

“forward[ing] to the last known address of record.” VA does not believe that it is prudent to unduly limit flexibility by foreclosing every means of communication other than mailing, as would result from adoption of the commenter’s suggestion.

Presumptions are useful because they serve to establish critical facts when there is no contrary evidence. VA considers the proposed presumption “rebuttable.” If the information is furnished by mail and the date of the letter and the date of mailing do not actually match in a particular case, a party may easily rebut the presumption by submitting a copy of the postmarked envelope. The presumption may be rebutted in other cases by other appropriate evidence, depending on the means by which the information was furnished.

For the reasons stated in this document and in the preamble to the proposed rule, VA is adopting the rule as proposed, except for a nonsubstantive grammatical change.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule may affect individual claimants for VA benefits and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: November 26, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, amend 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS’ APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Revise § 20.502 to read as follows:

§ 20.502 Rule 502. Time limit for response to appeal by another contesting party in a simultaneously contested claim.

A party to a simultaneously contested claim may file a brief or argument in answer to a Substantive Appeal filed by another contesting party. Any such brief or argument must be filed with the agency of original jurisdiction within 30 days from the date the content of the Substantive Appeal is furnished as provided in § 19.102 of this chapter. Such content will be presumed to have been furnished on the date of the letter that accompanies the content.

(Authority: 38 U.S.C. 7105A(b))

[FR Doc. 01–29844 Filed 11–30–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRN–7112–6]

RIN: 2050–AE07

Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules: Delay of Effective Date; Reopening of Comment Period

ACTION: Delay of effective date and reopening of comment period.

SUMMARY: EPA issued a direct final rule in the *Federal Register* on October 3, 2001 at 66 FR 50332 entitled *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules; Direct Final Rule*. During and after the comment period for that direct final rule, U.S. mail delivery to EPA’s dockets was delayed due to concerns about possible contamination. This document delays the effective date of that direct final rule and reopens the comment period for thirty days to assure that EPA receives any comments that were mailed during

the comment period but were not received by EPA by the end of the comment period. EPA is requesting that anyone who submitted comments during the previous comment period resubmit those comments as described below.

DATES: This action is made on December 3, 2001. The effective date of the Correction to the Hazardous Waste Identification Rule, amending 40 CFR 261.3 published in the *Federal Register* on October 3, 2001 at 66 FR 50332, is delayed for 60 days, from December 3, 2001 to a new effective date of February 1, 2002. That direct final rule will be effective on February 1, 2002 unless EPA receives adverse comment by January 2, 2002.

ADDRESSES: Please send an original and two copies of your comments referencing Docket number F–2001–WH3P–FFFFF to (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, or (2) if delivering in person, or using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia 22202. Because of possible mail delays in the Washington DC area, please send a separate copy of each public comment either (1) via Internet email to rcra-docket@epamail.epa.gov, or (2) to David M. Friedman, U.S. EPA Region 3, Mail Code 3WC11, 1650 Arch Street, Philadelphia, PA 19103–2029. If sending comments via email, please make sure this electronic copy is in an ASCII format that doesn’t use special characters or encryption. Cite the docket Number F–2001–WH3P–FFFFF in your electronic file.

The RCRA Information Center is located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington Virginia. If you would like to look at and copy supporting information for RCRA rules, please make an appointment with the RCRA Information Center by calling (703) 603–9230. Docket hours are from 9:00 A.M. to 4:00 P.M. Monday through Friday, except for Federal holidays. You may copy up to 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Call Center 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 Tracy Atagi, Office of Solid Waste 5304W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, 703-308-8672, atagi.tracy@epa.gov.

SUPPLEMENTARY INFORMATION: On October 3, 2001, EPA published in the **Federal Register** at 66 FR 50332 a direct final rule taking final action on two clarifying revisions to the mixture rule. The first revision reinserts certain exemptions to the mixture rule which were inadvertently deleted. The second revision clarifies that mixtures consisting of certain excluded wastes (commonly referred to as Bevill wastes) and listed hazardous wastes that have been listed solely for the characteristic of ignitability, corrosivity, and/or reactivity, are exempt once the characteristic for which the hazardous waste was listed has been removed.

EPA also published a separate document at 66 FR50379 (October 3, 2001) to serve as the proposal to *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* if adverse comments were filed. The rule was scheduled to become effective on December 3, 2001 unless EPA received adverse comment by November 2, 2001. However, during and after the comment period for that rule, U.S. mail delivery to all EPA Headquarters offices in Washington, DC and Northern Virginia, including EPA's docket, was delayed due to concerns about possible contamination. Because of the unexpected and unprecedented nature of this U.S. mail delay and the resulting uncertainty about whether EPA may have received any comments that were sent by U.S. mail, EPA believes that it is in the public interest to temporarily delay the effective date of that direct final rule for sixty days. The purpose of delaying the effective date is to reopen the comment period for thirty days to assure that EPA receives any comments that were submitted by U.S. mail during the comment period but were delayed due to U.S. mail delays.

EPA expects that all delayed mail will be delivered by the end of this thirty-day period. However, to assure that EPA receives the comments, anyone who submitted comments during the comment period for *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules* should resubmit those comments in accordance with the

directions in the **ADDRESSES** section of this notice. If EPA receives adverse comment on the direct final rule, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule.

To the extent that this action is subject to 5 U.S.C. 553, EPA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Seeking public comment is impracticable and unnecessary in light of the imminent effective date and the extraordinary nature of the delays which affected all U.S. mail directed to EPA Headquarters offices. A brief extension of the effective date is in the public interest because it will assure that all comments are received and that interested parties are not disadvantaged by these unique circumstances.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget and is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 18355, May 22, 2001). In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it does not alter the relationship or the distribution of power and responsibilities established by applicable statute. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of

the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Because this action does not involve technical standards, EPA did not consider the use of any voluntary consensus standards under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note). This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal.

Dated: November 29, 2001.

Christine Todd Whitman,
Administrator.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 411

[CMS-1809-IFC]

RIN 0938-AL29

Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships: Partial Delay of Effective Date

AGENCY: Centers for Medicare & Medicaid Services (CMS), DHHS.

ACTION: Interim final rule with comment period; partial delay in effective date.

SUMMARY: This interim final rule with comment period delays for 1 year the effective date of the last sentence of 42 CFR 411.354(d)(1). Section 411.354(d)(1) was promulgated in the final rule entitled "Medicare and Medicaid Programs; Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships," published in the **Federal Register** on January 4, 2001 (66