generators of F006 waste can accumulate the waste on site without a RCRA permit,³ would apply to 180-day accumulation of F006 waste. These requirements include technical standards for units used to accumulate hazardous wastes, recordkeeping standards to document the length of time hazardous wastes are accumulated and stored on site, and preparedness and emergency response procedures. The existing management standards as they would apply to generators of F006 waste under this proposed rule are summarized below. The Agency requests comments on these standards only as they apply to 180-day on-site accumulation of F006 waste.

1. Accumulation Units

A generator of F006 waste may accumulate the hazardous waste on site for up to 180 days in specified units without obtaining a RCRA permit. These accumulation units must comply with the unit-specific technical standards of 40 CFR Part 265 for containers (subpart I), tanks (subpart J), and containment buildings (subpart DD).

The unit-specific standards in 40 CFR Part 265 include provisions for the design, installation and general condition of each unit. The

² Today's proposed rule does not allow accumulation of F006 waste in drip pads (as is provided in the existing accumulation regulations in 40 CFR 262.34) because F006 waste is not managed in drip pads, nor does the Agency believe that it would be appropriate to accumulate F006 waste in drip pads.

³ Today's proposed rule would not affect any RCRA Subtitle C requirements for generators of F006 waste, other than the changes to 40 CFR § 262.34 specified in this proposed rule.

requirements governing each type of unit include standards for ensuring the compatibility of the waste and the unit and special requirements for ignitable, reactive or incompatible wastes. In addition, there are provisions for performing inspections to monitor for leaks and deterioration of the unit and for proper response to and containment of releases. Generators of F006 waste that comply with the applicable regulatory requirements may also treat the waste in the accumulation unit without a RCRA permit during the 180-day accumulation period that is proposed in today's rule.

2. Documentation of Accumulation Time

Generators of F006 waste must also comply with documentation requirements to indicate the length of time that wastes remain on site in accumulation units and to ensure that wastes remain on site for no more than 180 days from the date the waste is generated. Today's proposal does not impose documentation requirements for generators of F006 waste in addition to those already required for generators accumulating F006 waste up to 90 days under the existing regulations.

3. Labeling and Marking Accumulation Units

Generators of F006 waste are required to mark or label all units used to accumulate F006 wastes to indicate that the units contain hazardous waste and to document the date upon which the period of accumulation began. The labeling and marking requirements specify that the date upon which accumulation begins must be clearly marked on each tank or container and that each tank or container used to accumulate hazardous waste must be labeled with the words "Hazardous Waste." The Agency is not proposing any changes or amendments for accumulation units, other than clarifying that these requirements apply to generators of F006 waste accumulating the waste up to 180 days.

4. Preparedness and Prevention (40 CFR Part 265, Subpart C)

Under today's proposed rule, generators of F006 waste who accumulate F006 waste on site for up to 180 days must comply with subpart C of Part 265 which contains requirements for facility preparedness and prevention. These generator facilities must be maintained and operated in a manner that minimizes the possibility of fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.

The requirements specify that generator facilities must generally be equipped with emergency devices, such as an internal communications or alarm system, a telephone or other device capable of summoning emergency assistance, and appropriate fire control equipment, unless none of the wastes handled at the facility require a particular kind of equipment. Equipment must be tested and maintained, as necessary, to assure its proper functioning. All persons involved in hazardous waste handling operations must have immediate access to either an internal or external alarm or communications equipment, unless such a device is not required.

Additionally, the generator is also required to maintain sufficient aisle space to allow for the unobstructed movement of personnel and equipment to any area of the facility operations in an emergency, unless aisle space is not needed for any of these purposes. Generators also must attempt to make arrangements with police, fire departments, state emergency response teams, and hospitals, as appropriate, to familiarize these officials with the layout of the generator's site and the properties of each type of waste handled at the facility in preparation for the potential need for the services of these organizations. If state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal.

The Agency is not proposing any changes or amendments to the existing preparedness and prevention requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site up to 180 days.

5. Contingency Plan and Emergency Procedures (40 CFR Part 265, Subpart D)

Generators of F006 waste who accumulate that waste on site for up to 180 days under today's proposed rule must comply with the contingency plan and emergency procedures provisions of 40 CFR part 265, subpart D. A generator's contingency plan must include, where necessary: a description of the generator's planned response to emergencies at the facility, any arrangements with local and state agencies to provide emergency response support, a list of the facility's emergency response coordinators, a list of the facility's emergency equipment, and an evacuation plan. Requirements for distributing and amending the contingency plan are specified. In addition, a facility emergency coordinator must be either present, or

on call, whenever the facility is in operation.

Provisions for emergency procedures specified in subpart D of Part 265 include: immediate notification of employees and local, state, and Federal authorities of any imminent or actual emergencies, measures to preclude the spread of fires and explosions to other wastes, proper management of residues, rehabilitation of emergency equipment and notification of authorities before operations are resumed, and record keeping and reporting to EPA on the nature and consequences of any incident that requires implementing the contingency plan.

The Agency is not proposing any changes or amendments to the existing contingency plans and emergency procedure requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site up to 180 days.

6. Personnel Training (40 CFR 265.16)

As proposed in today's rule, generators of F006 waste who accumulate on site for up to 180 days are subject to the provisions for personnel training in 40 CFR 265.16. These requirements are designed to ensure that personnel are adequately prepared to manage hazardous waste and respond to any emergencies that are likely to arise. Personnel training can be in the form of on-the-job or classroom training, but must be performed by an instructor who is trained in hazardous waste management procedures. Personnel training must be performed within six months of initial employment and must be renewed annually. The owner or operator of a facility also must maintain records in accordance with 40 CFR 265.16(d) to document completion of the training requirements for employees. The Agency is not proposing any changes or amendments to the existing personnel training requirements, other than clarifying that the existing requirements apply to generators of F006 waste accumulating the waste on site for up to 180 days.

7. Waste Analysis and Record Keeping (40 CFR 268.7(a)(4))

Under today's proposed rule, generators of F006 wastes who accumulate F006 waste on site for up to 180 days and treat their wastes in an accumulation tank, container, or containment building, located at the generator's site to meet the applicable land disposal treatment standards under 40 CFR part 268, subpart D, must prepare and follow a written waste analysis plan. The waste analysis plan

must describe the procedures the generator will use to comply with the treatment standards for the waste. The waste analysis plan must be based upon a chemical and physical analysis of a representative sample of the generator's waste stream. Hazardous waste generators are required to submit a copy of their waste analysis plans for hazardous wastes treated in 180-day accumulation units to either the authorized state or EPA Regional office prior to conducting treatment. Generators also are required to retain a copy of the waste analysis plan in the generator's files.

The Agency is not proposing any changes or amendments to the generator waste analysis plan or record keeping requirements, other than clarifying that such standards apply to generators of F006 waste accumulating the waste on site for up to 180 days.

IV. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized states have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments (HSWA) of 1984, a state with final authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that state. The federal requirements no longer applied in the authorized state and EPA could not issue permits for any facility in the state that the state was authorized to permit. When new, more stringent federal requirements were promulgated or enacted, the state was obliged to enact equivalent authority within specified time frames. New federal requirements did not take effect in an authorized state until the state adopted the requirements as state law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed under the HSWA take effect in authorized states at the same time that they take effect in non-authorized states. EPA is directed to implement HSWA requirements and prohibitions in an authorized state, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA-related

provisions as state law to retain final authorization, HSWA applies in authorized states until the states revise their programs and receive authorization for the new provision.

B. Effect of State Authorizations

Today's proposal, if finalized, will promulgate regulations that are not effective under HSWA in authorized states. This rule would, therefore, be applicable only in those states that do not have final authorization.

Authorized states are only required to modify their programs when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations. For those changes that are less stringent than the federal programs, states are not required to modify their programs. This is a result of section 3009 of RCRA, which allows states to impose more stringent regulations than the federal program. Today's proposal for additional accumulation time for generators of F006 waste would be considered less stringent than the existing federal regulations because it allows more than the existing 90 days of accumulation time that is in the existing regulations. Authorized states are not, therefore, required to modify their programs to adopt regulations consistent with, and equivalent to, today's proposal.

Even though states are not required to adopt the additional accumulation time for generators of F006 waste in today's proposal, EPA strongly encourages states to do so as quickly as possible. As discussed above, the proposed rule is intended to encourage and facilitate recycling of F006 waste. In addition, states have been participating as stakeholders in the CSI process and efforts are being made to get as many states as possible to join in on the CSI goals and implementation programs. States are, therefore, urged to consider the adoption of today's proposal, when promulgated, and EPA is committed to making efforts to expedite review of authorized state program revision applications that incorporate today's proposal.

V. Regulatory Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Executive Order No. 12866 requires agencies to determine whether a regulatory action is "significant." The Order defines a "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 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; 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."

The Agency estimated the costs of today's final rule to determine if it is a significant regulation as defined by the Executive Order. The analysis considered compliance costs and economic impacts for F006 wastes affected by this rule. EPA estimates the total cost of the rule to be a savings in the range of \$3.9 to \$4.9 million annually, and concludes that this rule is not economically significant according to the definition in E.O. 12866. Moreover, the Agency believes that this rule is not significant because it does not create serious inconsistency with actions taken or planned by another agency, materially alter budgetary impact or rights and obligations of recipients. The Office of Management and Budget, however, has deemed this rule to be significant for novel policy reasons and has reviewed this rule.

Detailed discussions of the methodology used for estimating the costs, economic impacts and the benefits attributable to today's proposed rule for on-site accumulation of F006 wastes, followed by a presentation of the cost, economic impact and benefit results, may be found in the background document: "Regulatory Impact Analysis of the Proposed Rule for a 180-Day Accumulation Time for F006 Wastewater Treatment Sludges," which was placed in the docket for today's proposed rule.

1. Methodology Section

The Agency examined reported values for F006 waste generation from the 1995 Biennial Reporting Systems (BRS) database to estimate the volumes of F006 waste affected by today's rule, to determine the national level incremental costs (for both the baseline and post-regulatory scenarios), economic impacts (including first-order measures such as the estimated percentage of compliance cost to industry or firm revenues), and benefits.

2. Results

a. Volume Results

The BRS database reports that in 1995 there were 1,317 metal finishing firms potentially affected by today's rule. The data report that these firms generated 24,000 tons of F006 waste annually that are eligible to benefit from today's proposed rule. EPA is aware that this estimate on the number of firms that could benefit from today's proposal probably underestimates the total number of firms affected by today's rulemaking. In 1994, EPA estimated that there were approximately 13,400 metal finishing establishments in the United States.⁴ Of the total, approximately 10,000 metal finishing facilities are estimated to be "captive" shops where the metal finishing operation is contained inside a larger manufacturing operation. The balance of 3,400 metal finishing facilities are "job shops" or "independent" metal finishing operations. Job shops are usually small businesses that operate on a contract basis. In contrast, the most recent BRS data only account for about three thousand of this total. Thus, it is likely that cost savings and benefits associated with this rulemaking are greater than estimated below.

b. Cost Results

For today's proposed rule, EPA has estimated a cost savings associated with a 180-day accumulation time for large quantity generators of F006 waste. The total incremental savings estimated is between \$3.9 million and \$4.9 million per year. These savings result from being able to reduce the total number of shipments of F006 waste off-site for recycling. Savings also result from a lower cost per ton of transportation because generators are able to accumulate more F006 waste for a shipment off site and the cost per unit of F006 waste transportation (for the fixed cost portion of the transportation) is less for a full truck as compared to a partial truck load. In addition, literature reviewed in the development of this rulemaking indicates that recyclers sometimes assess a surcharge for small volumes of material due to increased handling and administrative costs.⁵ It is possible that a 180-day (or 270-day, if

applicable) accumulation time will allow some F006 waste generators to reduce this surcharge.

c. Economic Impact Results

To estimate potential economic impacts resulting from today's proposed rule, EPA has used first order economic impacts measures such as the estimated cost savings of today's proposed rule as a percentage of sales/revenues. EPA has applied this measure to affected F006 waste generators. For affected F006 waste generators, EPA has estimated the cost savings to be less than one percent of a typical metal finisher's sales or revenues. More detailed information on this estimate can be found in the regulatory impact analysis placed into today's docket.

d. Benefits Assessment

The Agency has performed a qualitative benefits assessment for today's proposed rule. EPA believes that a relatively small, but significant percentage of total F006 waste generated would be diverted from land disposal to off-site recycling. This shift from land disposal to recycling should result in a conservation of natural resources associated with primary mineral extraction including reduced water, energy inputs as well as reduced solid waste (e.g., slag, tailings, overburden) outputs. Other benefits expected from today's proposed rule include conservation of hazardous waste landfill capacity, reduced balance of payments for nonferrous mineral commodities, and conservation of strategic metals.⁶

B. Regulatory Flexibility

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal

agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains EPA's determination.

Data indicate that virtually all independent electroplaters or job shops are small entities.⁷ Captive shops contain both large and small entities. Data on captive plating operations are, however, more limited. The regulatory impact analysis completed for this proposed rule indicated that of 3,296 job shops, all but 2 are small entities. BRS data indicate that a total of 1,934 plating facilities including both captive and independent operations generate F006 waste with 1,317 of these firms affected by this proposed rule. Although the BRS data do not indicate what proportion of these affected facilities are small entities, it is likely that the majority of these affected facilities are small entities, because the plating firms affected by this proposed rule generate the smallest quantities of F006 (which is related to both facility size and product output). This proposed rule would not have a significant economic impact on a substantial number of small entities because today's proposed rule would relieve regulatory burden for metal finishers and captive operations by allowing them up to 180 days (instead of 90 days) to accumulate F006 wastes on site. In addition, the Agency estimates that this proposed rule would lead to an overall cost savings in the range of \$3.9 to \$4.9 million annually. The rule does not impose new burdens on small entities. Therefore, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

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

⁴ U.S.E.P.A., Office of Policy, Planning and Evaluation, IEC, *SUSTAINABLE INDUSTRY: Promoting Environmental Protection in the Industrial Sector, Phase 1 Report*, June 1994, pp. 4-7, 4-8.

⁵ George C. Cushnie Jr., National Center for Manufacturing Sciences & National Association of Metal Finishers, *Pollution Prevention and Control Technology for Plating Operations* (Ann Arbor, MI: National Center for Manufacturing Sciences, 1994), p. 312.

⁶ For more information on balance of trade for nonferrous minerals and conservation of strategic metals, see U.S. Environmental Protection Agency, *Report to Congress on Metal Recovery, Environmental Regulation and Hazardous Wastes* (Washington DC, U.S.EPA, 1994), Chapter 7.

⁷ See Small Business Size Standards, 61 FR 3280, 3289 (January 31, 1996) stating that manufacturing firms with less than 500 employees are considered to be small entities. See also U.S.E.P.A. Office of Solid Waste and Emergency Response, *Regulatory Impact Analysis of Extending 90 Day Accumulation Rule for F006 Wastewater Treatment Sludges*, May 22, 1998, pp.5-10.

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 include a federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon state, tribal or local governments. States, tribes and local governments would have no compliance costs under this rule. It is expected that states will adopt similar rules, and submit those rules for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. For the same reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding \$100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act.

D. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal

government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

For the reasons described above, today's proposed rule would not impose any enforceable duty or contain any unfunded mandate upon any state, local, or tribal government; therefore Executive Order 12875 does not apply to this action.

E. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

For the reasons described above, today's proposed rule does not create a mandate on State, local or tribal

governments, nor does it impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that (1) is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to E.O. 13045, because this is not an economically significant regulatory action as defined by E.O. 12866. The Agency does not have reason to believe the environmental health risks or safety risks addressed by this action concern a disproportionate risk to children.

Because this rulemaking retains current container standards for generators accumulating hazardous wastes on site without a permit (40 CFR 262.34), EPA believes that the extended 180-day accumulation period will not result in increased exposures to children. Generators that accumulate F006 waste on site typically place the waste in containers such as 55-gallon drums or "super sacks" (sacks that are reinforced woven resin and designed to accommodate bulk shipments). The current container standards (40 CFR part 265, Subpart I) referenced in the generator regulations (40 CFR 262.34) require that waste handlers, including generators, to keep containers in good condition (subject to remedial action if leaks are found), have containers closed during usage except when adding or removing waste and inspect the containers at least weekly. In addition, for these containers, waste handlers are required under Subpart I to comply with Subpart CC air emission standards for containers. 40 CFR 265.178, 265.1087. EPA believes that these container requirements are protective to minimize the likelihood of exposure to hazardous waste managed in these units.

*G. Executive Order 12898:
Environmental Justice*

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all populations in the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health or environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in safe and healthful environments. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3-17).

Today's proposed rule covers F006 wastes from metal finishing operations. It is not certain whether the environmental problems addressed by this rule could disproportionately affect minority or low-income communities, due to the location of some metal finishing operations. Metal finishing operations are distributed throughout the country and many are located within highly populated areas. Because today's proposed rule retains requirements for F006 waste generators to store F006 waste in protective Subpart J tanks, Subpart I containers or Subpart DD container buildings, the Agency does not believe that today's rule will increase risks from F006 waste. It is, therefore, not expected to have any disproportionately high adverse human health or environmental effects on minority or low-income communities relative to affluent or non-minority communities.

H. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050-0035. An Information Collection Request (ICR) document has been prepared by EPA (ICR Control Number 0820.07) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW., Washington, DC

20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>.

EPA believes the changes in this proposed rule to the information collection do not constitute a substantive or material modification. This proposed rule would not change any of the information collection requirements that are currently applicable to generators of F006 waste that accumulate the waste on site. The recordkeeping and reporting requirements of this rule are identical to requirements already promulgated and covered under the existing Information Collection Request (ICR). There is no net increase in recordkeeping and reporting requirements. As a result, the reporting, notification, or recordkeeping (information) provisions of this rule will not need to be submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The Agency estimates total projected burden hours associated with the information collection requirements of this proposed rule to be approximately 13.19 hours per year for each generator. This is the same burden associated with the information collection requirements for large quantity generators who currently accumulate waste on site for less than 90 days under the existing regulations. These information collection requirements include: (1) Pre-transport informational requirements specific to large quantity generators (*e.g.*, personnel training, contingency planning and emergency procedures, tank systems, containment buildings, and requests for extension of accumulation period); (2) air emission standards for process vents; (3) air emission standards for equipment leaks; and (4) record keeping and reporting. 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, 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.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. EPA is not, therefore, considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 262

Environmental protection, Hazardous waste, Labeling, Packaging and containers, Waste treatment and disposal.

Dated: January 22, 1999.

Carol M. Browner,
Administrator.

For reasons set forth in the preamble, EPA proposes to amend 40 CFR part 262 as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922-6925, 6937, and 6938.

2. In § 262.34, add paragraphs (g), (h), and (i) to read as follows:

§ 262.34 Accumulation time.

* * * * *

(g) A generator who generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006 waste may accumulate F006 waste on site for 180 days or less without a permit or without having interim status provided that the generator complies with the following requirements:

(1) The generator has implemented pollution prevention practices that reduce the volume or toxicity of the F006 waste or that make it more amenable for metals recovery;

(2) The F006 waste is sent off site for metals recovery;

(3) No more than 16,000 kilograms of F006 waste is accumulated on site at any one time; and

(4) The F006 waste is managed in accordance with the following requirements:

(i) The F006 waste is placed:

(A) In containers and the generator complies with subpart I of 40 CFR part 265; and/or

(B) In tanks and the generator complies with subpart J of 40 CFR part 265, except §§ 265.197(c) and 265.200; and/or

(C) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the procedures are complied with; or

(2) Documentation that the unit is emptied at least once every 180 days.

(ii) In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114.

(iii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

(v) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with 40 CFR 265.16, and with 40 CFR 268.7(a)(4).

(h) A generator who generates wastewater treatment sludges from electroplating operations, RCRA hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery may accumulate F006 waste on site for 270 days or less without a permit or without having interim status provided that the generator complies with the requirements of paragraph (g) of this section.

(i) A generator who generates wastewater treatment sludges from electroplating operations, RCRA hazardous waste code F006, who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more) or who accumulates more than 16,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or the 16,000 kilogram accumulation limit. Such extensions may be granted by EPA if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 16,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of the accumulation time up to 30 days or the accumulation limit of more than 16,000 kilograms of F006 waste may be granted at the discretion of the Regional Administrator on a case-by-case basis.

[FR Doc. 99-2323 Filed 1-29-99; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 244

[FRA Docket No. FRA-1999-4985, Notice No. 2]

RIN 2130-AB24

Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control, and Start Up Operations; Correction

AGENCY: Federal Railroad Administration, DOT.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Railroad Administration (FRA) corrects the docket number entry identified in the proposed rule that was published in the **Federal Register** on December 31, 1998, 63 FR 72225, Dec. 31, 1998, regarding Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, Acquisitions of Control, and Start Up Operations. The previous docket number for the agency's proposed rule was "FRA Docket No. SIP-1." The new docket number is "FRA-1999-4985." FRA informs the public that it will nevertheless receive and file comments from interested persons in the administrative record for this rulemaking action that identified the proposed rule as FRA Docket No. SIP-1. FRA also advises the regulated community that this notice does not affect the Surface Transportation Board's (STB or Board) docket number for comments on the Board's proposed rule in the joint rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Jon Kaplan, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, Mailstop 10, Washington, DC 20590 (telephone: (202) 493-6053).

SUPPLEMENTARY INFORMATION: On December 18, 1998, FRA and the STB issued a joint rule proposing regulations for the development and implementation of safety integration plans (SIPs) by railroads seeking to engage in certain specified merger, consolidation, or acquisition of control transactions with another railroad. 63 FR 72225, Dec. 31, 1998. FRA identified the docket number corresponding to its rulemaking action as "FRA Docket No. SIP-1" in the caption and address section of the document. Due to consolidation of FRA's docket facilities with those of other DOT operating administrations into a centralized docket management system, however, FRA's docket numbering system has changed. The central docket facility styles dockets received in its electronic docket system as, for example, "FRA-1999-xxxx." For this reason, the docket number assigned to FRA's portion of the SIP rule is now "FRA-1999-4985," and commenters should use this docket number when commenting on FRA's proposed rule. (Interested parties should continue to refer to STB Ex Parte No. 574 when commenting on the Board's proposed rule.) FRA will, however, receive and docket comments filed by interested persons responding to the agency's proposed rule that identified the action as "FRA Docket No. SIP-1."