

SMALL BUSINESS OMBUDSMAN UPDATE

United States Environmental Protection Agency
Washington, DC 20460

MEMORANDUM

Toll Free Hotline
800-368-5888
202-260-0490

Home Page www.epa.gov/sbo

SUBJECT: Update on Recent Small Business
Activities at the U.S. EPA

FROM: Karen V. Brown, Director
Small Business Division
Small Business Ombudsman

TO: Persons Interested in Small Business
Environmental Issues

DATE: January, 2002

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PREPARING FOR THE UNEXPECTED!

Among many impacts, the tragic events of September 11 have changed our perspective about environmental management. For example, we have become more aware of the need to handle hazardous materials that could be accessed by those who would use them to carry out additional violent acts. This sense of vulnerability is perhaps more acute for small businesses because they generally have fewer protection resources and options.

What can EPA do? Quite a bit, I believe. Many of us remember another past tragedy in Bhopal, India where more than 2000 died. This catastrophe became impetus for passage of the Emergency Planning and Community Right to Know Act (EPCRA) and in the same spirit Section 112(r) of the Clean Air Act, both of which have allowed EPA to increase chemical safety and environmental protection.

The Small Business Division is looking at some new approaches to address this concern including the development of an emergency planning guide for small business. If you can think of something else we can do, now is the time to let us know.

Best Wishes to all for a Successful New Year!

Sincerely,

Karen V. Brown

ONE-STOP-RELIEF SMALL BUSINESS OMBUDSMAN FUNCTIONS

EPA's Office of the Small Business Ombudsman (OSBO) performs the following functions:

- Provides a convenient way for small businesses to access EPA;
- Facilitates communications between the small business community and EPA;
- Investigates and resolves disputes with EPA; and
- Works with EPA personnel to increase their understanding of small businesses in the development and enforcement of environmental regulations.

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SAVE THE DATE!



June 30 – July 3, 2002

The Westin Michigan Avenue
909 North Michigan Avenue
Chicago, Illinois 60611

2002 SBO/SBAP National Conference

Plan now to join us in Chicago from June 30 – July 3, 2002 for the best conference to date!

The 2002 National SBO/SBAP Conference will provide training and interactive opportunities for all those who attend. While including basic SBO/SBAP information, updates from the US EPA, and discussion about the future of the programs, the conference will also offer professional development opportunities as well as outstanding networking events. This year's conference offers something for everyone! Highlights include:

- **Compliance Advisory Panel (CAP) Training** – Learn the in's and out's of a successful CAP and be sure not to miss the networking session the evening of June 29th for CAP Members.
- **New Comer Orientation** – An introduction to the Program basics as well as meet other newcomers and some seasoned Program veterans.
- **Technical Track** – Love calculating emissions...? This track is for you!
- **Advanced Program Development Track** – Do you involve your local legislators as much as you could? Hear about what SBA programs can be useful to fund environmental projects and much more.
- **Professional Development Track** – Need some tips on improving your public speaking skills or how to talk so people will listen? You won't want to miss these sessions!
- **Working Sessions** – Interactive sessions which address issues currently facing the SBO's/SBAP's and identify solutions to be implemented by the group.
- **Updates from the US EPA** – Hear the latest in rule development, rule changes, and rule progress from the people that write them!
- **And much more!**

Attendees are encouraged to stay the evening of July 3 for the fireworks over Lake Michigan and participate in the Taste of Chicago which coincides with the Annual Conference!

For more information visit the conference web site at: www.sbpconference.com

or contact Roslyn Jackson at (217)524-0169 or via e-mail at: rjackson@commerce.state.il.us

For more information about the hotel, go to: www.westinmichiganave.com



Update on Environmental Management Initiatives for Small Business Division (SBD)

In the last issue of the Update, SBD presented some important EPA projects centered on assisting small businesses with environmental management systems (EMS) and also on compliance assistance. This article provides a progress update on those and other projects that are very active during the first half of 2002.

Practical Guide to Environmental Management for Small Business (Guide)

The draft Guide consists of input from individuals from EPA, state programs, trade associations, and small business contacts. It currently is being reviewed and will be used as a background document in February for a pilot training course for small business assistance providers. The final Guide will be published and distributed this spring after incorporating comments received at the pilot training.

The Guide is written in plain, straightforward language, free of jargon, so that readers can benefit whether or not they know about environmental regulations or good practices of environmental management. While not detailed in itself, it points to resources that are freely available and encourages interaction between small business representatives and small business assistance providers. Each Guide section offers stand-alone recommendations that the small business person can use to immediately improve environmental compliance and performance. As the reader works progressively through the Guide, these recommendations come together to form the backbone of an EMS.

Practical Environmental Management Training Course for Environmental Assistance Providers (Course)

The Guide is designed to go hand-in-hand with a train-the-trainer course. The purpose of the course is to give environmental assistance providers (states, associations, non-profit groups, and consultants) training and communication tools that they can use to introduce the Guide to their client small businesses. The course will be piloted during the first week in March, when a selected panel of course attendees will have the opportunity to offer critique and feedback, after which both the course and the Guide will be refined. During the following four months, the course will be conducted in five locations nationally, geographically positioned to provide a broad range of coverage. SBD is currently working with a number of host states to schedule the training courses. SBD will also provide highlights from the training course at the 2002 SBO/SBAP National Conference in Chicago.

Generic Environmental Management Plan for Small Business (Generic EMP)

A Generic EMP for small business also will be published during the first half of 2002. The Generic EMP will be a "fill in the blank" style document of about 30 pages including instructions and tie into the Guide. The Generic EMP is being developed for use by all EMS assistance providers, whether they are states, associations, non-profit groups, or consultants. Its intended use is as a starting point to provide EMS assistance to all small business types and will be adaptable to the needs of specific small business sectors.

To facilitate use of the Generic EMP, it will be adopted to two small business sectors. The sector adaptations will be appended as examples to the Generic EMP. Example sectors being considered for adaptation include bio-technology and furniture refinishing. Each sector adaptation will be approximately 20 pages.

Best Environmental Management Practices (BEMPs)

Although substantial environmental improvements have been made through regulatory actions, EPA recognizes that today many sectors are willingly adopting environmental practices even though they are not required. These become BEMPs that are both good for business and good for the environment. To help businesses take advantage of these BEMPs, the SBD presently is researching and compiling a compendium for a number of small business sectors. The first part of the compendium will provide an overview of BEMPs with practical examples of how some businesses have benefited from implementing them. The other part will consist of individual two to four page fact sheets for up to ten business sectors. The fact sheets will also be posted on the Small Business Web page as they become available. Depending on feedback received from small business compliances assistance providers and small businesses, additional BEMP fact sheets will be produced for other sectors.

SBD Finds Opportunities to Promote Its Programs

SBD is always looking for opportunities to promote its programs, both inside and outside of EPA. During the next six months, SBD will implement a number of activities under its promotion and outreach program aimed at addressing the unique environmental needs of the nation's small business community.

SBD recently submitted articles for publication by the North American Die Casting Association and the Air and Waste Management Association. The articles focused on SBD's efforts to:

- (1) serve as a liaison between small business and EPA;
- (2) provide practical compliance assistance to its customers;
- (3) provide focused information, relevant education, and timely outreach;
- (4) seek innovative management approaches to nontraditional issues; and
- (5) serve as a "gateway" for small business communication.

The articles also highlighted SBD's current initiatives related to Environmental Management Systems. The SBD approach to promoting EMS among small businesses centers on developing generic information tools that can be customized for specific small businesses or types and working with strategic partners to perform the customization and get the information and tools into the hands of small business management. One of the articles has already been published in the October 2001 issue of *Links*, the Die Casting association's magazine.

In another opportunity, SBD delivered a presentation at the International Perspectives Symposium of the Labs21 2001 Conference, sponsored by EPA and the U.S. Department of Energy. Labs21 is a voluntary program dedicated to improving the environmental performance of U.S. laboratories. Labs21 is designed to improve laboratory energy and water efficiency, encourage the use of renewable energy sources, and promote environmental stewardship. SBD's presentation introduced participants to its highly acclaimed publication, *Environmental Management Guide for Small Laboratories*. In the presentation, SBD focused on Environmental Management System concepts applicable in the laboratory, and highlighted sound environmental practices applicable to any laboratory operation, whether within or outside of the U.S. By making this presentation to an international audience, SBD was able to heighten its visibility and increase awareness of the *Guide* and other SBD resources. The *Guide* is available at the SBD website or by calling the EPA Small Business Hotline 1-800-368-5888.



2000 Annual Report Summary

SMALL BUSINESS ASSISTANCE PROGRAMS

WHO ARE WE?

- Free technical and compliance assistance delivered by a nonregulatory program
- Programs operate in 50 states, 2 territories and the District of Columbia
- Each program is designed to meet the specific needs of local small businesses
- Established by Congress and implemented through the Clean Air Act Amendments of 1990
- Support and coordination provided by the US EPA's Small Business Ombudsman in Washington, DC, and the Air Office in Research Triangle Park, NC

We've helped over **3,000,000** small businesses in the last five years with environmental issues, through on-site visits, hotline calls, workshops, general information requests, and specific technical assistance.

Program staff are on the phone and on the road to help small businesses understand the Clean Air Act requirements and how to implement them. Staff also protect small business interests in the rule making process.

HOW ARE WE FUNDED?

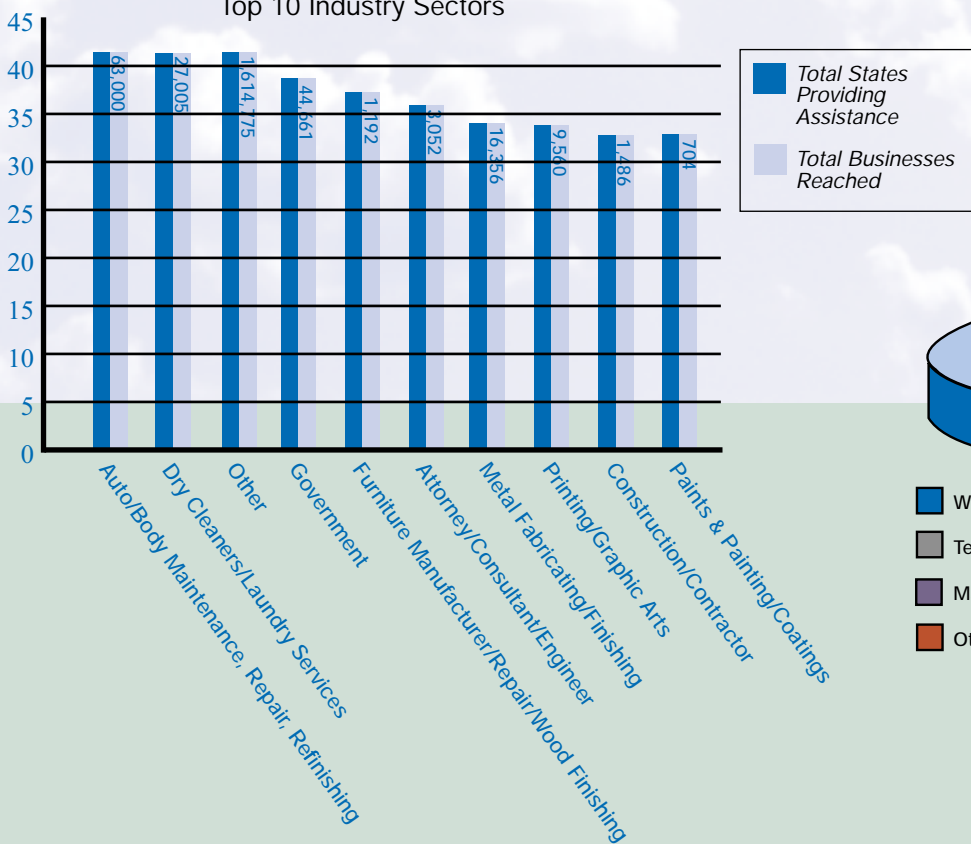
- Programs receive no federal funding
- Supported by state air permit fees
- Budgets range from \$0 to \$2 million
- Average program budget: \$145,000
- Staffing ranges from 1 person to 40
- Average staffing is 2.5 full-time employees

HOW ARE WE DOING?

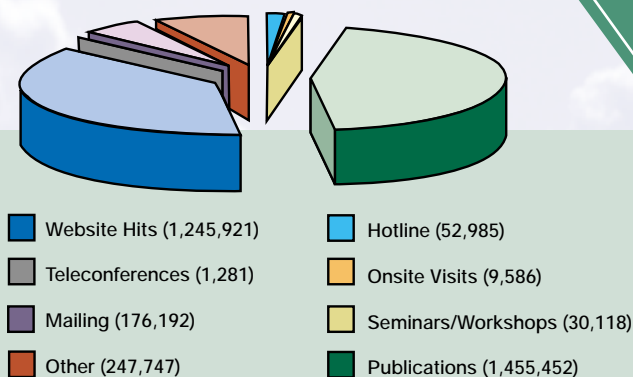
- In 1995, we helped 75,000 businesses
- In 2000, we helped 850,000 businesses, an increase of 1,100%

WHO DID WE HELP?

Top 10 Industry Sectors



Assistance Provided By Type



EVERY PROGRAM A PARTNERSHIP

Each program is comprised of three parts:

- A technical assistance component to provide the detailed help that small businesses need
- An ombudsman to advocate on behalf of small businesses within the regulatory environment
- A Compliance Assistance Panel made up of small business owners and representatives to consult and advise on program content

Locally and nationally, programs build working partnerships to include:

- Trade Associations
- Pollution Prevention Programs
- Small Business Development Centers
- Other state and local agencies

PROGRAMS HELPING PROGRAMS

Through many different mechanisms and efforts, Small Business Assistance Programs share their various experience and resources to assist businesses all around the country at very little cost.

2000 HIGHLIGHTS:

Shared Resources

One state developed a Dry Cleaners' Compliance Calendar that explained environmental regulations, simplified reporting requirements and provided a record keeping mechanism—all done in an easy-to-understand format. In cooperation with the state's trade association, the calendar was widely distributed within the industry, and has now become a vital compliance assistance tool across the country. Many states have adapted the original material to meet local requirements and are using it with their dry cleaners. No one had to reinvent this wheel!

Communication and Coordination

Every national program faces the challenge of interweaving federal and state program delivery. The Small Business Assistance Programs responded to this challenge by crafting a National Steering Committee to serve as a hub for communication and program advocacy. Each region of the country selects a representative and an alternate to serve on the Committee with their peers and representatives from the US EPA. To facilitate communication, the Steering Committee holds monthly conference calls and utilizes email distribution lists, listservs and small business websites. In 2000, Steering Committee subcommittees planned the annual training conference, prepared promotional materials and explored issues critical to the program's success. This work is supported by the US EPA Small Business Ombudsman and relies heavily on the commitment of state program staff time above and beyond regular duties.

Training and Networking

Every year, the national network of Small Business Assistance Programs comes together to learn from small businesses, technical experts, trade association representatives and each other. The conference content includes a range of issues and topics: latest regulatory updates from the US EPA, communication strategies for programs with limited budgets, detailed review of specific regulations and how they impact particular sectors, strategies for cooperation with other assistance providers, web site design, and basic overviews for new staff. Additionally, similar meetings are held throughout the ten regional areas for localized emphasis. In 2000, 47 states were represented at the annual conference held in Missoula, Montana.

Find out what is going on with your state's Small Business Assistance Program by visiting www.smallbiz-enviroweb.org or calling 1-800-368-5888.

Managing Small Business Environmental Assistance Programs for Results Report On Ten State Demonstration Projects (1999 –2001) October 31, 2001

In October 1999, EPA's Office of Small Business Ombudsman announced ten demonstration projects funded under a Small Business Assistance Cooperative Agreement Program. These projects are designed to improve state environmental assistance to small businesses with an emphasis on measuring results and benefits.

As of October 2001 all ten are still operating and all have had significant experience with the approaches proposed in their applications. On October 31, 2001 a report was published summarizing the results of two years' experience with the demonstration efforts. Part I summarizes the findings from the two years of experience. Part II summarizes the experience of each of the ten projects. Full project case studies, as of October 31, 2001, are provided in the Appendix.

The four most important findings from the ten state demonstration projects are:

- The public sector can invest in low cost campaigns that, over a two to four year period, systematically move all small businesses in an industry sector to compliance with environmental regulation.
- The public sector can invest in low cost campaigns that, over a two to four year period, systematically move most small businesses in an industry sector from using polluting equipment to "clean technologies."
- The public sector can invest in compliance assistance programs that enroll public and private sector organizations in a statewide, highly leveraged network of partners to reach and assist most small businesses covered by environmental regulation.
- State governments have access to a national "knowledge management network" that dramatically reduces the state's development, start up, and operating costs for any compliance goal it sets as a target.

The Small Business Assistance Programs can promise and deliver very specific, measurable results on mission – industry sectors in compliance with regulations and shifting to best environmental practice. The SBAPs can mobilize public and private sector organizations to reach out and assist small businesses thereby dramatically adding more voices and commitment to achieving the environmental goals of the state. And finally, because the state programs work cooperatively to increase the knowledge and methods for delivering assistance, any state program can move quickly and inexpensively by drawing on the knowledge assets of the total national network.

The experience of the ten demonstrations provides a framework for making the case for public sector investment in these programs. Any potential public investment can be assessed in terms of the return to be delivered. The ten demonstrations show that the management discipline and methods exist within the national network of state SBAP programs to deliver the results promised in a cost-effective way.

The ten projects have demonstrated three important management competencies within the SBAP network.

- Type I: Manage a selected industry to full compliance, pollution controlled status
- Type II: Use partnerships to multiply demand and capacity for delivering assistance
- Type III: Strengthen the program by developing and sharing useful tools for delivering assistance.

The first type is a long term strategy to produce results on mission by aggressive campaign management. Sectors are targeted and the targeted sector is systematically moved to high levels of compliance or converted over to pollution free practices. Public message campaigns provide incentives and celebrate success.

The second type leverages the usually small assistance program in dramatic ways through partnerships with a large number of public and private sector organizations. Significantly more businesses are reached and higher levels of assistance provided than could be expected by the staff of the program alone. Public support and involvement are built.

Type I. Manage for targeted results.

Two of the projects are Type I. They tested management strategies for systematically moving a specific industry sector into full compliance and toward cleaner technologies. They sought and produced measurable results on mission.

New York: Environmental Facilities Corp. The project is demonstrating how a well organized information and public relations strategy can move a defined industry sector to compliance. It is a managed campaign to achieve for full compliance on gas station vapor recovery controls in a metropolitan area. The goal is to bring 2,700 gas stations into compliance with equipment testing in 3 to 4 years. The strategy is to restructure the testing industry, reach out to the gas stations, employ a high profile public message campaign and manage the dynamics of the sector toward full compliance.

Maine: Department of Environmental Protection. The project is testing a strategy to reduce pollution by changing business practices in a targeted sector. One-on-one assistance to all auto repair and auto body shops in a three county area is designed to help them switch to optimum, clean technologies. The goal is to encourage a large proportion of the 500 targeted business to switch to “best environmental practice” over a one year period. It systematically engages each business in a phased information program.

Four of the projects are Type II, testing partnership development strategies to extend reach and impact.

New Jersey: Department of Environmental Protection. The program is building the capacity to reach all small businesses by growing a large network of partner organizations. The strategy is to form working relationships with public and private organizations that have the channels and credibility to reach small businesses with information and assistance. High impact information is kept flowing through these channels. The partnership base, currently at 400, is continuously built up over time and relationships maintained and nurtured.

Minnesota: Pollution Control Agency. The project is creating partnerships to provide on-going assistance to the entire fiberglass-reinforced plastics (FRP) manufacturing industry in the state. The SBAP has undertaken a systematic campaign to inform the entire industry segment — between 110 and 120 FRP businesses — about old and new regulations, and opportunities to save costs and reduce pollution by incorporating new, less-polluting, more efficient materials and processes in their manufacturing operations. A broad-based set of partners has been enrolled, including the national industry trade association, a prestigious small business technical assistance program at the University of Minnesota, equipment suppliers, material vendors, SBDCs, and others. A “one-stop shopping” compliance assistance package has been distributed and an innovative event, “Demo Days,” has been produced, attracting over 170 people from across the FRP industry.

California: South Coast Air Quality Management District. The project is testing a multi-state, public-private partnership approach to assist small businesses that operate industrial steam boilers. The intent is to reduce air emissions, save energy and reduce costs by simply persuading operators of industrial steam boilers to perform regular maintenance on their boiler units. A local gas company is contributing free, on-site boiler tune-ups as both an inducement to businesses to participate and an opportunity to demonstrate cost savings and pollution reduction benefits. The strategic “template” being tested in the Southern California demonstration project will be replicated by three other partner SBAPs in EPA’s Region IX.

Colorado: Department of Public Health and the Environment. The project has set in place a partnership called “EnviroMentors” that dramatically increases the ability of its tiny, three-person staff to provide Colorado’s 10,000 small businesses with “one stop shopping” environmental assistance and information. The SBAP has enrolled over 60 partners, including 21 small business development centers (SBDCs), 10 chambers of commerce, 12 state and local pollution prevention organizations, 25 small business and trade organizations and several lending institutions.

Type III. Develop And Transfer Tools for Delivering Assistance

Four of the projects are Type III, strengthening the national program by developing useful tools that can be used by all states.

Wyoming: Department of Environmental Quality. The program is meeting the communication challenge of a largely rural state by building an “outreach system.” The system consists of a sortable data base of potentially all small businesses in the state, and a one-stop-source of compliance information, the Wyoming Small Business Assistance Guide. The data base and the guide are used by a consortium of partners to reach small businesses. The system makes possible an on-going series of targeted outreach initiatives to specific businesses on high priority topics.

South Carolina: Department of Health and Environmental Control. The program is developing outreach methods for an unusually hard to reach business sector. Auto body, auto repair and salvage yards are numerous and represent an environmental threat. These businesses are hard to find and often beyond the reach of the regulatory sector. A unique, intensive series of workshops throughout the state was tested to bring assistance close to the customer. An evaluation effort is underway to better understand how to reach this sector.

Montana: Department of Environmental Quality. The SBAP has surveyed the needs of Montana small businesses for environmental assistance, especially focusing on rural communities in Montana’s “High Line” (Northern) region and in Eastern Montana, both of which have historically been difficult to serve because of their distance from urban centers in Central and Western Montana. In Phase Two, the project will apply the results of that assessment to test different marketing methods to stimulate requests for assistance, and to increase business and public awareness about the assistance program.

Kansas: State University Pollution Prevention Institute. The SBAP initially tested an approach using retired engineers to provide direct, one-on-one assistance to small businesses in three industries: dry cleaners, automotive repair/auto body and metal finishing. That project proved unsuccessful, but generated a body of experience that other SBAPs considering a similar strategy now have access to. The SBAP has gone on to apply the Cooperative Agreement Grant in launching a “Type I” assistance campaign aimed at increasing compliance and reducing pollution in Colorado’s printing industry.

For more information contact **Karen Brown** at (202) 260-1390 or by e-mail at brown.karen@epa.gov

Success Stories

From the 2000 Small Business Assistance Program's Annual Report

Arkansas hosted seminars for aerial pesticide applicators in which the pilots fly in to the seminars around the state. The pilots learn about pollution issues, storage tank regulations, and Department services such as the loan program.

Indiana's program helped to develop a rule for the fiberglass industry for styrene emissions and continues to assist businesses involved in the rule making process for this industry through workshops and fact sheets.

Partnering with the Wichita Water and Sewer Department and the Photo Marketing Association, the **Kansas SBAP** introduced silver and mercury pollution prevention and recovery technologies to medical and dental clinics, and commercial imaging and photo processors. Approximately 70% of local dentists have implemented such changes.

A small company contacted the **Louisiana SBAP** to ensure they were meeting all appropriate federal and state rules. The SBAP provided them with an air permit application and modifications, fact sheets for various federal rules, and a pollution prevention audit at their request. As a result of the suggestions from the engineer, the company reduced their hazardous waste generation by at least 1400 pounds per year.

Maryland SBAP helped a printer to apply for the air permit required to begin operation. This helped the company receive their permit in the timeframe they needed to start their operations.

Missouri's On-site Assessment Team advised an aluminum smelting facility to recycle their pallets and cardboard. The Team located a recycling facility for the cardboard, saving the smelter about \$2000 per month in disposal costs.

New York implemented regulations for perc dry cleaners that went beyond the federal NESHAP regulation to reduce the potential for exposure to perc vapors. In evaluating alternative solvents for perc, the SBAP discovered that a new solvent, DF 2000, contains almost no Hazardous Air Pollutants (HAPs) and has a flash point above 140 F. Advances made to the dry cleaning machines that use this solvent reduce any potential for fire hazard. SBAP made dry cleaners aware of this alternative compliance option via newsletter articles, hotline calls, and workshops.

North Carolina SBAP assisted a dry cleaner who had received a Notice of Violation and civil penalty assessment from a local air program. The SBAP explained the intricate details of the perc dry cleaning NESHAP to the air program supervisor and won a reversal of the violation through an appeal before the entire Board.

Through hotline calls and a site visit, **Pennsylvania ENVIROHELP** staff worked with a rotogravure/flexographic printer to complete a plan approval application within the short timeframe required by the PA Department of Environmental Protection. ENVIROHELP determined that the facility was in compliance with air pollution regulations except for odors and fugitive emissions. ENVIROHELP recommended technical contacts who could assist in resolving the odor and fugitive emissions violations.

When dry cleaners were having problems passing a new Dry Cleaner Superfund program test, **Tennessee's SBAP** developed a test prep course and materials. Dry cleaners are now passing the test.

Texas' program helped a rock-crushing operation that was in violation of air permitting requirements. The owner needed to apply for an air permit, but couldn't hire a consultant to do the work. The SBAP matched the business with an EnviroMentor, who assisted the owner with the permit application, thus avoiding further enforcement action.

West Virginia SBAP assisted a client who was conducting stack testing pursuant to a Consent Order. The SBAP noted that dioxin and furan testing was included in the facility's stack test protocol, but was not a requirement of the permit or the Consent Order. In fact, the tests were listed by the testing company in error, and a revised stack test protocol was issued. This saved the client between \$2000 -\$3000.

From **Wisconsin SBAP's** efforts in 1999, a permit exemption for autobody repair shops became effective in 2000. With that rule change, thousands of small shops will not have to deal with the state air pollution permit process.

For more information contact **Angel Martin-Dias** at: 412-577-2643

SMALL BUSINESS ENVIRONMENTAL HOME PAGE

<http://www.smallbiz-enviroweb.org>

The Small Business Environmental Home Page (Home Page) continues to benefit the small business community and the Section 507 programs. This Home Page was developed and is being maintained by *Concurrent Technologies Corporation* (Pittsburgh Office) under cooperative agreement funding provided by U.S. EPA SBO. Developed in response to requests from the State small business assistance programs (SBAPs) and the small business community for assistance in centrally distributing and exchanging information about their program activities, the Home Page provides efficient access to EPA, state, and other environmental and pollution prevention information focused on small business.

The SBO-SBAP Listserve is up and running with more than 100 members currently subscribed. Share information and ideas in a convenient and effective way with SBAPs, SBOs, small businesses, trade associations, technical assistance programs, and others interested in environmental compliance and pollution prevention issues for the small business community. For more information, go to http://www.smallbiz-enviroweb.org/SBO-SBAP_Listserve.html.

See the results from the online EPA Customer Satisfaction Survey completed in the fall of 2000. The survey form, results and summary, response summary and actions, and results charts are now posted at http://www.smallbiz-enviroweb.org/surveyresults2000_01.html.

Find full page SBAP ads, SBAP logos including a state example, and SBAP logos in Spanish on the *NEW* Small Business Assistance Program National Logo page. Go to <http://www.smallbiz-enviroweb.org/sbaplogo.html>.

Note the updated Compliance Advisory Panel (CAP) Contacts and Information section, including the addition of a National CAP Members and Information subpage at http://www.smallbiz-enviroweb.org/programs_cap.html.

Look for the Presentations and Photographs from the 2001 SBO/SBAP National Conference in Austin, Texas, now on the Home Page. Click on the first two links at <http://www.smallbiz-enviroweb.org/conferences.html>.

Check out the *NEW* Site Map By Category page to find all the information on the Home Page easily. Go to http://www.smallbiz-enviroweb.org/site_map.html.

Other web pages housed on the Home Page include the Mid-Atlantic Region Small Business Assistance web page (<http://www.smallbiz-enviroweb.org/region03.html>) and the National Small Business Financial Assistance Work Group web page (<http://www.smallbiz-enviroweb.org/NSBFAWG.html>).

Check back often for continuously updated contact information (CAP, trade, EPA, SBAP), state environmental agency and SBAP web sites, SBO Update Newsletters, new Small Business Quarterly News Alerts, news and events, compliance information, funding information, industry sector and trade association information, small business initiatives and policies, and publications.

Don't forget to send in updates and use the 5 databases on the Home Page—publications (over 3,880), videos, upcoming events, performance measurement tools and success stories (over 70), and regulatory updates.

Keep sending information on events, news, contacts, publications/facts sheets, videos, performance measurement tools and success stories, CAP information, corrected/new links to include on the Home Page, and any comments and suggestions about the Home Page to Audrey G. Zelanko (zelanko@smallbiz-enviroweb.org; 412/577-2649).

WHERE TO CALL FOR MORE INFORMATION AND HELP

EPA SMALL BUSINESS OMBUDSMAN

Toll Free (800) 368-5888	Local and DC Area (202) 260-1211	T.D.D. (202) 260-1258	Fax (202) 401-2302
smallbiz.ombudsman@epa.gov	Homepage www.epa.gov/sbo	asbestos.ombudsman@epa.gov	

EPA Web Pages and Hotlines

Phone Number

- National Service Center for Environmental Publications 800-490-9198
(www.epa.gov/ncepihom/) 513-489-8190
- Indoor Air Quality Information Clearinghouse 800-438-4318
(www.epa.gov/iaq)
- Radon 800-767-7236
(www.epa.gov/iaq/radon)
- EPA Energy Star 888-782-7937
(www.energystar.gov)
- Clean Air Technology Center 919-541-0800 (English)
(www.epa.gov/ttn/catc) 919-541-1800 (Spanish)
- Office of Transportation and Air Quality 734-214-4333
(www.epa.gov/omswww)
- Emission Measurement Center 919-541-0200
(www.epa.gov/ttn/emc)
- Stratospheric Ozone Information 800-296-1996
(www.epa.gov/ozone)
- Acid Rain (emission trading, auctions, Information) 202-564-9620
(www.epa.gov/airmarkets)
- Safe Drinking Water Hotline 800-426-4791
(www.epa.gov/safewater)
- National Small Flows Clearinghouse (WV Univ) 800-624-8301
(www.nsfv.wvu.edu)
- Storm Water Phase II Information 202-260-7786
(www.epa.gov/owm/sw/phase2/index.htm)
- Water Resource Center 202-260-7786
- National Solid & Hazardous Waste Ombudsman 800-262-7937
Washington Metro Area 202-260-9361
- Wetlands Information 800-832-7828
(www.epa.gov/owow/wetlands)
- U.S. EPA RCRA, Superfund & Underground Storage Tanks Hotline 800-424-9346
Washington Metro Area 703-412-9810
(www.epa.gov/epaoswer/hotline/index.htm)
- Emergency Planning & Community Right to Know Title III (EPCRA) 800-424-9346
- Toxic Substance Control Act (TSCA) Information Service 202-554-1404
- Office of Pesticide Program Registration Division (Ombudsman) 703-305-5446
(www.epa.gov/pesticides)
- Bio-Pesticide Contact 703-305-7973
(www.epa.gov/pesticides/biopesticides)
- National Pesticide Telecommunications Network 800-858-7378
(<http://ace.orst.edu/info/nptn>)
- EPA Waste Wise/Waste Reduction 800-372-9473
(www.epa.gov/wastewise)
- Office of Environmental Justice Information Line 800-962-6215
- Office of Pollution Prevention & Toxics 202-260-1772
(www.epa.gov/opptintr)
- Chemical Emergency Preparedness & Prevention Office 202-564-8600
(CEPPO) Small Business Liaison
(www.epa.gov/ceppo)
- Small Business Innovation Research (SBIR) 800-490-9194
(<http://es.epa.gov/ncerqa/sbir>)
- EPA Inspector General (IG) 888-546-8740
(www.epa.gov/oigearth)
- Compliance Assistance Centers 202-564-7076
([Http://es.epa.gov/oeca/main/compasst/compcenters.html](http://es.epa.gov/oeca/main/compasst/compcenters.html))
- Small and Disadvantaged Business Utilization 202-564-4100
(www.epa.gov/osdbu)

OTHER WEBSITES & HOTLINES

Phone Number

- Small Business Environmental Home Page (412) 577-2649
(www.smallbiz-enviroweb.org)
- Recycling Hotline (800) 253-2687
(www.recycle.net/recycle)
- National Technical Information Service (NTIS) (800) 553-6847
(www.ntis.gov) (703) 605-6000
- National Response Center for reporting oil spills and hazardous
substance releases (800) 424-8802
Washington Metro Area (202) 267-2675
(www.nrc.uscg.mil)
- Department of Energy (DOE)--National Alternative Fuels Hotline (800) 423-1363
(www.afdc.nrel.gov)
- Energy-efficiency & Renewable Energy Clearinghouse (800) 363-3732
(Operated by the DOE)
(www.eren.doe.gov)
- DOT--Hazardous Materials. (800) 467-4922
(<http://hazmat.dot.gov>)
- CHEMTREC Chemical Transportation Emergency Line, operated by (800) 262-8200
Chemical Manufacturers Association
([Http://chemtrec.org](http://chemtrec.org))
- Center for Management Courses on ISO 9000/14000 (800) 745-5565
www.ceem.com
- National Lead Technical Information Center (800) 424-5323
(www.epa.gov/lead/nlic.htm)
- Small Business Administration (800) 827-5722
(www.sba.gov)
- Regulatory Fairness Boards (SBA) (888) 734-3247
(www.sba.gov/ombudsman)
- Occupational Safety & Health Administration (OSHA) (800) 321-6742
(Worker Safety Referral Services)
(www.osha.gov)
- American Lung Association (800) 586-4872
(www.lungusa.org)
- Consumer Product Safety Commission (800) 638-2772
(www.cpsc.gov)
- Radon Auto Emission & Sun Safety(National Safety Council) (800) 557-2366
(www.nsc.org/ehc/radon.htm)
- INFOTERRA/USA (202) 260-5917
(www.epa.gov/INFOTERRA)
- Government Printing Office (202) 512-1800
(www.gpo.gov/#info)
- National Institute of Occupational Safety and Health (800) 356-4674
(www.cdc.gov/niosh/homepage.html)
- National Environmental Service Center (Water) (800) 624-8301
(www.estd.wvu.edu/netc/netcsc_homepage.html)
- Information Services - Additional Hotlines
(www.epa.gov/epahome/hotlines.htm)

EPA REGIONAL REGULATORY SMALL BUSINESS LIAISONS

REGION 1	CT, ME, MA, NH, RI, VT	Dwight Peavey	(617) 918-1829
2	NJ, NY, PR, VI	Ronald Lockwood	(212) 637-3413
3	DE, DC, MD, PA, VA, WV	David Byro	(215) 814-5563
4	AL, FL, GA, KY, MS, NC, SC, TN	Annette N. Hill	(404) 562-8287
5	IL, IN, MI, MN, OH, WI	Glynis Zywicki	(312) 886-4571
6	AR, LA, NM, OK, TX	David Gray	(214) 665-2200
7	IA, KS, MO, NE	Janette Lambert	(913) 551-7768
8	CO, MT, ND, SD, UT, WY	Rob Laidlaw	(303) 312-7064
9	AZ, CA, HI, NV, GU	Mark Samolis	(415) 744-2331
10	AK, ID, OR, WA	Robyn Meeker	(206) 553-7154

STATUS OF HIGH VISIBILITY ACTIONS

OBTAINING ADDITIONAL INFORMATION FOR SMALL BUSINESS

Some articles in this newsletter cite certain reference publications by Item Number that provide additional information on the topic. These publications can be ordered by completing the Publication Order form on page 59. In addition, the Ombudsman's Office maintains an inventory of over 300 EPA and related publications containing useful environmental information for small business. A complete listing of these publications can be obtained by calling the Ombudsman's Office at **1-800-368-5888** or **202-260-1211**.

Recent Initiatives to Better Serve You

Facilitated meetings between EPA Deputy Administrator, senior management, and industry to give the Agency an opportunity to hear first hand the concerns of small business.

Advocated for and participated in the Small Business Regulatory Enforcement Fairness Act (SBREFA) process and in reviewing over 50 EPA regulatory actions to address small business issues and concerns.

Provided outreach and assistance to the small business community on SBREFA.

Provided a grant to the State of Illinois for the ninth Annual SBO/SBAP Conference to be held in Chicago, June 30-July 3, 2002.

Facilitated the Small Business Regional Liaison Conference for EPA regions and SBO/SBAP Steering Committee Members and alternate, August 8-10, in Washington, DC.

Gained approval from the Office of Management and Budget for revisions to the Small Business Ombudsman Report to Congress under section 507 of the 1990 Clean Air Act Amendments

Developed a Small Business Environmental Management System (EMS) Guide and a pilot EMS training program to be held in various states across the country.

Partnered with the Printing Industries and Printers National Environmental Assistance Center to examine what's working in the Printing Industry.

Developed a Resource Directory of Small Business Environmental Assistance Providers to give the small business community easy access to resources at the Federal, state, and private levels.

Developed and distributed promotional materials that were designed by the Promotional Subcommittee, which consisted of SBO/SBAP Steering Committee members, to better communicate the availability of technical and other services provided by the State SBO/SBAP Programs.

Distributed a final report on the development of expert advisors to assist small businesses in meeting their regulatory responsibilities.

Funded the development of two expert systems for small business. The first expert system will be designed for the UIC Class V Injection Well regulation, and the second system will be designed for recycling regulations.

Worked with staff in the Performance Track Program, Sector Strategies Division, Design for the Environment Program, and the Office of Enforcement and Compliance Assurance (EMS Team), and provided funds to support development of an EMS website.

Continued to distribute copies of the "Environmental Assistance Services for Small Business: A Resource Guide," which is a directory of the many EPA services available, including hotlines, clearing houses, websites, publications, training, etc.

Supported the development of a SBO-SBAP Listserve as an

opportunity for small business assistance providers and others in the small business community to share information and ideas.

Responded to over 13,650 calls on the Small Business Ombudsman Hotline.

Designed an electronic SBO Quarterly News Alert document as a means to give state small business programs and EPA regional programs an opportunity to share success stories and information about small business activities in their state or region.

Clean Air Act (CAA)

Implementation Tool Development Plan, Update

In the near future, EPA's Office of Air Quality Planning and Standards (OAQPS) will be publishing ten new Maximum Achievable Control Technology (MACT) standards that regulate hazardous air pollutant emissions from various surface coating operations. To help industry and regulators prepare for the implementation phase that comes after these new rules are promulgated (finalized), EPA is in the process of determining what types of implementation tools are needed for each new coating MACT. You can keep abreast of what types of implementation activities we (EPA) have planned for these surface coating rules by periodically checking the Implementation Tool Development Plan. Implementation Plans will be developed for each new coating MACT and will tell you: (1) what we're planning for that rule; (2) who we're partnering with to develop tools; and (3) when we expect tools to be available for use. To find out more about our tool development efforts and for website addresses for these new coating rules, please see our brochure entitled "Implementation Activities for the New Surface coating MACTs - An Overview and Partnership Opportunities" at <http://www.epa.gov/ttn/atw/powc/partner.pdf>.

If you have questions regarding implementation activities under this effort, please feel free to contact **Ingrid Ward**, USEPA, 919-541-0300 or ward.ingrid@epa.gov.

Final Integrated Urban Air Toxics Strategy

This Strategy is a framework for addressing air toxics in urban areas. Although existing programs have already achieved substantial emission reductions, more needs to be done to reduce toxics air pollutants, particularly in the urban areas. The Strategy outlines actions to reduce emissions of air toxics and assessment activities to improve EPA's understanding of the health and environmental risks posed by air toxics in urban areas. The Strategy includes a list of 33 air toxics that pose the greatest potential health threat in urban areas, and also provides a list of area sources responsible for a substantial portion of the emissions of these air toxics. For more information about the Strategy, visit EPA's web site at: www.epa.gov/ttn/uatw/112k/urbanpg.html or call EPA's Office of Air Quality, Planning and Standards at 919-541-2798.

Amendment And Changes to The Operating Permit Program Final Rule

In 1992, EPA issued regulations providing for the establishment of comprehensive state air quality permitting systems consistent with the requirements of Title V of the Clean Air Act. The Rule allows States to issue a general permit covering numerous similar sources, each of which need only submit information covering its eligibility for the general permit. The Rule was **proposed to be** revised in 1994, to provide for more flexibility in the revision of permits: more flexibility was proposed in 1995. Neither of these proposed rule changes have been promulgated. In addition, six categories of non-major sources subject to MACT standards have been deferred from title V permitting. Currently, only two categories of non-major sources subject to MACT standards are required to obtain title V permits; these are hazardous waste combustors (HWC's) and portland cement plants., see our Item I-25.

A Guide for Small Businesses

A booklet entitled *The Clean Air Act Amendments of 1990: A Guide for Small Businesses* was published in 1992. This guide provides small businesses a broad overview of the Act's complex requirements and the effects they are likely to have, in general, on a small business. The guide provides contacts for obtaining additional information. Accompanying the booklet is a four-page summary entitled *What A Small Business Should Know About the New Clean Air Act*. Item I-36.

Summary of U.S. Supreme Court Decision on the EPA's Ozone and Particulate Matter NAAQS

Whitman v. American Trucking Associations
U.S. Supreme Court, Nos. 99-1257, 99-1426
February 27, 2001

Highlights of the Supreme Court's Decision

Constitutionality: The Supreme Court unanimously upheld the constitutionality of the 1970 Clean Air Act provision that authorizes EPA to set national ambient air quality standards (NAAQS) to protect public health and welfare.

- In so doing, the Supreme Court reversed a decision by the D.C. Circuit Court that could have called into question laws and regulations that are the basis for many of our nation's programs for protecting public health and safety.

Cost: The Supreme Court also unanimously affirmed that the Clean Air Act requires EPA to set NAAQS at levels necessary to protect public health and welfare, without considering the economic costs of implementing the standards, stating that the law "unambiguously bars cost considerations from the [NAAQS-setting] process."

- This ruling affirmed the D.C. Circuit Court's decision, and was consistent with the longstanding interpretations of the Clean Air Act by EPA and the D.C. Circuit.
- The Supreme Court noted that EPA and the States take costs into account in *implementing* the NAAQS.

Authority to implement ozone standard: The Supreme Court rejected arguments that EPA cannot require States to meet a revised ozone standard that is more protective than the 1-hour ozone standard currently being implemented.

- The Supreme Court determined that while EPA has authority to implement a revised ozone standard, EPA must reconsider its implementation plan for moving from the 1-

hour standard to the revised standard, and instructed EPA to develop an implementation plan consistent with the Court's opinion.

Implications for EPA's Implementation of the New Standard

While the case was pending before the Supreme Court, the ozone and particulate matter standards remained in effects as a legal matter, because the D.C. Circuit had not vacated the standards. The Supreme Court decision does not change this.

Ozone: EPA is reviewing the results of the litigation to determine the approach and schedule for moving forward with implementing the ozone standard, and will be conferring with States and other interested parties.

Particulate Matter: The litigation has not yet affected EPA or State activities related to these standards, since EPA cannot start implementing the standards until EPA and the States collect three years of monitoring data on "fine particles" to determine which areas are not attaining the standards. In most cases, areas would not be designated "attainment" or "nonattainment" for the NAAQS for fine particles until 2004-5.

Further Update on Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Recent Court Decision

Stratospheric Ozone Protection Rules

A final rule to reduce consumption of Methyl Bromide, a commonly used fumigant and pesticide, by 50% of historical 1991 use, was issued in 2001, Item I-15, (November 28, 2000, 65 FR 70795). A 70% baseline reduction is scheduled to occur in 2003 and a complete phaseout of Methyl Bromide is scheduled to take effect on January 1, 2005, Item I-15. An interim final rule to create an exemption which would allow production and/or import of Methyl Bromide for quarantine and preshipment uses was published, Item I-15 (July 19, 2001, 66 FR 37752). EPA is engaging stakeholders from industry and from State government at this time to inform them of the critical use exemption process which would allow production and/or import of Methyl Bromide for critical end uses in pre-plant and post-harvest applications. EPA will issue a notice requesting application for exemption to the 2005 methyl bromide phaseout for critical uses, Item I-15. HCFCs are ozone depleting substances that are scheduled to be completely phased out by 2030, the first of which, HCFC-141b, is scheduled to be phased out beginning January 1, 2003. EPA issued a proposal to allocate allowances to HCFC producers and importers to limit and begin the phaseout process for HCFCs (July 20, 2001, 66 FR 38064), Item I-. In finalizing the proposed allowance allocations for HCFC in 2002, EPA will issue a supplemental proposal seeking comments regarding an exemption for small business sectors needing relief from the 141b phaseout. EPA also evaluates alternatives to ozone depleting substances for use in refrigerants, air conditioning, foam manufacture, solvents, and fire extinguishing applications and either approved or banned them based upon their environmental, health, and safety properties through the Significant New Alternatives Program. EPA will continue to review alternatives as they are developed. The last update was published 5/23/01 66FR 28379 Item I-19.

CAA Incinerator Rules

The Agency issued final rules on September 15, 1997, which apply to medical waste incinerators (MWI). These are incinerators used to burn hospital waste and/or medical/infectious waste. The rule covers MWI

located at hospitals, other health care type facilities, and commercial waste disposal facilities which burn these types of wastes. The rules cover both new and existing MWI. Those built before June 20, 1996, are considered existing MWI and those built after this date are considered new MWI. New MWI are required to meet the requirements upon start-up. Existing MWI are required to meet the requirements by September 15, 2002. Small existing MWI located in rural areas are required to meet less stringent requirements.

The Agency issued final rules on December 6, 2000, which apply to small municipal waste combustors (MWC). These are incinerators which have a capacity to burn more than 35 tons per day of municipal waste, but less than 250 tons per day. [Final rules for MWC with a capacity to burn 250 tons per day or more of municipal waste were issued in December 1995.] The rules cover both new and existing small MWC. Small MWC built before August 30, 1999, are considered existing and those built after this date are considered new. New small MWC must meet the requirements on start-up and existing small MWC must meet the requirements by August 30, 2004.

The EPA issued final rules on December 1, 2000, which apply to commercial and industrial solid waste incinerators (CISWI). These rules apply to incinerators located at commercial or industrial facilities which burn solid waste without energy recovery. The rules cover both new and existing CISWI. CISWI built before November 30, 1999 are considered existing and those built after this date are considered new. New CISWI must meet the requirements upon start-up and existing CISWI must meet the requirements by November 30, 2004.

National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules Update

The Emissions Standards Division of the Office of Air Quality Planning and Standards is in the process of completing NESHAP for 170 source categories, many of which contain small businesses. These standards are also called Maximum Achievable Control Technology, or MACT, standards. Standards for 86 source categories are final. Standards have been proposed for 29 of the remaining 94 source categories. Ten source categories on the original list have been deleted.

The EPA website <http://www.epa.gov/ttn/atw/eparules.html> lists information on the rule applicability and rule requirements. Implementation materials are also available for some rules.

One key date is the upcoming Section 112(j) "hammer date" of May 15, 2002. Section 112(j) applies to major sources in categories and subcategories on the EPA's source category list for which EPA has not promulgated standards by May 15, 2002. Major sources are those that emit from the entire contiguous facility 10 tons or more of any single HAP or 25 tons or more of any combination of HAP.

Major sources subject to section 112(j) regulations (40 CFR 63, subpart B) must submit a title V permit application to its permitting authority to incorporate case-by-case MACT by May 15, 2002. EPA proposed amendments to the 112(j) rule on March 23, 2001. Although only proposed, the amendments to the section 112(j) rule will become final about the end of February 2002. Sources must submit a Part 1 application on May 15, 2002, followed by a Part 2 application by November 15, 2002. The amendments discuss in more detail what is required to be in the permit application.

Affected sources should review 40 CFR 63, subpart 63.50 through 63.56 for further information. For more information on the proposed amendments, see the March 23, 2001, Federal Register, page 16318. Additional information is also on EPA's Air Toxics Website at <http://www.epa.gov/ttn/atw/112j/112jaypp.html>.

Hazardous Air Pollutant Standards for Several Categories of Industrial Combustion Sources

The Agency is developing rules under Section 112 of the Clean Air Act (CAA) to limit emissions of hazardous air pollutants from several industrial combustion sources. This may include rules for boilers, process heaters, stationary combustion turbines, and/or stationary reciprocating internal combustion engines. These sources are used primarily for energy generation in a wide variety of industries and they burn a variety of fuels (e.g., wood, oil, coal, natural gas). The rules could affect thousands of sources nationwide and have significant environmental, health, and cost impacts.

CAA List of Source Categories and Schedule for Regulating Hazardous Air Pollutants

On November 18, 1999, EPA published a new revision to the Initial List of Categories of Sources, as required under Section 112 (c)(1) of the Clean Air Act of 1990; and a revised schedule for the Promulgation of Emission Standards for the above categories. Item I-28.

State Motor Vehicle Inspection Maintenance Programs Provided More Flexibility

In 1992, EPA published a Final Rule making the subject programs tougher, including a requirement for "test only" stations. Our Office raised strong objections to that rule because of the adverse impact on many small businesses. In 1995, EPA published a Final Rule allowing the states flexibility in designing their enhanced auto inspection programs. This rule was amended on 9/23/96, 1/9/98 and 7/24/00.

Perchloroethylene (PCE) Health Effect Studies

EPA's National Center for Environmental Assessment in The Office of Research and Development (ORD) has started a health assessment to update the Agency's data base on possible health hazards associated with chronic exposure to perchloroethylene. The assessment will characterize hazard and dose-response for cancer and general non-cancer toxicity; in addition to conclusions about cancer hazards, if any, a reference concentration (RfC) for inhalation exposure and a reference dose (RfD) for ingestion exposure will be recommended. The assessment began in the Spring of 1999, and completion is expected in early calendar year 2002. The Agency's plan is to develop the assessment, with a full peer and public review process, and then provide a data file for insertion into the EPA Integrated Risk Information System (IRIS) which records the Agency-wide viewpoint on health assessment issues.

Protection CFC Phaseout Rules

An accelerated phase-out of the production of Chlorofluorocarbons (CFC), Halons, Carbon Tetrachloride, Methyl Chloroform, and Hydrochlorofluorocarbons (HCFC) was mandated and internationally endorsed in 1992 with reconsideration of petition criteria and incorporation of Montreal Protocol Decisions: Final rule, 6/1/998 FR 29240-245. Item I-5. A final rule *detailing* the above *phase-out*, with Methyl Bromide added, was issued, Item I-15. Final rules also have been issued which control recovery and recycling of all refrigerants during the servicing of on-road motor vehicle air conditioners, Item I-

14; emissions reduction, and use of certified personnel during servicing and disposal of all *other air conditioning and refrigeration equipment* which use ozone depleting substances., Item I-16. Rules were also issued banning the use of CFCs and HCFCs in non-essential products, 2000 essential-use allowances, 6/30/00 FR pp. 40524-35, Item I-17, Labeling of products containing ozone depleting substances and their packaging, Item I-18, and significant new *alternative refrigerants, last update 4/26/00 FR 24387-392x Item I-19.*

CAA Field Citation Program And Monetary Award Final Rules

The proposed Field Citations Rule allowing EPA field inspectors to levy immediate, on-the-spot fines has been on hold and there is no decision pending to move forward with a final rule.

EPA issued a proposed Monetary Awards Rule outlining eligibility criteria and general program implementation for making awards to citizens upon the conclusion of civil or criminal cases. EPA is presently making awards under its existing statutory authority. A final rule outlining additional eligibility criteria is also on hold. No date has been set for issuance of either final rule. See Item I-12 for both.

Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act Section 112(r)(7)

EPA has established a list of regulated substances and thresholds and issued Risk Management Program regulations under section 112(r) of the Clean Air Act. Covered facilities must implement a risk management program and submit a summary of that program, the Risk Management Plan (RMP), to EPA. The regulations are codified in 40 CFR part 68. The list of regulated substance, the reporting requirements, and guidance documents are available on the Internet at: <http://www.epa.gov/ceppo>.

Chemical Safety Information, Site Security and Fuels Regulatory Act

The Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (August 5, 1999) establishes new provisions for reporting and disseminating information under Section 112(r) of the Clean Air Act. The law has two distinct parts that pertain to:

- **Flammable Fuels**

In March, 2000, EPA issued a final rule to amend its chemical accident prevention regulations under Section 112(r) of the Clean Air Act to revise the list of flammable substances regulated under the chemical accident prevention regulations to exclude flammable substances when used as a fuel or held for sale as a fuel at a retail facility.

- **Public Access to Offsite Consequence Analyses (also known as: "worst-case scenario") Data**

In August, 2000, EPA and the Department of Justice (DOJ) issued regulations governing access to, and dissemination of, restricted forms of information about the potential off-site consequences of accidental chemical releases from industrial facilities. Off-Site Consequence Analysis (OCA) information is collected under section 112(r)(7) of the Clean Air Act as part of the Risk Management Program.

Additional details about these provisions are available on the Internet at: <http://www.epa.gov/ceppo>.

Public Access to OCA Data

The law exempts OCA data from disclosure under the Freedom of Information Act (FOIA) and limits its public availability for at least one year. By August 5, 2000, the federal government was to (1) assess the risks of Internet posting of OCA data and the benefits of public access to that data, and (2) based on that assessment, EPA did publish proposed regulations governing public access to OCA data in the Federal Register on April 22, 2000. A final Rule is now in process. These items are also in Item I-30.

Guidance from EPA on Potential to Emit (PTE)

In 1995 and 1996, in part to respond to several court decisions, EPA issued transitional guidance relative to the definition of PTE under the Clean Air Act. PTE is important because a source's PTE determines its need for a State Operating Permit under Title V. This Office has advocated that concerns of small businesses regarding clarity, realistic definitional parameters, and alternatives be considered. EPA issued several extensions of the 1995 "transition" policy, the last of which expired on December 31, 2000. Nonetheless, at this time, EPA continues to recognize practically enforceable PTE limits that are imposed and enforceable by the State. In 1996, EPA issued a clarification of methods for calculating PTEs in Batch Chemical Manufacturing. Guidance to assist States in creating minor source status for low-emitting sources in 8 industries (gasoline service stations, gasoline bulk plants, boilers, cotton gins, coating sources, printing, degreasers using volatile organic solvents, hot mix asphalt plants) was issued on April 19, 1998. Guidance regarding the PTE of some sources located on tribal lands was issued on March 7, 1999. Finally, a new booklet has been developed as a Guide to Small Businesses, Item I-31.

Clean Air Act Compliance Assistance Enforcement Policy for Small Businesses

In 1994, EPA's Office of Enforcement and Compliance Assurance issued a policy giving small businesses a limited grace period. This policy provided them with additional time to correct violations revealed during requested assistance from a State Small Business Assistance Program established under Section 507 of the CAAA, Item I-13.

National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards and Emission Guidelines for Several Categories of Industrial Combustion Sources

The Clean Air Act (CAA) requires regulation of toxic air pollutant emissions under Sections 112 and 129, from several categories of industrial combustion sources, including boilers, process heaters, waste incinerators, stationary combustion turbines, and stationary internal combustion engines. These combustion devices are used primarily for energy generation and waste disposal in a wide variety of industries and commercial and institutional establishments. They burn a variety of materials, including fossil fuels (e.g., oil, coal, and natural gas) and various commercial and industrial wastes. The industrial combustion regulations could affect thousands of sources nationwide and have

significant environmental, health, and cost impacts. Regulations for commercial and industrial waste incinerators (solid waste) were proposed on November 30, 1999. (See below). Regulations for the other industrial combustion source categories will be proposed after this date.

Clean Water Act (CWA)

Effluent Guidelines Program

Effluent guidelines are regulations for industrial discharges to surface waters and to publicly-owned treatment systems. EPA's Office of Water is working on effluent guidelines for the following industries: metal products and machinery, concentrated animal feeding operations, iron and steel, construction and development, meat products, and aquatic animal production (often called aquaculture). EPA would like to report on important progress on several effluent guidelines since the last edition of this newsletter.

In addition, EPA is developing a strategic plan for future effluent guidelines. The proposed strategy will provide background information on clean water industrial regulations, describe the role these regulations play in improving water quality, and solicit comment on the process for selecting future effluent guidelines. EPA plans to publish this information in the Federal Register in February 2002. EPA encourages small businesses to review and provide comments on the upcoming effluent guidelines plan.

You can check for updates on all of the effluent guidelines on the Internet at <http://www.epa.gov/OST/guide/>.

Metal Products and Machinery

The public notice for the proposed effluent guidelines for the Metal Products and Machinery industry appeared in the Federal Register on January 3, 2001, and the public comment period closed on July 2, 2001. The rule is scheduled for final action in December 2002. EPA is planning to publish a Notice of Data Availability in March 2002 to solicit comment on additional data that EPA has collected since January 2001.

Prior to issuing the proposed rule, EPA convened a Small Business Advocacy Review Panel. The proposal incorporated all of the Panel's recommendations. The following four examples illustrate the type of recommendations that influenced the proposal. First, the Panel recommended that EPA consider reduced monitoring for small entities. The proposal includes a waiver provision that will allow most facilities to reduce their monitoring requirements. Second, the Panel recommended that EPA consider best management practices (BMPs) instead of numerical limitations, at least for some pollutants and/or subcategories of facilities. In response, the proposal discusses and solicits comment on such an alternative for the job shops. The alternative focuses on pollution prevention measures in lieu of monitoring for a set of pollutants. Third, the Panel recommended that EPA not regulate total suspended solids, pH, iron, or aluminum for indirect dischargers. The Agency did not propose pretreatment standards for any of these parameters. Finally, the Panel recommended that EPA consider regulatory alternatives, including a no regulation option, to reduce any significant economic impacts that are not justified

by environmental improvements and to improve the cost-effectiveness of the regulation. In response, the Agency proposed low flow exclusions for two subcategories and proposed not to establish pretreatment standards for three other subcategories based on low levels of pollutants discharged.

Concentrated Animal Feeding Operations

The proposed rule for Concentrated Animal Feeding Operations (CAFOs, and referred to as "feedlots" in previous editions of this newsletter) appeared in the Federal Register on January 12, 2001. The comment period for the proposed rule closed on July 30, 2001. EPA published a Notice of Data Availability on November 21, 2001, and the comment period for the new data will close on January 15, 2002. The rule is scheduled for final action in December 2002.

Prior to issuing the proposed rule, EPA convened a Small Business Advocacy Review Panel. The recommendations from the Panel played a significant role in many aspects of the proposed rules. The following samples are meant to illustrate the breadth of issues that EPA addressed in the proposal as a direct response to recommendations from the Panel. Early in the Panel's deliberations, they reviewed and commented on EPA's methodology for defining small business and estimating the number of small entities covered by the proposal. EPA responded with alternative approaches and additional analysis. On the topic of reporting and recordkeeping, the Panel recommended that EPA streamline the recordkeeping requirements related to off-site transfer of wastes. In response, the proposal limits the requirements to a very limited amount of information. On the subject of regulatory alternatives to minimize impacts on small businesses, the proposal incorporates several provisions designed for regulatory relief, ranging from changes to the applicability thresholds to flexibility in land application requirements. The Panel also recommended that EPA evaluate and refine cost and benefit models, and the record for the proposal incorporates extensive analyses on both topics. There are thorough discussions in the preamble to the proposed rule and in the record to document the Panel's recommendations and EPA's response.

The November 2001 Notice presents new data and information submitted to EPA during the public comment period, including new data received from industry groups, the general public, and the U.S. Department of Agriculture (USDA). EPA is considering using this new information to refine the cost and economic impact model, benefits analysis, proposed permit requirements, and proposed technology requirements. The Notice also highlights recent changes in SBA's definition of small business for the livestock and poultry sectors. These changes raised the size standards used to define small businesses in the hog, dairy, broiler, and turkey sectors. SBA's size standards for these sectors were raised from \$0.5 million to \$0.75 million in average annual receipts. Size standards in the beef feedlot and egg laying sectors were not changed. These changes resulted in an increase in EPA's estimate of the number of small businesses that are potentially defined as CAFOs and subject to the proposed requirements. As a result of this change in SBA's small business definition, EPA's estimate of the number of small businesses affected by the proposed regulations would increase from 11,000 to 15,000 small businesses, as reported by EPA for the proposed regulations, to roughly 19,000 to 25,000 small businesses. EPA is soliciting comment on these preliminary estimates, as part of its November Notice.

Iron and Steel

For the Iron and Steel industry, EPA published proposed revisions to the effluent guidelines on December 27, 2000. A Notice of Data Availability (NODA) was published on February 14, 2001. The comment period closed for the last time on April 25, 2001. The rule is scheduled for final action in April 2002. For the analysis of the proposed rule, EPA estimated the number of small businesses that might be affected by the revised regulation and also analyzed the potential impacts to those businesses. The Administrator then certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Construction and Development

The Construction and Development (C&D) effluent guideline will cover construction activities associated with new development, as well as those associated with re-development activities. The regulation will address stormwater runoff from construction sites during the active phase of construction (erosion and sediment controls). The proposed rule will also set technology-based standards for post-construction stormwater management. The scope of the proposed rule is likely to be the same as the current NPDES stormwater permit program: sites with one or more acres of disturbed area. All forms of construction on these sites will be affected: residential buildings; non-residential buildings; and heavy construction. When promulgated, the effluent guidelines will be incorporated into the stormwater construction general permits issued by EPA and the States. A proposed rule is scheduled for March 2002.

EPA convened a Small Business Advocacy Review Panel for the Construction and Development effluent guideline in July 2001. The Panel's final report, including recommendations to EPA's Administrator, will be part of the rulemaking record for the proposed rule.

Background information on the C&D rule is available at <http://www.epa.gov/OST/guide/construction>.

Aquatic Animal Production

EPA plans to convene a Small Business Advocacy Review Panel in January 2002 for proposed effluent guidelines for the aquatic animal production industry. A proposed rule is scheduled for June 2002. The proposed rule will cover commercial, academic, and government facilities such as fish hatcheries and fish farms that contain, grow, or hold aquatic animals. Currently, there are no effluent guidelines to regulate discharges from facilities in this industry. The proposed regulations will address concerns about excess nutrients and other chemicals entering the Nation's waters from aquatic animal production.

Meat and Poultry Products

The Meat and Poultry Products effluent guideline will cover process water generated as a result of meat and poultry slaughtering, further processing and rendering activities. EPA's preliminary plans for the proposed rule are not expected to result in significant economic impacts for a substantial number of small businesses. Accordingly, EPA did not convene a Small Business Advocacy Review Panel for the Meat and Poultry Products effluent guideline. EPA will provide an analysis of small businesses that might be affected by the proposal and will solicit comment when the proposed rule is published. The proposed rule is scheduled for late January 2002.

Cooling Water Intake Structures

On December 18, 2001, EPA published final regulations to protect fish and other aquatic organisms from being killed or injured by cooling water intake structures at new facilities. This is the first in a series of regulations that respond to Section 316(b) of the Clean Water Act, which directs EPA to assure that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. Cooling water intake structures are used across a range of industrial categories, including steam electric power generation, pulp and paper manufacturing, chemical manufacturing, petroleum refining, and metals manufacturing.

The first phase of regulations establishes requirements for cooling water intake structures at *new facilities*. The Administrator certified that the rule would not have a significant economic impact on a substantial number of small entities. This certification was not surprising given that (1) most of the new facilities in the relevant industrial sectors are unlikely to be small businesses; and (2) most new facilities are not planning to use large volumes of cooling water drawn directly from a water of the U.S. and thus, would not be subject to the rule.

In the next two phases of cooling water intake regulations, EPA will focus on *existing facilities*. We are still collecting information and analyzing data about existing facilities that use cooling water intake structures and whether the Phase II or Phase III regulations will affect small businesses.

You can check for updates on the Cooling Water Intake regulations on the Internet at <http://www.epa.gov/waterscience/316b/>

Safe Drinking Water Act (SDWA)

Ground Water Rule Update

On May 10, 2000, EPA proposed rules to protect consumers of public drinking water supplies, which draw water from wells, springs or other ground water sources, from microbial contaminants (*Federal Register*, vol. 65, no. 91, pages 30194-30274). The EPA is required under the Safe Drinking Water Act to promulgate the Ground Water Rule (GWR) to require disinfection [as necessary] for drinking water systems using ground water. Drinking water systems using surface water have been required to disinfect since 1989. The GWR establishes a multi-barrier strategy designed to identify high-risk water systems, and will require corrective action (which may include; disinfection, elimination of contamination sources, correcting significant deficiencies, or obtaining a new source) only where contamination or significant deficiencies have been identified.

Long Term 1 Enhanced Surface Water Treatment Rule Update

The EPA proposed the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR) on April 10, 2000 (*Federal Register*, vol. 65, no. 69, pages 19046-19150). The purposes of the LT1ESWTR are to improve control of microbial pathogens, specifically the protozoan *Cryptosporidium*, in drinking water and address risk trade-offs with disinfection byproducts. The rule is likely to address the need to strengthen filtration requirements as well as to ensure that microbial

protection is not jeopardized if systems make changes to comply with disinfection requirements of the Stage 1 Disinfection and Disinfection Byproducts Rule (DBPR). The LT1ESWTR would likely apply to public water systems that use surface water or ground water under the direct influence of surface water and serve fewer than 10,000 persons, and is scheduled for promulgation in the near future.

Filter Backwash Recycle Rule Update

The EPA published the Filter Backwash Recycling Rule (FBRR) on June 8, 2001 (*National Primary Drinking Water Regulations: Filter Backwash Recycling Rule - Final Rule*) in the *Federal Register* (vol. 66, no. 111, pages 31085-31105). The purpose of the FBRR is to further protect public health by requiring public water systems (PWSs), where needed, to institute changes to the return of recycle flows to a plant's treatment process that may otherwise compromise microbial control. The final rule addresses a statutory requirement of the 1996 Safe Drinking Water Act Amendments to promulgate a regulation which "governs" the recycling of filter backwash water within the treatment process of PWSs. Less than 4,000 systems serving fewer than 10,000 persons are expected to be affected by the rule, which will require surface water systems that recycle to meet several requirements. The full text of the FBRR as well as several fact sheets and guidance materials may be found at www.epa.gov/safewater/filterbackwash.html

Stage 2 Disinfectants/Disinfection Byproducts Rule

The EPA plans to propose a Stage 2 Disinfectants/Disinfection Byproducts Rule (DBPR) in late 2001. [Note: Most small systems that serve fewer than 500 people and that are in compliance with the Stage 1 DBPR at the point of maximum residence time most likely will not be impacted by the rule. ~ Systems that serve between 500 and 10,000 people may have an additional monitoring point, in addition to the Stage 1 requirements. If a small system is a "consecutive system," it must comply with the rule on the same schedule as the system with the earliest compliance date in the combined distribution system.] The intent of the proposed rule is to reduce the variability of exposure to disinfection byproducts (DBPs) for people served by different points in the distribution systems of public water supplies. EPA believes that this decreased exposure will result in reduced risk from reproductive and developmental health effects and cancer. EPA is required under the Safe Drinking Water Act to promulgate the rule as the second part of a staged set of regulations addressing DBPs. Consistent with Safe Drinking Water Act requirements for risk balancing, EPA will propose and finalize the Long Term 2. Enhanced Surface Water Treatment Rule (LT2ESWTR) at the same time as the Stage 2 DBPR, to ensure parallel protection from microbial and DBP risks.

Long Term 2 Enhanced Surface Water Treatment Rule

The EPA is currently developing a proposal for the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR). The purpose of the LT2ESWTR is to improve upon the microbial protections provided by the Interim Enhanced Surface Water Treatment Rule and Long Term 1 Enhanced Surface Water Treatment Rule, specifically for systems with elevated vulnerability to the pathogen *Cryptosporidium*. The LT2ESWTR incorporates system specific treatment requirements based on a 'Microbial Framework' approach. Under LT2ESWTR, large

systems will monitor for *Cryptosporidium* in their source water for two years. Systems whose source water has *Cryptosporidium* concentrations that exceed specified levels will be required to provide additional treatment for this pathogen. Systems will choose technologies to comply with additional treatment requirements from a 'toolbox' of options. Small systems will have the same treatment requirements as large systems, but will have a reduced monitoring burden. Small systems will be allowed to monitor for an indicator organism, like *E. coli*, and only systems whose indicator concentrations exceed specified levels will be required to monitor for *Cryptosporidium*. The compliance schedule for small systems will be two years later than that for large systems in order to accommodate the indicator monitoring.

Consumer Confidence Reports

All community water systems are required to provide annual drinking water quality reports to their customers. Systems must deliver these reports to their customers by July 1 annually. These short reports provide consumers of public drinking water supplies with information on the source of their drinking water, levels of any contaminants found in the water, and potential health effects of any contaminants that exceed federal or state public health standards, as well as give them information on how to participate in drinking water protection. Systems began providing these reports to consumers in 1999 and results for the first two years indicate that over 90% of systems required to prepare and distribute these reports did so by the required deadline. The fourth report is due by July 1, 2002. EPA has developed a series of materials to help water systems create these reports. You can find this information on EPA's website at www.epa.gov/safewater/ccr1.html.

Class V Injection Wells

On December 7, 1999, EPA published requirements for two categories of Class V wells (*Revisions to the Underground Injection Control Regulations for Class V Injection Wells - Final Rule*) in the *Federal Register* (vol. 64, no. 234, pages 68545-68573). Class V injection wells are typically shallow disposal systems that are used to place a variety of fluids below the land surface. The Class V rule focuses on motor vehicle waste disposal wells and large-capacity cesspools. These two types of Class V wells are usually low tech, shallow wells that provide little to no protection against possible ground water contamination. The fluids released by these wells have the potential to contain elevated concentrations of contaminants that may endanger drinking water. New large capacity (serving 20 or more people per day) cesspools were banned nationwide as of April 5, 2000. Existing large capacity cesspools will be closed nationwide by April 5, 2005. New motor vehicle waste disposal wells were banned nationwide as of April 5, 2000. Existing motor vehicle waste disposal wells will be regulated in areas identified by States as sensitive for protecting existing and future drinking water supplies. EPA has developed the Small Entity Compliance Guide "How the New Motor Vehicle Waste Disposal Well Rule Affects Your Business." This Guide is available on the EPA website at www.epa.gov/safewater/uic/c5imp.html or you can contact the Safe Drinking Water Hotline at 800/ 426-4791 and request a copy.

Hazardous Waste Management Resource Conservation & Recovery Act (RCRA)

Paint Manufacturing Hazardous Waste Listing Determination

EPA is currently operating under a consent decree which establishes deadlines for a series of hazardous waste listing determinations mandated RCRA. One of these rules is the Paint Manufacturing Hazardous Waste Listing Determination. The consent decree specifies that the listing determination must cover five waste streams.

The Federal Register (February 13, 2001) published a proposed rule which proposed to add two new waste codes (waste solids K 179 and waste liquids K 180) which would regulate waste liquids and waste solids generated from the paint production processes. This rule proposed a concentration-based listing approach for the two waste codes. Under a concentration based listing, wastes would only be hazardous if they contained specified constituents at or above concentration levels listed in the proposal. The comment period on the proposal closed April 16, 2001.

A contingent management approach is also being proposed for waste liquids. Paint manufacturing waste liquids would not be hazardous due to these listings, if they are stored and treated exclusively in tanks or containers prior to proper discharge. If the waste liquids contain the listed constituents that are higher than the listed concentrations, and they are managed in surface impoundments prior to discharge or sent to incineration or fuel blending, they would be listed hazardous waste.

Finally, this action would establish land disposal restrictions for these wastes and proposes to add n-Butyl alcohol, Ethyl benzene, Methyl isobutyl ketone, Styrene, and Xylene to Appendix VIII of 40 CFR Part 261, a list of hazardous constituents.

This action could affect those who manufacture paints and industries that process or transport paint manufacturing wastes. The annual economic effects of this proposal are estimated to be less than \$100 million. Furthermore, it is not expected to 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. Because this rule used both a concentration-based listing and a contingent management approach, regulatory impacts were reduced from those found in a traditional listing.

The final rule must be signed by the Administrator by March 30, 2002 and will be published in the Federal Register in April.

Revised Standards for Hazardous Waste Combustion Facilities

Background

The Clean Air Act (CAA) requires that emission standards be established for certain categories of sources that emit hazardous air pollutants. Incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous waste – collectively called hazardous waste combustors – are three such source categories. In addition, the Resource Conservation and Recovery Act (RCRA) requires EPA to

establish performance standards for hazardous waste combustors as necessary to ensure protection of human health and the environment.

EPA promulgated standards for hazardous waste combustors under joint authority of the CAA and RCRA on September 30, 1999 (64 FR 52828). On December 6, 2001, EPA published a final rule extending the compliance date one year. Since promulgation of the final rule, EPA has published in the Federal Register several notices correcting, clarifying, and amending the final rule. These notices are available from EPA's Hazardous Waste Combustion website <http://www.epa.gov/epaoswer/hazwaste/combust/preamble.htm>. These items are also included in Item C-92.

Recent Activities

A number of parties, representing interests of both industrial sources and of the environmental community, sought judicial review of the final rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) granted the Sierra Club's petition for review and vacated the challenged portions of the rule. In its decision the Court invited EPA or any of the parties that challenged the regulations to file a motion with the Court to request either that the current standards remain in place, or that EPA be allowed time to develop interim standards, during which time EPA will propose and finalize standards that comply with the Court's opinion.

On October 19, 2001, EPA, together with all other petitioners that challenged the hazardous waste combustor standards, filed a Joint Motion asking the Court to stay the issuance of its mandate for approximately four months to allow EPA time to develop interim standards. The interim standards will replace the vacated standards temporarily, until final standards are promulgated.

The Motion contemplates that EPA will issue final standards which fully comply with the Court's opinion by June 14, 2005, and the Motion indicates that EPA and Petitioner Sierra Club hope to enter into a settlement agreement requiring EPA to promulgate final rules by that date. The Joint Motion also detailed other actions that EPA intends to take, including issuing a one-year extension to the September 30, 2002 compliance date (this action was completed on December 6, 2001 (66 FR 63313)), promulgating by February 14, 2002 an interim rule with amended emission standards for several of the hazardous air pollutants emitted by these sources, and promulgating by February 14, 2002 several compliance and implementation amendments to the final rule. The Joint Motion and other related information can be viewed and/or downloaded from EPA's Hazardous Waste Combustion website (see link above).

RCRA Reporting And Recordkeeping Burden Reduction

To meet the goals of the Paperwork Reduction Act of 1995, the Office of Solid Waste (OSW) plans to reduce its Subtitle C reporting and recordkeeping burden on the regulated community, states, and the public. On June 18, 1999, OSW published for review and comment a Notice of Data Availability (NODA) with EPA's burden reduction ideas, and their associated burden reduction estimates. This notice may be found at the web site www.epa.gov/epaoswer/hazwaste/data/burdenreduction. After reviewing the comments OSW received on the NODA, OSW will publish a proposed rule to implement as many of these ideas as warranted.

The EPA Office of Solid Waste (OSW) is committed to reducing

its paperwork burden by 40%, the goal established by the Paperwork Reduction Act, and has already reduced its paperwork burden substantially (by 1.6 million hours or 18%) through such reductions as eliminating regulatory requirements for the Land Disposal Restrictions Program and ending the requirement for states to prepare Capacity Assurance Plans.

There are ongoing burden reduction efforts in OSW, such as streamlining the Hazardous Waste Manifest, development of a standardized permitting system, and a major overhaul of the Biennial Report and the Hazardous Waste Notification system.

The Office of Solid Waste has undertaken the Burden Reduction Initiative, a major project that will further reduce paperwork burden. Some of the ideas the initiative is working on are:

(1) OSW requires 334 notices and reports from facilities to show compliance with its regulations. Approximately 100 of these notices and reports may be streamlined or eliminated;

(2) Streamlining facility self-inspection requirements; and

(3) Reducing requirements of the Land Disposal Restrictions Program which regulates the disposal of hazardous wastes. Now it is planned to issue a proposed rule.

Solvent-contaminated Shop Towels And Wipes

EPA's Office of Solid Waste is developing a rulemaking that would change the regulations affecting solvent-contaminated shop towels, wipes, and rags. Currently, a disposable wipe or rag may be regulated as a hazardous waste if that wipe or rag comes in contact with a solvent that, when spent, is a listed hazardous waste or exhibits a characteristic of hazardous waste. Regulatory requirements for hazardous waste are found in 40 CFR 261-266, 268 and 270 and currently apply to these wastes.

Reusable towels are provided a conditional exemption from regulation as hazardous waste under most state programs. As a condition of the exemption, however, the towels may not contain any free liquids when they are sent offsite to a laundering facility. Otherwise, there are few regulations applicable to reusable shop towels.

The current rulemaking effort is directed to both clarifying and streamlining requirements for disposable and reusable solvent-contaminated shop towels, wipes and rags, such as record-keeping and reporting, manifesting, etc., so long as specified conditions are met; i.e., "no free liquids," and transported off-site in closed containers. However, more stringent requirements would apply for wipes disposed in a landfill in order to obtain an exemption from RCRA Subtitle C regulations.

Standardized Permit For RCRA Hazardous Waste Management Facilities

This rulemaking will allow a type of general permit, called a standardized permit, for facilities that generate waste on-site in tanks, containers, and containment buildings. Under the standardized permit, facility owners and operators would certify compliance with generic design and operating conditions set on a national basis. The permitting agency would review the certifications submitted by the facility owners or operators. The permitting agency would also be able to impose additional site-specific terms and conditions for corrective action or other purposes, as called for by RCRA. Ensuring compliance with the standardized permit's terms and conditions would occur during inspection of the facility after the permit has been issued.

A Notice of Proposed Rulemaking (NPRM) was published on October 12, 2001 in the *Federal Register*. The Agency will be

assessing public comments over the next six month and expects to publish a final rulemaking in the Fall of 2002.

Hazardous Waste Recycling Regulations

EPA has promulgated streamlined, hazardous waste management regulations governing the collection and transportation of certain wastes which are frequently recycled, such as batteries, recalled pesticides, and mercury thermostats, termed "Universal Wastes." This Final rule (5/11/95 FR pp. 25491-551) and Amendment (12/24/98 FR pp 71225-30) are included in the Item C-51.

Recycling of Cathode Ray Tubes (CRTs): Proposed Changes to Hazardous Waste Regulations

This action will propose to revise the existing federal regulations to encourage reuse, recycling, and better management of cathode ray tubes (CRTs). A CRT is the main component of a television or computer monitor. A CRT is made largely of specialized glasses, many of which contain lead to protect the user from X-rays inside the CRT. Due to the lead, many CRTs could be hazardous wastes under the Federal Resource Conservation and Recovery Act (RCRA) regulations when they are disposed of or recycled under certain circumstances. Recycling can include using used CRT glass to make new CRTs, reclamation at lead smelters, or other uses. The forthcoming notice will propose to exclude CRTs from RCRA regulation if they are recycled under certain conditions.

This action is planned in response to a June 9, 1998 recommendation on CRT recycling from the Common Sense Initiative (CSI) Council to The Environmental Protection Agency (EPA). CSI is a consensus-based process for developing cleaner, cheaper, smarter environmental improvements. The Council includes representatives of industry; environmental groups; community groups; environmental justice groups; labor; and, Federal, State, local, and tribal governments. The recommendation urged minimizing RCRA requirements for CRT recycling while retaining appropriate controls to ensure protection of human health and the environment. The goal of the recommendation is to facilitate an increase in recycling, thereby minimizing disposal of lead, increasing resource recovery, and enhancing protection of human health and the environment.

A Notice of Proposed Rulemaking (NPRM) is anticipated to be published in early 2002.

Hazardous Waste Management System; Identification And Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes; And CERCLA Hazardous Substance Designation And Reportable Quantities

EPA, under an Environmental Defense Fund settlement agreement, amended the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to reduce hazards to human health and the environment for three wastes from the manufacturing of inorganic chemicals. Specifically, the following wastes have been added to the list of hazardous wastes in 40 CFR 261.32:

- | | |
|------|---|
| K176 | Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide) |
| K177 | Slag from the production of antimony oxide that is |

speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide)

- K178 Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process.

Under the settlement agreement, EPA had to review the wastes from 14 inorganic chemical manufacturing sectors including: sodium dichromate production wastes, wastes from the dry process for manufacturing phosphoric acid, phosphorus trichloride production wastes, phosphorus pentasulfide production wastes, wastes from the production of sodium phosphate from wet process phosphoric acid, sodium chlorate production wastes, antimony oxide production wastes, cadmium pigments production wastes, barium carbonate production wastes, potassium dichromate production wastes, phenyl mercuric acetate production wastes, boric acid production wastes, inorganic hydrogen cyanide production wastes, and titanium dioxide production wastes (except for chloride process waste solids).

EPA completed the review of the wastes from the above sectors and published a proposal on September 14, 2000. The final rule was signed by the EPA Administrator on October 31, 2001. The action was issued under the authority of section 3001(e)(2) of RCRA which directs EPA to make a hazardous waste listing determinations for inorganic chemical manufacturing wastes.

Land Disposal Restrictions; Potential Revisions for Mercury Listed and Characteristic Wastes

In May 1999, EPA published an Advance Notice of Proposed Rulemaking that described the issues the Agency has with the current Land Disposal Restrictions (LDR) treatment standards for mercury bearing hazardous wastes. The EPA in conjunction with the Department of Energy is conducting an assessment of the environmental stability of treated waste forms of elemental mercury and mercury-contaminated soils. Several of the vendors who expressed interest in processing the Department of Defense's mercury stockpile are participating in this effort. EPA expects to publish a Notice of Data Availability in 2002 which will describe the results of this assessment and discuss alternatives to the current requirements, such as treatment variances or a possible rulemaking.

Uniform Hazardous Waste Manifest Update

Further Rulemaking actions under consideration which address management of hazardous wastes include a revision of the Uniform Hazardous Waste Manifest to reduce the paperwork burden associated with the manifest, consistent with the current Agency objectives for burden reduction. Currently, many states collect manifests, and they may require additional information to be supplied on the manifest in the optional blocks provided on the form. This can become burdensome when waste must be transported to several different states and each state has slightly different requirements or requires its own form. Also, some states require paying a fee to obtain their manifest. The Agency seeks to reduce the burden of the manifest by streamlining the form by prescribing one universal form, and, where feasible, by utilizing automated information technologies which facilitate the electronic completion, signing, transmission, and storage of manifest data.

A notice of proposed rulemaking was published on May 22, 2001. The comment period closed on October 4, 2001. EPA received about 60 sets of comments, and the agency is now reviewing and analyzing

these comments. A final rule is anticipated around May, 2003.

Hazardous Waste Storage and Disposal Regulation Related to Low Level Mixed Waste

The Environmental Protection Agency (EPA) has amended its regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) to provide a conditional exemption from certain requirements for eligible mixed waste. The "Storage, Treatment, Transportation, and Disposal of Mixed Waste; Final Rule" was published in the Federal Register on May 16, 2001. (Included in Item C-59)

Mixed waste is a radioactive RCRA hazardous waste. It is regulated under two authorities: 1) the Resource Conservation and Recovery Act (RCRA), as implemented by EPA or authorized states for the hazardous waste component; and 2) the Atomic Energy Act of 1954, as amended (AEA), for the radiological component as implemented by either the Department of Energy (DOE), or the Nuclear Regulatory Commission (NRC) or Agreement States.

The focus of the final rule is to provide flexibility under RCRA Subtitle C to generators of eligible mixed waste. EPA is establishing a conditional exemption from the definition of hazardous waste applicable to: low-level mixed waste (LLMW) for storage and treatment; and LLMW, or hazardous waste contaminated by Naturally Occurring and/or Accelerator-produced Radioactive Material (NARM) for transportation and disposal. The rule will reduce dual regulation for generators in the management and disposal of their wastes. This flexibility will enable generators of LLMW who are licensed by the Nuclear Regulatory Commission (NRC) to claim an exemption for storing and treating these wastes in tanks or containers without a RCRA permit. The rule also provides flexibility for the manifesting, transportation and disposal of eligible mixed waste. Waste meeting the conditions is exempted from certain RCRA Subtitle C hazardous waste requirements and may be managed as solely radioactive waste in accordance with NRC or Agreement State regulations.

EPA is currently working on two products which should be of assistance to small businesses early in calendar 2002. The first product is a compilation of frequently asked questions which will be available on the website when completed. It will provide implementation guidance to mixed waste generators who want to claim the conditional exemption. The second product is an overview and summary of the provisions of the rule which will be in the form of a printed brochure to publicize the rule to businesses and others involved in mixed waste management.

The Federal Register Notice is available in electronic format on the Internet at <<http://www.epa.gov/radiation/mixed-waste>>. The final rule became effective November 13, 2001.

Small Quantity Generator Handbook

A handbook has been published, "Understanding the Hazardous Waste Rules--A Handbook for Small Business--1996 Update" [EPA-530-K-95-001], June 1996, which is available. Also, included with the handbook in Item C-10 is an Addendum, which provides information on Department of Transportation regulated waste transport requirements and domestic sewage requirements for hazardous wastes. In addition, in an "Appendix A," the Regional and State contacts for the regulated waste program are "updated," and notations are made on which states require fees for obtaining copies of the Waste Manifests for transport of the waste generated. Other appendices in the Addendum provide sources of information and guidance on waste minimization and pollution prevention. Item C-10.

Above-ground Storage Tanks (AST)/SPILL Prevention Control and Counter-measures Update

The EPA has promulgated the Oil Pollution Prevention rules under Title 40 CFR Part 112 included in Item C-77 requiring that facilities prevent oil spills and ensure preparedness in the event of spills. This rulemaking is commonly known as the Spill Prevention Control and Countermeasure (SPCC) regulation. The rulemaking deals with spill prevention. The SPCC program concerns regulation of non-transportation related facilities with above-ground storage capacity in excess of 1,320 gallons or 660 gallons in a single tank, or buried tanks of greater than 42,000 gallons capacity. Proposed Rules were published (FR 10/22/91, pages 54611-41), and (FR 2/17/93, pages 8841-4 and pages 8846-8) which are included in Item C-77. The Clinton Administration is committed to reducing the burden that EPA regulations place on facilities without jeopardizing the level of environmental protection. In support of this objective, the EPA has completed a study of a cross-section of facilities which store oil to determine the level of risk the various facilities pose to neighboring populations and the environment. Proposed rule was published (FR 12/2/97, pages 63812-20), which is included in Item C-77.

The rule, 40 CFR Part 112, also concerns facility preparedness and development of response plans under the Oil Pollution Act (the Act of 1990) which requires that EPA issue regulations to require "Facility Response Plans" (FRP) covering events which could cause substantial harm to the environment. Also, included in publication Item C-77 is the National Response Team's Integrated Contingency Plan Guidance, Notice 6/5/96 FR pp. 28641-64, with corrections, 6/19/96 FR pp. 31163-4, which provides additional guidance on emergency plan preparation. An amendment to the Facility Response Plan requirements has been published as a Final Rule (FR 6/30/00 pp. 40775-817) with corrections (FR 7/14/00 p. 43840, and FR 6/29/01 pp. 34559-61) all of which are included in Item C-77.

Superfund Comprehensive Environmental Response, Compensation & Liability Act (CERCLA)

CERCLA Lender Liability Policy

As enacted in 1980, section 101(20)(A) of CERCLA exempted from "owner or operator" liability "a person who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility." Because this language created uncertainty among lenders and other secured creditors as to what types of actions they could take to protect their security interests without forfeiting the protection of this exemption, EPA promulgated the CERCLA Lender Liability Rule in 1992. 57 Fed. Reg. 18344 (April 29, 1992). However, in the 1994 case of *Kelley v. EPA*¹, the U.S. Court of Appeals for the District of Columbia Circuit struck down this rule, finding that EPA lacked the authority to define the scope of liability by regulation. Congress subsequently enacted the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996² ("the Act") to provide greater certainty in this important area. Among other things, the Act added new lender liability provisions to CERCLA and validated the portion of the CERCLA Lender Liability Rule that addresses involuntary acquisitions by government entities. These provisions of the Act are applicable to all claims not finally adjudicated as of September 30, 1996². On June 30, 1997, EPA issued a policy

interpreting the provisions of the Act that relate to lender liability and involuntary acquisitions by government entities. A copy of this policy is available on EPA's public Web site at:

www.epa.gov/oeca/osre/970630.html.

¹15 F.3d 1100 (D.C. Cir.), *reh'g denied*, 25 F.3d 1088 (D.C. Cir. 1994), *cert. denied sub nom. American Bankers Ass'n v. Kelley*, 115 S. Ct. 900 (1995).

²Pub. L. No. 104-208, §§ 2501-2505, 110 Stat. 3009, 3009-462 to 3009-469 (1996).

Emergency Planning, and Community Right-to-know Act (EPCRA)

Supporting the State Local Emergency Planning Committees (LEPC)

Major requirements of the Act include emergency planning for designated hazardous substances (Extremely Hazardous Substances, or "EHS") above threshold reporting quantities; reporting releases of EHS and hazardous substances above reportable quantities; submission of Material Safety Data Sheets (MSDS) to planning groups; and submission of annual reports on March 1, 2001 covering inventories of hazardous substances, which for any time in the reporting year exceed the stated reporting thresholds. These requirements are explained in the "Community Right-to-Know and Small Business" pamphlet, Item K-32.

On June 8, 1998, EPA proposed modifications to 40 CFR Part 370, the regulations codifying sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA). The proposed rule, FR item on 6/8/98, as included in Item K-30, addressed several changes.

Higher reporting thresholds for gasoline and diesel fuel at retail gasoline stations. Retail gas stations that store gasoline and diesel fuel entirely underground and are in compliance with underground storage tank (UST) regulations would be subject to the following thresholds under section 311-312: 75,000 gallons for all grades of gasoline combined and 100,000 gallons for diesel fuel. EPA estimates that the vast majority of retail gas stations will have less than these quantities.

Greater reporting flexibility and elimination of routine reporting requirements for: rock salt, sand, gravel, and other materials. Facilities that store or handle rock salt, sand, and gravel no longer would report these substances under sections 311-312, regardless of how much was onsite.

Clarify reporting of mixtures and change the interpretation of the existing hazardous chemical exemption for solids under Section 311.

Solicited comments on the changes as noted above, and also asked for comment on several issues that would give State and Local Governments more flexibility to implement the existing requirements of EPCRA sections 311-312.

Partnership programs for streamlined submission of and joint access to section 311 and 312 information;

Electronic submittal of information;

Reporting of ONLY changes in information, rather than submitting a new inventory each year;

Allowing RCRA UST reports to fulfill EPCRA Section 312 requirements.

This notice proposes to rewrite the existing regulations under Sections 302-312 of EPCRA in a "Plain Language" format, and incorporates the requirements addressed in the Final rule (5/7/96 FR pp. 20473-90). Comment is also being sought on the use of the "Plain English" in this rule.

The texts of the proposed rule are available also in electronic

format at: <http://www.epa.gov/ceppo/>, EPA's Chemical Emergency Preparedness and Prevention Office Home Page. EPA issued a final rule February 11, 1999 (Relief for retail gas stations) that eliminated reporting on gasoline and diesel fuel stored entirely underground in tanks, fully in compliance with Underground Storage Tank (UST) Regulations at retail gas stations with thresholds of:

75,000 gallons for all grades of gasoline combined and 100,000 gallons for diesel fuel.

Convenience stores and truck stops that sell gasoline or diesel fuel to the public also meet the definition of retail gas stations.

Retail gas stations that meet these criteria were not required to file Tier I or Tier II reports for calendar year 1998. This final rule is included in Item K-30. After reviewing the public comments on the proposed rule, EPA decided that the proposal involving the relief from routine reporting for substances with minimal hazards and minimal risk needed clarification and further development prior to promulgating a final rule. This supplemental notice will further clarify EPA's intent and proposes an alternative modification to Part 370 to reduce the number of chemicals on which facilities must report annually under EPCRA section 312.

The supplemental notice will be published soon (By the end of January 2002). The other items in the proposed rule of June 8, 1998 will most likely not be finalized until later in 2002.

Toxics Release Inventory (TRI) (Update)

The EPCRA Section 313 program is also referred to as the Toxics Release Inventory or TRI. Under Section 313, facilities are required to report releases and other waste management of specifically listed chemicals. Facilities that meet all three of the following criteria are subject to EPCRA Section 313 release and other waste management reporting: (1) have 10 or more full-time employees or the equivalent; (2) are in a covered SIC Code (including SIC codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20-39, 4911, 4931, 4939 (4911, 4931, 4939 limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under RCRA Subtitle C, 42 U.S.C. section 6921 et seq.), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis)); and (3) exceed anyone threshold for manufacturing (including importing), processing, or otherwise using a toxic chemical listed in 40 CFR Section 372.65. See also the Final Rule, 5/1/97 FR pp. 23833-92, included in K-29.

If a facility meets the employee threshold and is in a covered SIC code, but its annual reportable amount of the toxic chemical does not exceed 500 pounds and the facility has not manufactured, processed, or otherwise used more than one million pounds of the toxic chemical, the facility may submit the Form A (a two-page certification statement) instead of the Form R. However, if the facility exceeds either the 500 or one million pound limits, it must report on the Form R.

Facility Expansion—On May 1, 1997, EPA published a final rule (5/1/97 FR pp. 23833-92) to add certain industry sectors to the current list of facilities required to report to TRI. These new industries began reporting their releases and other waste management information for activities conducted in 1998 in reports due July 1, 1999. The seven new industry groups are: metal mining, coal mining, electric utilities, commercial hazardous waste treatment, chemicals and allied products (wholesale), petroleum bulk terminals and plants, and solvent recovery services. This rule is included in K-29.

Persistent Bioaccumulative Toxic Chemicals (PBTs)—On October 29, 1999 (64 FR 58666) EPA published a final rule which lowers the EPCRA section 313 reporting thresholds for certain persistent bioaccumulative toxic (PBT) chemicals and adds certain other PBT

chemicals to the EPCRA section 313 list of toxic chemicals. The rule also includes modifications to certain reporting exemptions and requirements for the chemicals newly subject to the lower reporting thresholds. These PBT chemicals are of particular concern not only because they are toxic but also because they remain in the environment for long periods of time, are not readily destroyed, and build up or accumulate in body tissue. The new rule was effective January 1, 2000. Therefore, the new requirements began to apply for TRI reports on releases and waste management for the year 2000 which had to be submitted to the Agency by July 1, 2001. The list of PBT chemicals affected by the new rule include: Aldrin; Benzo(g,h,i)perylene*; Chlordane; Dioxin and dioxin-like compounds category*; Heptachlor; Hexachlorobenzene; Isodrin; Methoxychlor; Octachlorostyrene*; Pendimethalin; Pentachlorobenzene*; Polycyclic aromatic compounds category; Polychlorinated biphenyl (PCBs); Tetrabromobisphenol A*; Toxaphene; Trifluralin; Mercury; and Mercury compounds (PBT chemicals newly added to the EPCRA section 313 list of toxic chemicals are indicated by an asterisk). This rule is also included in K-29.

Lead and Lead Compounds—On January 17, 2001, EPA published a final rule which lowers their reporting thresholds for lead and lead compounds. The first reports using the lower thresholds will be due on or before July 1, 2002 (i.e., for calendar year 2001 reports). EPA believes that lead and lead compounds are persistent, bioaccumulative toxic (PBT) chemicals that warrant lower reporting thresholds than those currently established under EPCRA section 313. The rule includes a limitation on the reporting of lead when contained in certain alloys and proposed modifications to certain reporting exemptions and requirements for lead and lead compounds. (Also included in K-29).

Toxics Release Inventory (TRI) Public Data Release

EPA released the 1999 TRI Data on April 11, 2001. TRI summary information and data access is available via the web at www.epa.gov/tri/tri99. The TRI 1999 Data Release (TRI99) website provides fast and easy access to the data overview and relevant TRI information (including tables, charts, maps, and press materials). The TRI data can be accessed using the TRI Explorer (www.epa.gov/triexplorer) as well as several other tools available on the TRI website. EPA also released two publications summarizing the 1999 data: the 1999 TRI Public Data Release report; and the 1999 State Fact Sheet report. These documents are available on the TRI99 website noted above or by calling the EPA National Service Center for Environmental Publications (NSCEP) at 800-490-9198 (reference EPA 260-R-01-001 for the Public Data Release report; and EPA 260-F-01-001 for the State Fact Sheets). The Toxic Release Inventory 1999, Executive Summary (11 pp.) is available as Item K-66.

The 1998 TRI Public Data Release report was released in May 2000. Similar to the 1999 data access page, the 1998 Data Release (TRI98) website provides fast and easy access to the data overview and relevant TRI information (available at www.epa.gov/tri/tri98). Both the 1998 TRI Public Data Release report and the 1998 Public Data Release State Fact Sheet report are available on the TRI98 website noted above or by calling the EPA National Service Center for Environmental Publications (NSCEP) at 800 490-9198 (reference EPA 745-R-00-007 for the Public Data Release report; and EPA 745-F00-003 for the State Fact Sheets). The 1998 Toxic Release Inventory (TRI) Data Summary, EPA 745-R-00-002, May 2000 (48 pp.) is available as Item K-64. Copies of these documents may be obtained by calling the Emergency Planning and Community Right-to-Know Act (EPCRA) Hotline at 800 535-0202 (in the Washington, DC area call 703-412-9810). More information is also available via the TRI website at www.epa.gov/tri.

Toxic Substance Control Act (TSCA)

Lead: Notification Requirements for Lead-Based Paint Abatement Activities and Training

A rule is being proposed to establish notification procedures for lead abatement professionals conducting lead-based paint activities, and training programs providing lead-based paint activities courses. Specifically, the rule seeks to establish procedures to notify the Agency prior to commencement of lead-based paint abatement activities as required by 40CFR745.227(e)(4). In addition, this rule seeks to establish provisions which would require training programs accredited under 40CFR745.225 to notify the Agency under the following conditions: (1) prior to providing lead-based paint activities training and (2) following completion of lead-based paint activities courses. FR 1/22/01, Page 7207-16. Item E-58

Lead: Management and Disposal of Lead-based Paint Debris

EPA is proposing a rule under TSCA to provide new standards for the management and disposal of LBP debris generated by contractors. EPA also is separately proposing temporary suspension of the regulations under Subtitle C of the Resource Conservation and Recovery ACT (RCRA), which currently apply to LBP debris. The new TSCA standards do not address LBP debris generated by homeowners in their own homes. The notice of the proposed rules was published in the FR 12/18/98, pp 70190 and 70233. Subpart P Item E-47.

Lead: Disposal of Residential Lead-Based Paint Waste

A direct Final Rule has been published to allow residential lead-based paint waste to be disposed of in construction and demolition landfills, effective January 22, 2002. The rule adds a definition which states: "Residential lead-based paint waste means waste generated as a result of lead-based paint activities (including abatement, rehabilitation, renovation and remodeling) in homes and other residences. The term residential lead-based paint waste includes, but is not limited to, lead-based paint debris, chips, dust and sludge. Not included is LBP waste from non-residential structures such as public and commercial buildings, warehouses, bridges, water towers and transmission towers. Also, not included in the residential LBP waste definitions are residential LBP demolitions and deconstruction waste. EPA does not consider demolition and deconstruction waste to be household since it is not similar to those wastes generated by a consumer in the home in the course of daily living. FR Oct 23, 2001, Page 53535-53542, 40 CFR Parts 257 & 258. Item E-48

Lead: Lead-based Paint Activities: Training and Certification for Renovation & Remodeling: Prerule Stage

The Toxic Substance Control Act, Title IV, Section 402(c) directs EPA to address renovation and remodeling activities by first conducting a study of the extent to which persons engaged in various type of renovation and remodeling activities are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular basis. Section 402(c) further directs the Agency to revise the lead-based paint activities regulations (40 CFR part 745 subpart L) to include renovation or remodeling activities that create lead-based paint hazards. In order to determine which contractors are engaged in such activities the Agency is directed to utilize the results of the study and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation,

experts in health effects, and others.

General

National Environmental Laboratory Accreditation Conference (NELAP)

The 11 NELAP Accrediting Authorities (California, Florida, Illinois, Kansas, Louisiana, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, and Utah) announced the first round of NELAP accredited laboratories on January 24, 2001. There were nearly 800 laboratories that successfully met all the National Environmental Laboratory Accreditation Conference (NELAC) standards. With this auspicious beginning, the universe of NELAP Accrediting Authorities and NELAP accredited laboratories is expected to expand rapidly in the near future.

Background

NELAC is a voluntary association of State and Federal Agencies formed to establish and promote mutually acceptable performance standards for the inspection and operation of environmental laboratories. Private sector input to the process is obtained through a variety of mechanisms including open semi-annual meetings, committee participation, and the Environmental Laboratory Advisory Board (ELAB), a federally chartered committee that receives advice from a balanced representation of the private sector. NELAP is the EPA program that supports NELAC and recognizes the NELAP Accrediting Authorities.

The NELAC standards have been developed through a consensus process and are the foundation for recognition among the various accrediting authorities. The NELAC standards are primarily designed around two guidance documents that originated with the International Organization for Standardization (ISO), a body that develops consensus standards in a variety of technical fields. The two documents are ISO/IEC Guide 25-1990: "General Requirements for the Competence of Calibration and Testing Laboratories," and ISO/IEC Guide 58: "Calibration And Testing Laboratory Accreditation Systems-General Requirements For Operation And Recognition". The NELAC standards are currently undergoing revision to comply with ISO/IEC Standard 17025.

All aspects of NELAC are voluntary, requiring neither Congressional mandate nor EPA rulemaking. However, the state, territorial and federal agencies may make participation mandatory for the laboratories under their jurisdiction. Approval as a NELAP Accrediting Authority does require that states recognize laboratories accredited by other NELAP Accrediting Authorities.

A major goal of NELAC is to assure that decisions being made from analytical data have a sound technical, scientific, and statistical basis. The standards have been designed to help assure that the NELAC-accredited laboratories deliver data of the required level of quality. NELAC standards provide a flexible system, designed to accommodate the various operational procedures and processes of the states under the regulatory programs delegated to the states by EPA.

The 800+ laboratories that are now NELAC accredited range from small municipal to large commercial environmental laboratories. NELAC is focusing on an outreach program to address the needs of the over 5,000 smaller commercial labs that are not in the program and is presently preparing a documentation package specifically designed to help small labs meet NELAC requirements.

The Envirofacts Warehouse now offers a new feature that facilitates the notification to EPA if an error is found in any of the environmental information, including the facility identification information. To use this feature, simply click the red error button from

the top navigation bar on each web page providing facility information. This service is available now to users who wish to correct data available from the EPA web site.

The 3rd phase of this effort is the development and creation of a master record with accurate facility identification information for each of the over 750,000 facilities that are subject to environmental regulations. Over 160,000 "master" records have been created with a goal of increasing that number to 250,000 records by the end of 2001. Many States who are developing "master" records are beginning to share these records with the EPA. The EPA records are available through the Envirofacts Warehouse web site. Once each facility has a "master" record, EPA will be able to pursue the identification of similar data and, where possible, begin to aggressively reduce and eliminate duplicate reporting. Companies are urged to visit the Internet site identified above.

Environmental Technology Verification Program

The Environmental Technology Verification Program (ETV) was started by the U.S. Environmental Protection Agency (EPA) in October 1995 to address the need for credible environmental technology performance data to help businesses and communities better utilize the available environmental technology choices. ETV operates through public/private testing partnerships to verify the performance of commercial-ready private sector environmental technologies in all media - air, water, soil, eco-systems, waste, pollution prevention, and monitoring. By October 1, 2001, 164 private sector environmental technologies had been verified, 82 additional technologies were in the testing process, and another 120 had submitted applications for testing. Information on the ETV program may be accessed at the ETV web site: www.epa.gov/etv.

The ETV program also has a listserv, ETVoice, which sends a brief monthly message to anyone interested in the ETV program highlighting new and updated information on the web site. You may subscribe to ETVoice through the web site.

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The ETV Program Director is **Teresa Harten** who may be reached at harten.teresa@epa.gov, or at 513-569-7565.

Environmental Management Systems (EMS) Implementation Guide

Recognizing the potential difficulties faced by small- and medium-sized organizations wishing to put EMSs in place, EPA's Office of Water, in conjunction with several other Agency offices, has produced a revised version of a Guide to EMS implementation that specifically meets the needs of these types of organizations. The revised Guide is based on the elements of the ISO 14001 standard and is written in plain, easy to understand language. Several small organizations worked with EPA and NSF International to design and review the Guide and hundreds of organizations throughout the world are presently using it. The Guide provides a step-by-step approach for putting an EMS in place and gives a number of examples from companies that have already done so. The Guide also provides tips for putting in place an effective approach for managing an organization's compliance with regulatory requirements and using pollution prevention techniques to enhance the environmental management system. Collaboration has been expanded to include OW, OECA, OPPTS, and OPEI. The contact person is **Jim Horne** (202-564-0571). For copies of the Guide, call 1-800-368-5888 and request Item B-12.

EPA's National Environmental Performance Track Program Continues to Add New Members

Launched in mid-2000, EPA's National Environmental Performance Track Program provides recognition and incentives to top

environmental performers. It is open to facilities of all types, sizes, and complexity; public or private; manufacturing or service-oriented. Current membership totals 250 facilities; EPA is reviewing an additional 50 facility applications and expects to announce the new members in late January, 2002. Facilities are selected based on their systematic approach to environmental management, commitments to continuous improvement, a sound compliance history, and a willingness to reach out to the community. Of the current membership, approximately 8% have fewer than 50 employees, 11% have 50-99 employees, and 28% have 100-499 employees. Additional information on the Program, including application materials, can be found at www.epa.gov/performancectrack or call 1-888-339-PTRK

To help build the capacity of small businesses who might be interested in joining the Performance Track Program, EPA is has been engaged in the Performance Track Assistance Project (PTAP). Under PTAP, EPA is working with a number of small business trade associations and other stakeholders to provide assistance to those that would like to participate in the Performance Track Program but are presently unable to meet the requirements. The effort addressing the four pillars of the Performance Track: Environmental management systems (EMSs), continuous improvement, community outreach, and sustained compliance.

To date, PTAP has focused on helping trade associations work with their members to develop "better than compliance" environmental management systems (EMSs) that will meet the requirements of the Performance Track Program as well as help members reduce costs, increase competitiveness, and protect the environment. This effort includes EPA representatives from the Small Business Office, the Compliance Assistance Program, the Design for the Environment Program, the Sustainable Industries Program and the Performance Track Program. As a part of this effort, we are:

- ▶ developing the *Pathfinder* CD that will provide trade associations with ready access to the information they need to develop sector-specific EMS guidance for their members;
- ▶ working with a number of trade associations to review their EMS guidance and help them improve their guidance as needed;
- ▶ developing EMS materials useful to trade associations for engaging their members in developing EMSs and EMS marketing tools addressed to higher management in companies; and
- ▶ revising the existing EPA EMS web page at www.epa.gov/ems to better reflect current EPA EMS activities.

For additional information on PTAP, contact **Tim Stuart**, ph. 202-260-0725, e-mail: stuart.tim@epa.gov.

Revised Small Lab Environmental Management Guide

See the special announcement on the Guide's availability in this Newsletter. The Guide can also be found and downloaded from the EPA Small Business Ombudsman's Home Page www.epa.gov/sbo and the State Small Business Home Page www.small.biz.enviroweb.org. We have completed a project to update and expand the Guide. There is more comprehensive coverage of environmental management issues affecting small labs. New areas of coverage include radioactive materials and biologically active substances. A summary of hazardous waste management techniques allowing on-site treatment is included, as well as, expanded pollution prevention opportunities, and opportunities for cost efficiencies. See Item B-16.

Consolidation of Good Laboratory Practice Standards (GLPS) Regulations Currently Under TSCA And FIFRA Into One Rule

On November 29, 1983, EPA published Good Laboratory Practice Standards (GLPS) regulations intended to help ensure data integrity for studies required to support marketing and research permits under the

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Toxic Substances Control Act (TSCA). These rules were last amended on August 17, 1989. GLPS data integrity measures can be applied to a wide variety of scientific studies. EPA had undertaken an effort to revise these rules by consolidating the two GLPS into one rule.

EPA has suspended work on the consolidation effort indefinitely pending the outcome of international efforts to develop GLPS.

Resource Guide For Small Business Environmental Assistance

Under a grant from the Office of the Small Business Ombudsman, the Iowa Waste Reduction Center (IWRC), University of Northern Iowa, developed a multi-media Resource Guide for Small Business Assistance Providers. This Guide provides a quick and convenient reference tool for locating environmental assistance materials (regulatory and non-regulatory) that have been developed mostly by the states, and some by EPA. The Guide was prepared in cooperation with all the states and is primarily for assistance providers to be used as reference document. The information included is extremely useful in helping locate readily available materials from other states in an effort to not "reinvent the wheel."

These materials are also useful to state and local assistance providers and small businesses in becoming educated on environmental regulations and pollution prevention.

The Guide is only available in electronic format with search and report generation capabilities, and detailed instructions. There is also a rating system which indicates relevance and type of use for which most suitable. The Guide has had extensive state review. See Item B-18.

Upgraded Source Book on Environmental Auditing for Small Business

EPA's Environmental Auditing Source Book for Small Business is now an upgraded compilation of the bibliography references, training information, and a summary matrix of auditing tools for quick reference. This book also contains information on environmental auditor standards and qualifications. See B-14. Also available is the Small Business Environmental Assistance Site Visit Manual prepared by the Iowa Waste Reduction Center, University of Northern Iowa, see B-17. Both of these documents can be obtained by calling the EPA SBO's Office at 1-(800) 368-5888.

New Booklet - Little Known But Allowable Ways to Deal With Hazardous Waste

The EPA has identified a number of allowable ways that small businesses can minimize their hazardous waste on site. This document provides information on five of these methods:

- Domestic Sewage Exclusion;
- Elementary Neutralization;
- Recycling;
- Treatment in Accumulation Containers; and
- Burning in Small Boilers and Industrial furnaces

This Guide provides information and answers the question of whether any of these methods might work for you. The Guide contains two principal sections. The introduction provides background information on the purpose of the Guide, a brief overview of the EPA Hazardous Waste Program as it applies to small businesses, and a summary of the five EPA allowed hazardous waste minimization methods identified above.

The second section is a state-by-state review of these allowable ways to minimize hazardous waste. The section provides summary information for each state including its definition of hazardous waste,

allowances for each of the five EPA allowed waste minimization methods, and information on special state hazardous waste management program considerations. This document can be obtained by calling EPA SBO's Office at 1-(800) 368-5888 OASBO Item C-2)

The 2002 national conference for Small Business Ombudsman and Small Business Assistance Programs has been scheduled for June 30 - July 3, 2002 at the Westin Michigan Avenue Hotel in Chicago.

The annual conference for the Clean Air Act, Section 507 program will start with training for Compliance Advisory Panel members on Sunday, June 30, 2002.

Sessions for state ombudsmen and small business assistance program staff start July 1 and will be broken out into different tracks for newcomers, technical issues, and professional development. Attendees are encouraged to stay the evening of July 3 for the fireworks over Lake Michigan and to participate in the Taste of Chicago, which coincides with the Annual Conference.

The Section 507 program helps small businesses understand and comply with the regulations of the Clean Air Act while remaining economically competitive.

For more information about the conference, contact Roslyn Jackson at 217/524-0169 or at rjackson@commerce.state.il.us.

"WHAT OUR CUSTOMERS MEAN TO US"

"Customers are the most important people in our business."
"Customers do not depend on us, we depend on them."
"Customers never interrupt our work, they are our work."
"Customers do us a favor when they call; we don't do the favors by letting them in."
"Customers are part of our business, not outsiders."
"Customers are flesh-and-blood human beings, not cold statistics."
"Customers bring us their wants; we fulfill them."
"Customers are not to be argued with."
"Customers deserve courteous attention."
"Customers are the lifeblood of this and every other business."
"Customers are who we are when we're not working (So let's treat them the way we want to be treated ourselves!)"

All these guidelines are saying the same thing:
Concentrate on the customer. "You can't make many catches if you take your eyes off the ball."

Update on EPA Public Involvement Policy Activities

The Environmental Protection Agency (EPA) released the Draft 2000 Public Involvement Policy on December 28, 2000 and received public comments through July 31, 2001. The Policy will provide guidance and direction to EPA officials on effective means to involve the public in its regulatory and program decisions.

To encourage additional input on EPA's public involvement activities, the Agency sponsored an Internet -based Dialogue on Public Involvement in EPA's Decisions from July 10 - July 20. People participated in the Dialogue from all 50 states, two territories, five Canadian provinces, and several other nations.

For 10 days the 1,144 participants discussed specific topics drawn from EPA's draft Public Involvement Policy. Each day a panel of experts launched the discussion with their messages, and participants responded with their ideas and descriptions of their public involvement experiences. Each day a different group of EPA hosts responded to questions and comments from participants. Among the topics discussed were the following:

- Identifying and involving the public, including those hardest to reach;
- Providing information to the public;
- Creating effective public involvement opportunities during rulemaking and permitting;
- and Encouraging collaborative processes

The Dialogue brought individual interested citizens, representatives of industry, environmental groups, small business, states, local governments, tribes, and other groups together in an open exchange of ideas and experiences. The Agency received good, specific input that will be used when implementing the Public Involvement Policy. Participants shared excellent suggestions for improving access to information; finding all the people who should be informed and providing the appropriate information to encourage participation; good methods for improving public meetings and involving people in permit and rule processes; appropriate technical and financial assistance; ideas for improving collaboration at the local, regional and national levels; thoughts on evaluation methods, and more. Messages also provided information about process and cultural barriers that inhibit public involvement.

The Dialogue site can no longer accept messages, but the background materials and all the messages are available for review. Since the event, EPA organized postings from the Dialogue into various tables, based on content. One set of tables contains Dialogue excerpts that discuss ideas for improving public involvement at EPA. The other set contains Dialogue participants' descriptions of public involvement experiences that were not ideal - the problem areas. In addition, a separate table contains all postings that discuss tribal public involvement issues. Topics covered include: technical and financial assistance, collaboration, evaluation/accountability, local sites, outreach, permits/rules, policy goals, states/tribes/local governments, whom to involve, EPA restrictions, information access, and obstacles to involvement.

At the same time that EPA staff were analyzing public comments on the draft Public Involvement Policy and convening the online dialogue, they also prepared a draft Implementation Plan for the Policy. The Implementation Plan contains recommended actions that will help to ensure that the Policy is applied across EPA. It should be released for comment in the Federal Register in December. A cross-agency workgroup created the draft Plan, which includes recommendations for providing public involvement training for EPA staff, creating mechanisms to share information about public involvement practices and ideas, and evaluating EPA's public involvement activities. The online Dialogue provided excellent input to enhance the draft Plan, such as identifying best practices that EPA should use and areas where staff training could improve EPA's practices. The draft Plan also lists particular responsibilities for implementing the Public Involvement Policy and describes activities to ensure that EPA staff and management fully understand and support the Policy. The draft plan will be available in December on EPA's website @ [<http://www.epa.gov/stakeholders>] in the What's New area. Comments will likely be accepted through January 2002.

EPA expects to revise the draft Implementation Plan based on public comments and then issue it along with the Final Public Involvement Policy during the Spring of 2002. When issued, the Plan will not be final; periodic updates will be posted to the website. Both the Final Policy and the Plan will be posted @ [<http://www.epa.gov/stakeholders>].

Call Loretta Schumacher at 202-260-3096 for printed copies of the Draft Implementation Plan, or request e-mail copies from kahn.lisa@epa.gov. You may submit comments on the draft Implementation Plan by mail to **Patricia Bonner**, USEPA - Office of Policy, Economics and Innovation (MC 1807), 1200 Pennsylvania Ave NW, Washington, DC 20460, or e-mail comments to stakeholders@epa.gov.

IMPROVING EPA REGULATIONS

Developing environmental regulations is one of EPA's principal tasks. These actions must be based on the best possible scientific, economic, legal and policy analyses. In fact, much of EPA's environmental success and organizational credibility is directly linked to the quality of this work. Recognizing the importance of this activity, EPA recently re-evaluated its regulation development process. Based on this process review, the Agency is now taking actions to improve our regulation development process.

EPA is focusing on four areas:

- Better Science and Economic Analysis
- Broader Consideration of Policy Options
- Greater Accountability
- Better Management of Significant Non-Regulatory Decisions

To *strengthen the quality and consistency of the science and economics supporting EPA decisions*, the Agency is working to better integrate our scientists and economists throughout the process. Specifically, EPA is placing renewed emphasis on early consideration and planning for analytic needs. The focus will be on what information is available and what must be developed to support specific regulations. To add accountability for science and economics, EPA has named the Assistant Administrator for the Office of Research and Development as the EPA Science Advisor and the Associate Administrator for the Office of Policy, Economics and Innovation as the Economics Advisor to provide leadership and senior-level consultation on these issues.

To ensure *thorough consideration of reasonable policy options*, EPA is sharpening its analysis of alternatives, looking at a wider range of regulatory options, and consulting more effectively with Agency advisory groups, as well as with state, local and tribal governments, and other external stakeholders. EPA believes more thorough consideration of policy options will help us achieve the best environmental outcomes at acceptable costs. And it will foster a more thoughtful evaluation of innovative alternatives and market-based approaches to achieving our environmental goals - a course we must pursue if we are to make significant progress against increasingly intractable environmental problems.

The third area of emphasis, *providing greater management accountability*, will help the Agency ensure that we are correctly following our

system as we undertake rule-writing. Our regulations can only be as good as our system for developing them. Individual program offices (e.g., Office of Air and Radiation) will continue to have primary responsibility for developing quality regulations. To support development of priority actions, representatives of cross-media offices will focus on science (Office of Research and Development) policy and economics (Office of Policy, Economics and Innovation), legal analysis (Office of General Counsel), and enforcement and compliance. EPA is also evaluating its internal regulation development tracking system to identify potential improvements for improved managerial accountability.

The final area of improvements, **better management of significant non-regulatory activities** addresses the way we produce important policies, guidance, and strategies outside of regulations. As a first step, EPA is examining its regulation development process to decide whether it needs any adjustment to make it fit our non-regulatory action agenda.

In terms of small business, each of these focal points has imbedded benefits for small business. Improving the scientific underpinnings for all our rules will also help assure that we are identifying analytic issues which may vary across the population of regulated entities. Similarly, better economic analysis will promote better development of regulatory alternatives to address the financial challenges confronting small business.

We will also continue to emphasize the implementation of the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). Under this law we work with the Small Business Administration (SBA), the Office of Management and Budget (OMB), and Small Entity Representatives (SERs) to evaluate potential regulatory options and identify alternative approaches more appropriate for small entities. Small entity compliance guides are also prepared for actions that most directly affect small business.

Complementing our RFA/SBREFA efforts are other outreach to and partnerships with those able to contribute outside expertise to our regulatory knowledge base, because we know that many common sense solutions lie with people closest to the problems. For example, the Deputy Administrator is planning to meet periodically with small business representatives to hear about potential opportunities or concerns about particular policies or regulations.

For more information contact **Ken Munis**, USEPA, Office of Policy, Economics and Innovation at (202) 564-7353

Key Aspects of the SBREFA Legislation

The Small Business Regulatory Enforcement Fairness Act (SBREFA) became law in March, 1996 to foster a government environment that is more responsive to small businesses and other small entities. The Act is comprised of the following six key areas:

- **Regulatory Compliance Simplification:** Federal regulatory agencies must develop compliance guides, written in plain English, to help small businesses understand how to comply with regulations that may have a significant effect on them. Agencies must also develop a program for providing small entities with informed guidance on complying with applicable laws and regulations.
- **Equal Access To Justice Act Amendments:** Under certain circumstances, small businesses can recover attorney's fees and court costs in a court or administrative hearing, even when they lose.
- **Congressional Review:** Congress has provided itself with a process by which it can review and, if necessary, disapprove regulations with which it takes issue.
- **Regulatory Enforcement Reform of Penalties:** Each regulatory agency must establish a policy to reduce and, where appropriate, waive civil penalties for minor violations under certain circumstances.
- **Small Business Advocacy Review Panels:** For proposed rules subject to the Regulatory Flexibility Act, EPA must solicit input from the small businesses that will be subject to the rules and make these findings public. SBA's Office of Advocacy and the Office of Management and Budget aid this process.
- **Regulatory Enforcement Reforms:** The Act created the Small Business and Agriculture Regulatory Enforcement Fairness Ombudsman. In August, 2001, President Bush appointed Michael L. Barrera as National Ombudsman. The Act also created the Regional Regulatory Fairness Boards, the members of which assist the National Ombudsman in receiving small businesses' comments about enforcement activities of federal regulatory agencies. The appointed Fairness Board members are small business owners and operators.

Brief Explanations of the National Ombudsman and Regional Fairness Boards

Subtitle B of SBREFA created the National Ombudsman and 10 Regional Regulatory Fairness Boards to provide small businesses with the opportunity to comment on enforcement activity by federal regulatory agencies. Through this provision, Congress and the President have provided a way that small businesses can express their views and share their experiences about federal regulatory activity.

The National Ombudsman and the Fairness Boards will receive comments about federal compliance and enforcement activities from small businesses, and report these findings to Congress every year. The report will give each agency a kind of "customer satisfaction rating" by evaluating the enforcement activities of regulatory agency personnel and rating the responsiveness of the regulatory agencies to small business regional and program offices..

Regulatory Enforcement Ombudsman

- Receives comments from small businesses on federal agencies' compliance and enforcement actions
- Reviews small businesses' comments
- Reports annually to Congress

10 Regional Fairness Boards

- Members are small business owners/operators
- Report to the National Ombudsman about comments and issues specific to their regions
- Contribute to the annual report to Congress

For additional information about the Ombudsman or the Regulatory Fairness Boards, call SBA's toll free number: 1-888-REG-FAIR or visit their Web site at www.sba.gov/ombudsman.

SBA REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS

Regions/Members July, 2001

Region 1 Roxanna Adams** Atlantic Awards, Inc 840 Hammond Street Bangor, ME 04401 (207) 942-6464	Dr. Vinh Cam, Ph.D. Global Environment P.O. Box 31134 Greenwich, CT 06831 (203) 532-1252	Larry E. Morse Docu-print, Inc 10 Boyd Avenue E. Providence, RI 02914 (401) 435-2500	Judy Obermayer Obermayer Associates 239 Chestnut Street West Newton, MA 02165	Ronald Williams* W&R Bus. Affiliates. 194 Capen St. Hartford, CT 06120 (860) 727-1181
Region 2. Joan Haberle* Joan Haberle Agency # 1 S. Main Street Lambertville, NJ 08530 (609) 397-9606	Sandra Lee Harold. Lee Insurance 31 Pell St. New York, NY 10013 (212) 962-6656	E. Peter Ruddy C WESTNY Bldg. Product 2580 Walden Ave. Buffalo, NY 14225 (716) 681-2000	Phyllis Hill Slater Hill Slater, Inc. 45 N. Station Plaza Great Neck, NY 11021 (516) 773-7779	Manuel Cidre** Pasteleria Los Cidrines Rey Federico 257 Villas De Torrima Guaynabo, PR 00965 (787) 9732
Region 3. Wilkins McNair, Jr* Wilkins Acctg. Firm 201 N. Charles Street Suite 910 Baltimore, MD 21201 (410) 962-5252	Kenneth Rodriguez Rodriguez Enterprises po box 389 Sewickley, PA 15143 (412) 749-7810	Shawn M. Marcell, Pres. Prima Facie, Inc. 1006 W. 8 th Ave, Ste A King of Prussia, PA 19406 (610) 491-9200	Ann P. Maust, Ph.D. Research Dimens, Inc. 1108 E. Main St., #1000 Richmond, VA 23219 (804) 643-1082	Victor N. Tucci 3 River Hlth & Safety, Inc. 406 Edwards Road New Kensington, PA 15068 (412) 826-5599
Region 4 Jeffery Adduci** Regional Invest Bankers 171 Church Street Suite 260 Charleston, SC 29401 (843) 577-2000	Robert G. Clark V Clark Communi. Corp. 149 N. Hanover Ave Lexington, KY 405023 (606) 233-7623	Rita P. Mitchell Edward Jones Investment 718 Thompson Lane Nashville, TN 297-6960	Leroy Walker, Jr. LTM Enterprises 2310 Hwy 80 W Jackson, MS 39204 (601) 352-1742	Livia Whisenhunt* PS Energy Group, Inc. 2957 Clairmont Rd Suite 510 Atlanta, GA 30359 (404) 321-5711
Region 5. Hardie Blake* Bethel Business, Inc. 118 Lincoln Way E. Mishawaka, IN 46544 (219) 259-1527	John Hexter Hexter & Associates, Inc 22199 Shelburne Road Cleveland, OH 44122-2049 (216) 442-5500	Donald Magett Magic P.I. & Security 529 Northhampton Rd Kalamazoo, MI 49006 (616) 381-2324	Thelma Alban Stevenson Associates. 680 N. Lake Shore Drive Chicago, IL 60611 (312) 335-0067	Reid J. Ribble, President The Ribble Group, Inc. 2550 Progress Way Kaukauna, WI 54130 (920) 766-7904
Region 6. Larry Mocha Air Power Systems Co, Inc 8178 E. 44 th St Tulsa, OK, 74147 (918) 622-5600	Massey Villarreal Precision Task Group, Inc. 9801 Westheimer, Ste 803 Houston, TX 77042 (713) 781-7481	David Martinez D&D Machinery & Sales 2420 WR Larson Rd San Antonio, TX 78261 (830) 438-2309	Diane D. Denish The Target Group 1303 San Pedro Dr Albuquerque, NM 87110 (505) 266-4004	Wallace Caradine ** Caradine & Co. 2200 S. Main Street P.O. 16430 Little Rock, AR 72206 (501) 372-4199
Region 7. Scott George Mid Amer Dental Hearing and Vision Center 1050 W. Hayward Drive Mt Vernon, MO 65712-9503 (800) 354-1904	Alonzo Harrison HDB Construction, Inc. 729 Wear Ave Topeka, KS 66607 (913) 232-5444	Stella J. Olson Stat Enterprises Svc, Inc. 4444 Vaile Florissant, MO 63034 (314) 972-1558	Daniel Morgan V Morgan-Davis, Intern'tl Morgan Ranch HC79 Box 42 Burrell, NE 68823 (308) 346-4394	Joanne Stockdale N. IA Die Casting Co 702 E Railroad St. Lake Park, IA 51347 (712) 832-3661
Region 8. Donna Davis** Eagle Butte Co-op P.O. Box 370 Eagle Butte, SD 57625 (605) 964-2226	Linda Nielsen Glasgow Stockyards Inc HC 67 Box 175 Nasua, MT 59248 (406) 228-9306	Mary Thoman* Thoman Ranch HC65 Fontenelle Route Kemmerer, WY 83101 (307) 877-3718	Albert C. Gonzales Gonzales Consulting Svc., Inc. 633 17 th St, Ste 1600 Denver, CO 80202 (303) 383-5500	Vernon Thompson Vern's Trucking P.O. Box 25 Minnewaukan, ND 58351 (701) 473-5720
Region 9. Joseph Cerbone Travis Morgan Sec. 18952 McArthur Blvd Suite 315 Irvine, CA 92612 (949) 261-2906	Kathy Chavez Napoli Santa Clara Truck Wreckers 795 Comstock St Santa Clara, CA 95054 (408) 727-6655	Tim Moore Old Lahaina Café & Luau 505 Front St Lahaina, HI 96761 (808) 667-2998	Thomas Guthrie* So. Nevada. Certified Development Corp. 2770 S. Maryland Pkwy Suite 212 Las Vegas, NV 89109 (702) 732-3998	C. K. Tseng Northbridge Travel 9700 Reseda Blvd. Northbridge, CA 91324 (818) 886-2000
Region 10. Keith Sattler* Sattler & Heslop 718 6 th Street Prosser, WA 99350 (509) 786-2404	Clyde Stryker Spirit Communications 20493 SW Avery Ct Tualatin, OR 97062 (505) 612-0600	Gretchen Mathers Gretchen's of Course 1333 5 th Avenue Seattle, WA 98134-2019 (206) 623-8194	Morris Thompson Doyon Limited 201 1 st Avenue Ste 300 Fairbanks, AK 99701 (907) 459-2000	Serena McAlvain McAlvain Construction, Inc 5559 W. Gowen Rd. Boise, ID 83709 (208) 362-4356

*=Chair

**=Vice Chair

Regulatory Flexibility Act (RFA)
Small Business Regulatory Enforcement Fairness Act (SBREFA)
Tom Kelly, EPA's Small Business Advocacy Chair

Over the past year or so, thanks to Karen Brown, EPA's Small Business Ombudsman, I have used this space to apprise you of our activities under the Small Business Regulatory Fairness Act of 1996 (SBREFA). As I've mentioned, the Regulatory Flexibility Act (RFA) requires all regulatory agencies of the Federal Government to reach out to small businesses and communities subject to upcoming rules, analyze the likely impact of those rules on these small entities, and identify alternative regulatory features that will minimize burden on small entities, while still allowing the agency to meet the stated objectives of the substantive statute. The exception to this requirement comes when the agency can certify that the rule, if promulgated, would not impose a significant economic impact on a substantial number of small entities.

While the premise of the Regulatory Flexibility Act is simple in theory, it can be difficult to carry out in practice. Note that a central requirement is to "meet the stated objective of the statute," meaning the Clean Air Act, Clean Water Act, or any of the other eleven environmental statutes for which EPA is responsible. But the unwritten expectation of the RFA is that the agency should treat small businesses differently from their bigger counterparts. What happens when the environmental statute requires a single, one-size-fits-all technical standard that will not admit of differentiation based on the size or capitalization of the business? How does an agency minimize burden on small businesses without sacrificing the effectiveness of the entire rule?

There are a number of different tactics EPA employs in these circumstances, but they all amount to setting requirements that favor the likelihood that small business will benefit disproportionately, even though the imposition applies across the board. Here are a couple of such devices.

Sub-Categories. Occasionally a regulation will cover a broad array of industrial categories (such as under a Federal Implementation Plan under the Clean Air Act), or a single industry that may employ multiple production methods (such as under a rule governing toxic air emissions). In such a case, EPA may set different technical standards for each category or sub-category of sources so that the emission limits are appropriate to the circumstances. Although the justification for each sub-category must be based on environmental and engineering considerations, there sometimes exists a correlation between a particular (low-tech) production technology and the likelihood it is employed primarily by small operations. In such cases, EPA may meet the stated objectives of the statute by establishing a sub-category that requires standards affordable to the small businesses that typically populate that group.

Exclusions. In some cases (such as Effluent Limitation Guidelines – ELG – under the Clean Water Act), EPA may elect not to regulate sources or dischargers that process wastes that fall within a certain threshold. For example, many ELGs have "low-flow" exclusions that shield dischargers from regulation so long as they discharge less than a certain minimum of gallons of wastewater annually. The justification for the exclusion is typically that low flows at known concentrations represent relatively little risk to the environment, and they do not warrant national regulation. However, low flows are also typical of small operations, and that coincides with a preponderance of small businesses.

Where there's a will, there's a way, and EPA has the will to accommodate small business needs and interests whenever possible within the constraints of the overlying environmental statute.

Update on the Office of Environmental Information

The Office of Environmental Information (OEI) supports the Agency's mission to protect public health and the environment by integrating quality environmental information to make it useful for informing decisions, improving management, documenting performance, and measuring success. Working with our many different internal and external stakeholders and partners, OEI helps establish and oversee information-related policies and procedures that reflect the concerns of small businesses; local, state, and federal government; tribes; interest groups; and the general public.

In November, President Bush appointed Kim Nelson as EPA Assistant Administrator for the Office of Environmental Information (OEI). In this position, she will be the Agency's Chief Information Officer with responsibility for data collection, analysis and exchange, including public access to information, the Toxics Release Inventory, and management of the agency's information technology operations. Previously, Ms. Nelson was Executive Deputy Secretary of the Pennsylvania Department of Environmental Protection, in which she has also served as Director of Program Integration and Effectiveness and as Chief Information Officer. She holds a bachelor's degree from Shippensburg University of Pennsylvania and a Master of Public Administration degree from the University of Pennsylvania. Ms. Nelson will work closely with other Federal Chief Information Officers to realize the full potential of electronic-government in making Federal systems and processes more efficient and less burdensome.

The American public expects government to follow the private sector in implementing information technology. This transition will allow for transparent access to environmental information and improved customer service. In 1998, the State/EPA Information Management Workgroup (IMWG) proposed a vision and core operating principles for creating a partnership for collaborative environmental information management. Since then, a more specific vision for this partnership has been designed in the form of the National Environmental Information Exchange Network (Network). Implementation of the Network will create a "standards-based" lexicon of environmental information. This will allow EPA to 1) improve the capacity to conduct cross-media, integrated, results-based approaches to environmental protection; 2) rationalize the environmental reporting process and thus reduce burden on the regulated community; and 3) facilitate the Agency's transition to electronic government.

The Environmental Protection Agency has established a single portal on the Web for all environmental data entering EPA. Called the Central Data Exchange (CDX), it offers companies, States, Tribes and other entities a faster, easier, more secure reporting option. CDX provides built-in data quality checks, web forms, standard file formats, and a common, user friendly approach to reporting data across vastly different environmental programs. CDX will help small businesses by reducing reporting burden and associated costs, ensuring a secure electronic environment, and enabling automated, machine to machine transactions, thus eliminating redundant data entry. In addition, CDX will offer faster, easier click-and-send reporting with one consistent point of entry for reporting, one streamlined set of procedures, and one password.

EPA's Toxic Release Inventory program has just completed a round of workshops in several regions of the country for the owners and operators of facilities required to report their use of lead and lead compounds to EPA. The owners and operators of all facilities subject to TRI reporting requirements will be able to use Version 2.0 of "TRI-ME – Toxic Release Inventory Made Easy" starting in Spring, 2002. TRI-ME guides facilities through the process of preparing their data submissions. Watch EPA's TRI web site: www.epa.gov/tri for future updates on the availability of this powerful, "intelligent" reporting software application. All facilities that have reported data to TRI during the past two years will receive a copy of the reporting forms and instructions and a CD-Rom containing the TRI-ME software.

EPA is initiating a multi-year, science-based process to develop a comprehensive framework for assessing metals that could be the basis for future Agency actions. EPA will begin by developing an Action Plan that will identify the primary elements that should be addressed in a cross-Agency metals assessment framework and set out a process for developing the framework. This framework will establish guidance for EPA programs to use when considering the various environmental properties of metals, such as persistence, bioaccumulation and toxicity, in assessing the hazards and risks of metals and metal compounds. The process will include multiple opportunities for stakeholder participation and for peer review and expert consultation by EPA's Science Advisory Board (SAB). EPA intends to submit the Action Plan to the SAB for consultation in April 2002.

Upon conclusion of the SAB's consultation, the Agency will develop the framework and guidance for the evaluation of metals and metal compounds. The Agency plans to submit the framework for peer review by the SAB. At the same time, EPA also plans to submit to the SAB the specific issue of whether the application of the PBT chemical framework used in the TRI lead rulemaking would result in a classification of lead and lead compounds as highly bioaccumulative. EPA anticipates the SAB will complete its review on both issues by June 2003.

To learn more about OEI, the National Environmental Information Exchange Network, or CDX, visit the OEI website at <http://www.epa.gov/oei>. For further information contact: Small Business Liaison, **Gene Stroup**, (202) 564-5716.

What's New in Chemical Accident Prevention

Breeda Reilly

EPA's Chemical Emergency Preparedness and Prevention Office

December 20, 2001

Regulatory Developments

- ***Tier2 Submit Reporting Software***

We are working with the National Oceanic and Atmospheric Administration (NOAA) to replace the *Tier II for Windows* software by the end of December, 2001 (in time for the March 1, 2002 reporting deadline). Tier II reports are required under the Emergency Planning and Community Right-to-Know Act (EPCRA) and provide information to state and local officials, responders, and the public on chemical inventories in covered facilities. *Tier2 Submit* will be a free software program that facilities may choose to use for EPCRA Tier II submissions in states that allow the use of the software. We will use the weekly email updates to keep subscribers informed of developments.

- ***Search Consolidated List of Regulated Chemicals ("List of Lists") Online***

The *List of Lists: Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(r) of the Clean Air Act* is now searchable online by chemical name or by Chemical Abstract Service (CAS) number. The searchable option is found at <http://130.11.53.73/lo/>. The printed version of this document is also available online in a PDF file for printing and is found at: <http://www.epa.gov/ceppo/pubs/title3.pdf>. (See the end of this note for information on how to order a printed copy through the National Service Center for Environmental Publications.)

Chemical Safety Alerts: Sharing lessons learned

- ***Reactive Material Hazards: What You Need to Know (October, 2001), Available from Center for Chemical Process Safety (CCPS)***

The American Institute of Chemical Engineers Center for Chemical Process Safety (CCPS) has published a new safety alert that addresses the safe handling of reactive materials and identifies key questions that should be addressed when designing a new facility or when making changes or bringing in new materials into existing operations. The document is written to be easily understood by non-technical staff and can be obtained by downloading it from the CCPS website:

<http://www.aiche.org/ccps/pdf/reactmat.pdf>.

- ***Chemical Accidents from Electric Power Outages (EPA 550-F-01-010, September 2001)***

Chemical process equipment can be affected both by the initial loss of power and the subsequent restart of operations when power is restored. This alert focuses on planning for the safe startup of operations after power is restored.

- ***Hazards of Ammonia Releases at Ammonia Refrigeration Facilities (Update)***

(EPA 550-F-01-009, August 2001) An update of the popular 1998 Chemical Safety Alert, this document discusses the potential hazards of accidental releases of ammonia and steps that can be taken to prevent releases.

Site Security

- **Chemical Accident Prevention Prevention: Site Security (EPA-K-550-F00-002, February 2000)**

In light of September 11, EPA re-issued this alert which highlights sources of information to assist businesses in their efforts to have secure and accident-free operations.

- Through a partnership of the American Chemistry Council (ACC), the Chlorine Institute, the Synthetic Organic Chemical Manufacturers Association (SOCMA), and National Association of Chemical Distributors (NACD), the chemical industry has recently published several guides related to site security, including, *Site Security: Guidelines for the U.S. Chemical Industry*, October 2001 and *Transportation Security: Guidelines for the U.S. Chemical Industry*, November, 2001. These guides (in Adobe Acrobat pdf format) are available from the partner trade association websites. The American Chemistry Council (ACC) web site is www.americanchemistry.com and general phone number for ACC is 703-741-5000.

CAMEOfm

As you know, *CAMEOfm* is available free of charge by downloading from the Internet. The National Oceanic and Atmospheric Administration (NOAA) reports that between 700 and 1000 copies of CAMEO are downloaded each month. A new version, *CAMEOfm* is anticipated to be available for downloading in February 2002. This new version is developed in FileMaker, and will include the Reactivity module. As soon as *CAMEOfm* is available, we will use the CEPPPO email updates to notify subscribers.

For additional information about EPA's risk management programs:

Visit the CEPPPO Website: www.epa.gov/ceppo

Our publications are available (in Adobe Acrobat pdf format) from the website.

To order publications, Contact the National Service Center for Environmental Publications (NSCEP):

Online: www.epa.gov/ncepihom/orderpub.html

By E-Mail: ncepimal@one.net

By Fax: (513) 489-8695, 24 hours a day, 7 days a week.

By Phone: 1-800-490-9198 or in Cincinnati (513) 490-8190

For regulatory questions or to order publications, contact the RCRA, Superfund & EPCRA Call Center:

By Phone: 1-800-424-9346 or in DC metro area (703) 412-9810

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Contact: **Breeda Reilly** at (202) 564-7983 or reilly.breeda@epa.gov

ADR AT EPA: NEW AGENCY POLICY SPARKS INCREASED USE OF ALTERNATIVE DISPUTE RESOLUTION IN AGENCY PROGRAMS

Small businesses have a variety of ways to find solutions to problems and disputes with US EPA. Except in the case of criminal investigations or complaints, the alternatives to the courts include a range of processes collectively called Alternative Dispute Resolution or ADR. ADR is a term that is used for a variety of dispute resolution processes that involve a “neutral third party” who assists the people involved in a dispute in designing and conducting a process for reaching agreement without going to court. Examples of ADR techniques include facilitation, mediation, fact-finding, non-binding arbitration and of course, use of ombuds such as the Small Business Ombudsman Office. In 1996 Congress passed the Administrative Dispute Resolution Act which promotes the use of Alternative Dispute Resolution by federal agencies.

On December 18, 2000, the U.S. Environmental Protection Agency issued its final policy on Alternative Dispute Resolution (ADR) in accordance with the Administrative Dispute Resolution Act of 1996. EPA’s ADR policy reflects strong support for the use of ADR in a wide variety of internal and external Agency disputes. It discusses the types of situations in which ADR should be considered, how EPA is organized to support ADR, confidentiality of information in ADR processes, efforts to promote a commitment to and awareness of ADR within the Agency, and how the success of ADR will be measured. In accordance with the law and our policy, ADR is not appropriate in cases with criminal issues.

Some of the goals for using ADR to resolve disputes include:

- Faster resolution of issues
- More creative, satisfying, flexible and enduring solutions
- Reduced costs to resolve a dispute
- Improved working relationships between the parties
- Increased stakeholder support for Agency programs

In 1999 the EPA Administrator formed the **Conflict Prevention and Resolution Center (CPRC)**, to provide comprehensive ADR services throughout the Agency. The CPRC staff, in cooperation with ADR experts in other headquarters offices and EPA’s ten Regional offices, provides assistance in assessing cases for ADR, in designing ADR processes, in identifying and accessing neutral third parties and in providing training, information and resources to EPA staff and outside parties on the use and applications of ADR.

EPA has historically had strong, successful ADR programs involving the negotiation of complex regulations (regulatory negotiation) and the settlement of Superfund cases. With the finalization of the new ADR policy, EPA expects to see an increase in application of ADR techniques to air, water, toxics and solid waste cases Agency-wide. For example, recently ADR has been used in enforcement and civil penalty cases handled by the Administrative Law Judges, in designing Brownfields redevelopment projects and in permitting appeals cases. Some of these successes can be viewed at CPRC’s website (below).

The Policy and several useful publications including the [Resource Guide: Resolving Environmental Conflicts in Communities](#) and the [ADR Accomplishments Report, March 2000](#) can be viewed on-line at www.epa.gov/adr. They can be obtained in hard copy by calling 202-564-2922 or by writing: Conflict Prevention and Resolution Center, Mail Code 2310A, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460. CPRC staff are also available for consultation to parties interested in exploring use of ADR in preventing and resolving disputes with EPA. Contact: **Robert Ward**: 202-564-2911.

Alternative Dispute Resolution Techniques

The ADR techniques listed here are those that are most frequently used at EPA. The list is not intended to be exhaustive of all possible ADR applications.

- **Convening:** Convening (also called conflict assessment) involves the use of a neutral third party to help assess the causes of the conflict, to identify the persons or entities that would be affected by the outcome of the conflict, and to help these parties consider the best way (for example, mediation, consensus-building, or a lawsuit) for them to deal with the conflict. The convener may also help get the parties ready for participation in a dispute resolution process by providing education to the parties on what the selected process will be like.
- **Mediation:** Mediation is a process in which a neutral third party (the mediator) assists disputants in reaching a mutually satisfying settlement of their differences. Mediation is voluntary, informal, and confidential. The mediator helps the disputants to communicate clearly, to listen carefully, and to consider creative ways for reaching resolution. The mediator makes no judgments about the people or the conflict, and issues no decision. Any agreement that is reached must satisfy all the disputants.
- **Facilitation:** Facilitation is a process used to help a group of people or parties have constructive discussions about complex, or potentially controversial issues. The facilitator provides assistance by helping the parties set ground rules for these discussions, promoting effective communication, eliciting creative options, and keeping the group focused and on track. Facilitation can be used even where parties have not yet agreed to attempt to resolve a conflict.
- **Early Neutral Evaluation:** Early neutral evaluation allows the parties to a dispute to receive an informal neutral evaluation of the strength of each party's position in a matter in controversy. The evaluation is nonbinding, but may be useful in promoting settlement.
- **Consensus Building:** Consensus Building is a process in which people agree to work together to resolve common problems in a relatively informal, cooperative manner. It is a technique that can be used to bring together representatives from different stakeholder groups early in a decision making process. A neutral third party helps the people design and implement their own strategy for developing group solutions to the problems.
- **Ombudsmen or Ombuds:** An ombudsman (or ombuds) is an Agency official who is authorized to accept complaints and look into whether something can be done to address a particular concern. Ombuds do not have authority to change decisions, but they try to facilitate responsive solutions to problems raised in complaints. There are currently ombuds functions in four programs at EPA (pesticides, hazardous waste, asbestos, and small business).
- **Arbitration:** Arbitration is the dispute resolution process most like a lawsuit where a judge decides the outcome. In arbitration, the parties agree to use a mutually selected decision-maker not associated with the courts to hear their dispute and resolve it by rendering a decision. Arbitration may be a non-binding recommendation or it may be a binding decision or award, depending on the agreement reached by the parties prior to entering into the process.

Case Study - General Electric-Pittsfield

The GE-Pittsfield case, which involved a highly-controversial PCB-contaminated site in western Massachusetts, perhaps provides a unique example of how different ADR approaches can be used in a single case to achieve different objectives and to reach and involve different audiences.

First, a team of mediators assisted GE, EPA and eight other agencies in reaching a settlement which addresses GE's liability and provides for remediation of the site.

Second, a team of neutral facilitators manages a public dialogue, known as the Citizens' Coordinating Council, in which neighbors, business interests, environmental groups, and other interested parties have an opportunity to raise concerns to GE and the regulatory agencies regarding the site cleanup.

Third, pursuant to the settlement agreement, panels of neutral experts managed by an overall neutral third party will conduct peer reviews of scientific and technical issues relating to future remedial decisions. One peer review panel was conducted in May, 2000 with several more in the works over the next year or two.

Finally, the consent decree which embodies the settlement contains an ADR provision allowing the use of mediation to resolve disputes arising during the implementation of the settlement.

In each of these four ADR applications, the parties consensually tailored the process to meet their specific needs.



EPA's Small Business Innovation Research (SBIR) Program

The Environmental Protection Agency (EPA) is one of 10 federal agencies that participate in the SBIR Program established by the Small Business Innovation Development Act of 1982. The purpose of this Act was to strengthen the role of small businesses in federally funded R&D and help develop a stronger national base for technical innovation. **A small business is defined as a for profit organization with no more than 500 employees.** In addition, the small business must be independently owned and operated, not dominant in the field of operation in which it is proposing, and have its principal place of business located in the United States. Joint ventures and limited partnerships are eligible for SBIR awards, provided the entity created qualifies as a small business.

EPA issues annual solicitations for Phase I and Phase II research proposals from science and technology-based firms. Under Phase I, the scientific merit and technical feasibility of the proposed concept is investigated. EPA awards firm-fixed-price Phase I contracts of up to \$100,000 and the period of performance for these contracts is typically 6 months. Through this phased approach to SBIR funding, EPA can determine whether the research idea, often on high-risk advanced concepts, is technically feasible, whether the firm can do high-quality research, and whether sufficient progress has been made to justify a larger Phase II effort. The Phase I report also serves as a basis for follow-on commitment discussions.

Phase II contracts are limited to small businesses that have successfully completed their Phase I contracts. The objective of Phase II is to further develop the concept proven feasible in Phase I. Competitive awards are based on the results of Phase I and the scientific and technical merit and commercialization potential of the Phase II proposal. Under Phase II, EPA can award contracts of up to \$295,000 and the period of performance is typically 2 years. The goal of Phase II is to complete the R&D required to commercialize the technology or product.

EPA will issue three Phase I Solicitations in 2002—Solicitations for Mobile Sources and for Stormwater will open on January 22, 2002, and close on March 21, 2002. The third Solicitation will cover all remaining EPA topics and will open on March 28, 2002, and close on May 23, 2002. Last year's solicitation describes the SBIR Program, application requirements, and all research topics. If you need a fax copy or if you have any questions, call the EPA HELPLINE at: **(800) 490-9194**. Last year's solicitation also is available at the EPA Web Site. The three new SBIR solicitations will be available as they open by calling the HELPLINE or by visiting the EPA Web Site at:

<http://www.epa.gov/ncerqa/sbir>



EPA'S SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM

NEW PHASE I SOLICITATION SCHEDULE

EPA's SBIR program provides financial support to help small science- and technology-based firms develop new environmental technologies and ready them for commercialization. The program targets research to prevent pollution, reduce water and air pollution, manage solid and hazardous wastes, and improve environmental monitoring—in each case, addressing priorities that stem from the Agency's Strategic Plan. In FY 2002, EPA will issue three (3) Phase I Solicitations. There will be two special solicitations—Mobile Sources and Stormwater—and the regular SBIR Solicitation. The special solicitations are designed to meet the pressing needs of EPA's Office of Transportation and Air Quality and EPA Region I. The opening and closing dates are different from the regular solicitation and Phase I contracts will be awarded for \$100,000 over 10 months. The regular solicitation will cover all other EPA research topics and it will NOT include mobile sources or stormwater topics. The FY 2002 Phase I Solicitation Schedule is as follows:

CONTROL AND MONITORING OF MOBILE SOURCE EMISSIONS

(Subtopics: Digital Valve Technology for Engines, Heavy Duty Diesel Engine After-Treatment for NO_x and Particulate Matter, On-Vehicle Diesel Fuel Sulfur Control, On-Vehicle Real-Time Monitoring, Air Toxics Monitoring and Low Level Particulate Mass Measurement.)

PHASE I OPENS: JANUARY 22, 2002

CLOSING DATE: MARCH 21, 2002

TECHNOLOGIES FOR STORMWATER, CSOs and URBAN INFRASTRUCTURE

(Subtopics: Control of Stormwater Runoff and Combined Sewer Overflows (CSOs), In-Situ Treatment of Urban Sediments and Rehabilitation of Urban Infrastructure.)

PHASE I OPENS: JANUARY 22, 2002

CLOSING DATE: MARCH 21, 2002

REGULAR PHASE I SOLICITATION (Excludes Mobile Sources and Stormwater Subtopics)

(Subtopics: Nanomaterials and Clean Technology, Control of Air Pollution, Drinking Water and Municipal/Industrial Wastewater Treatment, Solid Waste Recycling, Hazardous Waste Management and Site Remediation, and Monitoring and Measurement Technologies.)

PHASE I OPENS: MARCH 28, 2002

CLOSING DATE: MAY 23, 2002

Last year's solicitation describes the SBIR Program, application requirements, and all research topics. If you need a fax copy or if you have any questions, call the EPA HELPLINE at: **(800) 490-9194**. Last year's solicitation also is available at the EPA Web Site. The three new SBIR solicitations will be available as they open by calling the HELPLINE or by visiting the EPA Web Site at:

<http://www.epa.gov/ncerqa/sbir>

DfE: Environmental Health and Safety Consultant to Small Businesses

The Challenge

The EPA's Design for Environment (DfE) Program (www.epa.gov/dfe) evaluates technology alternatives based on human health and environmental risks, as well as performance and cost. DfE specializes in partnering with small business-dominated industries, such as auto refinishing and printing, to help them incorporate these concerns into their daily business practices. Small businesses usually do not have environmental, health and safety (EHS) personnel or financial resources to address these matters. Therefore, DfE serves as a facilitator by providing resources and consultation to them and their industry representatives.

DfE's Auto Refinish Project

The EPA Design for the Environment (DfE) Program, a voluntary partnership program, works directly with businesses to promote pollution prevention and risk reduction. As part of the DfE Auto Refinish Project (www.epa.dfe/projects/auto), a DfE team is working with the collision repair industry to increase awareness of the significant risks and pollution issues associated with spray painting and related activities. DfE encourages the adoption of cost-effective technologies and best practices that reduce exposure and emissions of toxic chemicals used in shops, including diisocyanates, a leading cause of occupational asthma, volatile organic solvents, and hazardous air pollutants. The result: healthier painters and shop workers, reduced pollution and emissions to the community, and increased spray painting efficiencies that will save money.

Outreach tools include 1) a virtual auto body shop on line at www.ccar-greenlink.org/cshops that links to primary health, safety, environmental and technical information sources, 2) a Best Practices Outreach Kit for site visits, along with "lessons-learned" training, and 3) technical fact sheets and case studies with practical pollution/risk reduction guidance. Recently, DfE sponsored and completed over 35 site visits in Pennsylvania as part of an outreach effort with the PA Small Business Development Center.

DfE's EMS: Screen Printing

The DfE/EMS, an enhancement of the ISO 14000 approach, is designed as a sector-specific tool for companies to make informed decisions based on EHS information. DfE is currently working on an EMS pilot project with the screen printing industry. Small businesses dominate this industry, with fifteen employees at the average shop. DfE helps educate printers so that they can develop stronger roles in managing EHS matters in their businesses. The EMS focuses on reducing wasted ink and minimizing VOC emissions, solid waste, and polluted wastewater so printers can run their shops more efficiently. Marcia Kinter of the Screenprinting & Graphic Imaging Association International (SGIA) describes the EMS as "a way of integrating environmental issues into your normal business decision-making activities."

Overall, the DfE/EMS is a useful tool for any industry aspiring to manage EHS issues more effectively. DfE encourages the use of EMS in other industry sectors. DfE has found that linking up with trade associations, especially ones demonstrating commitment to environmental leadership, is an effective way to bring EMS to an industry. If you believe your trade association may be a good DfE/EMS partner, please contact us.

The Bottom Line

As these examples demonstrate, DfE plays an important role in improving business practices by analyzing current technologies and providing educational materials and training to small businesses. The result thus far has been healthier, more profitable businesses. For more information about DfE, or to obtain copies of DfE materials, please visit our website at www.epa.gov/dfe. If you have an interest in a future DfE project, please call **Carol Hetfield** at 202-564-8792.

EPA Audit Protocols

EPA has developed 11 compliance audit protocol manuals as part of an on-going effort to assist the regulated community, including small businesses, in conducting multi-media environmental audits. The 11 protocol documents produced to date are organized by statute and provide coverage of the Resource Conservation and Recovery Act (RCRA), EPCRA, CERCLA, The Safe Drinking Water Act (SDWA), the Toxic Substance Control Act (TSCA), the Clean Water Act, and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The RCRA protocols provide audit guidance for hazardous waste generators, RCRA treatment storage and disposal facilities, RCRA regulated storage tanks (above and underground storage tanks), facilities that manage universal waste and used oil, and RCRA Subtitle D waste. EPA also issued audit protocols for PCBs, asbestos and lead-based paint activities regulated under TSCA, reporting requirements under EPCRA and CERCLA, management and production of pesticides under FIFRA, municipal wastewater facilities under the CWA and the management and operation of public water systems regulated under the Safe Drinking Water Act.

EPA developed these protocols in support of several EPA policies and programs, such as EPA's Small Business Policy which is designed to promote environmental compliance by providing compliance assistance and incentives like penalty waivers to eligible facilities with 100 or fewer employees. In addition, the protocols were designed to encourage businesses and organizations to perform environmental audits and disclose violations in accordance with EPA's Audit Policy. The audit protocols are intended to help provide guidance to regulated entities conducting environmental compliance audits and to ensure that audits are conducted in a thorough and comprehensive manner.

Each protocol offers guidance on key requirements, defines regulatory terms, and provides an overview of the federal laws affecting a particular environmental management area. It also includes a checklist containing detailed procedures for conducting a review of facility conditions. The checklists actually outline performance objectives for the auditor and offer a line of inquiry when evaluating a facility for compliance.

The eleven audit protocols that have already been completed and are available to the public include:

Protocol for Conducting Environmental Compliance Audits of Hazardous Waste Generators under the Resource Conservation and Recovery Act (EPA Document No., EPA-305-B-98-005)

Protocol for Conducting Environmental Compliance Audits of Treatment, Storage, and Disposal Facilities under the Resource Conservation and Recovery Act (EPA Document No., EPA-305-B-98-006)

Protocol for Conducting Environmental Compliance Audits Under the Emergency Planning and Community Right-to-Know Act (EPA Document No., EPA-305-B-98-007)

Protocol for Conducting Environmental Compliance Audits Under the Comprehensive Environmental Response, Compensation and Liability Act (EPA Document No., EPA-305-B-98-009).

Protocol for Conducting Environmental Compliance Audits of Facilities Regulated under Subtitle D of RCRA (EPA Document No., EPA-300-B-00-001)

Protocol for Conducting Environmental Compliance Audits of Used Oil and Universal Waste Generators under the Resource Conservation and Recovery Act (EPA Document No., EPA-300-B-00-002)

Protocol for Conducting Environmental Compliance Audits of Storage Tanks under the Resource Conservation and Recovery Act (EPA Document No., EPA-300-B-00-006)

Protocol for Conducting Environmental Compliance Audits of Facilities with PCBs, Asbestos, and Lead-based Paint Regulated under TSCA (EPA Document No., EPA-300-B-00-004)

Protocol for Conducting Environmental Compliance Audits of Public Water Systems under the Safe Drinking Water Act (EPA Document No., EPA-300-B-00-005)

Protocol for Conducting Environmental Compliance Audits under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (EPA Document No., EPA-300-B-00-003)

Protocol for Conducting Environmental Compliance Audits for Municipal Facilities under U.S. EPA's Wastewater Regulations (EPA Document No., EPA-300-B-00-016)

You can obtain hard copies of the protocols by contacting EPA's National Service Center for Environmental Publications (NSCEP) at 1-800-490-9198. When ordering copies from NSCEP, please reference the title and the document number of the protocol(s) you've selected. The protocols can also be obtained electronically via EPA's Web site: <http://es.epa.gov/oeca/main/strategy/crossp.html>. For further information on the protocols, contact **Debby Thomas** (202) 564-5041.



National Compliance Assistance Clearinghouse

Locate compliance assistance resources, find experts, view upcoming compliance assistance projects, and collaborate with your colleagues through the Environmental Protection Agency's (EPA's) National Compliance Assistance Clearinghouse.

What Is the Clearinghouse?

The Clearinghouse is a comprehensive source of compliance assistance information and resources. Use our web links to federal, state, local, and other compliance assistance providers to find the tools you need. The Clearinghouse is also a virtual community, use it to communicate, share, and collaborate with your peers.

What Does the Clearinghouse Offer?

Clearinghouse Search Engine

Use the Clearinghouse's search function to find the tools you need by environmental focus area, industry sector, and geographic area.

Provider Directory

Use the Provider Directory to quickly find the phone numbers of people that can best help you regardless of your location.

Virtual Community

Exchange notes, ideas, and results with colleagues using topic-specific bulletin boards. Or, create your own bulletin board and discuss the issues that interest you. This is your opportunity to seek and share expertise!

Add-A-Link

Increase the visibility and availability of your compliance assistance tools. It's easy to add a link from the Clearinghouse to your work and Website.

Compliance Assistance Planning

Learn about anticipated compliance assistance projects and initiatives of EPA and states. Include your planned activities in the Clearinghouse and let others know what you are planning. Don't reinvent the wheel -- find areas to collaborate and build on each other's efforts.

Clearinghouse Database Integration

Do you want to add a searchable compliance links collection to your web site, but don't have the time or budget to maintain it? The Clearinghouse is designed to seamlessly share its information with your web site, allowing you to have full control over the data to be displayed and its formatting. The Clearinghouse's innovative data export function uses state-of-the-art eXtensible Markup Language (XML) methods to share its data with other servers and supports multiple methods for retrieving and processing the data using common web development environments.

For More Information

Go to www.epa.gov/clearinghouse

Emily Chow • 202-564-7071 • chow.emily@epa.gov

Tracy Back • 202-564-7076 • back.tracy@epa.gov

Submit your favorite compliance assistance tools
to the clearinghouse Web site today!



EPA's Annual Compliance Assistance Activity Plan





Access the Compliance Assistance Centers at www.assistancecenters.net

CCAR-GreenLink®

Helps the automotive service and repair community identify flexible, common sense ways to comply with environmental requirements. www.ccar-greenlink.org



ChemAlliance

Provides innovative Web site features to direct chemical manufacturers to information resources and plain-language compliance assistance material. www.chemalliance.org



Local Government Environmental Assistance Network (LGEAN)

Serves as a "first-stop-shop" by providing environmental management, planning, and regulatory information for local government officials, managers, and staff. www.lgean.org



National Agriculture Compliance Assistance Center (Ag Center)

Serves as the "first stop" for information about environmental requirements that affect the agriculture community. www.epa.gov/oeca/ag
(This is a government run center)



National Metal Finishing Resource Center (NMFR)

Provides comprehensive environmental compliance, technical assistance, and pollution prevention information to the metal finishing industry. www.nmfr.org



The U.S. Environmental Protection Agency has sponsored partnerships with industry, academic institutions, environmental groups, and other federal and state agencies to establish Compliance Assistance Centers for ten industry and government sectors.

If you own a small business in one of these sectors, these resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply.

Paints and Coatings Resource Center

Provides regulatory compliance and pollution prevention information to organic coating facilities, industry vendors and suppliers, and others. www.paintcenter.org



Printed Wiring Board Resource Center

Provides regulatory compliance and pollution prevention information to printed wiring board manufacturers, industry vendors and suppliers, and others. www.pwbrc.org



Printers' National Environmental Assistance Center (PNEAC)

Provides compliance and pollution prevention fact sheets, case studies, and training, as well as two e-mail discussion groups on technical and regulatory issues. www.pneac.org



Transportation Environmental Resource Center (TERC)

Provides compliance assistance information for each mode of transportation - air, shipping and barging, rail, and trucking. www.trans-source.org



Fed Site

Serves as the "first stop" for information about environmental laws and regulations that affect Federal departments and agencies. www.epa.gov/oeca/fedfac/cfa
(This is a government run center)



For more information, contact Tracy Back, 202-564-7076 or e-mail: back.tracy@epa.gov

What's New With The Centers?

The Centers are continually developing new features to better serve their customers. Be sure to explore the new Center developments!

Printers' National Environmental Assistance Center (PNEAC)



PNEAC has expanded its vast collection of pollution prevention and compliance fact sheets. Visit PNEAC to access 12 new fact sheets:

All types of printing

- Waste and Cost Reduction for Small Parts Cleaners
- Universal Waste Rules and How They Affect a Printer
- Summary of the EPA Regional Office and State Positions Concerning the Regulatory Status of Contaminated Shop Towels

Flexography

- Reducing Ink and Solvent Use in Enclosed Flexographic Inking Systems
- Management of Aqueous Waste from Water-based Flexographic Printing Processes
- Anilox Cleaning Systems: Preserving Roll Life

Screenprinting

- Adhesive Systems for Textile **Screen Printing**

Lithography

- Cleaning Up the Cleanup: Shepard Poorman's Switch to Automatic Washup for Sheetfed Presses
- Case Study: Alcohol Free Fountain Solutions at Americraft Cartons, Inc.
- Compliance issues for Lithographic Printers
- Reducing Heavy Metal Content

Local Government Environmental Assistance Network (LGEAN)



Don't miss LGEAN's new environmental Consultants Directory at <http://www.lgean.org/consultants> and find consultants performing work in your environmental

and geographical area. The Consultants Directory offers four search options: (1) keyword; (2) service area; (3) location served; or (4) consultant/company name. Use the search options separately or combined to find the consultant that meets your needs.

Also, visit LGEAN's new source water awareness tool kit developed to help raise community awareness about drinking water protection issues. The tool kit includes guidelines and sample promotional materials to help local communities launch a successful media campaign.

One of the best ways to protect drinking water from contamination is to prevent contamination from occurring in the first place. A community can prevent contamination of its water supply through a community awareness program that educates citizens about its drinking water sources (rivers, streams, lakes, reservoirs, and underground aquifers) and encourages proactive behavioral practices that help keep pollution from contaminating these sources.

To view this tool, go to the LGEAN Hot Topics page and select "Drinking Water." Scroll to the bottom of the page to find the media campaign tool. For more information, contact Dorothy Morrison at dmorrison@icma.org, or call 202/962-3585.

Paints and Coatings Resource Center



Have you visited the Paints and Coatings Resource Center recently? Here are some good reasons to visit the Center now at <http://www.paintcenter.org>

-- The site has a new look, its now easier to find what you're looking for.

-- It is now much easier to get into the site. You can now use almost every feature on the site without signing up first.

-- Features include our Plain Language Guide to environmental regulations, our State Regulations Locator, and our popular "Ask the Expert" feature with the well-known industry consultant Ron Joseph, and much more.

Take a look, and let the Paint and Coatings Resource Center know what you think.

EPA POLICIES ASSIST SMALL BUSINESSES WITH ENVIRONMENTAL COMPLIANCE

EPA's Office of Enforcement and Compliance Assistance (OECA) has recently revised the following policies to respond to the environmental compliance needs of small business: *Policy on Compliance Incentives for Small Business*, and the *Final Policy on Environmental Self-Auditing and Self-Disclosure*. The *Enforcement Response Policy* was not modified. Under these policies, the Agency will protect public health and the environment by providing small businesses with incentives to proactively pursue environmental compliance and pollution prevention activities. These policies are briefly described below.

SMALL BUSINESS COMPLIANCE POLICY

EPA issued the revised *Small Businesses Compliance Policy*, effective May 11, 2000, to provide small businesses with incentives to participate in compliance assistance activities and programs, or conduct environmental audits. This policy supersedes the June 1996 version and expands upon EPA's 1994 Enforcement Response Policy under the Clean Air Act Section 507. The policy implements, in part, the Executive Memorandum on Regulatory Reform (60 FR 20621, April 26, 1995) and Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (signed into law on March 29, 1996) (SBREFA). Under this policy, EPA will eliminate or reduce civil penalties provided the small business satisfies all of the following four criteria:

- The small business has voluntarily discovered a violation. These may be discovered by the business by participating in compliance assistance programs, mentoring, use of checklists from the Internet or by voluntary audits.
- The small business voluntarily discloses the violation within 21 days. This disclosure must be sent in writing to the regulatory agency. Businesses may disclose to the EPA Region or to the appropriate State and Tribal agencies if they have similar policies.
- The small business corrects the violation and remedies any associated harm within 180 days of discovery; an additional 180 days may be granted if pollution prevention technologies are being used.
- The small business has not used this Policy or been subject to enforcement action for the same or similar violation in the past three years and has not been subject to two or more enforcement actions for environmental violations in the past five years. The violation has not caused serious harm to public health, safety, or the environment; it does not present imminent and substantial endangerment to public health or the environment; and it does not involve criminal conduct.

Please see the actual Policy for more specifics on the criteria and on violations that are ineligible. Information about using the Policy, questions and answers, and the types of violations that have been disclosed will be posted and periodically updated on the website. For more specific information on this policy, contact **Ann Kline**, *Office of Compliance*, at (202) 564-0119 or visit <http://www.epa.gov/oeca/smbusi.html>.

POLICY ON ENVIRONMENTAL SELF-POLICING

EPA issued the revised Final Policy on "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" in the Federal Register on April 11, 2000 (65 Fed. Reg. 19,617). Commonly referred to as the EPA Audit Policy, it provides regulated entities of all sizes with incentives to voluntarily discover, disclose, and correct violations of environmental laws and requirements. Under the Audit Policy:

- EPA will not seek gravity-based penalties from entities that systematically discover potential environmental violations, promptly disclose them to EPA, expeditiously correct them and meet all other conditions of the Policy.
- For entities that disclose violations that were not systematically discovered, EPA will reduce gravity-based penalties by 75% provided all other Policy conditions are met.
- EPA will generally not recommend criminal prosecution for entities that discover, promptly disclose, and expeditiously correct violations which are potentially criminal, provided all other Policy conditions are met.

The Policy excludes repeat violations, violations that result in serious actual harm and violations that may present an imminent and substantial endangerment. EPA retains its discretion to recover any economic benefits realized as a result of noncompliance.

Issuance of the revised Policy followed a two-year evaluation of the 1995 Audit Policy. Key revisions include lengthening the period for prompt disclosure from 10 to 21 days, clarifying that the Audit Policy is available in the multiple-facility context, and clarifying how the prompt disclosure and repeat violation conditions apply in the acquisitions context.

For more information on this policy, contact **Jon Silberman** at (202) 564-2429.

ENFORCEMENT RESPONSE POLICY

EPA issued the *Enforcement Response Policy*, effective August 12, 1994, to provide small businesses with a limited grace period to correct violations revealed during requested assistance from a State Small Business Assistance Program (SBAP) established under Section 507 of the Clean Air Act. Under the policy, two options are provided:

- SBAPs may offer small businesses a limited correction period for violations detected during compliance assistance. Small businesses may have up to 90 days to receive compliance assistance from the SBAPs, with the possibility of an additional 90 days to correct any violations discovered under the program. After that time, violations would be subject to existing enforcement policies.
- SBAPs may offer compliance assistance on a confidential basis. Under this option, the state retains the ability to investigate and/or take enforcement actions at any time for violations discovered independently from the Section 507 program. Under the Small Business Compliance Policy, small businesses that receive confidential assistance from the SBAP may receive a correction period if the small business voluntarily discloses the violation to the appropriate regulatory agency. *For more information on this policy, contact Ann Kline at (202) 564-0119.*

For copies of these policies, call (800) 368-5888 and ask for Item 13.

EPA'S REVISED AUDIT POLICY – Effective May 11, 2000

General Information

Formal Title: “Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations”

Citation: 65 FR 19,617 (April 11, 2000)

Web Site: www.epa.gov/oeca/auditpol.html

Purpose – To encourage regulated entities to voluntarily discover, disclose, correct and prevent violations of Federal environmental requirements

Incentives Available Under the Audit Policy

Penalty mitigation – Entities that meet all of the conditions contained in the Audit Policy are eligible for 100% mitigation of all gravity-based penalties. Entities that meet all of the conditions except for “systematic discovery” of violations are eligible for 75% penalty mitigation. EPA retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance.

No recommendation for criminal prosecution – For entities that disclose violations of criminal law and meet all applicable conditions under the Policy, the Agency will refrain from recommending criminal prosecution for the disclosing entity.

No routine requests for audit reports – In general, EPA will not request audit reports from those who disclose under the Audit Policy.

To Make a Disclosure Under the Audit Policy

Disclosures of civil violations should be made to the EPA Region in which the entity or facility is located or, where multiple Regions are involved, to EPA Headquarters. For more information, contact Leslie Jones at 202-564-5123.

Disclosures of criminal violations should be made to the appropriate EPA criminal investigation division, to EPA Headquarters, or to the U.S. Department of Justice. For more information, contact Michael Penders at 202-564-2526. **Conditions of the Audit Policy** – Entities that satisfy the following conditions are eligible for Audit Policy benefits. (Note: entities that fail to meet the first condition – systematic

discovery – are eligible for 75% penalty mitigation and for no recommendation for criminal recommendation).

Systematic discovery of the violation through an environmental audit or a compliance management system.

Voluntary discovery, that is, not through a legally required monitoring, sampling or auditing procedure.

Prompt disclosure in writing to EPA within 21 days of discovery or such shorter time as may be required by law (discovery occurs when any officer, director, employee or agent of the facility has an objectively reasonable basis for believing that a violation has or may have occurred).

Independent discovery and disclosure, before EPA likely would have identified the violation through its own investigation or based on information provided by a third-party.

Correction and remediation within 60 calendar days, in most cases, from the date of discovery.

Prevent recurrence of the violation.

Repeat violations are ineligible, that is, those that have occurred at the same facility within the past 3 years or those that have occurred as part of a pattern of violations within the past 5 years at another facility(ies) owned or operated by the same company; if the facility has been newly acquired, the existence of a violation prior to acquisition does not trigger the repeat violations exclusion.

Certain types of violations are ineligible – those that result in serious actual harm, those that may have presented an imminent and substantial endangerment, and those that violate the specific terms of an administrative or judicial order or consent agreement.

Cooperation by the disclosing entity is required.

For more information on this policy, contact **Jon Silbermant** (202) 564-2429.

EPA's Small Business Compliance Policy

Background and Purpose

- This Policy promotes environmental compliance among small businesses by providing them with special incentives. EPA will eliminate or reduce penalties for small businesses that voluntarily discover, promptly disclose, and correct violations in a timely manner.
- EPA wants to encourage small businesses to learn about environmental compliance and pollution prevention through the wide range of training, checklists, mentoring, and other activities now available to small businesses through regulatory agencies, private organizations, non-profit organizations, and the Internet. Therefore small businesses that voluntarily discover a violation because they utilized these types of activities may have the penalty eliminated if they meet all the criteria in the Policy.

Effective Date and Citation

- This Policy is effective May 11, 2000 and supersedes the June 1996 version. It was published in the Federal Register on April 11, 2000, 65 FR 19630.

Who Qualifies to Use this Policy

- For purposes of this Policy, a small business is defined as a person, corporation, partnership, or other entity that employs 100 or fewer individuals across all facilities and operations owned by the entity. Entities can also include small governments and small organizations.

How to Qualify for Penalty Elimination or Reduction

- EPA will eliminate the entire civil penalty* if a small business satisfies all four of the criteria below:
 - ❶ The small business voluntarily discovers a violation. Violations could be discovered after attending training classes or seminars, receiving on-site compliance assistance, participating in mentoring programs, or using compliance guides or checklists downloaded from the Internet.
 - ❷ The small business voluntarily discloses the violation within 21 days. This disclosure must be sent in writing to the regulatory agency.
 - ❸ Corrections Period -- the business corrects the violation and remedies any damage associated with the violation within 180 days of its discovery. However, if the correction will take longer than 90 days, a written schedule will be necessary. For small businesses that are correcting the violation by using pollution prevention technologies, they may have an additional period of 180 days, i.e., up to a period of 360 days.
 - ❹ The Policy applies if the:
 - a. violation has not caused actual serious harm to public health, safety, or the environment;
 - b. violation is not one that may present an imminent and substantial endangerment to public health or the environment;
 - c. violation does not involve criminal conduct;
 - d. facility has an appropriate compliance record. The small business hasn't used this Policy for a violation of the same or similar requirement within the past 3 years and has not been subject to two or more enforcement actions for any environmental violations in 5 years; and
 - e. violation has not already been discovered by the Agency through inspections or citations, or other methods. A legally required monitoring procedure was not violated.

Please see the actual Policy for more specifics on the criteria and on violations that are ineligible.

- *In the rare instance where the small business has obtained a significant economic benefit from the violation(s) (i.e., economic advantage over its competitors), EPA will waive 100% of the gravity component of the civil penalty, but may seek the full amount of any economic benefit associated with the violations. As of March 2000, EPA has never sought to collect economic benefit since this Policy was originally issued in 1996.

Applicability to States

- EPA will defer to comparable State and Tribal Policies if they are generally consistent with this Policy.

For More Information contact Ann Kline at 202-564-0119 or visit <http://www.epa.gov/oeca/smbusi.html>

Information about using the Policy, questions and answers, the types of violations that have been disclosed and any disclosures that have prompted EPA to collect economic benefit will be posted and periodically updated on the website.

Listed below are the regional contacts for the Policy and small business issues. The Small Business Liaisons may also be able to provide more general information on compliance assistance and this Policy.

EPA Regional Contacts

	Policy Contacts		Small Business Liaison	
Region 1:	Joel Blumstein Sam Silverman	617-918-1771 617-918-1731	Dwight Peavey	617-918-1829
Region 2:	Daniel Kraft	732-321-6669	Ronald Lockwood	212-637-3918
Region 3:	Janet Viniski Lydia Isales	215-814-2999 215-814-2648	David Byro	215-814-5563
Region 4:	Angela Blackwell Bill Anderson Carol Baschon	404-562-9527 404-562-9680 404-562-9528	Annette Hill	404-562-8287
Region 5:	Bertram Frey Tinka Hyde Jodi Swanson-Wilson	312-886-1308 312-886-9296 312-886-0879	Glynis Zywicki	312-886-4571
Region 6:	Marcia Moncrieffe Efren Ordonez Charles Sheehan	214-665-7343 214-665-2181 214-665-2175	David Gray	214-665-2200
Region 7:	Becky Dolph	913-551-7281	Jan Lambert	913-551-7768
Region 8:	David Rochlin	303-312-6892	Rob Laidlaw	303-312-7064
Region 9:	Leslie Guinan George Hays Brian Riedel	415-744-1339 415-744-1399 415-744-1380	Mark Samolis	415-744-2331
Region 10:	Jackson Fox Meg Silver Adan Schwartz	206-553-1073 206-553-1476 206-553-0015	Robyn Meeker	206-553-7154

STATE SMALL BUSINESS ASSISTANCE PROGRAMS

SMALL BUSINESS SPECIAL NEEDS:

Congress recognized the particular problems that many small businesses would have in dealing with the 1990 Clean Air Act Amendments complex requirements. A typical small business employs fewer than 50 people, and is the only business operated by the owner. It is the corner dry cleaner, the “mom and pop” bakery, the auto body repair shop, gasoline service station, the machine, tool and dye company, or one of a host of other local business establishments. Many have been in the same family and neighborhood for generations.

Air pollution control regulation may seem very complex to many small businesses. Many may not be able to afford to hire lawyers or environmental specialists to interpret and comply with all the requirements they may be responsible for in the new Act. Most may be hard pressed to inform themselves about the most basic requirements and deadlines of the control programs that will affect them, let alone the more complicated issues they are going to have to address to control air emissions, such as:

- The types of pollutants their company emits that are subject to the Act’s requirements;
- The methods they can use to estimate emissions for a permit application;
- The types of control technologies that are best and least costly for controlling a specific production process or chemical substance they use to make goods and services; and
- Process or substance substitutes they can use to prevent or reduce emissions.

STATE LEAD FOR PROVIDING SMALL BUSINESS ASSISTANCE:

The 1990 Clean Air Act Amendments gives each state government the lead in developing and implementing a *Small Business Technical and Environmental Compliance Assistance Program* as part of legally enforceable state implementation plans.

THE ACT’S DEFINITION OF A SMALL BUSINESS:

The Act establishes certain criteria that a company must meet to qualify for assistance as a small business. It must be a small business as defined in the *Small Business Act* which generally means that it is an independently owned and operated concern that is not dominant in its field. The business must be owned by a person who employs 100 or fewer individuals, and cannot be a *major stationary source* of either a primary urban (so called “criteria”) pollutant or toxic air pollutant. It cannot, in fact, emit 50 tons or more of a single pollutant a year, or more than 75 tons of all regulated pollutants. State governments can modify some of these requirements provided that the particular source does not emit more than 100 tons a year of all regulated pollutants.

FEDERAL OVERSIGHT AND SUPPORT:

EPA will be providing several forms of guidance and assistance to these state assistance programs for the full duration of the Act.

Federal Guidelines: EPA published final guidelines for states to draw upon to develop their assistance programs. The Agency has approved each state compliance and assistance program to ensure that it meets the Act’s requirements.

Oversight and Monitoring: The EPA Small Business Ombudsman oversees and monitors all state assistance programs and makes periodic reports to Congress on each state’s progress. Among other things, the EPA Ombudsman determines how well the state programs are working and makes sure that the information and assistance the states provide is understandable to the layman.

Technical Assistance and Research: EPA shares information and research that it has developed nationally with each state assistance and compliance program. States are able to receive technical assistance through several EPA Centers and Hotlines. These Centers and Hotlines provide a broad range of assistance including information concerning the Clean Air Act requirements, control technology data, pollution prevention methods and alternatives, emission measurement methods, air pollution monitoring devices, and prevention of accidental releases of toxic chemicals into the environment.

COMPONENTS OF AN OVERALL STATE ASSISTANCE PROGRAM

By November, 1992, each state was required to develop a plan for implementing a *Small Business Stationary Source Technical and Environmental Compliance Assistance Program*. Congress envisioned that these programs would be in place before small businesses begin to feel the direct effects or deadlines of the Act.

Each state program is required to include three components: (1) appointment of a state small business ombudsman; (2) establishment of a comprehensive small business assistance program; and, (3) appointment of a seven-member state compliance advisory panel.

- 1. State Ombudsman:** The first component is the State Ombudsman who acts as the small business community's representative in matters that affect it under the Clean Air Act. Other responsibilities of the State Ombudsman could be to:
 - Review and provide comments and recommendations to EPA and state/local air pollution control authorities regarding the development and implement of regulations that impact small businesses;
 - Help disseminate information about upcoming air regulations, control requirements, and other pertinent matters to small businesses;
 - Refer small businesses to the appropriate specialists in state government and elsewhere for help with particular needs (e.g., available control technologies and operating permit requirements); and,
 - Conduct studies to evaluate the effects of the act on state and local economies, and on small businesses generally.
- 2. Small Business Assistance Program (SBAP):** The second component of the overall state program is the Small Business Assistance Program which is the technical and administrative support component within the state government. The SBAP staff has access to air quality experts, technically proficient engineers, scientists and managers, and environmental specialists who provide support and technical assistance needed by small businesses to comply with the Act's requirements. Related responsibilities include:
 - Informing businesses of all requirements in the Clean Air Act that apply to them and the dates these requirements will apply;
 - Helping small businesses deal with specific technical, administrative and compliance problems;
 - Disseminating up-to-date information about the Clean Air Act to the small business community, including easy to understand public information materials; and,
 - Referring small businesses to environmental auditors who can evaluate how effective a company's work practices, monitoring procedures, and record-keeping are for complying with applicable clean air requirements.
- 3. State Compliance Advisory Panel:** The third component of the overall state assistance program consists of a seven-member *state compliance advisory panel* in each state for determining the overall effectiveness of the state SBAP. Four of these members must be small business owners or representatives selected by the state legislature; the governor of each state selects two other members to represent the "general public." The seventh member is chosen by the head of the state agency responsible for issuing operating permits.

The State compliance advisory panels reviews and renders advisory opinions on the effectiveness of the state SBAP, and makes periodic progress reports to EPA's Small Business Ombudsman concerning compliance of the small business program with other pertinent federal regulations. The compliance advisory panels also make certain that information affecting small business is written in a style that is clear and understandable.

TYPES OF BUSINESSES SUBJECT TO AIR POLLUTION CONTROLS

This is a general list of the typical kinds of small type businesses affected by one or more of the air pollution control programs under the 1990 Clean Air Act Amendments. All small businesses should consult their state pollution control agency for more specific details about the controls that will be required in their area.

Agricultural Chemical Applicators	Furniture Manufacturers	Newspapers
Asphalt Manufacturers	Furniture Repairs	Pest Control Operators
Asphalt Applicators	Gasoline Service Stations	Photo Finishing Laboratories
Auto Body Shops	General Contractors	Printing Shops
Bakeries	Hospitals	Refrigerator/Air Conditioning
Distilleries	Laboratories	Service and Repair
Dry Cleaners	Lawnmower Repair Shops	Tar Paving Applicators
Foundries	Lumber Mills	Textile Mills
	Metal Finishers	Wood Finishers

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AZ				
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AR			Ron Alexander	(501)682-0866 (N) 888-233-0326
CA	Kathleen Tschogl	(916) 323-6791 (S) (800) 272-4572		
CA South Coast AQMD			Larry Kolczak	(909) 396-3215 (S)(800)388-2121
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CT	Tracy Babbidge	(860) 424-3382 (S) (800) 760-7036		
DE	Kim Finch	(302) 739-6400		
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HI	Patrick Felling	(808) 586-4528	Robert Tam	(808) 586-4200
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Pacific Northwest P2 Resource Center

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Office of Small and Disadvantaged Business Utilization

The Office of Small and Disadvantaged Business Utilization (OSDBU), under the supervision of the Director, is responsible for developing policy and procedures implementing the functions and duties under sections 8 and 15 of the Small Business Act as amended by Public Law (P.L.) 95-507 (October 24, 1978) and P.L. 100-656 8(a) Reform Act. The Office develops policies and procedures implementing the provisions of Executive Orders 11625, 12432 and 12138 and is responsible for developing policies and procedures for implementing the requirements of Section 105(f) of P.L. 99-499 and Section 129 of P.L. 100-590. Additionally, OSDBU establishes policy, guidance and assistance to small and disadvantaged businesses in rural areas and other socioeconomic groups. The Office furnishes information and assistance to the Agency's field offices for carrying out related activities, and represents EPA at hearings, interagency meetings, conferences and other appropriate forums on matters related to the advancement of business enterprises.

Direct Procurement Program

DESCRIPTION

The Office develops, in collaboration with the Director of the Office of Acquisition Management, Office of Administration and Resources Management, Office of Administration and Resources Management, and EPA senior-level officials, programs to stimulate and improve the involvement of small business, minority business, labor surplus areas and women-owned business enterprises in the overall EPA procurement process. OSDBU monitors and evaluates Agency performance in achieving EPA goals and objectives in the above areas, and recommends the assignment of EPA Small Business Representatives to assist designated Procurement Center Representatives of the Small Business Administration to carry out their duties pursuant to applicable socioeconomic laws and mandates.

ACTIVITIES

- ◆ Develops policy and procurements impacting socioeconomic businesses
- ◆ Establish and monitor direct procurement goals for:
 - ☛ Small Business
 - ☛ 8(a) Business
 - ☛ Small Disadvantaged Business
 - ☛ Women-Owned Business
 - ☛ HUBZones
 - ☛ Subcontracting
 - ☛ Service Disabled Veterans
- ◆ Compile, collect and assemble statistical data on socioeconomic programs
- ◆ Mentor-Protégé Program
- ◆ Subcontracting Reviews and Approvals
- ◆ Outreach Efforts (Economic Development Programs for Selected Urban Centers)
- ◆ Education Training Program (Co-sponsorships with Workshops, Seminars and Trade Fairs) Provides technical and management assistance to small, disadvantaged business enterprises and women-owned entities, Alaskan Indian/American Natives and HBCUs
- ◆ Liaison with Trade Associations, Business Organizations, and Federal Agencies, including: Small Business Administration, Minority Business Development Agency of Department of Commerce, Office of Federal Procurement Policy, OMB, Congress, General Services Administration, on Socioeconomic matters

OSDBU

The Office of Small and Disadvantaged Business Utilization (OSDBU) has a **OUTREACH CENTER** for small, minority and women-owned firms in concert with Howard University's Small Business Development Center. The services of the Outreach Center are designed to enable developing, emerging and startup firms to strengthen their competitive position in the EPA marketplace. A few other services are available: (NO FEE is required except for special sessions when neither a celebrity consult is engaged or a site cost is encumbered. Hours of operations are 9:00 am until 4:00 pm, you can call for an appointment at (202) 564-4584.

Assistance to Minority and Women-Owned Business Program

Under Agency Financial Assistance Programs

(Grants and Cooperative Agreements)

DESCRIPTION

The Office is responsible for assuring that small, minority, women-owned and labor surplus are firms are given the opportunity to receive a "fair share" of subagreements during the procurement phase of certain types of financial assistance awarded by the Agency. OSDBU develops policies and procedures to aid these business entities with the assistance of the Grants Administration Division, Office of Administration and the Grants, Contracts and General Law Division, Office of General Counsel. Additionally, OSDBU is responsible for the collection of data and for monitoring the effectiveness of the program and serves as the principal focal point between EPA and the Minority Business Development Agency of the U.S. Department of Commerce.

ACTIVITIES

- ◆ Develops and monitors policy and procedures
- ◆ Regions establish "Fair Share" objectives with recipients of financial assistance
- ◆ Recipients report to delegated States or to Regional Offices
- ◆ EPA reports data to the Cabinet Council for Commerce and Trade through the Minority Business Development Agency
- ◆ Provides technical and management assistance to minority and women-owned businesses
- ◆ Provides Regional technical, management assistance and support
- ◆ Compile, collect, analyze and assemble data on DBEs, HBCUs and IAGs
- ◆ Provides reports on financial assistance program to various entities, including Congress

MBE/WBE COORDINATORS

<u>REGION</u>	<u>COORDINATOR</u>	<u>STATES</u>	<u>TELEPHONE</u>
I	Sharon Molden	CT, ME, RI, MA, NH, VT	(617) 918-1062
II	Otto Salamon	NJ, NY, PR, VI	(212) 637-3417
III	Romona McQueen	DE, DC, MD, PA, VA, WV	(215) 814-5155
IV	Rafael Santamaria	AL, FL, GA, KY, MS, NC, SC, TN	(404) 562-8110
	Matt Robbins		(404) 562-8371
V	Darlene Hainer	IL, IN, MI, MN, OH, WI	(312) 886-6017
VI	Debora Bradford	AR, LA, NM, OK, TX	(214) 665-7406
VII	Cecil Bailey	IA, KS, MO, NE	(913) 551-7462
VIII	Maurice Velasquez	CO, MT, ND, SD, UT, WY	(303) 312-6862
IX	Joe Ochab	AZ, CA, HI, NV, AS, GU	(415) 744-1628
X	Myrna Jamison	AK, ID, OR, WA	(206) 553-2931
Cincinnati	Norman White		(513) 487-2024
RTP	Jerry Dodson		(919) 541-2249
Headquarters	Lupe Saldana		(202) 564-5353

OSDBU STAFF

Jeanette Brown	Director	(202) 564-4100	Tammy Thomas	Program Specialist	(202) 564-4298
David Sutton	Deputy Director	(202) 564-4100	Elnora Thompson	Clerk-Typist	(202) 564-4139
Mark Gordon	Attorney Advisor	(202) 260-8886	Kimberly Patrick	Attorney Advisor	(202) 564-5386
Elaine Rice	National Training Officer	(202) 564-4141	Patricia Durrant	Cont. Specialist	(202) 564-4738
Trina Porter	Soc. Bus. Program Officer	(202) 564-4322	Valerie Thorne	Secretary	(202) 564-2314
Mryna Mooney	Soc. Bus. Prog. Ofr./Tribal	(202) 564-4386	Thelma Harvey	SEE Employee	(202) 564-4138
Denean Jones	Info. Mgmt. Specialist	(202) 564-4142			

OSDBU has a site on the Internet of general information and publications for small businesses interested in doing with EPA. Our WEB address is: <http://www.epa.gov/OSDBU>

REQUEST FOR PUBLICATIONS

Small Business Division (SBD)

JANUARY 2002

EPA USE ONLY Small Business ____ Asbestos ____

INQ. NO.: _____ DATE: _____ FILLED BY: _____ DATE FILLED: _____

Inquiry Source: [Hotline: Phone _____ Machine _____] Fax: _____ U.S. Mail: _____ Other _____

[Add: _____ Init: _____ Date: _____] [Change: _____ Init: _____ Date: _____] [Delete: _____ Init: _____ Date: _____]

NAME: _____ TELE. NO.: (____) _____

Organization: _____

Address: _____ Date: _____

City: _____ State: _____ Zip: _____

IF YOU **ARE NOT ALREADY** RECEIVING THE BI-ANNUAL EDITIONS OF THE "UPDATE" NEWSLETTER AND WISH TO DO SO, PLEASE COMPLETE

THIS SECTION (To receive *bi-annual "Updates" and related mailings*): Yes: _____ No: _____

INDUSTRY: _____ No. Employees: 1-99 _____ 100-499 _____ 500-Up _____
 (Indicate, or Circle Below)

Consultant	Laboratory	State Govt.	Association	EPA Region: _____
Attorney	Educational	County Govt.	Individual	Congressional
Engineer	Environmental	City Govt.	EPA Hq.: _____	Other Fed.: _____

PUBLICATIONS REQUESTED (Circle the Corresponding Alpha-Numeric Codes below):

Alpha-numeric codes refer to publications described in "Information For Small Business," available from OSBO upon request.

- | | | | | | | | | | | | | | | |
|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| A- 1 | B- 6 | C-17 | C-51 | C-80 | D- 7 | E-11 | E-41 | F- 5 | G-14 | I- 8 | I-35 | J-13 | K-29 | K-53 |
| A- 2 | B- 7 | C-18 | C-52 | C-81 | D- 8 | E-12 | E-42 | F- 6 | G-15 | I- 9 | I-36 | J-14 | K-30 | K-54 |
| A- 3 | B- 8 | C-19 | C-53 | C-82 | D- 9 | E-13 | E-43 | F- 7 | | I-10 | I-37 | J-15 | K-31 | K-55 |
| A- 4 | B- 9 | C-20 | C-54 | C-83 | D-12 | E-14 | E-44 | F- 9 | H- 1 | I-11 | I-38 | | K-32 | K-56 |
| A- 5 | B-10 | C-21 | C-56 | C-84 | D-13 | E-15 | E-45 | F-10 | H- 2 | I-12 | I-40 | | K-33 | K-57 |
| A- 6 | B-11 | C-22 | C-57 | C-85 | D-14 | | E-46 | F-11 | H- 3 | I-13 | I-41 | K- 1 | K-34 | K-58 |
| A- 7 | B-12 | C-23 | C-58 | C-87 | D-15 | E-19 | E-47 | F-12 | H- 4 | I-14 | I-42 | K- 2 | | K-59 |
| A- 8 | B-13 | C-24 | C-59 | C-88 | D-16 | E-20 | E-48 | F-14 | H- 5 | I-15 | I-43 | K- 3 | K-36 | K-60 |
| A- 9 | B-14 | C-25 | C-60 | C-89 | D-17 | E-21 | E-49 | F-15 | H- 6 | I-16 | I-44 | K- 4 | K-37 | K-61 |
| A-10 | B-15 | C-26 | C-61 | C-87 | D-18 | E-22 | E-50 | F-16 | H- 7 | I-17 | I-45 | K- 5 | K-38 | K-62 |
| A-11 | B-16 | C-27 | C-62 | C-90 | D-19 | E-23 | E-51 | F-17 | H- 8 | I-18 | I-46 | K- 6 | K-39 | K-63 |
| A-12 | B-17 | C-28 | C-63 | C-91 | | E-24 | E-53 | G- 1 | H- 9 | I-19 | I-47 | K- 8 | K-40 | K-64 |
| A-13 | B-18 | C-30 | C-64 | C-92 | | E-25 | E-54 | G- 2 | H-10 | I-20 | | K- 9 | K-41 | K-65 |
| | B-19 | C-31 | C-65 | C-93 | E- 1 | E-26 | E-55 | G- 3 | H-11 | I-21 | | K-10 | K-42 | K-66 |
| A-15 | B-20 | C-35 | C-66 | C-94 | E- 2 | E-27 | E-56 | G- 4 | H-12 | I-22 | J- 1 | K-11 | K-43 | K-67 |
| A-16 | B-21 | C-36 | C-67 | C-95 | E- 3 | E-28 | E-57 | G- 5 | H-13 | I-23 | J- 2 | K-13 | K-44 | K-68 |
| A-17 | C- 1 | C-37 | C-68 | C-96 | E- 4 | E-29 | E-58 | G- 6 | | I-24 | J- 3 | K-14 | K-45 | |
| A-18 | C- 2 | C-38 | C-69 | C-97 | E- 5 | E-30 | E-59 | G- 7 | I- 1 | I-25 | J- 4 | K-15 | K-46 | |
| | C- 7 | C-39 | C-71 | C-98 | E- 6 | E-31 | E-60 | G- 8 | I- 2 | I-26 | J- 6 | K-16 | K-47 | |
| A-20 | C- 8 | C-41 | C-73 | C-99 | E- 7 | E-32 | E-61 | G- 9 | I- 3 | I-27 | J- 8 | K-19 | K-48 | |
| A-21 | C- 9 | C-42 | | | E- 8 | E-33 | E-62 | G-10 | I- 4 | I-28 | J- 9 | K-20 | K-49 | |
| | C-10 | C-43 | C-75 | D- 1 | E- 9 | E-34 | F-65 | G-11 | I- 5 | I-29 | J-11 | K-21 | K-50 | |
| B- 1 | C-11 | C-44 | C-76 | D- 2 | E-10 | E-35 | E-66 | G-12 | I- 6 | I-30 | J-12 | K-22 | K-51 | |
| B- 2 | C-13 | C-45 | C-77 | D- 3 | | E-36 | F- 1 | G-13 | I- 7 | I-31 | | K-23 | K-52 | |
| B- 3 | C-14 | C-47 | | D- 5 | | E-40 | F- 2 | | | | | K-28 | | |
| B- 4 | C-15 | C-50 | | D- 6 | | | F- 3 | | | | | | | |
| B- 5 | C-16 | | | | | | | | | | | | | |

Mail to:
 Karen V. Brown, Small Business Ombudsman
 US Environmental Protection Agency
 Ariel Rios Building, 1200 Pennsylvania Ave, NW (1808)
 Washington, D.C. 20460

Or Telephone:
 Toll Free Hotline: (800) 368-5888
 In the D.C. area, (202) 260-1211,
 or Telefax (202) 401-2302
Asbestos.ombudsman@epa.gov
 Smallbiz.ombudsman@epa.gov

Remarks/Other Materials Requested: _____