Dated: October 13, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.224 [Removed]

2. By removing § 180.224 *Gibberellins; tolerances for residues.*

3. In § 180.1016 by revising paragraph (a) to read as follows:

§ 180.1016 Ethylene; exemption from the requirement of a tolerance.

* * * * *

(a) For all food commodities, it is used as a plant regulator on plants, seeds, or cuttings and on all food commodities after harvest and when applied in accordance with good agricultural practices.

* * * * *

§ 180.1042 [Removed]

4. By removing § 180.1042 *Aqueous extract of seaweed meal; exemption from the requirement of a tolerance.*

5. By revising § 180.1098, to read as follows:

§ 180.1098 Gibberellins [Gibberellic Acids (GA_3 and GA_4 + GA_7), and Sodium or Potassium Gibberellate]; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of gibberellins [gibberellic acids (GA_3 and GA_4 + GA_7), and sodium or potassium gibberellate] in or on all food commodities when used as plant regulators on plants, seeds, or cuttings and on all food commodities after harvest in accordance with good agricultural practices.

§ 180.1099 [Removed]

6. By removing § 180.1099 *Indole butyric acid (IBA); exemption from the requirement of a tolerance.*

7. In § 180.1159 by revising paragraph (a) to read as follows:

§ 180.1159 Pelargonic acid; exemption from the requirement of tolerances.

(a) An exemption from the requirement of a tolerance is established for residues of pelargonic acid in or on all food commodities when used as a plant regulator on plants, seeds, or cuttings and on all food commodities after harvest in accordance with good agricultural practices.

* * * * *

8. By adding new § 180.1157 and § 180.1158 to read as follows:

§ 180.1157 Cytokinins; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of cytokinins (specifically; aqueous extract of seaweed meal and kinetin) in or on all food commodities when used as plant regulators on plants, seeds, or cuttings and on all food commodities after harvest in accordance with good agricultural practices.

§ 180.1158 Auxins; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of auxins (specifically; indole-3-acetic acid and indole-3-butyric acid) in or on all food commodities when used as plant regulators on plants, seeds, or cuttings and on all food commodities after harvest in accordance with good agricultural practices.

[FR Doc. 98–28360 Filed 10–22–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–6179–4]

Land Disposal Restrictions: Notice of Intent To Grant a Site-Specific Treatment Variance to Chemical Waste Management, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA or Agency) is today proposing to grant a site-specific treatment variance from the Land Disposal Restriction (LDR) standards for two specific hazardous wastes to be stabilized by Chemical Waste Management, Inc. (CWM) at their Kettleman Hills facility in Kettleman City, California. These wastes have been classified as D010, as well as D004, D006, D007, and D008. CWM requests this variance because the wastes of concern cannot be treated to the treatment standard of 5.7 mg/L TCLP (63 FR 28556, May 26, 1998) for nonwastewater forms of D010 waste. The chemical properties of the wastes in question appear to differ significantly from the waste used to establish the LDR standard. Accordingly, the Agency today proposes to grant a site-specific treatment variance to CWM from the selenium treatment standard for the two wastes discussed in this proposal. The Agency is proposing an alternate treatment standard of 51 mg/L TCLP for the waste generated by Owens Brockway Glass Container Company, and 25 mg/L TCLP for the waste generated by Ball-Foster Glass Container Corporation.

If this proposal is finalized, CWM may land dispose of these two treated wastes in a RCRA Subtitle C landfill provided they comply with the specified alternate treatment standard for selenium nonwastewaters and they meet all other applicable LDR treatment standards. Furthermore, the Agency proposes to grant this variance for a period of three years. During this period, the Agency will request the petitioner to submit information on whether new technologies have become available to treat these wastes to the national treatment level of 5.7 mg/L TCLP and also whether some type of vitrification or recovery technology can be employed to recover and/or treat the selenium component of the waste in lieu of stabilization. Note that waste already disposed of pursuant to the standard established in a treatment variance would be lawfully disposed, and would not have to be retreated if the standard in the variance were altered or lapsed.

DATES: EPA is requesting comments on today's proposed decision. Comments will be accepted until November 13, 1998. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Commenters must send an original and two copies of their comments referencing Docket Number F–98–CWMP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–CWMP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under

separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the Supplementary Information section for information on accessing them.

The index is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/osw/hazwaste.htm#ldr
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address
Files are located in /pub/epaoswer

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323. For more detailed information on specific aspects of this rulemaking, contact Elaine Eby at (703) 308–8449 or EBY.ELAINE@epamail.epa.gov, or Josh Lewis at (703) 308–7877 or LEWIS.JOSH@epamail.epa.gov, Office of Solid Waste (5302 W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Background

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

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

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. This expedited procedure is in conjunction with the Agency ''Paperless Office'' campaign. For further information on the submission of diskettes contact Josh Lewis of the Waste Treatment Branch at (703) 308–7877.

A. Authority

Under section 3004(m) of the Resource Conservation and Recovery Act (RCRA), EPA is required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' EPA has interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council* v. *EPA*, 886 F. 2d 355 (D.C. Cir. 1989). The Agency has recognized that there may be wastes that cannot be treated to levels specified in the regulations (see 40 CFR 268.40) because an individual waste matrix or concentration can be substantially more difficult to treat than those wastes the Agency evaluated in establishing the treatment standard (51 FR 40576, November 7, 1986). For such wastes, EPA established a treatment variance (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

B. Summary of Petition

On May 12, 1997, the Agency published ''Land Disposal Restrictions Phase IV: Second Supplemental Proposal on Treatment Standards for Metal Wastes and Mineral Processing Wastes, Mineral Processing and Bevill Exclusion Issues, and the Use of Hazardous Waste as Fill'' (62 FR 26041). In this proposal, the Agency proposed to revise the Universal Treatment Standard (UTS) for selenium nonwastewaters from 0.16 mg/L TCLP to 5.7 mg/L TCLP. The Agency also proposed to apply the revised UTS standard to D010 nonwastewaters (D010 denotes a waste that is characteristically hazardous for selenium).

On August 12, 1997, CWM submitted comments on the supplemental proposed rule. CWM stated that the standards for selenium should be raised and reiterated an earlier suggestion that EPA establish a High Selenium >200 ppm subcategory for nonwastewaters, with the establishment of a treatment standard of 10 mg/L TCLP, because of the technical problems in achieving lower levels for more highly-concentrated selenium waste streams. CWM stated that it had consistently experienced problems treating waste streams from glass manufacturing companies to the current level of 5.7 mg/L TCLP. To further illustrate this point, CWM provided treatability testing data from a selenium-contaminated waste stream (untreated TCLP of 80.13 mg/L), which showed that CWM formulated 16 different treatment recipes prior to targeting one which could possibly treat a selenium waste to below the 5.7 mg/L standard.

On October 20, 1997, per the Agency's request for additional information on the facility's selenium treatment using stabilization, CWM submitted additional testing data from their Kettleman Hills, California facility. These data consisted of bench-scale stabilization treatment testing for selenium-bearing wastes generated from various glass manufacturing companies. The wastes contained leachate concentrations of selenium ranging from 76.3 to 1024 mg/L TCLP. Stabilization tests were submitted on three different selenium waste streams using various combinations of the following stabilization reagents: ferrous sulfate, calcium polysulfide, ferric chloride, sodium bisulfate, portland cement, and cement kiln dust. Data from these tests showed that more than 60 different stabilization recipes failed to meet the selenium treatment standard of 5.7 mg/L TCLP, with only five recipes achieving compliance.

In the Phase IV Final Rule, the Agency determined that a treatment standard of 5.7 mg/L TCLP was appropriate for D010 nonwastewaters (63 FR 28556, May 26, 1998). However,

the Agency further concluded that high-level selenium waste streams, in particular the waste streams for which data was submitted by CWM, were unable to achieve the 5.7 mg/L TCLP standard. The Agency suggested that it would propose a site-specific treatment variance for these high selenium waste streams being treated by CWM in the near future. Id.

II. Basis for Determination

Under 40 CFR 268.44(h), EPA allows facilities to apply for a site-specific variance in cases where a waste that is generated under conditions specific to only one site cannot be treated to the specified levels. In such cases, the generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance from a treatment standard. The applicant for a site-specific variance must demonstrate that, because the physical or chemical properties of the waste differ significantly from the waste analyzed in developing the treatment standard, the waste cannot be treated by BDAT to specified levels or by the specified methods. Note that there are other grounds for obtaining treatment variances, but this is the only provision relevant to the present petition.

CWM formally submitted their request for a treatment variance by subsequent letter.[1] CWM also sent comments in support of the Land Disposal Restrictions Phase IV—Second Supplemental (62 FR 26041, May 12, l997) as well as additional supplemental information. The Agency has used this information in evaluating the variance request by CWM. All information and data used in the development of this proposed treatment variance can be found in the RCRA docket supporting this proposal.

A. Establishment of BDAT for Selenium

In the Third Third rule (55 FR 22521, June 1, 1990), the Agency developed performance standards for selenium based on stabilization as BDAT. At that time, EPA had information indicating that wastes containing high concentrations of selenium were rarely generated and land disposed. The Agency also stated that it believed that for most waste containing high concentrations of selenium, recovery of the selenium was feasible using recovery technologies currently employed by copper smelters and copper refining operations. The Agency further stated that it did not have any performance data for selenium recovery, but available information indicated that recovery of elemental selenium out of certain types of scrap material and other types of waste was practiced in the United States. No comments or data were received on this issue in the Third Third rulemaking docket. Consequently, to establish the treatment standard, the Agency used performance data from the stabilization of a D010 mineral processing waste, which it determined to be the most difficult to treat selenium waste. This waste contained up to 700 ppm total selenium and 3.74 mg/L selenium in the TCLP leachate. The selenium levels in treated residuals were between 1.80 and 0.154 mg/L TCLP. This waste also contained high concentrations of arsenic, cadmium, and lead. The binder to waste ratios varied from 1.3 to 2.8.

B. Chemical Properties and Treatability Information on CWM's Selenium Wastes

The two waste streams at issue here appear to be significantly different from the wastes used to set the treatment standard, and the current treatment standard of 5.7 mg/L TCLP for D010 nonwastewaters is not attainable using BDAT on these two wastes. The first waste stream, generated by Owens Brockway Glass Container Company, Vernon, California and identified by CWM in the petition documents as D79726, is electrostatic precipitator dust generated during glass manufacturing operations. Presently, CWM is storing 130 cubic yards of this unprocessed waste on-site. An additional forty cubic yards have been treated but fail to meet the standard of 5.7 mg/L TCLP. The generator estimates a monthly generation rate of 40 cubic yards.

D79726 is characterized as a grey and white solid containing no free liquids or organic constituents. It consists of 50–60% salt cake and 40–50% soda ash. Concentrations of selenium in the untreated waste have been measured between 80.13 and 1024 mg/L TCLP. The waste also has significant concentrations of arsenic, cadmium, chromium, and lead and has exhibited the following additional waste code listings: D004, D006, D007, and D008.

Three samples or batches of the waste were tested to determine appropriate stabilization recipes. A summary of these samples is presented in Table I. For Batch 96222928 (581 mg/L TCLP selenium in the untreated sample), CWM tested nine different recipes, with reagent to waste ratios ranging between 0.6 and 4.3. Reagents included iron sulfate, cement and cement kiln dust. Treated selenium TCLP concentrations for Batch 96222928 ranged from 4.34 to 228 mg/L TCLP. Batch 96222929 contained 1024 mg/L TCLP selenium in the untreated waste. Thirty-three different recipes were tested with treated concentrations of selenium ranging from 5.23 to 290.5 mg/L TCLP, with reagent to waste ratios ranging from 0.6 to 5.0. Batch 96222930 contained 465 mg/L TCLP selenium in the untreated waste and was tested using nine recipes with reagent to waste ratios ranging from 1.3 to 4.4. Concentrations of selenium in the treated waste ranged from 11.3 mg/L to 109 mg/L TCLP.

TABLE I.—SUMMARY OF OWENS BROCKWAY SELENIUM WASTE

Batch No.	Untreated Se TCLP (mg/L)	Treated Se TCLP range (mg/L)
96222928	581	4.34–228.
96222929	1024	5.23–290.5.
96222930	465	11.3–109.

The second waste stream, generated by the Ball-Foster Glass Container Corporation, El Monte, California and identified in CWM documents as DZ2050, is dry scrubber solid from glass manufacturing. CWM's waste profile identified the selenium concentrations in the untreated waste as 20.9 mg/L TCLP. It also identifies the waste as characteristic for lead (D008). Presently, none of this waste is being stored at the CWM facility; however, the generator anticipates a quarterly generation rate of twenty cubic yards. The untreated leachate concentration for selenium in the waste stream sample used to develop a treatment recipe was measured at 59.8 mg/L TCLP, with a lead concentration of 5.79 mg/L TCLP and an arsenic concentration of 5.70 mg/L TCLP. CWM tested 20 different stabilization recipes on the waste. Treated concentrations for selenium ranged from 1.83 mg/L TCLP to 50.6 mg/L TCLP, with reagent to waste ratios ranging from 0.3 to 5.0.

The Agency has reviewed the information submitted by CWM on these two waste streams and believes that, as demonstrated by the data, both wastes satisfy the criteria of differing significantly in chemical composition from the waste that was used to generate the treatment standard. Selenium TCLP concentrations in untreated D79726 waste are one to three orders of magnitude higher than the waste used to calculate the treatment standard. Similarly, untreated TCLP concentrations of selenium in DZ2050 were measured an order of magnitude

[1] Letter to Fred Chanania, USEPA, from Mitchell Hahn, Chemical Waste Management, Inc., July 30, 1998.

higher. Furthermore, the treatment being employed by the petitioner is consistent with EPA's determination of BDAT and the process used is well-designed and operated. It should be noted that it is difficult, if not impossible, to optimize treatment for selenium when other metals are being treated, because the selenium solubility curve differs from that for most other metals. Thus, successfully stabilizing other metals generally means that treatment for selenium cannot be optimized (see 63 FR 28569, plus further explanation provided below). Therefore, EPA is seeking comment on this proposed site-specific treatment variance for two high selenium waste streams generated by glass manufacturing operations.

III. Alternative Treatment Standard for D010

As discussed above, the data demonstrate that the waste used to generate the treatment standard differs significantly from the wastes that may be treated by CWM, which supports our view that wastes containing high concentrations of selenium are not easily treated using the BDAT technology of stabilization. As previously acknowledged and discussed by the Agency in a past rulemaking (see 62 FR 26041), wastes with selenium concentrations greater than 1.0 mg/L TCLP in the presence of other metals, e.g., cadmium, lead or chromium, may encounter difficulties in stabilization. This is due to a difference in pH/solubility curves: selenium's minimum solubility is at a neutral to mildly acidic pH (6.5–7.5) while other characteristic metals have a minimum solubility in the alkaline pH range (8–12) (62 CFR 26045).

EPA has determined, in analyzing the data on D79726 (waste generated by Owens Brockway Glass Container Company), the most effective stabilization recipe for this waste consists of 0.7 parts iron sulfate combined with 2.0 parts cement, resulting in a reagent to waste ratio of 2.7 to 1. For each of the three analytical trials submitted for the waste stream, this specific recipe achieved 36.8, 34.08, and 43.7 mg/L selenium TCLP in the treated waste. While the data indicated that other recipes achieved lower TCLP values (4.34 to 28.51 mg/L), these reagent to waste ratios all exceeded 4.0 to 1. The Agency questions whether such a high reagent to waste ratio is either effective or optimized treatment. High reagent to waste ratios can lead to questions of impermissible dilution.

As part of their petition, CWM has stated that reagent to waste ratios of 1 or less are preferred, and we generally concur. In the Phase IV rule, the Agency did not generally use stabilization data with reagent to waste ratios greater than 1 (See: ''Final Draft Site Visit Report for the August 20–21 Site Visit to Rollins Environmental's Highway 36 Commercial Waste Treatment Facility Located in Deer Trail, Colorado'' November 21, 1996 and the economic analysis supporting the Phase IV final rule). However, in the case for selenium, the existing treatment standard, as discussed earlier, was calculated from data with reagent to waste ratios ranging from 1.8 to 2.7. Based on the Agency's review of the performance data and the reagent to waste ratios used to calculate the current treatment standard of 5.7 mg/L TCLP, we conclude that a reagent to waste ratio of 2.7 is optimized treatment for the selenium waste generated by Owens Brockway Glass Container Company. Using the BDAT methodology,[2] the Agency has calculated an alternative treatment standard of 51 mg/L TCLP based on three data points (36.8, 34.08 and 43.7) that were the result of stabilization treatment using a reagent to waste ratio of 2.7 for the waste identified as D79726 and generated by Owens Brockway.

For the second waste stream, identified as DZ2050 and generated by the Ball-Foster Glass Container Corporation, treatment data submitted to the Agency indicate that the most effective treatment is achieved using the reagent to waste ratios of 1.8, 2.2, 2.3, 2.4, and 2.7. Treated waste concentrations for selenium were as follows: 11.6, 7.47, 8.22, 15.6, and 4.82 mg/L TCLP. These treatment recipes are all consistent with the reagent to waste ratios used to establish the existing standard of 5.7 mg/L TCLP. Using these five data points, the Agency has calculated an alternative treatment standard of 25 mg/L TCLP for the D010 waste generated by Ball-Foster.

IV. Request for Comment

Based on the foregoing, the Agency proposes to grant CWM's petition for a site-specific treatment variance for the two D010 waste streams for a period of three years. We are proposing to limit the proposed treatment variance to three years to encourage CWM to continue researching new stabilization, vitrification, and recovery technologies that may more effectively deal with these two waste streams. Again, please note that waste already disposed of pursuant to the standard established in a treatment variance would be lawfully disposed, and would not have to be retreated if the standard in the variance were altered or lapsed. The Agency requests comments on all aspects of this proposal, especially with regard to the necessity for a separate high selenium treatability group, the proposed reagent to waste ratio of 2.7 to 1 for the selenium waste generated by Owens Brockway, the performance of stabilization technologies, and the proposed duration of the variance. Any information on glass manufacturing wastes would also be particularly useful to the Agency.

Should the Agency grant this variance, we would amend 40 CFR part 268 to note that the D010 waste from Ball-Foster Glass Container Corporation would be subject to a selenium TCLP of 25 mg/L, and the D010 waste from Owens Brockway Glass Container Company would be subject to a selenium TCLP of 51 mg/L. Both wastes would be treated by Chemical Waste Management, Inc. at their Kettleman Hills facility in Kettleman City, California. This variance would be effective for three years.

V. Administrative Requirement

A. Executive Order 12866

This proposed treatment variance does not create any new regulatory requirements. It merely establishes alternative treatment standards for specific wastes which replace standards already in effect. This proposed rule is, therefore, not a ''significant'' regulatory action within the meaning of Executive Order 12866. Because this proposed variance only changes the treatment standards applicable to two D010 waste streams at the Chemical Waste Management, Inc. facility in Kettleman City, California, and does not change in any way the paperwork requirements already applicable to these wastes, it does not affect requirements under the Paperwork Reduction Act.

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written

[2] BDAT Background Document for Quality Assurance/Quality Control Procedures and Methodology, October 23, 1991.

communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's proposed rule does not create a mandate on state, local or tribal governments. The proposed rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposed rule.

C. Executive Order 13045

Today's proposed variance is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this action is not an economically significant proposal, and it is not expected to create any environmental health risks or safety risks that may disproportionately affect children. The wastes described in this proposal will be treated by Chemical Waste Management, Inc., and then disposed of in a RCRA Subtitle C landfill, ensuring that there will be no risks that may disproportionately affect children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. The proposal is to issue a variance from treatment standards established in the recently promulgated LDR Phase IV Rule for TC metal hazardous wastes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

E. Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). Today's proposed variance applies to two D010 waste streams that will be treated by Chemical Waste Management, Inc. at their Kettleman City, California facility and disposed of in a RCRA Subtitle C landfill, ensuring protection to human health and the environment. Therefore, the Agency does not believe that today's proposal will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector, and does not impose any Federal mandate on State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. This proposed rule also does not create new regulatory requirements; rather, it merely establishes alternative treatment standards for specific wastes which replace standards already in effect. EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. For the same reasons, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments.

G. Regulatory Flexibility Act

This proposed treatment variance does not create any new regulatory requirements. It merely establishes alternative treatment standards for a specific waste which replace standards already in effect, and it only applies to the Chemical Waste Management, Inc. facility in Kettleman City, California. Thus, this proposed rule would not have a significant impact on a

substantial number of small entities. Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act: Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed rule, therefore, does not require a regulatory flexibility analysis.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. There are no voluntary consensus technical standards directly applicable to metal contaminants in hazardous waste that exhibit the toxicity characteristic for metals. Therefore, EPA did not consider the use of any voluntary standards in this proposal.

I. Submission to Congress and the General Accounting Office

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides, with limited exceptions, that no rule promulgated on or after March 29, 1996 may take effect until it is submitted to Congress and the Comptroller General along with specified supporting documentation. However, this requirement does not apply to ''any rule of particular applicability. * * *'' 5 U.S.C. 804(3). The proposed rule is of particular applicability, applying only to a particular waste at one facility under particular (and, as noted, exceptional) circumstances. Consequently, the Congressional review provisions of SBREFA are not applicable and this rule, if accepted, can take effect without submittal to Congress.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 98–28487 Filed 10–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6176–4]

Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program for Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve Louisiana Department of Environment Quality's (LDEQ) Clusters V and VI Hazardous Waste Program under the Resource Conservation and Recovery Act. In the rule section of this **Federal Register** (FR), the EPA is approving the State's request as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the immediate final rule. If no adverse written comments are received in response to that immediate final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse written comments, a second FR document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before November 23, 1998.

ADDRESSES: Written comments referring to Docket Number LA98–1 may be mailed to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address listed below. Copies of the materials submitted by LDEQ may be examined during normal business hours at the following locations: EPA Region 6 Library, 12th Floor, Wells Fargo Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–6444. Louisiana Department of Environmental Quality, H.B. Garlock Building. 7290 Bluebonnet, Baton Rouge, Louisiana 70810, Phone number (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the rules section of this **Federal Register**.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

[FR Doc. 98–27705 Filed 10–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6166–4]

North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the hazardous waste program revisions submitted by North Carolina. In the final rules section of this **Federal Register**, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the authorization is set forth in the immediate final rule. If no adverse written comments are received, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule before its effective date by publishing a withdrawal in the **Federal Register**. EPA will then respond to public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before November 23, 1998.

ADDRESSES: Mail written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center,