sections 251–53). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 0.

Authority delegations (Government agencies), Government employees, Organization and functions (government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE [AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

2. Paragraph (a)(3) of section 0.103 is revised to read as follows:

Sec. 0.103 Release of information.

(a) * * *

(3) To authorize the testimony of DEA officials in response to subpoenas or demands issued by the prosecution in Federal, State, or local criminal cases involving controlled substances.

* * * * *

3. In the Appendix to Subpart R, sections 2, 5, 10, and 11 are revised, and paragraph (a) of Section 4 is revised to read as follows:

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 2. Supervisors. All Special Agents-in-Charge of the DEA and the FBI are authorized to conduct enforcement hearings under 21 U.S.C. 883, and to take custody of seized property under 21 U.S.C. 881. All Special Agents-in-Charge of the DEA and the FBI, the DEA Deputy Administrator, Assistant Administrators and Office Heads, and the FBI Executive Assistant Directors, Assistant Directors, Deputy Assistant Directors, and Section Chiefs, are authorized to release information pursuant to 28 CFR 0.103(a)(1) and (2) that is obtained by the DEA and the FBI, and to authorize the testimony of DEA and FBI officials in response to prosecution subpoenas or demands under 28 CFR 0.103(a)(3). All DEA Laboratory Directors are authorized to release information pursuant to 28 CFR 0.103(a)(1) and (2) that is obtained by a DEA laboratory, and to authorize the testimony of DEA laboratory personnel in response to prosecution subpoenas or demands under 28 CFR 0.103(a)(3). All DEA Special Agents-in-Charge are authorized to take custody of, and make disposition of, controlled substances seized pursuant to 21 U.S.C. 824(g).

* * * * *

Sec. 4. Issuance of subpoenas. (a) The Chief Inspector of the DEA; the Deputy Chief Inspectors and Associate Deputy Chief Inspectors of the Office of Inspections and the Office of Professional Responsibility of the DEA; all Special Agents-in-Charge of the DEA and the FBI; DEA Inspectors assigned to the Inspection Division; DEA Associate Special Agents-in-Charge; DEA and FBI Assistant Special Agents-in-Charge; DEA Resident Agents-in-Charge; DEA Diversion Program Managers; FBI Supervisory Senior Resident Agents; DEA Special Agent Group Supervisors; and those FBI Special Agent Squad Supervisors who have management responsibility over Organized Crime/Drug Program Investigations, are authorized to sign and issue subpoenas with respect to controlled substances, listed chemicals, tableting machines or encapsulating machines under 21 U.S.C. 875 and 876 in regard to matters within their respective jurisdictions.

* * * * *

Sec. 5. Legal functions. The Chief Counsel and the Director of DEA's Mid-Atlantic Laboratory are authorized to execute any certification required to authenticate any documents pursuant to 28 CFR 0.146. The Chief Counsel is also authorized to adjust, determine, compromise, and settle any claims involving the Drug Enforcement Administration under 28 U.S.C. 2672 relating to tort claims where the amount of the proposed adjustment, compromise, settlement or award does not exceed $2,500; to formulate and coordinate the proceedings relating to the conduct of hearings under 21 U.S.C. 875, including the signing and issuance of subpoenas, examining of witnesses, and receiving evidence; to adjust, determine, compromise and settle *any* tort claims when such claims arise in foreign countries in connection with DEA operations abroad, and to conduct enforcement hearings under 21 U.S.C. 883. The Forfeiture Counsel of the DEA is authorized to exercise all necessary functions with respect to decisions on petitions under 19 U.S.C. 1618 for remission or mitigation of forfeitures incurred under 21 U.S.C. 881.

* * * * *

Sec. 10. Deputization of State and Local Law Enforcement Officers. The Chief, Investigative Support Section, Office of Operations Management, Operations Division, is authorized to exercise all necessary functions with respect to the deputization of state and local law enforcement officers as Task Force Officers of DEA pursuant to 21 U.S.C. 878(a).

Sec. 11. Cross-Designation of Federal Law Enforcement Officers. The Chief, Investigative Support Section, Office of Operations Management, Operations Division is authorized to exercise all necessary functions with respect to the cross-designation of Federal law enforcement officers to undertake title 21 drug investigations under supervision of the DEA pursuant to 21 U.S.C. 873(b).

* * * * *

Dated: September 13, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–23780 Filed 9–18–02; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 430

[FRL–7379–4]

RIN 2040–AD23

Effluent Limitations Guidelines and Standards for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates an amendment to the effluent limitations guidelines and standards under the Clean Water Act for the Pulp, Paper and Paperboard Point Source Category (also known as the ''Cluster Rules''). The amendment allows new and existing, direct and indirect discharging mills in the Bleached Papergrade Kraft and Soda Subcategory (Subpart B) to demonstrate compliance with applicable chloroform limitations and standards at a fiber line in lieu of certain monitoring requirements by performing initial monitoring to demonstrate compliance with the applicable chloroform limitations or standards; certifying that the fiber line is not using elemental chlorine or hypochlorite as bleaching agents; and maintaining certain process and operating conditions identified during the compliance demonstration period. In compliance with the Paperwork Reduction Act (PRA), EPA is also promulgating a technical

amendment that amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for the Bleached Papergrade Kraft and Soda and the Papergrade Sulfite Subcategories of the Pulp, Paper, and Paperboard Point Source Category published April 15, 1998.

DATES: The technical amendment to 40 CFR part 9, is effective September 19, 2002. The amendments to 40 CFR 430.02(f), are effective October 21, 2002.

ADDRESSES: The public record (excluding confidential business information) for this rulemaking is available for review at the EPA's Water Docket, Monday through Friday, excluding Federal holidays, between 9 a.m. and 3:30 p.m. Eastern time. The Water Docket is located at EPA West, 1301 Constitution Avenue, NW, Room B135, Washington, DC 20004. Please call the Water Docket at (202) 566–2426 for an appointment before you come in.

FOR FURTHER INFORMATION CONTACT: Mr. M. Ahmar Siddiqui, U.S. Environmental Protection Agency, Office of Science and Technology, Engineering and Analysis Division (Mail Code 4303T), EPA West, 1200 Pennsylvania Avenue NW, Washington, DC 20460; call (202) 566–1044 or e-mail: *siddiqui.ahmar@epa.gov.*

SUPPLEMENTARY INFORMATION: This preamble describes the legal authority of this final rule, background information on the development of the rule, and the rationale for the chloroform certification provisions.

Regulated Entities

Entities potentially regulated by this action are those new and existing, direct and indirect discharging mills that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp and/or bleached paper or paperboard. Regulated categories and entities include:

Category	SIC code	NAICS code	Examples of regulated entities
Industry	2611, 2621	33211, 322121	New and existing, direct and indirect discharging mills regulated under the Bleached Papergrade Kraft and Soda Subcategory (Subpart B).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by today's action. This table lists the types of entities that EPA is now aware could potentially be regulated by today's action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by today's action, you should carefully examine the applicability criteria in § 430.20 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

In accordance with 40 CFR 23.2, today's rule will be considered promulgated for the purposes of judicial review at 1 pm Eastern Time on October 3, 2002. Under section 509(b)(1) of the Clean Water Act (CWA), judicial review of today's amendment to 40 CFR part 430 is available in the United States Court of Appeals by filing a petition for review within 120 days from the date of promulgation of this rule. Under section 509(b)(2) of the CWA, the requirements in this rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Compliance Dates

This amendment offers new and existing, direct and indirect discharging Subpart B mills an alternative to the minimum monitoring requirements for chloroform codified at 40 CFR 430.02. Direct discharging mills choosing the certification alternative will be required to comply when the chloroform certification provisions are added to the discharger's National Pollutant Discharge Elimination System (NPDES) permit. Indirect discharging mills choosing the certification alternative will be required to comply when chloroform certification provisions are added to the discharger's pretreatment control agreement.

I. Legal Authority

This rule establishes requirements for certifying in lieu of monitoring as a basis for demonstrating compliance with certain chloroform limitations and standards. This amendment to 40 CFR part 430 is promulgated under the authority of sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, as amended, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

II. The Rule Authorizing Certification in Lieu of Monitoring for Chloroform Amendment

A. Background on Minimum Monitoring Requirements for Chloroform Effluent Limitations, Guidelines and Standards

On April 15, 1998 (63 FR 18504), EPA promulgated effluent limitations guidelines and standards to reduce the discharge of toxic, conventional, and nonconventional pollutants in wastewaters and emission standards to reduce emissions of hazardous air pollutants from the pulp, paper, and paperboard industry. These integrated regulations were known as the ''Cluster Rules'' and included new regulations for mills with operations in Subpart B (Bleached Papergrade Kraft and Soda) and Subpart E (Bleached Papergrade Sulfite). As part of the Cluster Rules, EPA required mills with operations in Subpart B to demonstrate compliance with promulgated effluent limitations guidelines and standards for dioxin, furan, chloroform, and 12 chlorinated phenolic pollutants inside the discharger's facility at the point where the wastewater containing those pollutants leaves the bleach plant. EPA required a minimum monitoring frequency of once per month for dioxin, furan, and 12 chlorinated phenolic pollutants. See 40 CFR 430.02(a). For chloroform, EPA required a minimum monitoring frequency of once per week. Id. These minimum monitoring frequencies were selected because the data available at that time indicated that there can be considerable temporal variability of these pollutants in bleach plant wastewaters. *See* 63 FR 18571 (April 15, 1998).

During the development of the 1998 Cluster Rules, EPA published a Notice of Data Availability on the effluent limitations guidelines and standards (61 FR 36835, July 15, 1996). Comments on that Notice urged EPA to allow for certification of process changes (specifically, elimination of elemental chlorine and hypochlorite) in lieu of monitoring to demonstrate compliance with the effluent limitations and standards for chloroform and other parameters controlled at the bleach plant.

EPA did not include a certification option in the final Cluster Rules because the information available at that time did not demonstrate that certification of elemental chlorine free (ECF) bleaching

and elimination of hypochlorite alone were sufficient to ensure compliance. EPA based this conclusion on its finding that pulping and bleaching processes and related factors also have an effect on the rates of generation of chlorinated pollutants, as measured in mill wastewaters. Although EPA did not promulgate the certification option, EPA separately proposed to allow new and existing, direct and indirect discharging mills in Subpart B to demonstrate compliance with chloroform effluent limitations and standards for a fiber line through a certification process. *See* 63 FR 18796 (April 15, 1998). The proposed certification would function as an alternative to minimum monitoring requirements in 40 CFR 430.02 to demonstrate compliance with chloroform effluent limitations or standards at a fiber line to which the effluent limitations or standards apply. At the same time, EPA solicited additional data to document and confirm the process and operating conditions that would be necessary to provide the basis for establishing certification. In particular, EPA requested additional data to document more completely the specific relationships among processes and related variables and chloroform generation rates in air emissions and wastewaters.

B. Summary of Comments and Data Received Since Proposal

The American Forest and Paper Association (AF&PA) responded to EPA's solicitation for additional data to document relationships between process variables and chloroform generation rates. EPA received comments to extend its proposed certification program to all bleach plant parameters. EPA also received two study plans developed by the National Council for Air and Stream Improvement (NCASI). One of these plans dealt with chloroform; the other plan dealt with dioxin, furan, and the 12 chlorinated phenolic compounds regulated under Subpart B.

AF&PA also provided EPA with a copy of the NCASI report ''Chloroform Generation During Chlorine Dioxide Bleaching.'' The purpose of the study was to determine if certain process variables affect total chloroform generated during ECF bleaching. Pulp bleaching variables considered in NCASI's chloroform study included final pH of the first chlorine dioxide (D_0) stage, kappa factor, pulp type, and chlorine content of the chlorine dioxide solution used for bleaching. NCASI concluded that among the variables considered, the final pH of the first bleaching stage had the greatest impact on chloroform generation, and that kappa factor also may be important. The chlorine content of the chlorine dioxide bleaching solution also had an impact on chloroform generation, though less than the D_0 stage final pH.

EPA also received a comment that the proposed two-year monitoring demonstration period should be reduced to 12 months, because 52 weekly samples will provide an ample period to evaluate the range of operating variables influencing chloroform generation. This issue will be addressed in the following section.

AF&PA also commented about the clarity of the language in the proposed amendment to the regulation concerning criteria by which a discharger would be deemed in compliance. As a result, EPA has slightly modified the language in the final amendment so that the criteria for compliance are clear.

One commenter suggested that after a direct discharging mill has been allowed to demonstrate compliance through certification, renewal of an NPDES permit should include a new certification without a demonstration of compliance, unless bleach plant operations have changed. EPA believes this is unnecessary, because the minimum monitoring requirements specified in 40 CFR 430.02 apply to direct dischargers only for five years from the time they are first included in the discharger's NPDES permit, and the minimum monitoring requirements apply to indirect dischargers only until April 15, 2006. Once the minimum monitoring requirements cease to apply, the certification provisions cease to apply as well.

Commenters also suggested that EPA extend the certification option to ammonium-based and specialty grade sulfite mills. EPA, however, has not yet established numerical effluent limitations guidelines or standards for the discharge of chloroform from ammonium-based and specialty grade sulfite mills. Thus, at present, these mills have no chloroform monitoring requirements specified under part 430.

C. Description of the Certification and Changes Since Proposal

After careful consideration of all comments and additional analysis, EPA concludes that the following factors influence chloroform air emissions and mass loadings in wastewater: The pH of the first chlorine dioxide bleaching stage, the chlorine content of chlorine dioxide used on the bleach line, the kappa factor of the first chlorine dioxide bleaching stage, the total bleach line chlorine dioxide application rate, and the chlorine-containing compounds used for bleaching. EPA also concludes that a certification that accounts for these process and operating conditions is appropriate to allow mills to demonstrate compliance with chloroform limitations and standards. Therefore, EPA is promulgating new regulatory language at 40 CFR 430.02(f) that provides a certification process to demonstrate compliance with chloroform limitations and standards for new and existing, direct and indirect discharging Subpart B mills in lieu of the minimum monitoring requirements for chloroform at a fiber line to which the limitations or standards apply.

With respect to other parameters, EPA did not receive any new data or information addressing the effects of process variables on the generation of dioxin, furan, and the 12 chlorinated phenolic compounds. Thus, EPA has no new data with which to evaluate the commenters' suggestion that the certification proposal should be extended to all bleach plant parameters. Accordingly, EPA has limited the certification to chloroform.

EPA did not receive any new information or data to support a shorter initial compliance demonstration period or fewer measurements. Therefore, EPA has not changed the duration of the initial compliance demonstration period, concluding that two years of sampling data (a minimum of 104 measurements) is necessary to adequately characterize the full range of process and operating conditions that may be used on the fiber line and influence variability of chloroform generation. One year may not be sufficient to establish an operating parameter range that reflects the full range of variability at the plant, especially considering the potential for a changing product mix over time. EPA also noted that it is in the facility's interest to base its certification on a broad enough range of operating parameters to fully capture any variability that is consistent with meeting the prescribed chloroform limitations. If the facility certifies based on too small a range, it risks detecting parameter values outside of the range and being subject to a resumption of routine monitoring and eventual recertification. This would entail additional burden on both the facility and the permitting authority. EPA has thus decided to retain the two-year basis for the certification.

In order to be eligible to demonstrate compliance with the chloroform limitations and standards through certification, the discharger must first demonstrate, based on 104

measurements taken over a period of not less than two years of monitoring conducted weekly, that it is achieving the applicable limitations or standards for chloroform. *See* 40 CFR 430.02(f)(2)(i). Retrospective data (*e.g.*, data collected by a discharger prior to a BAT/NSPS/PSES/PSNS compliance demonstration required by a permit or pretreatment control agreement) may be used in this demonstration, if the data were collected in accordance with the requirements of 40 CFR 430.02(a). During this initial compliance demonstration period, the discharger must collect samples of its representative bleach plant effluent(s) on a weekly basis consistent with analytical method(s) approved under Part 136. If the discharger monitors for chloroform more frequently than weekly, then the discharger should use only one observation for any 24 hour period. The discharger is cautioned to carefully evaluate whether there is any possibility that the full range of chloroform variability as reflected in process operating parameters may not be captured if samples are collected more frequently than weekly. In order to justify certification authorized under 40 CFR 430.02(f), all of the monitoring results during the initial compliance demonstration period must demonstrate compliance with the chloroform effluent limitations or standards. For each sample used to make the compliance demonstration described above, the discharger is required under 40 CFR 430.02(f)(2)(ii) to maintain records of the maximum values of the following bleach plant operating parameters:

(a) The pH of the first chlorine dioxide bleaching stage;

(b) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line;

(c) The kappa factor of the first chlorine dioxide bleaching stage; and

(d) The total bleach line chlorine dioxide application rate.

In addition, the discharger is required under 40 CFR 430.02(f)(2)(iii) to identify the chlorine-containing compounds used for bleaching (*i.e.*, the bleach sequence) during the collection of samples used to make the compliance demonstration.

When the discharger has completed its initial compliance demonstration, it may request that its permitting or pretreatment control authority modify its permit or pretreatment control agreement to discontinue weekly chloroform monitoring of bleach plant effluent. *See* 40 CFR 430.02(f)(1). At the time that it makes this request, today's regulation requires the discharger to:

(a) Certify that the fiber line does not use either elemental chlorine or hypochlorite as bleaching agents, *see* 40 CFR 430.02(f)(2)(iv);

(b) Provide records demonstrating that, based on 104 measurements collected weekly over a period not less than two years, the fiber line complies with applicable chloroform limitations or standards, *see* 40 CFR 430.02(f)(2)(i); and

(c) Certify that it will maintain records available for inspection which document the range of process and operating conditions that occurred during the collection of each sample used to demonstrate initial compliance. Specifically, the facility must document the maximum values, observed during sample collection, of:

(i) The pH of the first chlorine dioxide bleaching stage;

(ii) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line;

(iii) The kappa factor of the first chlorine dioxide bleaching stage; and

(iv) The total bleach line chlorine dioxide application rate.

See 40 CFR 430.02(f)(2)(ii). The facility must also identify the chlorine-containing compounds used for bleaching (*i.e.*, the bleach sequence). *See* 40 CFR 430.02(f)(2)(iii).

Thereafter, at the same frequency that the discharger submits discharge monitoring reports (DMRs) to its permitting authority or periodic compliance reports (PCRs) to its pretreatment control authority, the discharger must certify that:

(a) The pH of the first chlorine dioxide bleaching stage has not exceeded the maximum value of the pH measured during initial compliance demonstration sample collection;

(b) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line has not exceeded the maximum Cl_2 content of ClO_2 used during initial compliance demonstration sample collection;

(c) The kappa factor of the first chlorine dioxide bleaching stage has not exceeded the maximum kappa factor employed during initial compliance demonstration sample collection;

(d) The total bleach line chlorine dioxide application rate has not exceeded the maximum chlorine dioxide application rate employed during initial compliance demonstration sample collection; and

(e) The chlorine-containing compounds used for bleaching are unchanged from those used during initial compliance demonstration sample collection.

See 40 CFR 430.02(f)(4). The discharger must also maintain on-site records for the fiber line of these process and operating conditions. *See* 40 CFR 430.02(f)(2)(ii). EPA does not anticipate that mills that voluntarily choose to certify in lieu of minimum monitoring for chloroform will be required to submit any confidential business information (CBI) or trade secrets as part of this program.

The requirement to monitor process and operating conditions and to maintain records of these conditions places no new burden on the discharger. Mills continuously monitor bleach plant process and operating conditions in order to ensure the quality of their product and the efficiency of their operations. They also routinely maintain records of process and operating conditions. At many mills, constant monitoring of process and operating parameters is accomplished electronically by computerized distributed control systems.

If for any reason (intentionally or due to process upset) the discharger fails to maintain process and operating conditions on the fiber line at or below the maximum values recorded for these parameters during the initial compliance demonstration period, the discharger must notify the NPDES or pretreatment authority within 30 days and must again demonstrate compliance with the applicable chloroform limitation or standard by immediately initiating monitoring of its bleach plant effluent for chloroform at a frequency similar to that required in 40 CFR 430.02(a) and for a duration determined by the permit or pretreatment control authority. *See* 40 CFR 430.02(f)(6)(i). The discharger is in violation of its chloroform limitations or standards if, after failing to maintain the process and operating conditions, it does not comply with the notice and compliance demonstration requirements in section 430.02(f)(6)(i)(A) and (B) of the rule. Once the discharger certifies that the fiber line process and operating conditions do not exceed the maximum values documented during the initial compliance demonstration period, the discharger may discontinue chloroform compliance monitoring. *See* 40 CFR 430.02(f)(6)(ii). It should be noted that failure to maintain process and operating conditions on the fiber line at or below the maximum values recorded during the initial compliance demonstration period or any subsequent period of compliance monitoring for recertification is not a violation of the discharger's permit or pretreatment control agreement.

If the discharger wishes to make a long-term change in the process and operating conditions on the fiber line, such that one or more exceeds the maximum value documented during the initial compliance demonstration, the discharger must re-certify the fiber line in order to continue to demonstrate compliance through certification in lieu of monitoring. *See* 40 CFR 430.02(f)(3). The re-certification is similar to the initial compliance demonstration, except rather than a 104 measurement monitoring period, the re-certification compliance demonstration period will be determined by the permit writer or pretreatment control authority. The Agency anticipates that the likely circumstance for long-term changes in process and operating conditions will be to make the same or similar pulps with reduced chemical usage. In this circumstance, it would be reasonable to assume that generation and discharge of chloroform should decrease. Thus, only limited data should be necessary to confirm this assumption. If, however, process and operating conditions will change to make pulps with higher brightness or other more demanding pulp properties, it would be reasonable to assume that chloroform generation and discharge could increase. Thus, more extensive data would be appropriate to confirm that effluent quality and its variability will still comply with the bleach plant chloroform effluent limitations or standards.

EPA notes that the minimum monitoring requirements specified in 40 CFR 430.02 apply to direct dischargers for five years from the time they are first included in the discharger's NPDES permit and the minimum monitoring requirements apply to indirect dischargers only until April 15, 2006. In other words, the minimum monitoring requirements specified in 40 CFR 430.02 do not apply after the expiration of the applicable time periods. Thereafter, it is the responsibility of the permit writer or pretreatment control authority to determine the appropriate monitoring frequency in accordance with 40 CFR 122.44(i) or 40 CFR part 403, as applicable. The permit writer or pretreatment control authority is authorized to decide if bleach plant chloroform monitoring will re-commence at the same minimum monitoring frequency specified at 40 CFR 430.02 or an alternative frequency.

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

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 rule on small entities, small entity is defined as: (1) A small business that employs no more than 750 workers; (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 final rule on small entities, I certify that today's action will not have a significant economic impact on a substantial number of small entities because there are no small entities subject to this rule. At the time EPA published the Cluster Rules, EPA had determined that there were only three mills in Subpart B that were owned by small businesses (where small businesses are defined as firms employing no more than 750 workers) (63 FR 18504, 18611–12 (April 15, 1998)). EPA has since determined that there are no longer any small businesses in Subpart B because these mills are no longer owned by firms with fewer than 750 employees. The mills that were owned by small firms have been bought by larger firms or are owned by companies that have increased in size.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0242.

As mentioned previously, EPA established minimum monitoring frequencies for chloroform for existing and new direct and indirect discharging mills subject to Subpart B under authority of the Clean Water Act (CWA) Section 308 to demonstrate compliance with existing effluent limitations and standards for chloroform (and other pollutant parameters) promulgated under 40 CFR part 430. EPA is today allowing applicable facilities to voluntarily demonstrate compliance with chloroform limitations or standards by certifying their fiber lines in lieu of chloroform minimum monitoring required by 40 CFR 430.02. EPA has determined that this voluntary certification option significantly reduces the overall compliance burden and costs associated with meeting and demonstrating compliance with applicable chloroform limitations and standards. EPA has also determined that an initial compliance demonstration is necessary for each participating mill to establish the range of normal variability in process and operating parameters that are consistent with compliance with the chloroform effluent limitations. Once this range is established for each participating fiber line, periodic certification reports are submitted to the NPDES permit or pretreatment control authority to confirm and certify that the fiber line continues to comply with the chloroform effluent limitations and standards. The Agency's authority to provide for this voluntary certification option in lieu of minimum monitoring is Section 402(a)(2) of the CWA which directs EPA to prescribe permit conditions to assure compliance with requirements ''including conditions on data and information collection, reporting and such other requirements as [the Administrator] deems appropriate.''

Certification in lieu of chloroform minimum monitoring eliminates all sampling burden associated with the minimum monitoring requirements for chloroform. A total of 19,492 hours annually would be saved by the 80 direct and indirect discharging Subpart B mills that EPA anticipates will choose to certify their 127 fiber lines. At an hourly operator rate of $28.91 per hour for sampling activities, reduction in sampling costs associated with certifying fiber lines in lieu of minimum monitoring required by 40 CFR 430.02 for the 80 mills would be $572,760 per year ($28.91 × 19,812). In addition, the elimination of chloroform sampling activities after certification results in an associated reduction in analytical costs for the outside lab analysis of chloroform samples. The total reduction in analytical costs associated with certifying fiber lines in lieu of minimum monitoring required by 40 CFR 430.02 for the 80 mills would be $3,856,740 per year (127 fiber lines × 2 samples per fiber line × 52 weeks × $292 per analysis). An increase in reporting burden for the 80 mills would be 320 (480–160) hours annually, based on the submission of periodic certification reports in lieu of reporting chloroform compliance data in DMRs and PCRs. At an hourly technician rate of $56.91 for reporting activities, an increase in reporting costs associated with certifying fiber lines in lieu of minimum monitoring required by 40 CFR 430.02 for the 80 mills would be $18,210 per year ($56.91 × 320). Therefore, the overall reduction in the total burden and cost to demonstrate compliance with minimum monitoring requirements by certifying fiber lines in lieu of minimum monitoring required by 40 CFR 430.02 for the 80 mills would be $4,411,290 per year ($572,760 + $3,856,740–$18,210). This reduction in cost translates to approximately $55,140 annually per mill.

The Agency does not estimate any change in burden for State authorized NPDES and pretreatment control authorities or EPA from the burden associated with minimum monitoring required by 40 CFR 430.02 for facilities (*i.e.*, permitees) wishing to certify their fiber lines in lieu of chloroform minimum monitoring requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. EPA is amending the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule.

In addition to the information collection request (ICR) being approved as part of today's action, OMB previously approved an information collection request associated with the general minimum monitoring requirements in the Cluster Rules, codified at 40 CFR 430.02, under the provisions of the PRA and assigned OMB control number 2040–0243. Today's action includes a technical amendment to 40 CFR part 9 to list the OMB approval number for those previously promulgated and approved requirements. There is no burden associated with today's technical amendment.

The ICR for the general minimum monitoring requirements was subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, EPA finds that further notice and comment is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to amend this table without prior notice and comment. For the same reason, there is also good cause to make this change effective upon publication.

D. Unfunded Mandates Reform Act (UMRA)

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 the final rule with 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 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. This is due to the following two reasons: (1) the UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary federal program; and (2) the UMRA generally excludes from the definition of ''Federal private sector mandate'' duties that arise from participation in a voluntary federal program. These two reasons arise from the fact that participation in the certification program is entirely voluntary. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that today's action contains no regulatory requirements that might significantly or uniquely affect small governments. This is because participation in the certification program is strictly voluntary. Thus, today's rule is not subject to the requirements of Section 203 of the UMRA.

E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's amendments are not subject to Executive 13045 because they are not economically significant, as defined under Executive Order 12866.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. This is because the new certification provision is simply an alternative to minimum monitoring requirements codified in 1998 and does not effect any changes with tribal implications. In addition, Indian tribes will not incur any additional substantial direct costs as a result of this action. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This is because the new certification provision is simply an alternative to minimum monitoring requirements codified in 1998 and does not effect any changes relevant to federalism. In addition, States will not incur any additional substantial direct costs as a result of this action. Thus, Executive Order 13132 does not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, § 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 the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Executive Order 13211: Energy Effects

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects. This rule merely allows the use of a new certification provision as an alternative to the minimum monitoring requirements codified in 1998.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. Section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a major rule as defined by 5 U.S.C. Section 804(2). This rule will be effective October 21, 2002.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 430

Environmental protection, Paper and paper products industry, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: September 12, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set out in the preamble, 40 CFR parts 9 and 430 are amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding new entries in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
Pulp, Paper, and Paperboard Point Source Category	
430.02(a)–(e)	2040–0243
430.02(f)	2040–0242
* * * * *	

PART 430—THE PULP, PAPER, AND PAPERBOARD POINT SOURCE CATEGORY

1. The authority citation for part 430 continues to read as follows:

Authority: Secs. 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, as amended, (33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, and 1361), and section 112 of the Clean Air Act, as amended, (42 U.S.C. 7412).

2. Section 430.02 is amended by adding paragraph (f) to read as follows:

§ 430.02 Monitoring requirements.

* * * * *

(f) *Certification in Lieu of Monitoring for Chloroform.* (1) *Under what circumstances may a discharger be exempt from the minimum monitoring requirements of this section for chloroform?* A discharger subject to limitations or standards for chloroform under subpart B of this part is not subject to the minimum monitoring requirements specified in this section for chloroform at a fiber line to which the limitations or standards apply if the discharger meets the requirements of this section.

(2) *How do I qualify for the exemption?* At the time you request an exemption from the minimum monitoring requirements of this section for chloroform from your permitting authority or pretreatment control authority for a fiber line, you must:

(i) Demonstrate, based on 104 measurements taken over a period of not less than two years of monitoring conducted in accordance with paragraph (a) of this section, that you are complying with the applicable limitations or standards for chloroform;

(ii) Certify that you will maintain a record of the maximum value for each of the following process and operating conditions for the fiber line that was recorded during the collection of each of the samples used to make the demonstration required under paragraph (f)(2)(i) of this section.

(A) The pH of the first chlorine dioxide bleaching stage;

(B) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line;

(C) The kappa factor of the first chlorine dioxide bleaching stage; and

(D) The total bleach line chlorine dioxide application rate;

(iii) Identify the chlorine-containing compound used for bleaching during the collection of samples used to make the demonstration required under paragraph (f)(2)(i) of this section; and

(iv) Certify that the fiber line does not use either elemental chlorine or hypochlorite as bleaching agents.

(3) *What happens if I change the process and operating conditions on the fiber line so that one or more exceeds the maximum value recorded under paragraph (f)(2)(ii) of this section for that process and operating condition?* If you wish to continue your exemption from the minimum monitoring requirements of this section for chloroform, you must:

(i) Demonstrate, based on monitoring conducted at a frequency similar to that required in paragraph (a) of this section and for a duration determined by the permitting or pretreatment control authority, that you are complying with the applicable limitations or standards for chloroform;

(ii) Certify that you will maintain a record of the maximum value for each of the following process and operating conditions for the fiber line that was recorded during the collection of each of the samples used to make the demonstration required under paragraph (f)(6)(i) of this section:

(A) The pH of the first chlorine dioxide bleaching stage;

(B) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line;

(C) The kappa factor of the first chlorine dioxide bleaching stage; and

(D) The total bleach line chlorine dioxide application rate;

(iii) Identify the chlorine-containing compound used for bleaching during the collection of each sample used to make the demonstration required under paragraph (f)(3)(i) of this section; and

(iv) Certify that the fiber line does not use either elemental chlorine or hypochlorite as bleaching agents.

(4) *What are my reporting obligations?* You must certify in reports required under § 122.41(l)(4) or § 403.12(b) of this chapter, as appropriate, that the chlorine-containing compounds used for bleaching are unchanged from those identified under paragraph (f)(2)(iii) of this section and that the following process and operating conditions maintained on the fiber line during the reporting period have not exceeded the maximum value recorded for each such condition during the collection of the samples used to make the demonstration required under paragraphs (f)(2)(i) or (f)(3)(i) of this section:

(i) The pH of the first chlorine dioxide bleaching stage;

(ii) The chlorine (Cl_2) content of chlorine dioxide (ClO_2) used on the bleach line;

(iii) The kappa factor of the first chlorine dioxide bleaching stage; and

(iv) The total bleach line chlorine dioxide application rate.

(5) *What happens if I fail to maintain the records described in paragraphs (f)(2)(ii) and (f)(3)(ii) of this section?* You will be required to comply with the minimum monitoring requirements of this section for chloroform.

(6) *What happens if I exceed the maximum value recorded under paragraphs (f)(2)(ii) or (f)(3)(ii) of this section for any of the process and operating conditions identified in that section?*

(i) If for any reason (*e.g.*, intentionally or due to process upset) you fail to maintain process and operating conditions at values equal to or less than the maximum value recorded under paragraphs (f)(2)(ii) or (f)(3)(ii) of this section for each such condition, you will be in violation of the applicable chloroform limitation or standard unless:

(A) Within 30 days, you notify your permitting or pretreatment control authority in writing of the exceedance; and

(B) You demonstrate compliance with the applicable chloroform limitation or standard by immediately monitoring the bleach plant effluent for chloroform at a frequency similar to that required in paragraph (a) of this section and for a duration determined by the permit or pretreatment control authority.

(ii) In order to continue your exemption from the minimum monitoring requirements of this section for chloroform, you must meet the requirements of paragraph (f)(6)(i) of this section and you must recertify that the fiber line process and operating conditions do not exceed the maximum value recorded under paragraphs (f)(2)(ii) or (f)(3)(ii) of this section for each of the parameters identified in those paragraphs.

(7) *Definitions:*

(i) *Kappa factor*—the ratio of available chlorine (total equivalent chlorine, as percent on oven dry pulp) to the kappa number of the pulp. Kappa number is the lignin content of pulp, as measured

by a modified permanganate test corrected to 50 percent consumption of the chemical.

(ii) *Total bleach line chlorine dioxide application rate*—mass of chlorine dioxide applied in all stages of the bleach line per mass of unbleached pulp (*i.e.*, lb/ton or kg/kkg).

(iii) *Chlorine-containing compounds*—compounds containing chlorine used in the bleach plant for bleaching, brightening, whitening, or viscosity control. These compounds include but are not limited to chlorine (Cl_2), sodium hypochlorite (NaOCl), chlorine dioxide (ClO_2) and chlorine monoxide (Cl_2O).

[FR Doc. 02–23741 Filed 9–18–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP NO. UT–001–0043a, UT–001–44a; FRL–7376–7]

Approval and Promulgation of Air Quality Implementation Plans; Utah; New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and announcement of Utah NSPS Delegation.

SUMMARY: On January 8, 1999 and December 10, 1999, the Governor of Utah submitted revisions to the New Source Performance Standards (NSPS) rules in Utah's Air Conservation Regulations. We are announcing that on June 10, 2002 we delegated the authority for the implementation and enforcement of the NSPS to the State.

Given that the State has been delegated the authority for implementation and enforcement of the NSPS, we are removing the NSPS rules from the Utah SIP. In addition, we are approving updates to the NSPS ''Delegation Status of New Source Performance Standards'' table. These actions are being taken under sections 110 and 111 of the Clean Air Act.

DATES: This rule is effective on November 18, 2002, without further notice, unless EPA receives adverse comment by October 21, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used means EPA.

I. Summary of SIP Revisions

A. January 8, 1999 and December 10, 1999 Submittals

The January 8, 1999 and December 10, 1999 submittals revise UACR R–307–18 (since renumbered as R307–210) by updating the incorporation by reference for new source performance standards (NSPS) to reflect updated versions of the federal regulations. UACR R307–18 is the rule the State uses to implement our NSPS.

On June 10, 2002, we issued a letter delegating responsibility for all sources located, or to be located, in the State of Utah subject to the NSPS in 40 CFR part 60. The categories of new stationary sources covered by this delegation are as follows: NSPS in effect as of July 1, 1998; NSPS subparts Da and Db, promulgated September 16, 1998; NSPS subparts A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999; NSPS subpart WWW, promulgated February 24, 1999; and NSPS subparts AA and AAa, promulgated March 2, 1999.

Since the State now has been delegated authority for NSPS in 40 CFR part 60, pursuant to 110(k)(6) of the Act, we are removing UACR R307–18 from the SIP. Also, we are updating the table in 40 CFR 60.4(c) to indicate that the 40 CFR part 60 NSPS are now delegated to the State and adding entries for newly delegated NSPS subparts.

The June 10, 2002 letter of delegation to the State follows:

Ref: 8P–AR
Honorable Mike Leavitt,
Governor of Utah, State Capitol, Salt Lake City, Utah 84113.

Dear Governor Leavitt: On January 8, 1999 and December 10, 1999 the State submitted revisions to the New Source Performance Standards (NSPS) rules in Utah's Air Conservation Regulations (UACR) R307–18–1 (Re-numbered to 307–210–1). Specifically, the State revised its NSPS to incorporate the Federal NSPS in effect as of July 1, 1998. In addition, the State revised its NSPS to incorporate revisions to the following Subparts of 40 CFR part 60: Da and Db, promulgated September 16, 1998 (63 FR 49442); A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999 (64 FR 7458) [1] WWW, promulgated February 24, 1999 (64 FR 9258) [2] and AA and AAa, promulgated March 2, 1999 (64 FR 10105).

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Utah and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Utah. Therefore, pursuant to section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Utah as follows:

(A) Responsibility for all sources located, or to be located, in the State of Utah subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 1998 and revisions to Subparts Da and Db, promulgated September 16, 1998 (63 FR 49442); A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999 (64 FR 7458); WWW, promulgated February 24, 1999 (64 FR 9258); and AA and AAa, promulgated March 2, 1999 (64 FR 10105). Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Utah.

(C) As 40 CFR part 60 is updated, Utah should revise its regulations accordingly and

[1] It appears that Utah has cited the incorrect legal citation. The State cites the title page of the **Federal Register** notice. The Utah citation 64 FR 7457 should be 64 FR 7458. If we are interpreting this incorrectly, we ask that the State notify us immediately.

[2] It appears that Utah has cited the incorrect legal citation. The State cites the title page of the **Federal Register** notice. The Utah citation 64 FR 9257 should be 64 FR 9258. If we are interpreting this incorrectly, we ask that the State notify us immediately.