

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 262, 264, 265, and 270

[FRL-6197-7]

Project XL Rulemaking for New York State Public Utilities; Hazardous Waste Management System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for comment on proposed rule and draft final project agreement.

SUMMARY: Today's proposed rule would provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended. It would allow participating New York State Utilities to accumulate hazardous waste, which they generate at remote locations, at designated Utility-owned central collection facilities (UCCFs) for up to 90 days subject to specified hazardous waste generator requirements. EPA is proposing this rule to implement an XL project for Utilities in New York State. The terms of the XL project are defined in the draft Final Project Agreement (FPA) on which EPA is also requesting comments. The draft FPA explains the project in detail, while the proposed rule would enable New York State Department of Environmental Conservation (NYSDEC) to implement portions of the project requiring regulatory authorization.

In order to qualify for the flexibility that the proposed rule, if adopted, would provide, New York State Utilities must initiate and comply with public notice and participation requirements set forth in the rule regarding the designation and approval of UCCFs. Subsequent to these public participation procedures, Utilities must receive authorization from EPA to participate in the flexibility provided by this proposed rule. This proposed rule is intended to provide regulatory changes to implement this XL project. The agency expects this XL project to result in superior environmental performance in New York State, while providing cost savings to participating Utilities.

DATES: Public Comments: Comments on the proposed rule and/or FPA must be received on or before January 6, 1999.

Public Hearing: Commenters may request a public hearing during the public comment period. Commenters requesting a public hearing should specify the basis for their request. If EPA determines that there is sufficient reason to hold a public hearing, it will do so after the public comment period.

Requests for a public hearing should be submitted to the address below. If a public hearing is scheduled, the date, time, and location will be announced in the **Federal Register**.

ADDRESSES: Written comments and requests for a hearing should be mailed to the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F-98-NYSP-FFFFF. A copy should also be sent to Mr. Philip Flax at U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, NY 10007-1866.

Viewing Docket Materials: A docket containing public comments and supporting materials is available for public inspection and copying at the RCRA Information Center (RIC), located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00am to 4:00pm Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603-9230. Refer to RCRA docket number F-98-NYSP-FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 2, 290 Broadway, New York, NY 10007-1866 during normal business hours. Persons wishing to view the duplicate docket at the New York location are encouraged to contact Mr. Philip Flax in advance, by telephoning (212) 637-4143. Information is also available on the world wide web at <http://www.epa.gov/ProjectXL>.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Flax, U.S. EPA, Region 2, 290 Broadway, New York, NY 10007-1866, (212) 637-4143.

SUPPLEMENTARY INFORMATION:

Outline of Today's Document

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I. Authority

These regulations are being proposed under the authority of sections 2002(a), 3001, 3002, 3004, 3005, 3006, 3010, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6921, 6922, 6924, 6925, 6926, 6930, and 6974.

II. Background

A. Overview of Project XL

The draft FPA sets forth the intentions of EPA and the NYSDEC with regard to a project developed under Project XL, an EPA initiative to allow regulated entities to achieve better environmental results at less cost. The regulation would facilitate implementation of the project. Project XL—"eXcellence and Leadership" was announced on March 16, 1995, as a central part of the National Performance Review and the EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to EPA's ability to test new strategies that reduce the regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other XL projects to determine which specific elements of the project(s), if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify

specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting the risk burden. They must have full support of affected federal, state and tribal agencies to be selected.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 "Principles for Development of Project XL Final Project Agreements" document. For further discussion as to how the NYSDEC XL project addresses the XL criteria, readers should refer to the draft Final Project Agreement and fact sheet that are available from the docket for this action (see ADDRESSES section of today's preamble).

Project XL is intended to allow the EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow the EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site-or state-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful for the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, it expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire

programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative approach or interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and/or interpretations, on a limited, site-or state-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as EPA acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions, e.g., Section 8001 of RCRA.

B. Overview of the NYSDEC XL Project

1. Introduction

EPA is today requesting comments on the draft FPA and proposing a rule to implement key provisions of this Project XL initiative. Today's proposed rule would facilitate implementation the draft FPA (the document that embodies EPA's intent to implement this project) that has been developed by EPA, New York State Department of Environmental Conservation (NYSDEC), New York State Utilities, and other stakeholders. After comments on the draft FPA have been considered, EPA and NYSDEC expect to sign a final FPA. The draft FPA is available for review in the docket for today's action and on the world wide web at <http://www.epa.gov/ProjectXL>. The draft FPA addresses the eight Project XL criteria, and the expectation of EPA that this XL project will meet those criteria. Those criteria are: (1) Environmental performance superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) cost savings or economic opportunity, and/or decreased paperwork burden; (3) stakeholder support; (4) test of innovative strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application; (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting, and evaluation; and (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden). The draft FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits.

2. NYSDEC XL Project Description

Utilities maintain rights-of-way, such as oil and gas pipelines, telephone lines, and electric power distribution systems, in some cases extending hundreds of miles. Frequently, hazardous waste is generated at remote locations that are not continuously staffed. The generation "events" are sometimes planned in advance, but often are not, particularly in cases where there has been a sudden, unexpected interruption of service. Waste may also be generated as part of routine service. This waste is generally generated as a result of sediments accumulating at Utility access points.

In the case of electric power and telephone systems, the locations involved are usually transformer vaults, service boxes, and manholes, which are most often located in the middle of public roads. In order to access conduits and service the system, sediment and/or infiltration water must be removed. These materials commonly fail the Toxicity Characteristic (TC) for lead and may be hazardous waste. For electric power systems, polychlorinated biphenyl (PCB) contamination is also possible. Waste containing PCBs is regulated under the Toxic Substances Control Act (TSCA). In the case of oil and gas pipelines, the waste may consist of pipeline condensate which collects in "drip" pipes downstream of pressure regulating stations. This waste commonly exhibits the characteristic of ignitability, commonly fails the TC for benzene and may contain PCBs.

Generally, hazardous waste may qualify for conditional exemption under RCRA because it is generated in quantities less than 100 kilograms per calendar month. However, when hazardous waste generated exceeds 1000 kilograms per calendar month, it is subject to applicable regulations at 40 CFR Part 262. In addition, when one kilogram or more of an acutely hazardous waste is generated per calendar month at a remote location, it is also subject to applicable regulations at 40 CFR Part 262.

Utilities are currently allowed to accumulate hazardous waste without a permit at the remote location where it is generated for up to 90 (or, under certain circumstances, 180 days) days without RCRA permits prior to transporting it to a permitted treatment, storage and disposal facility (TSDF) or other designated facility. However, since remote Utility locations are often unstaffed, it is very difficult to store hazardous waste and secure against releases resulting from accidents or vandalism. Arranging for a commercial transporter to bring hazardous waste

directly to a TSDF may take several days, particularly if the event was unplanned. To effectively and adequately protect public health, safety, and the environment, it would be preferable if hazardous waste generated at remote locations could be transported to a secured location as soon as possible upon completion of the generation event.

RCRA regulations generally do not allow the shipment to, or consolidation of, hazardous waste at off-site facilities other than a permitted or interim status TSDF or other designated facility. Furthermore, for each remote location that generates more than 1,000 kilograms during any single month, the utility must prepare and submit a Biennial Report. The RCRA-authorized state processes each report and enters the data into state databases, and EPA enters it into the Biennial Report System (BRS) database. As a result, both state and federal databases may include hundreds of "sites" which are actually only drip pipes and/or manholes.

Additionally, utilities must arrange frequent shipments of small loads of hazardous waste which must be sent directly to a permitted TSDF. The current handling of hazardous waste from remote locations may result in unsafe storage and hazardous conditions, additional paperwork and expenditure of time and labor, and inefficiencies in transportation, increasing direct costs.

Utilities would prefer to have hazardous waste transported immediately from remote locations to a UCCF to which the remote locations are connected by a right-of-way, such as a pipeline, that the Utility controls. At such secured locations, the Utilities would then accumulate this waste in accordance with specified hazardous waste generator requirements. These requirements would allow up to 90 days to safely consolidate similar waste from different remote locations without RCRA permits to achieve important efficiencies in transportation and waste management. To the extent that wastes arriving at the UCCF on different dates are consolidated in the same container, the 90-day period would run from the earlier of the two dates that the wastes arrived. The proposed rule would allow vehicles transporting waste from a UCCF to a commercial TSDF to carry relatively full loads. On the other hand, if hazardous waste must be transported to a TSDF directly from remote locations, more vehicle trips would be required, each carrying smaller loads.

This proposed rule would avoid the problems of unsafe storage, transportation inefficiencies, and

unnecessary paperwork by allowing alternative handling for hazardous waste generated at remote locations by Utilities. If the proposed rule is adopted, EPA expects the following to occur:

1. Chemically similar hazardous waste can be consolidated without a RCRA permit for up to 90 days at a UCCF, in compliance with specified requirements set forth in today's proposed rule. Each UCCF would only handle waste generated at its remote locations. The waste would be removed from each remote location immediately. If wastes arriving at the UCCF on different dates are consolidated in the same container, the 90-day period would run from the earlier of the two dates that the wastes arrived.

2. Waste generated at remote locations can be accounted for in a combined Biennial Report, submitted by the UCCF, instead of requiring the submission of a Biennial Report for each remote location.

Thus, today's proposed rule would allow participating New York State Utilities to accumulate hazardous waste, which they generate at remote locations and remove immediately, at designated UCCFs without RCRA permits for up to 90 days subject to specified requirements.

Under the proposed rule a UCCF would be able to accumulate hazardous waste received from remote locations at the UCCF for up to 90 days, thereby allowing time for consolidation of wastes that are chemically similar. The requirements applicable to the UCCF would include all requirements currently applicable to 90-day on-site accumulation, plus certain additional requirements specific to this project. A UCCF may prepare a single Biennial Report for waste received from its associated remote locations. A separate Biennial Report must be prepared for any shipment of hazardous waste sent directly to a permitted TSDF that would ordinarily require a Biennial Report.

In order to participate in the flexibility provided by the proposed rule, New York State Utilities must initiate and comply with public notice and participation requirements set forth in the rule regarding the designation(s) and approval of UCCF(s). Subsequent to these public participation procedures, Utilities must receive authorization from EPA to participate in the flexibility provided by this proposed rule. EPA may determine that a Utility or UCCF should not be authorized to participate in the relief afforded by the proposed rule based on anything learned before, during or after the public notice procedures, including a Utility's compliance history.

The proposed rule would enhance the protection of public health and the environment by facilitating and requiring the immediate removal of hazardous waste that is difficult to properly secure at remote locations. Such waste would be required by the terms of the proposed rule to be moved to the UCCF for consolidation immediately after the generation event is ended. Hazardous traffic conditions that endanger public safety may also diminish.

Utilities would realize considerable savings in direct costs through efficiencies in transportation by consolidating hazardous waste. Reducing the number of trips made by waste-transporting vehicles also reduces mobile source emissions. Elimination of the need to complete biennial reports would bring about a very significant reduction in paperwork and savings in time and labor, both for Utilities and environmental regulatory agencies, who can then redirect such resources to other environmental needs.

In addition, the proposed rule would require Utilities to reinvest at least one-third of the direct savings realized from participation in the XL project into one or more environmental projects, such as pollution prevention, that are over and above existing legal requirements and that have not been initiated prior to the Utility's authorization to manage hazardous waste pursuant to the rule.

The proposed rule applies only to the storage, transport, and disposal of waste generated at a Utility's remote locations and sent to a designated UCCF; the proposed rule would not apply to waste received by the UCCF from locations other than those defined as remote locations. In addition, except as explicitly provided for in the proposed rule, the rule would not affect any other requirements pertaining to the storage, transport, and disposal of waste generated at a Utility's remote locations. For example, a Utility would still be required to determine whether waste generated at a remote location is subject to the land disposal restrictions set forth in 40 CFR part 268 and the Toxic Substances Control Act and its implementing regulations set forth in 40 CFR part 761 at the point of generation, prior to any commingling of waste. In addition, nothing in the proposed rule prohibits a Utility from treating hazardous waste in an accumulation tank or container pursuant to the provisions set forth in 262.90 provided the Utility complies with the requirements for tanks set forth in Subpart J of 40 CFR part 265, except §§ 265.197(c) and 265.200, and/or the

requirements for containers set forth in Subpart I of 40 CFR part 265.

Similarly, it is not the intent of the proposed rule to expand the size of the regulated universe nor to subject uniquely managed waste to increased regulation. Therefore, whether a Utility designates UCCFs or not, waste generated at individual remote locations that does not exceed 100 kilograms in a calendar month will continue to be subject to the requirements for Conditionally Exempt Small Quantity Generators (CESQG) at 40 CFR 261.5.

3. Environmental Benefits

This XL project would allow hazardous waste, generated by Utilities at "remote" locations that are not permanently staffed, to be transported to a secured location that may not be a permitted TSDF immediately after the generation event is ended. At the present time, particularly when the generation event is unplanned, it may take several days to make arrangements for removal of the material directly to a TSDF. In the meantime, if the material remains at the remote location, it may endanger public health and the environment because it may be difficult for the Utility to provide secure storage for the material, safe from releases through accidents or vandalism. Moreover, if the material is left at a street location where it continues to disrupt normal traffic patterns (vehicular and/or pedestrian), public safety is threatened, even if there are no releases. Particularly in urban settings (e.g., New York City), the disruption of traffic patterns can lead to a substantial risk of vehicular collisions or vehicle/pedestrian accidents. Leaving the material at a street location may result in forced merging of high-volume traffic lanes. This project should help to enhance public safety and prevent endangerment to human health and the environment.

There would also be direct environmental results to be realized from the consolidation of similar waste at UCCFs. By minimizing the number of vehicle trips that must be made to the ultimate TSDF, emissions from mobile sources are reduced, as well as vehicular fuel consumption and the possibility of an accident involving a vehicle transporting this waste.

Indirect environmental benefits would result from the reduced need for human resources, time and paperwork. More Utility and regulatory agency resources would be made available to address high-priority environmental issues.

In addition, participating Utilities would reinvest one-third of the direct

cost savings accrued due to participation in this project into one or more environmentally beneficial projects that are above and beyond what is legally required by law and that were not planned prior to the initiation of this XL project. Participating Utilities would identify, in annual Progress Reports, the monetary value of the direct cost savings which they have experienced as a result of the project and the environmental activities in which one-third of these direct cost savings have been reinvested.

4. Economic Benefits

Utilities would realize direct cost savings. Through the need for reduced resources, time and paperwork, they also anticipate indirect savings. NYSDEC and EPA would realize indirect savings through reduced resource demands, time saved (including computer time), and reduced paperwork.

Utilities could realize a variety of direct cost savings. First, Utilities would not incur expenses for having to store hazardous waste at remote locations, even temporarily. Second, Utilities would realize direct cost savings through efficiencies in transportation. By being able to consolidate waste at the UCCF that is chemically similar, fewer vehicle trips to ultimate destination facilities would be required. Third, Utilities could avoid the costs of having to secure hazardous waste facility permits for facilities that receive hazardous waste for short-term management from remote locations. And fourth, the proposed rule would subject the UCCFs to specified generator requirements (rather than TSDF requirements). These savings may include: database management for each remote location as an individual generator, State annual Hazardous Waste Report preparation costs, Biennial Report preparation costs, Part B permit application costs, closure plan preparation costs, P.E. certification of closure, financial assurance costs, annual state TSDF operating fee, TSDF corrective action liability costs, and cost savings realized from consolidation of waste for economical shipment.

Utilities would realize indirect savings in resources, time, and reduced paperwork by not having to submit Biennial Reports for remote locations that generate in excess of 1,000 kilograms of hazardous waste during the generation event. Instead, the hazardous waste generated at remote locations would be included in the Biennial Reports of the UCCFs to which they are brought. All such hazardous waste would still be fully accounted for

without increasing the number of Biennial Reports that the Utility must prepare and submit. EPA would also realize indirect savings in human resources, time (including computer time), and reduced paperwork. Biennial Reports for remote locations would no longer need to be processed and entered in federal databases. As long as the quantities and types of hazardous waste from these locations are accounted for, the minimal benefits of these excess reports do not justify the extra work involved in preparing and processing the reports.

In addition to the savings reaped from eliminating Biennial Reports for remote locations, NYSDEC is considering eliminating its State annual Hazardous Waste Reports for remote locations. Should NYSDEC eliminate these reports, the savings discussed above would apply to that change as well.

5. Stakeholder Involvement

NYSDEC and EPA have been involved in the development of this project, and both support it. Bell Atlantic acted as lead for the telephone industry. Consolidated Edison acted as lead for the electric power industry, with assistance from the New York State Power Pool. Brooklyn Union Gas acted as lead for the oil and gas pipeline industry (intrastate and interstate). Consolidated Edison and the New York State Power Pool solicited comments from other electric power companies in New York State which were then funneled through Consolidated Edison. Brooklyn Union Gas provided the same service to other intrastate and interstate oil and gas pipelines.

The development of the draft FPA was accomplished through implementation of a Public Participation and Outreach Plan, which is included in the docket for this proposed rulemaking. This Plan provided opportunity for participation by potential industrial participants, environmental organizations, the general public and other interested parties. The proposed rule and draft FPA also provide for public participation in the designation and approval of UCCFs by participating Utilities, subsequent to the signing of the Final Project Agreement and the effective date of the proposed rule.

EPA is today soliciting comments on both the proposed rule and the draft FPA. Commentators may request a public hearing during the public comment period. If EPA determines that there is a basis to hold a public hearing, it will do so after the public comment period.

Finally, since the proposed regulations modify regulations originally promulgated pursuant to RCRA, the NYSDEC intends to propose and (subject to public comment) promulgate an equivalent state regulation.

6. Project Duration and Completion

As with all XL projects testing alternative environmental protection strategies, the term of the NYSDEC XL project is one of limited duration. The duration of the regulatory relief provided by this rule is anticipated to be 60 months from the effective date of this rule. However, EPA may suspend or terminate the regulatory relief provided to the Utilities or a specific Utility or UCCF at any time.

C. Rule Description

The proposed rule would add a new section to the Standards Applicable to Generators of Hazardous Waste, 40 CFR part 262. Paragraph (a) of the proposed rule would define terms used in the new rule. The definition of remote location in paragraph (a)(3) is of particular interest because of its importance in the implementation of the regulation. Paragraph (b) would include the requirements that a Utility and UCCF would comply with in order to accumulate hazardous waste for up to 90 days at the UCCF. Utilities and UCCFs must follow these requirements in order to accumulate hazardous waste at UCCF's. For example, under proposed § 262.90(b)(1), the utility would be required to use a Uniform Hazardous Waste Manifest (Form 8700-22) for all shipments of hazardous waste greater than 100 kilograms being sent from a remote location to a UCCF. The manifest used to transport hazardous waste from the remote location to the UCCF would be prepared as follows:

(1) The EPA ID # of the UCCF would be entered on the Manifest Form in Item 1.

(2) The name and location of the remote location would be entered in the Generator's Name and Mailing Address block (Item 3).

(3) The transporter's name and EPA ID number would be entered in the Transporter 1 Company Name box (Items 5 and 6).

(4) The UCCF name would be entered in the Designated Facility Name and Site Address (Item 9) as the facility which will be handling the waste described on the manifest.

(5) The DOT description and other information about the waste would be entered in Items 11 through 14.

(6) The Generator's Certification (Item 16) would be signed.

(7) The Transporters Acknowledgment of Receipt (Item 18) would be signed.

(8) The person accepting the waste on behalf of the UCCF would sign the Certification of receipt of hazardous materials covered by this manifest (Item 20).

(9) A copy of the manifest, signed by all required signatories, must be retained at the UCCF for a minimum of three years. A copy of the manifest must also be provided to the transporter, if other than the utility.

The utility would also complete a new manifest in accordance with 40 CFR 262.20, for all hazardous waste transported to a TSDF from the UCCF.

Paragraph (c) of the proposed rule would require public notification of a Utility's and UCCF's participation. These requirements ensure that there is adequate public notice and comment on participation. Paragraph (d) includes items that need to be included in a notification of participation that would be sent to EPA Region II. Paragraph (e) would describe the procedures for designating UCCFs, including how information from the public comments will be incorporated in the authorization process. Paragraph (f) would include requirements for the addition or deletion of UCCFs from participation. Paragraph (g) would include the requirements for an Annual Progress Report that Utilities would have to submit to EPA, including information on the number of remote locations and savings reaped from participation. Paragraph (h) would set forth examples of the direct savings that a Utility would receive as a result of participation. Paragraph (i) would discuss grounds for termination of a Utility or UCCF's participation. Paragraph (j) would set forth the expiration date of the rule. Amendments to Parts 264, 265, and 270 would clarify that a Utility that opted to participate under 40 CFR 262.90 would be exempt from TSDF and permitting requirements.

III. Additional Information

A. Public Hearing

After the close of the public comment period, EPA may decide to hold a public hearing regarding this proposed rule if a commenter requests such a hearing and provides a basis for holding such a hearing. EPA may also decide to hold a public hearing on its own initiative. Any public hearing will comply with 42 U.S.C. 7004(b)(1); 40 CFR Part 25. A verbatim transcript of the public hearing, and written statements provided at the hearing will be available

for inspection and copying during normal business hours at the EPA addresses for docket inspection given in the ADDRESSES section of this preamble.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) EPA must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (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 in 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 entitlement, grants, user fees, or loan programs of 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.

Because the annualized cost of this proposed rule would be significantly less than \$100 million and would not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of today's rulemaking and the considerable public involvement in the development of the draft FPA, the EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an Agency to conduct a Regulatory Flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. EPA believes that in determining whether a

rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the required analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed [or final] rule on small entities." 5 U.S.C. 603 and 604. Thus, EPA may certify as not having a significant economic impact on a substantial number of small entities rules that relieve regulatory burden, or otherwise have a positive economic effect on the small entities subject to the rule. EPA has concluded that today's proposed rule will relieve regulatory burden for all types of entities, including any affected small entities. Further, today's rule does not impose any requirements on any utility unless the utility opts to participate and receives authority to participate. Therefore, EPA certifies today's rule is unlikely to have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1755.03, OMB Control No. 2010-0026) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>.

EPA is collecting information regarding the locations and amount of waste involved as well as the money saved and what the savings was invested in. EPA plans to use this information to determine whether the XL project is successful. The success of the project will help determine whether it should be extended to other areas of the country. Participation in the project is voluntary; however, if a Utility decides to participate, EPA requires the filing of a report containing pertinent information. These reports will be publicly available. The estimated cost burden of filing the annual report is \$10,000 and the estimated length of time to prepare the report is 40 hours. The estimated number of respondents is

15. 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 will amend the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements, if any, contained in the final rule.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 7, 1998, a comment to OMB is best assured of having its full effect if OMB receives it by January 6, 1999. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 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 of 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.

As noted above, this rule is applicable only to New York State Utilities. The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this 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 rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. RCRA/HSWA

1. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA program for hazardous waste within the state. (See 40 CFR Part 271 for the standards and requirements for authorization.) States with final authorization administer their own hazardous waste programs in lieu of the

federal program. Following authorization, EPA retains enforcement authority under sections 3008, 7003 and 3013 of RCRA, although authorized states have primary enforcement responsibility.

After authorization, rules written under RCRA provisions that predate the Hazardous and Solid Waste Amendments of 1984 (HSWA) no longer apply in the authorized state. New federal requirements imposed by those rules do not take effect in an authorized state until the state adopts the requirements as state law.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized states at the same time they take effect in nonauthorized states. EPA is directed to carry out those requirements and prohibitions in authorized states until the state is granted authorization to do so.

2. Effect on New York State Authorization

Today's proposed rule, if finalized, would be promulgated pursuant to RCRA, rather than HSWA. New York State has received authority to administer most of the RCRA program; thus, authorized provisions of the State's hazardous waste program are administered in lieu of the federal program. New York State has received authority to administer hazardous waste standards for generators. As a result, if today's proposed rule is finalized, it would not be effective in New York State until the State adopts equivalent requirements as State law. It is EPA's understanding that subsequent to the promulgation of this rule, New York State intends to propose a rule containing equivalent provisions. EPA may not enforce these requirements until it approves the State requirements as a revision to the authorized State program.

G. Applicability of Executive Order 13045

The Executive Order, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under EO 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.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

H. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 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 or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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 or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to 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 officials 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. National Technology Transfer and Advancement Act

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 standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects

40 CFR Part 262

Environmental protection, Hazardous materials transportation, Hazardous waste, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Hazardous waste, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 265

Environmental protection, Hazardous waste, Packaging and containers,

Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Hazardous waste, Recordkeeping requirements.

Dated: November 30, 1998.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, parts 262, 264, 265, and 270 of title 40 of the Code of Federal Regulations are proposed to be amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

2. Subpart I consisting of § 262.90 is added to read as follows:

262.90 Project XL for Public Utilities in New York State.

(a) The following definitions apply to this section:

(1) A *Utility* is any company that operates wholesale and/or retail oil and gas pipelines, or any company that provides electric power or telephone service and is regulated by New York State's Public Service Commission or the New York Power Authority.

(2) A *right-of-way* is a fixed, integrated network of aboveground or underground conveyances, including land structures, fixed equipment, and other appurtenances, controlled or owned by a Utility, and used for the purpose of conveying its products or services to customers.

(3) A *remote location* is a location in New York State within a Utility's right-of-way network that is not permanently staffed.

(4) A *Utility's central collection facility* (UCCF) is a Utility-owned facility within the Utility's right-of-way network to which hazardous waste, generated by the Utility at its remote locations, is brought for storage and, if necessary, waste analysis.

(b) A UCCF designated pursuant to paragraph (e) of this section may accumulate hazardous waste (with the exception of mixed waste) generated by that Utility at its remote locations for up to 90 days without a permit or without having interim status, provided that:

(1) The Utility complies with all applicable requirements for generators in 40 CFR Part 262 (except § 262.34 (d) through (f)) for hazardous waste generated at its remote locations and at

the UCCF, including the manifest and pretransport requirements for all shipments greater than 100 kilograms sent from a remote location to a UCCF.

(2) The Utility removes the hazardous waste from the remote location immediately after the generation event has ended.

(3) The Utility complies with all applicable requirements for transporters in 40 CFR Part 263 for each shipment of hazardous waste greater than 100 kilograms which is sent from remote location to the UCCF, and all applicable Department of Transportation requirements.

(4) All hazardous waste generated at each remote location and shipped to the UCCF is accumulated at the UCCF in accordance with 40 CFR 262.34 (a) through (c), regardless of the total quantity generated or accumulated per calendar month.

(5) The Utility submits a biennial report in accordance with 40 CFR 262.41 including all hazardous waste shipped from remote locations to the UCCF. This UCCF biennial report may be submitted in lieu of submitting a biennial report for each remote location. However, for hazardous waste generated at a particular remote location that exceeds 1000 kg per calendar month and that is not sent to the UCCF, the Utility must submit a separate biennial report.

(6) Waste generated at a remote location that is not sent to a UCCF is managed according to the requirements of Parts 260 through 270 of this chapter.

(7) The Utility maintains records at the UCCF in accordance with all the recordkeeping requirements set forth in Subpart D of 40 CFR part 262, including 40 CFR 262.40, and maintains records on any PCB test results for hazardous wastes brought to the facility from remote locations.

(8) The UCCF obtains an EPA identification number.

(9) The UCCF receives hazardous waste only from a remote location.

(10) The Utility reinvests at least one-third of the direct savings described in paragraph (h) of this section in one or more environmentally beneficial projects, such as remediation or pollution prevention, that are over and above existing legal requirements and that have not been initiated prior to the Utility's authorization to manage hazardous waste pursuant to this section.

(c) Utilities seeking to have UCCFs designated under paragraph (e) of this section must comply with the following requirements:

(1) Any New York State Utility seeking authority to accumulate

hazardous waste under this section must notify local governments and communities of the Utility's intent to designate specific UCCFs.

(2) In carrying out paragraph (c)(1) of this section, the Utility must solicit public comment. In soliciting public comment, the Utility must use the notice method set forth in paragraph (c)(2)(i) of this section, as well as at least two of the methods set forth in paragraphs (c)(2)(ii) through (vii) of this section.

(i) A public notice in a newspaper of general circulation within the area in which each proposed UCCF is located;

(ii) A radio announcement in each affected community during peak listening hours;

(iii) Mailings to all citizens within a five-mile radius of proposed UCCF;

(iv) Well-publicized community meetings;

(v) Presentations to the local community board;

(vi) Placement of copies of this section and the Final Project Agreement that explains the regulatory relief outlined in this section in the local library nearest the proposed UCCF, and inclusion of the name and address of the library in the newspaper notice; and

(vii) Placement of copies of this section and the Final Project Agreement that explains the regulatory relief outlined in this section on the Utility's web site, and inclusion of the web site's address in the newspaper notice.

(3) All outreach efforts made under paragraph (e)(2) of this section shall be prepared in English (and any other language spoken by a large number of persons in the community of concern) and at a minimum shall include the following information:

(i) A brief description of the XL project, the intended new use of the facility, and a request for comments on the proposed UCCF.

(ii) The name, if any, and address of the proposed UCCF and its current status under the RCRA Subtitle C program.

(iii) The intended duration of use of the UCCF under the requirements of this section.

(iv) Names, addresses, and telephone numbers of contact persons, representing the Utility, to whom questions or comments may be directed.

(v) Notification of when the comment period of no less than 30 days will close.

(4) The Utility must submit copies of each notice, announcement or mailing directly to local governments and to the EPA officials identified in paragraph (d) of this section.

(5) At the close of the comment period, the Utility shall prepare a

Responsiveness Package containing a summary of public outreach efforts, all comments and questions received as a result of its outreach efforts, and the Utility's written responses to all comments and questions. The Utility shall provide copies of its Responsiveness Package to any citizens that participated in the public notice process, local governments and the EPA officials identified in paragraph (d) of this section.

(d) Upon completion of the public notice procedures described in paragraph (c) of this section, the Utility must provide written notice to the Director, Division of Enforcement and Compliance Assistance at EPA-Region II of its intent to participate. The Notice of Intent must contain the following information:

(1) The name of the Utility, corporate address, and corporate mailing address, if different.

(2) The name, mailing address, and telephone number of a corporate-level contact person to whom communications and inquiries may be directed. This contact person may be changed by notifying EPA.

(3) A list of the names, addresses, and EPA identification numbers of all Utility-owned facilities in New York State that are proposed UCCFs and the names and telephone numbers of a designated contact person at each facility.

(4) A summary of public outreach efforts undertaken pursuant to paragraph (c) of this section.

(5) A commitment that one-third of the direct cost savings outlined in paragraph (h) of this section due to project participation will be reinvested in one or more environmentally beneficial projects which are over and above existing legal requirements and which have not been initiated prior to the Utility's authorization to manage hazardous waste pursuant to this section.

(6) An acknowledgment that the signatory is personally familiar with the terms and conditions of this section and has the authority to obligate and does obligate the Utility to comply with all such terms and conditions. The Utility shall comply with the signatory requirements set forth in 40 CFR 270.11(a)(1).

(e) The procedures for designating UCCFs are as follows:

(1) Subject to paragraphs (e) (2) through (4) of this section, the Utility and specified UCCF shall be authorized to comply with the requirements set forth in paragraph (b) of this section upon the receipt of written acknowledgment from EPA that the

Notice of Intent described in paragraph (d) of this section has been received and found to be complete and in compliance with all the requirements set forth in paragraph (d) of this section. This acknowledgment will state whether the UCCF has been designated under this section.

(2) Based on information provided and comments received during or after the public notice and comment period, designated UCCFs may be rejected for the proposed use, or, if EPA determines that acceptance for the proposed use under the conditions of paragraph (b) of this section may not fully protect human health and the environment based on the Utility's compliance history or other appropriate factors, the acknowledgment may impose conditions in addition to those in paragraph (b) of this section.

(3) If EPA determines that a site-specific informational public meeting is warranted prior to determining the acceptability of a designated UCCF, the acknowledgment will so state.

(4) Subsequent to any public meeting, EPA may reject or prohibit UCCFs from participating in this project based on information provided or comments received during or after the public notice process or based on a determination that acceptance for the proposed use under the conditions of paragraph (b) of this section may not fully protect human health and the environment based on the Utility's compliance history or other appropriate factors.

(f) At any time, a Utility may add or remove UCCF designations by complying with the following requirements:

(1) A Utility may notify EPA of its intent to designate additional UCCFs. Such a notification shall be submitted to, and processed by, EPA, in the manner indicated in paragraphs (d) and (e) of this section.

(2) To have one or more additional UCCFs designated, the Utility must comply with paragraph (c) of this section.

(3) A Utility can discontinue use of a facility as a UCCF by notifying EPA in writing.

(g) Each Utility authorized to accumulate hazardous waste pursuant to this section shall submit an Annual Progress Report with the following information for the preceding year:

(1) The number of remote locations statewide for which hazardous waste was handled in accordance with paragraph (b) of this section.

(2) The total tonnage of hazardous waste generated at such remote locations statewide.

(3) The number of remote locations statewide that generated in excess of 1,000 kilograms of hazardous waste during a generation event.

(4) The number of remote locations statewide that generated between 100 and 1,000 kilograms of hazardous waste during a generation event.

(5) An estimate of the monetary value, on a Utility-wide basis, of the direct savings realized by participation in this project. Direct savings at a minimum include those outlined in paragraph (h) of this section.

(6) Descriptions of the environmental compliance, remediation, or pollution prevention projects or activities into which the savings, described in paragraph (h) of this section, have been reinvested, with an estimate of the savings reinvested in each. Any such projects must consist of activities that are over and above existing legal requirements and that have not been initiated prior to the Utility's authorization to manage hazardous waste pursuant to this section.

(7) The addresses and EPA identification numbers for all facilities that served as UCCFs for hazardous waste from remote locations.

(h) Utilities authorized to accumulate hazardous waste pursuant to this section must assess the direct savings realized as a result. Cost estimates shall include direct savings based on relief from any of the following requirements which the facility expects to be relieved from due to compliance with the provisions of this section:

(1) Database management for each remote location as an individual generator;

(2) Biennial Report preparation costs;

(3) Part B permit application costs;

(4) Closure plan preparation costs;

(5) P.E. certification of closure;

(6) Financial assurance costs;

(7) Annual state TSD operating fee;

(8) TSD corrective action liability costs (e.g.—RFA preparation, etc.); and/or

(9) Cost savings realized from consolidation of waste for economical shipment (including no longer shipping waste directly to a TSD from remote locations)

(i) If any UCCF or Utility authorized under this section fails to comply with any of the requirements of this section, EPA may terminate or suspend the UCCF's or Utility's authorization. EPA will provide a UCCF or Utility with 15 days written notice of its intent to terminate or suspend authorization. During this period, the UCCF will have the opportunity to come back into compliance or provide a written explanation as to why it was not in

compliance with the terms of this section and how it will come back into compliance. If EPA then issues a written notice terminating or suspending authorization, the Utility must take immediate action to come into compliance with all otherwise applicable federal requirements. EPA or NYSDEC may also take enforcement action against a Utility for non-compliance with the provisions of this section.

(j) This section will expire on [DATE FIVE YEARS FROM EFFECTIVE DATE OF FINAL RULE].

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.1 is amended by adding paragraph (g)(12) to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(12) A New York State Utility central collection facility accumulating hazardous waste in accordance with 40 CFR 262.90.

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PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936 and 6937.

2. Section 265.1 is amended by adding paragraph (c)(15) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(15) A New York State Utility central collection facility accumulating

hazardous waste in accordance with 40 CFR 262.90.

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PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.1 is amended by adding paragraph (c)(2)(ix) to read as follows:

§ 270.1 Purpose and scope of these regulations.

* * * * *

(c) * * *

(2) * * *

(ix) A New York State Utility central collection facility accumulating hazardous waste in accordance with 40 CFR 262.90.

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