permits issued to the facility; (3) the permit distorts the annual compliance certification requirement of Clean Air Act section 114(a)(3) and 40 CFR 70.6(c)(5); (4) the permit does not require prompt reporting of all deviations from permit requirements as mandated by 40 CFR 70.6(a)(3)(iii)(B); (5) the permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because it illegally sanctions the systematic violation of applicable requirements during startup/shutdown, malfunction, maintenance and upset conditions; (6) the permit is not supported by an adequate statement of basis; (7) the permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because many individual permit conditions lack adequate periodic monitoring and are not practically enforceable; (8) the permit lacks federally enforceable conditions that govern the procedures for permit renewal in accordance with 40 CFR 70.5(a)(1)(iii); (9) the permit is based upon an inadequate permit application; (10) the final permit improperly limits the dates during which the permit conditions apply; (11) the permit does not include an adequate compliance schedule for an opacity violation; and (12) the permit should include language indicating the availability of any credible evidence to demonstrate non-compliance.

On September 30, 2003, the Administrator issued an order partially granting and partially denying the petition on the Con Edison Hudson Avenue Street Station. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Adequately address Petitioner's comments on non-attainment NSR; (2) work with EPA to identify items that may be excluded from annual certification requirements; (3) supplement the PM monitoring requirements for the boilers; (4) include the SIP version of the excuse provision on the federally enforceable side of the permit; (5) revise the statement of basis to include a detailed explanation regarding the basis of granting a permit shield for 6 NYCRR Part 231 and (6) require record keeping to assure compliance with the facility's episode action plan. The order also explains the reasons for denying NYPIRG's remaining claims.

II. Ravenswood Steam Plant

On December 17, 2001, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit to the Consolidated Edison Ravenswood Steam Plant, on the grounds listed above except for the New Source Review, permit condition effective date, adequacy of compliance schedule and credible evidence issues. On September 30, 2003, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Remove the ''excuse provision'' that cites 6 NYCRR section 201–1.4 from the federal side of the permit; (2) supplement the PM monitoring requirements for the boilers; (3) establish a relationship between any of the permit holders or operators and the system of fossil-fuel fired facilities that satisfies the criteria of 6 NYCRR section 227–2.5; (4) list, in the permit, those units that are defined as ''NO_X Budget Units''; (5) prescribe an analytical method for monitoring the sulfur-in-fuel limit; (6) specify the applicable compliance method that is used in the monitoring of sulfur dioxide emissions; and (7) identify in the permit the correct SIP version that constitutes the legal basis for the sulfur-in-fuel limit. The order also explains the reasons for denying NYPIRG's remaining claims.

Dated: October 20, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–27260 Filed 10–28–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7579–9]

Gulf of Mexico Program Policy Review Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act (Public Law 92–463), EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Policy Review Board (PRB).

DATES: The meeting will be held on Tuesday, November 18, 2003, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Renaissance Grand Hotel, 800 Washington Avenue, St. Louis, MO 63101 (314–621–9600).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Proposed agenda includes FY 2003 Gulf of Mexico Program Accomplishments, Executive Order Status and Update, Briefings on Emerging Initiatives: PEW Commission Report, Ocean Commission Report, U.S. Mexico Gulf Programs Integration, White Water to Blue Water, Gulf Hypoxia, FY 2004 Program Workplan Overview. The meeting is open to the public.

Dated: October 22, 2003.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 03–27271 Filed 10–28–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–1999–0031; FRL–7580–3]

RCRA Burden Reduction Initiative; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is requesting additional comment on ideas for reducing the recordkeeping and reporting burden imposed on the states, the public, and the regulated community under the Subtitle C hazardous waste regulations of the Resource Conservation and Recovery Act (RCRA). The burden reduction ideas in today's notice were suggested by commenters on our Proposed Rulemaking, published in the **Federal Register** on January 17, 2002. This notice provides EPA with the opportunity to receive public input on these ideas before we issue a final burden reduction rule. EPA is only taking comment on the ideas discussed in today's notice. We are not reopening for comment any of the other ideas discussed in the proposed rule.

DATES: Submit comments on or before December 15, 2003.

ADDRESSES: Comments may be submitted by mail to: EPA Docket Center, Mailcode: 5305T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID Number RCRA–1999–0031. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in Section 1.B. of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call

Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial (703) 412–9810 or TDD (703) 412–3323 (hearing impaired). For more information on specific aspects of this NODA, contact Robert Burchard at (703) 308–8450, *burchard.robert@epa.gov*, or write him at EPA Office of Solid Waste (5302W), 1200 Pennsylvania Ave., NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID No. RCRA–1999–0031. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OSWER Docket in the EPA Docket Center at 1301 Constitution Avenue, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The phone number for the Reading Room is (202) 566–1744. Copies cost $0.15/page.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*, and you can make comments on this notice at the federal e-rulemaking portal, *http://www.regulations.gov*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket or to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Docket, although they will be part of the rulemaking record. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.A.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

a. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID Number RCRA–1999–0031. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

b. *E-mail.* Comments may be sent by electronic mail (e-mail) to *rcra–docket@epamail.epa.gov*, Attention Docket ID Number RCRA–1999–0031. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

c. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that

you mail to the mailing address identified in this section. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail

Send your comments to: OSWER Docket, EPA Docket Center, Mailcode: 5305T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID Number RCRA–1999–0031.

3. By Hand Delivery or Courier

Deliver your comments to: Environmental Protection Agency, EPA Docket Center, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID Number RCRA–1999–0031. Such deliveries are only accepted during the Docket's normal hours of operation as identified above.

4. By Facsimile.

Fax your comments to: (202) 566–0272, Attention Docket ID Number RCRA–1999–0031.

C. How Should I Submit Confidential Business Information (CBI) to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. RCRA–1999–0031. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background

A. What Is the Resource Conservation and Recovery Act (RCRA) Burden Reduction Initiative?

The RCRA Burden Reduction Initiative is the Office of Solid Waste's effort to reduce recordkeeping and reporting burden, while maintaining the protections the Agency has in place to safeguard human health and the environment. This notice seeks additional comment on ideas to reduce burden imposed by the reporting and recordkeeping requirements under the RCRA Subtitle C hazardous waste regulations at 40 CFR, Chapter I (Environmental Protection Agency), Subchapter I [''Eye''] (''Solid Wastes''). For more information on this Initiative, as well as the definition of burden, how burden is estimated and the baseline burden estimates for the RCRA hazardous waste program, see the proposed rule published in the **Federal Register** on January 17, 2002 (67 FR 2518).

B. What Are the Recordkeeping and Reporting Requirements for Generators and Treatment, Storage and Disposal Facilities (TSDFs)?

1. What Are the Existing Reporting and Recordkeeping Requirements?

The existing hazardous waste regulations require the submittal of 334 notifications, reports, certifications, demonstrations, and plans from generators and TSDFs to demonstrate compliance with the RCRA regulations. We also ask for this information as part of applications for extensions, permits, variances, and exemptions. In addition, the regulations require generators and facility owners and operators to keep certain records on-site.

2. Why Do We Collect This Information?

When we promulgated the hazardous waste regulations, we decided to collect as much information as we thought was necessary about facility operations. Without prior experience as a guide, our philosophy was that it was better to collect information in all cases, knowing that we could eliminate information requirements later if they turned out to not be useful.

We are using what we have learned during our 25-year operating history in RCRA to reevaluate this all-encompassing information collection approach, and we are moving towards collecting only the information that has actually proven useful to the RCRA hazardous waste program. This is consistent with the President's Management Agenda, which directs federal agencies to show that their programs actually accomplish their goals. Requiring facilities to collect and submit information that is seldom or never used is not only wasteful, but it diverts available environmental protection resources away from the RCRA goals of protecting human health and the environment to generating unnecessary paperwork.

C. How Have We Identified Burden Reduction?

The RCRA Burden Reduction Initiative has weighed the RCRA reporting and recordkeeping requirements versus the burden they impose to answer the question ''Which recordkeeping and reporting requirements can be eliminated or modified without compromising protection of human health and the environment.'' We obtained input from program offices at EPA Headquarters and Regions, the States, the regulated community, and public interest groups in this process. To answer this question, we asked the following specific

questions: who uses the hazardous waste information?; why do they need it?; is the information useful as it is currently collected?; and how can the quality and timeliness of the information be improved?

Our ideas were announced for comment in a June 18, 1999, **Federal Register** ''Notice of Data Availability'' (64 FR 32859). In the ''Notice'' and background documents (*see http://www.epa.gov/epaoswer/hazwaste/data/index.htm#burden*), we included every burden reduction idea we considered. Based on comments we received on the ''Notice,'' we eliminated ideas when a practical use for the information was demonstrated, or information was presented showing how eliminating/modifying a requirement would negatively impact protection of human health and the environment. Based on these comments, we added ideas which appeared in our January 17, 2002, ''Proposed Rulemaking'' (67 FR 2518). Today's notice seeks comment on some additional ideas that were suggested by commenters or are outgrowths of the Proposed Rule, based on our evaluation of those comments.

III. Discussion of Additional Items for Comment

A. Small Quantity Generator Tanks and Tank Ancillary Equipment Inspection Frequencies

In the Proposed Rule, we requested comment on changing the tank self-inspection frequencies from daily to weekly for large quantity generators. We received comments suggesting that we expand this change to include tanks located at small quantity generator sites (*see* § 265.201(c)) and ancillary equipment at small and large quantity generator facilities (*see* § 264.193(f) and § 265.193(f)). Changing these inspection frequencies would be consistent with our intent, as discussed in the 1999 ''Notice of Data Availability,'' the Proposed Rule, and background documents to establish weekly tank inspections for all tanks and tank systems. The estimated burden hour savings from extending to weekly the inspection frequency for tanks located at small quantity generator sites ranges from 200,000–600,000 burden hours (depending on the percentage of small quantity generators assumed to have tanks). We consider this to be substantial savings. We request comment on the merits of this change.

B. Further Reduced Inspection Frequencies for Performance Track Facilities

In addition to allowing weekly inspection frequency for tanks, we also proposed to allow, on a case-by-case basis, decreased inspection frequencies for tanks, containers, and containment buildings (from the frequency currently required by regulation). In all cases, inspections would have to occur at least monthly and would be established on a site-specific basis by authorized States or by EPA in States that do not have a delegated program. In proposing this change, we suggested that decreased inspection frequencies should be based on factors such as: (1) A demonstrated commitment by facility management to sound environmental practices; (2) demonstrations of good management practices over the years—that is, having a record of sustained compliance with environmental laws and requirements; (3) a demonstrated commitment to continued environmental improvement; (4) a demonstrated commitment to public outreach and performance reporting; (5) the installation of automatic monitoring devices at the facility; and (6) the chemical and physical characteristics of the waste being managed in the unit.

Based on comments received on the proposal, the Agency is reconsidering whether to make such a change available to all generators because of the burden it might impose on authorized States to evaluate compliance with the criteria. However, at a minimum, we believe that providing relief is appropriate for companies that are demonstrated ''good performers.'' Therefore, the Agency is soliciting comment on whether to limit this provision—the ability to file a case-by-case application for reduced self-inspection frequencies—to member companies of the National Performance Track Program. The National Environmental Performance Track Program recognizes and encourages top environmental performance among private and public facilities in the United States. Performance Track facilities go beyond compliance with regulatory requirements to achieve environmental excellence. Currently, the program has approximately 300 members. See the following Web site for information about the National Performance Track Program: *http://www.epa.gov/performancetrack.* Today, we also are clarifying that this provision was meant to apply not just to the tanks, but to the complete tank systems. This includes piping, pumps, valves and other associated equipment.

We also received a comment suggesting that we extend reduced inspection frequencies, granted on a case-by-case basis, to areas subject to spills (see § 264.15(b)(4)). While the Agency is considering this comment as a general matter, we also solicit comment on whether to grant relief only to companies that are National Performance Track members. We think the risk from this change is minimal at facilities that have met the requirements to be accepted into the National Performance Track Program. Again, the Agency believes it is important to recognize the difference in the need for oversight of companies that are top environmental performers and, therefore, believes that such a change may be appropriate.

C. RCRA/OSHA Overlap in Emergency Response Training

EPA and the Occupational Safety and Health Administration (OSHA) have both promulgated regulations to ensure the safety and health of workers at hazardous waste facilities. While RCRA Subtitle C includes requirements to provide protection to workers, worker safety and health are not its primary goal. This is the goal of OSHA, the Federal agency responsible for enforcing the safety and health of workers at facilities producing, using, storing, transporting, and disposing of hazardous materials.

In a study by the General Accounting Office (GAO) published in October 2000, OSHA and EPA worker training requirements in emergency response procedures were found to be duplicative. GAO concluded that this overlap in training requirements creates an unnecessary burden by confusing the regulated community, diminishes the efficiency of the facility (which could jeopardize worker safety), and wastes funds.

Hazardous waste treatment, storage and disposal facility (TSDF) workers are required to receive OSHA training, including training for emergency response, under 29 CFR 1910.120(p). OSHA's regulations have specific training requirements for RCRA-permitted facilities to teach hazardous waste workers how to respond to emergencies.

Based primarily on the GAO findings, EPA proposed to eliminate the RCRA emergency response training requirements in favor of the OSHA requirements. Unfortunately, there has been some confusion about what we proposed. We did not propose to eliminate the entire RCRA personnel training requirements, only the emergency response training

requirements located at § 264.16(a)(3) and § 265.16(a)(3).

While many of the commenters supported the proposal, we received a number of comments expressing concern that two of the RCRA emergency response training requirements are not covered in OSHA's requirements, which could lead to gaps in workplace safety and health. After consultation with OSHA, we determined that the two requirements identified in comments (key parameters for automatic waste feed cut-off systems and response to ground-water contamination incidents) would be captured under the OSHA performance standard that employees must be trained in the safe use of engineering controls and equipment on the site, and the OSHA requirement that a site safety and health plan must contain a spill containment program. Moreover, the RCRA requirements are duplicated elsewhere in the RCRA regulations, where we establish requirements for safe facility operations. For example, § 266.102(e)(7)(ii) establishes automatic waste feed cutoff requirements for combustors, § 264.194(b)(2) establishes controls for tanks, and § 264.193 requires groundwater release training. Thus, we do not find any gaps between the two programs on the subject of emergency response training.

Deferring to the standards of other organizations whose expertise is greater than ours has precedent in the RCRA regulations. An example is § 264.198(b), which establishes special requirements for ignitable or reactive wastes. We require facilities storing or treating these wastes to comply with the standards of the National Fire Protection Association, a non-profit organization that develops consensus codes and standards to protect the public against fire dangers.

However, a number of commenters suggested that the Agency provide additional flexibility to this change by allowing the facility owner/operator to determine whether to follow the RCRA or OSHA requirements (as opposed to the proposed rule's approach of requiring facilities to follow the OSHA regulations), especially for those facilities which are not otherwise required to comply with OSHA training requirements. This seems a reasonable accommodation to facilities, that, for any of a number of reasons, have elected to comply with the RCRA regulation and would be burdened by the need to demonstrate compliance under the OSHA rule. Therefore, we request comment on this approach.

D. Professional Certifications

Currently, the RCRA regulations require an independent, qualified, registered professional engineer (or registered geologists for some requirements) to certify the effectiveness of the design and operation of certain hazardous waste treatment units. We received a comment on our ''Notice of Data Availability'' dated June 18, 1999 (64 FR 32859) from the Certified Hazardous Materials Managers' organization asking that their members also be allowed to make certifications. Based on our review of the qualifications of Certified Hazardous Materials Managers, it appeared to the Agency that these certified professionals were qualified to provide the certifications, increasing marketplace competition and potentially reducing the cost of those certifications. As a result, the Agency proposed to add Certified Hazardous Materials Managers as professionals qualified to make these certifications. We did not receive similar requests from other professional organizations.

In response to this proposal, the Agency received about 1,900 comments, mostly requesting that we expand the list of individuals who can do such certifications to include other kinds of professionals, such as expanding the list of certifications to registered geologists. These commenters believe that the Agency was being arbitrary in allowing only two disciplines to certify operations.

On the other hand, professional engineers were strongly opposed to the proposal. They suggested that Certified Hazardous Materials Managers are not qualified to certify the design, construction, and structural integrity of hazardous waste management units.

States likewise suggested that the certifications we proposed to modify involve the design, installation, and assessment of structures, and that their laws allow only licensed engineers to make these kinds of certifications. The States also indicated that their licensing boards can investigate complaints of negligence or incompetence, and may impose fines and other disciplinary actions such as cease-and-desist orders or license revocation. This personal liability of the professional engineer is one of the reasons why the States believe that RCRA certifications should only be done by state-licensed professional engineers.

Other commenters suggested that, rather than deciding which professions are qualified to make certifications, we should instead establish an environmental professional performance standard based on membership in a recognized professional organization. This would be consistent with our principle of allowing the regulated community to meet our standards at the lowest possible cost. The challenge we faced in developing a performance standard was determining which professional organizations are legitimate. Commenters helped by offering the suggestion that we recognize only the organizations which meet the criteria for assessing certification programs for environmental professionals established by the American Society for Testing and Materials (ASTM). ASTM is a nonprofit organization that provides a forum for the development and publication of voluntary, consensus standards for materials, products, systems, and services. The advantage of an ASTM standard is that it is developed by individuals with a diversity of backgrounds, expertise, and knowledge. Through a consensus approach, the standards that are developed reflect the needs of all the stakeholders.

ASTM E1929–98, Standard Practice for the Assessment of Certification Programs for Environmental Engineers: Accreditation Criteria assesses the credibility of certification programs for environmental professionals. Under these standards, the certifying body must have a program to evaluate individual competence for certification that is objective and based on the knowledge, skills, and abilities needed to function in the specialty area. Applicants must document their level of education, supply reference materials, sign and abide by a code of ethics established by the certifying body, and pass a comprehensive examination. The ASTM standard also requires that environmental certification programs be accredited by an independent entity. This ASTM standard is available for review at the OSWER Docket in the EPA Docket Center.

Therefore, we are considering allowing only professionals certified by organizations meeting the ASTM standard to conduct a limited number of the certifications. Under this standard, anyone who certifies the operation of facilities must (a) be licensed to practice in the state where the facility is located or recognized by a certification program that is compliant with ASTM E1929–98 Standard Practice for the Assessment of Certification Programs for Environmental Professionals: Accreditation Criteria, and (b) have the knowledge and experience to undertake the tasks required for the certification. Based on comments from and extensive discussions with the States, we may

limit the flexibility to use persons meeting the criteria of the new performance standard to three certifications:

Subject to New Performance Standard

264.573(a)(4)(ii),(g); 265.443(a)(4)(ii),(g) Drip pads—evaluate drip pads.

264.574(a); 265.444(a) Drip pads—inspections.

266.111(e)(2) BIF Direct transfer equipment—assessment of equipment.

At the same time, EPA is persuaded by commenters—particularly the States—who suggested that the remaining RCRA certifications are inherently ''engineering'' activities and should only be conducted by a qualified professional engineer. We solicit comment on this revised approach.

Some commenters further suggested that we streamline the existing professional engineer requirement by changing it from ''independent, qualified, registered professional engineer'' to ''qualified professional engineer.'' They believe that this retains the most important requirements—that the engineer be qualified to perform the task, and that she or he be a professional (following a code of ethics and the potential of losing his/her license for negligence) engineer. The professional engineers who commented, as well as the professional engineer advocacy organizations, emphasized the importance of the ''professional'' part of the engineering requirement, rather than the ''independent'' part. Making this change in the RCRA regulations would allow certifications to be done by a professional engineer employed by the facility. Commenters believe that this would save facilities money without compromising environmental safety. This would also be consistent with the approach we have taken in some newer requirements for certifications. *See* the 265.1101(c)(2) containment building design certification, and the 266.103(b)(2)(ii)(D) evaluation of data for boilers and industrial furnaces, which allow for certification by ''qualified, registered professional engineers.''

As a point of reference to check the reasonableness of this change, we examined the certification requirements of another federal regulatory agency responsible for ensuring the safety of the public, the Department of Transportation's Federal Highway Administration. The Federal Highway Administration (FHA) recently proposed revisions and improvements to its National Bridge Inspection Standards (68 FR 53063). These standards ensure the safety of the traveling public by establishing proper safety inspection and evaluation requirements for highway bridges. The standards apply to publicly-owned bridges, and are strongly advised for privately-owned bridges. FHA points out in their preamble discussion that it is extremely important that privately owned highway bridges be inspected to a nationally-recognized standard, for at a minimum, private bridge owners that do not inspect their highway bridges to the standards can open themselves to liability for deaths or injuries because of possible highway bridge failure. The standards currently require the person responsible for inspecting bridges to be a professional engineer. Interestingly, FHA's proposed rule's preamble discussion on the professional engineer requirement covers the necessity of these professional engineers having adequate experience to do the job, which is emphasized in today's notice—and FHA does not require, nor does it discuss in its proposal for improving the standards, the need for the professional engineer be ''independent.''

The Occupational Safety and Health Administration (OSHA) Safety and Health Regulations for Construction; Specific Requirements for Excavation (see 29 CFR 1926.651) provide another example of a federal regulatory agency requiring certification by professional engineers, but not requiring that the engineers be ''independent.'' Under these regulations, OSHA requires structural ramps that are used to access or exit excavations to be designed by a ''competent person'' qualified in structural design. OSHA also requires professional engineers to ensure the stability of structures adjacent to excavations.

In addition, our understanding of what it means to be ''registered'' is that it means one who is licensed by a State. Since only States license professional engineers and geologists, we believe that ''registered'' and ''professional'' mean the same thing in the context of ''registered professional engineer or geologist.'' Thus, ''registered'' appears to be a redundant requirement. We request comment on whether to make this conforming change to provide consistency to our rules, which sometimes include the term ''registered'' and in other cases do not.

In summary, we have identified the following certifications as needing a qualified professional engineer:

Only Qualified Professional Engineers

264/265.115 Certification of closure.

264/265.120 Certification of post-closure care.

264/265.191(a), (b)(5)(ii) Assessment of tank system's integrity.

264/265.192(a), (b) Assessment of new tank system and components (also may be done by a qualified installation inspector).

264/265.196(f) Tank systems—submit certification of completion of major repairs.

264.280(b) Land treatment units, certification of closure (also may be done by a qualified soil scientist).

264.571(a), (b), (c); 265.441(a), (b), (c) Drip pads—submit written plan, as-built drawings, and certification for upgrading, repairing and modifying the drip pad.

265.1101(c)(2) Containment building design certification.

266.103(b)(2)(ii)(D) BIFs—Evaluation of data.

270.16(a) Assessment of tank system structural integrity.

270.17(d) Assessment of surface impoundment structural integrity.

The Agency solicits comments on whether the ASTM standard is appropriate; whether the Agency made the right choices in determining which certifications must be conducted by qualified professional engineers, as opposed to persons that are accredited by programs meeting the ASTM standard; and whether the Agency should modify the requirement to allow ''qualified professional engineers'' to conduct the certification instead of ''independent, qualified, registered professional engineers.''

E. General Facility Standards

When the Agency promulgated the operating record requirements in the hazardous waste regulations, we believed that records should routinely be kept for the life of the facility. Our rationale for this position was that if an issue or problem came up about an earlier practice at a facility, the records would be available.

After many years of experience in implementing the RCRA hazardous waste rules, we are better able to distinguish those records that must be kept for the life of the facility from those which can be discarded after some period of time without affecting protections of human health and the environment.

As discussed in the Proposed rule, information about which wastes are disposed of at a facility and where the disposed waste is located must be kept for the life of the facility. More routine information, such as whether certain notices were filed and records of inspections, can be discarded after three years. In the RCRA regulations, we have generally settled on three years as a

reasonable time frame for keeping records. This is consistent with other Agency programs, such as the Toxics Substance Control Act and the Toxic Chemical Release Reporting Community Right to Know programs, that impose a three year record retention time in their regulations. Therefore, we proposed to modify the §§ 264.73 and 265.73 operating record requirements to require only a three-year limit for keeping certain information.

In response to this proposal, we received a comment that for §§ 264.73(b)(8) and 265.73(b)(8) closure and post-closure cost estimates, we should only require current estimates to be kept at the facility. In fact, the commenter argues that 264.142(d) and 264.144(d) only requires the facility to ''keep .* * * at the facility during the operating life of the facility (t)he latest'' closure and post-closure cost estimates. We agree with the commenter that there is an apparent inconsistency in the rules and thus request comment on the merits of this change.

We also received a request for clarification of the operating record requirements for incinerators. The commenter pointed out that for incinerators, voluminous data is produced and is required to be kept for the life of the facility, which is burdensome to maintain. Specifically, data that is required to be collected and maintained include continuous monitoring of combustion temperature, waste feed rate, the indicator of combustion gas velocity specified in the facility permit, and other operating parameters. At the commenter's facilities, monitoring is done at 75 points, some instantaneously (every 15 seconds), but all requiring maintenance of 15-second data, minute averages and rolling hourly averages. This is a large volume of data that is generated annually. We are requesting comment on requiring a three year retention for these records instead of for the life of the facility.

F. Groundwater Monitoring Requirements

Treatment, storage, and disposal facilities must implement a groundwater monitoring system for hazardous waste land disposal units to detect the presence of contaminants in groundwater. If contamination is detected, more extensive monitoring must be performed. If the level of contamination exceeds the groundwater protection standard, corrective action must be undertaken.

We proposed allowing owners/operators of facilities to report on the effectiveness of corrective action on an annual basis instead of the current semi-annual basis. In combination with other forms of oversight by regulatory agencies, we suggested that annual reporting will provide adequate information to ensure compliance.

In addition, we proposed modifying the § 264.99(g) requirement that facilities who are undertaking compliance monitoring also conduct an annual Appendix IX analysis of all monitoring wells. Specifically, we proposed allowing, on a case-by-case basis, sampling in a subset of the wells.

We received a comment asking that we clarify an inconsistency in our groundwater regulations. Specifically, we were asked to revise the § 264.98(d) detection monitoring requirements, which say that a facility must collect at least four samples from each well at least semi-annually. Elsewhere in our groundwater regulations—§ 264.97(g)(2) (the general groundwater monitoring requirements) we allow facilities to propose (with the Regional Administrator's approval) alternate sampling procedures. The commenter would like us to extend this flexibility to the detection monitoring requirements. This appears to be a reasonable request.

Another commenter suggested that we provide flexibility in another part of both the groundwater detection and compliance monitoring requirements. Currently, facilities that find appendix IX compounds in the groundwater may resample within a month to check again for the compounds. If found again, the constituents will form the basis for compliance monitoring (and for detection monitoring, any new constituents that are found are added to the monitoring list). The commenter asked that we add language saying that the resampling may occur within a different time frame, upon approval by the State or EPA. This also appears to be a reasonable request. This change would increase the flexibility facilities have in complying with our regulations, without impacting protections for human health and the environment.

Finally, we received a comment asking us to change § 264.100(g) to maintain consistency with our change to 264.113(e)(5)—requiring an annual instead of semi-annual corrective action report. We inadvertently omitted this change despite it being consistent with our preamble discussion. We solicit comment on the merits of this change.

G. Military Munitions

We currently require conditionally exempt munitions to be transported under shipping controls specified in § 266.203(c). This section (266.203(c)) requires all shipments to be accompanied by 5 specific forms (the regulations currently lists the name of each form, as well as the accompanying form identification number). The problem, according to a commenter, is that every time the name of one of these forms, or the form identification number changes, the Department of Defense must publish a **Federal Register** notice announcing the change. It was not our intent for this type of minor, administrative action to require public notification. We believe that reasonable streamlining can be achieved by eliminating the requirement for a **Federal Register** notice and replacing it with a requirement for written notification to the Director of EPA's Office of Federal Facilities Enforcement. We request comment on this potential change.

H. Permit Modifications

Several commenters pointed out that implementing many of the changes in the proposed rule will require a Class 2 Permit modification for facilities with permits (*see* the following Web site for information about Permit modifications: *http://www.epa.gov/epaoswer/hotline/training/perm.pdf).* We believe the changes represented in this notice will provide no significant threat to human health or the environment. Therefore, our intention is to allow these changes, if finalized, to be made as quickly as possible as opposed to making a change on paper, but not being able to implement it quickly. Because of the magnitude of the savings represented by these changes, delaying implementation would be costly for no apparent gain in environmental protection. Due to an oversight on our part, we did not address this issue in the proposed rule. Therefore, we are requesting comment today on allowing permitted facilities to use the Class 1 permit modification procedure, with prior Agency approval, to implement the changes arising from this rulemaking. However, we also request comment on whether the Class 1 permit modifications should be without prior Agency approval. Where States have an authorized RCRA program, the ''Agency approval'' refers to approval by the State.

IV. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency

certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's notice on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's notice on small entities, we are certifying that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule. Today's notice is specifically intended to be de-regulatory and to reduce, not increase, the paperwork and related burdens of the RCRA hazardous waste program. For businesses in general, including all small businesses, the changes would reduce the labor time and other costs of preparing, keeping records of, and submitting reports to the agency. The notice also reduces the frequency by which businesses must conduct specified recordkeeping and reporting activities. It also eliminates recordkeeping and reporting requirements, thereby streamlining facilities' compliance activities. Finally, the rule increases flexibility in how waste handlers may comply with the regulations. We therefore conclude that today's notice relieves regulatory burden for small entities. We continue to be interested in the potential impacts of the notice on small entities and welcome comments on issues related to such impacts.

Dated: October 17, 2003.

Robert Springer,

Director, Office of Solid Waste.

[FR Doc. 03–27270 Filed 10–28–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement Nos.: 010050–012.

Title: U.S. Flag Discussion Agreement.

Parties: American President Lines, Ltd. and A.P. Moller-Maersk A/S.

Synopsis: The amendment expands the geographic scope of the agreement to include ports in Africa and Eastern Europe and updates Maersk Sealand's name.

Agreement No.: 011075–064.

Title: Central America Discussion Agreement.

Parties: APL Co. Pte Ltd.; A.P. Moller-Maersk A/S; Crowley Liner Services, Inc.; Dole Ocean Cargo Express; King Ocean Services Limited; and Seaboard Marine, Ltd.

Synopsis: The amendment adds Lykes Lines Limited, LLC as a party to the agreement.

Agreement No.: 011865.

Title: CMA–CGM/LT Amerigo Express MUS Slot Charter Agreement.

Parties: CMA CGM, S.A. and Lloyd Triestino di Navigazione S.p.A.

Synopsis: The proposed agreement would authorize CMA CGM to charter space to Lloyd Triestino in the trade between the East Coast of the United States and the western Mediterranean Sea.

Dated: October 24, 2003.

By Order of the Federal Maritime Commission

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–27278 Filed 10–28–03; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–78–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project: National Public Health Performance Standards Program Local Public Health Governance Performance Assessment Instrument—Revision—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC).

CDC received approval for this data collection February 19, 2002. This request seeks approval for a revised evaluation document. The previous instrument included 23 open-ended questions. The revised instrument includes 13 questions, the majority of which are close-ended. This revised instrument will provide us better data for the purposes of analysis and elicit more valuable information for improving the instruments in the future. Additionally, the revised evaluation is similar to the evaluations included in the State Public Health System and Local Public Health System Performance Assessment Instruments (0920–0557 and 0920–0555), thus offering more opportunities for cross-analysis.

Background

Since 1998, the CDC National Public Health Performance Standards Program has convened workgroups with the National Association of County and City Health Officials (NACCHO), the Association of State and Territorial Health Officials (ASTHO), the National Association of Local Boards of Health (NALBOH), the American Public Health Association (APHA), and the Public Health Foundation (PHF) to develop performance standards for public health systems based on the ten Essential