

relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 20, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart S—Kentucky

2. In § 52.920 the table in paragraph (d) is amended by adding a new entry for “Alternate Averaging Period for

American Greetings Corporation” to the end of the table as follows:

§ 52.920 Identification of plan.

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(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Federal Register notice
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Alternate Averaging Period for American Greetings Corporation.	KDEPDAQ Permit V-98-049		July 9, 2001	66 FR 23617.

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[FR Doc. 01-11524 Filed 5-8-01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-6976-8]

RIN 2090-AA19

Project XL Site-Specific Rulemaking for the Autoliv ASP Inc. Facility in Promontory, Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is implementing a project under the Project XL program that will provide site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Autoliv ASP Inc. (Autoliv) facility in Promontory, Utah. The terms of the XL project are defined in a Final Project Agreement (“FPA”) which has been available for public review and comment. (See 65 FR 49571, August 14, 2000). Following a review of the public comments, the FPA was signed by Autoliv, Box Elder County, the state of Utah, and EPA on September 20, 2000. EPA is today publishing a final rule, applicable only to the Promontory Facility, to facilitate implementation of the XL project. The principal objective of this XL Project is to explore the benefits of a more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry that are treated in industrial furnaces. Today’s final rule is an outgrowth of the proposed rule

published on February 13, 2001 See 66 FR 9992. Today’s action provides regulatory flexibility to Autoliv in the form of a conditional exemption from the definition of hazardous waste. It is conditioned on Autoliv’s compliance with air emission and waste management requirements that have been developed under this XL project. The air emission and waste management requirements are set forth in today’s final rule. Today’s action is intended to provide site-specific regulatory changes to implement this XL project. The EPA the state of Utah and Autoliv expect this XL project to result in superior environmental performance while providing cost savings and paperwork reduction for both Autoliv and the state of Utah.

DATES: This final rule is effective on May 9, 2001.

ADDRESSES: Docket: Three dockets contain supporting information used in developing this final rule, and are available for public inspection and copying at the EPA’s docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. 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-2001-AUFP-FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page. Project materials are also available for review for today’s action on the world wide web at <http://www.epa.gov/projectxl/>. A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 8 Library, First Floor, 999 18th Street, CO 80202-2466 during normal

business hours. Persons wishing to view the duplicate docket at the Denver location are encouraged to contact Ms. Mary Byrne in advance, by telephoning (303) 312-6491 or by email at or byrne.mary@epa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Byrne, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466 or Mr. Ted Cochran, Office of Environmental Policy Innovation, U.S. EPA, 1200 Pennsylvania Avenue NW (1802), Washington, DC 20460. Further information on today’s action may also be obtained on the world wide web at <http://www.epa.gov/projectxl/>. Questions to EPA regarding Today’s action can be directed to Ms. Byrne at (303) 312-6491 or Mr. Cochran at (202) 260-0880.

SUPPLEMENTARY INFORMATION: The development and implementation of on-site treatment would be piloted at Autoliv’s Promontory, Utah facility using the existing metals recovery furnace with air pollution controls instead of sending the materials off-site to be open burned. This pilot is intended to test the effectiveness of on-site treatment of automobile airbag waste pyrotechnics in Autoliv’s Metals Recovery Furnace (MRF). These automobile airbag waste pyrotechnics generated on-site at the Autoliv facility, are currently regulated as reactive hazardous wastes (waste code D003).

The pilot will determine whether this approach promotes better treatment of the waste pyrotechnics than the current method of open burning. Autoliv will comply with many of the general facility standards of RCRA, and is not seeking relief from all RCRA management protections. Through this project, Autoliv intends to be able to treat waste

pyrotechnics, generated on-site, without obtaining a RCRA permit from the state of Utah. A RCRA permit is normally required for thermal destruction of hazardous waste in an industrial furnace. The waste as referenced in Autoliv's Project Proposal is reactive only and does not contain significant amounts of hazardous constituents listed in 40 CFR Part 261, for more detailed information on waste composition please see <http://www.epa.gov/projectxl/Autoliv/page2.htm>.

Today's action provides a "conditional exemption" from the definition of hazardous waste, for the specific waste that is subject to this site-specific rule. The effect of EPA granting the conditional exemption is that a RCRA permit is not required in this specific instance. The waste pyrotechnics, generated on-site at the Autoliv facility, are now conditionally exempted from regulation as hazardous wastes and thus, 40 CFR Parts 262 through 270 when treated in the MRF in accordance with the provisions in this site-specific rule. The facility will continue to comply with certain general RCRA conditions on facility operations, as described in this site-specific rule for the Autoliv Facility and any state of Utah regulations that grant the conditional exemption. The project signatories believe that processing pyrotechnic materials in the MRF can be both cost-effective and achieve superior environmental results as compared to open burning and this project meets the intent of Project XL. This rule will not in any way impact the provisions or applicability of any other existing or future regulations.

The deferral of specified RCRA requirements is in effect only for the five-year term of this XL project. Following review of its MRF, Autoliv would notify the state of Utah and EPA in writing of the date on which it intends to begin treating its pyrotechnic waste in the MRF. This rule would become effective in Autoliv's facility only after such written notification. Section III.C.2. and IV.F.1. discuss the aspects of state implementation of this rule.

The deferral of the specified RCRA requirements is conditional upon Autoliv's implementation and compliance with the conditions set forth in 40 CFR 261.4 of this rule. The agreement includes specific requirements for the management of Autoliv's waste that ensure protection of human health and the environment while providing some flexibility to encourage chemical reuse and waste minimization.

The conditions set forth in this rule are expected to function as an outline of the procedures that must be in place to manage waste. The deferral of the hazardous waste determination is conditional on compliance with all of the requirements of the XL Project. These criteria ensure that the handling and disposal of Autoliv's waste would be protective of human health and the environment by establishing how Autoliv's waste would be treated within its Promontory facility, and in transit to the on-site waste accumulation area for Autoliv.

EPA has agreed to allow Autoliv to undertake this XL project with the requested regulatory flexibility to determine if the performance-based approach would result in superior environmental performance and significant cost savings to Autoliv.

This rule, and the state actions described in Section IV.F.1. of this preamble that parallel this action, will not in any way affect the provisions or applicability of any other existing or future regulations. The XL Project will enter the implementation phase after the initial stack test results have been submitted by Autoliv and reviewed by both EPA and the state of Utah to ensure adherence to the XL Project.

Outline of Today's Document

The information presented in this preamble is organized as follows:

- I. Authority
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 1. Federal Regulatory Changes
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 - E. How Have Various Stakeholders Been Involved in this Project?
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 - E. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?
 - F. RCRA & Hazardous and Solid Waste Amendments of 1984

1. Applicability of Rules in Authorized States
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- G. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
- H. How Does this Rule Comply with Executive Order 13132: Federalism?
- I. How Does this Rule Comply with Executive Order 13084: Consultation and Coordination with Indian Tribal Governments?
- J. Does this Rule Comply with the National Technology Transfer and Advancement Act of 1995 (NTTAA)?
- K. Is EPA required to Submit a Rule Report Under the Congressional Review Act?

I. Authority

EPA is publishing this site specific rule under the authority of sections of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act (RCRA).

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.)

II. Overview of Project XL

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 regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other Project 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.

The XL program is intended to allow EPA to experiment with 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 EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. As part of this experimentation, the EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. The EPA may also modify rules, on a site-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 in the particular projects that embody them. In announcing the XL program, EPA 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 interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-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 (provided that the Agency 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, such as section 8001 of RCRA.

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 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 Autoliv XL project addresses the XL criteria, readers should refer to the Final Project Agreement available from the EPA RCRA docket or Region 8 library for this action (see **ADDRESSES** section of today's preamble).

The Project XL program is compartmentalized into four basic phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that they would like to consider as an XL pilot, the second phase where the project sponsor works with EPA and interested stakeholders in developing an XL proposal, the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal, the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing a Final Project Agreement (FPA) and legal mechanism. After the FPA has been signed by all designated parties, the XL pilot proceeds into the implementation phase and evaluation phase.

The FPA is a written agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the pilot project. It addresses the eight Project XL criteria, and the expectation of the Agency that this XL project will meet those criteria. The FPA identifies performance goals and indicators (monitoring schedule) which will enable Autoliv to clearly illustrate the baseline quantities. The FPA specifically addresses the manner in which the project is expected to produce superior environmental benefits. The FPA also discusses the administration of the agreement, including dispute resolution and termination. The FPA is available for review in the docket for today's action, and also is available on the world wide web at <http://www.epa.gov/projectxl/>.

III. Overview of the Autoliv XL Project

Autoliv is proposing to develop, evaluate and implement, an alternative to open burning of certain wastes generated at its Promontory, Utah facility.

This waste is reactive only, and contains no significant levels of hazardous constituents. These reactive hazardous wastes are presently treated through open burning at a RCRA interim status facility.

Autoliv currently operates a \$3 million Metals Recovery Facility (MRF) designed to recover aluminum and steel from inflator units containing live pyrotechnic material as well as previously fired units. The MRF is capable of recovering 2000 pounds per hour of recyclable aluminum and steel from off-spec and fired commercial inflator units and their components while minimizing the waste to the environment. Autoliv's XL Project proposes to process small volumes of its waste pyrotechnic materials within the MRF rather than sending the materials to a RCRA regulated treatment, storage or disposal facility (TSDF) for open burning. The company is seeking a conditional exemption from the definition of hazardous waste for pyrotechnic materials to be processed through the MRF.

The MRF has an extensive air pollution train which is capable of capturing the particulate emissions produced by the waste pyrotechnic materials. This project will demonstrate that it is feasible to utilize existing equipment to process certain hazardous wastes in a more efficient and environmentally sound manner, under a more flexible regulatory framework. With minimal modifications to the operation, Autoliv believes that it can achieve a safer, cleaner, and more effective method of treatment than the current method of open burning.

EPA anticipates that this project will provide information on how to develop alternative approaches to handling pyrotechnic waste. This information will be useful to EPA in learning more about alternative treatment approaches for airbag manufacturing wastestreams. This XL Project would include conditions for the treatment of Autoliv's wastes within Autoliv's Promontory Facility. These criteria will operate at Autoliv's Promontory facility in lieu of the requirements found at 40 CFR 261.4. The conditions are a set of measurable requirements that are similar to the current RCRA requirements. Each of the elements of the conditions is described in full in today's rule and is briefly explained below.

The requirements for Autoliv's XL Project include a requirement that the project include procedures to assure compliance with conditions specified in the rule. The conditions set forth for the treatment of Autoliv's waste have been designed to ensure that Autoliv's waste

will be treated in a manner protective of human health and the environment. The requirements in the conditions include provisions which are consistent with current RCRA requirements. Autoliv is proposing that EPA explore the benefits of more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry that are treated in industrial furnaces. The project signatories agree that this rule can be characterized as a conditional exemption from the definition of hazardous waste.

Autoliv will comply with many of the general facility standards of RCRA, and is not seeking relief from all RCRA management protections. Through this project Autoliv intends to be able to treat its waste pyrotechnic materials on-site without obtaining a RCRA Part B permit from the State of Utah that is normally required for thermal treatment. The waste as referenced in Autoliv's Project Proposal is reactive only and does not contain significant amounts of hazardous constituents (See the Environmental Performance Summary Calculations section of the Autoliv Proposal at <http://www.epa.gov/projectxl/Autoliv/page2.htm>. for more detailed information on waste composition).

A. To What Autoliv Facility Would the Site Specific Rule Apply?

This site specific rule would apply only to the Autoliv ASP Inc. (Autoliv) facility in Promontory, Utah.

B. What Are the Environmental Benefits of This Project?

This project is designed to achieve environmental results that are superior to what is currently achieved by the current RCRA regulatory system.

This project is expected to achieve superior environmental results as compared to open burning for several reasons. The major benefit to the environment will be from reduced air emissions due to the minimization of open burning of hazardous waste. The company has arranged for open burning of 183,557 lbs. of pyrotechnic material that were not able to be recovered or recycled during 1998 and 1999. The uncontrolled particulate emissions are a point of concern for all parties involved. Although open burning is an approved method for treatment of pyrotechnic wastes it does not utilize any air pollution controls. The same pyrotechnic materials, if processed at the MRF, would pass through an extensive air pollution control system rather than being emitted, thus achieving a significant reduction of air pollutants released to the environment,

accomplishing superior environmental performance compared to open burning. The company projects that it can eliminate open burning of 158,000 lbs. of pyrotechnic waste material in the first year of project participation. It also estimates that a net reduction of 22,876 lbs./yr. of particulate emissions would be accomplished.

Additional environmental benefits are achievable due to the fact that certain pyrotechnic formulations contain materials (e.g., copper) that could be potentially recovered in the slag as well as in the baghouse. These materials could then be recycled back to Autoliv's raw material suppliers. The distinctive properties of the pyrotechnic materials enable these materials to be treated more efficiently and in a manner that creates few air emissions than open burning which precludes recycling or recovery of any kind.

The specifications governing the air bag industry are very stringent and do not allow the use of toxic materials. The major gases produced by gas generants are water, carbon dioxide, and nitrogen. The percentage of each of these gases can vary depending on the formulation but a typical analysis would be approximately 40% nitrogen, 40% water, and 20% carbon dioxide. Other gaseous and particulate (metal) compounds are present at ppm levels. These include gaseous carbon dioxide (CO), nitrogen dioxide (NO₂), nitric oxide (NO), and ammonia (NH₃), and particulate matter containing the metals copper, cobalt, boron, and aluminum. The MRF is presently permitted by Utah (DAQE-549-97) to operate 24 hours/day, 365 days/year. Actual operation is estimated to be 50 percent of the permitted production capacity. A portion of the processing capacity will be absorbed by pyrotechnic waste material. Minimal changes to the emission streams are expected because the pyrotechnic materials are also present within the recycled inflator units themselves.

C. What Regulatory Changes Will Be Necessary To Implement This Project?

1. Federal Regulatory Changes

This site specific rule provides Autoliv with a temporary conditional exemption from 40 CFR 261.4. In order to implement this project, EPA will grant a conditional exemption from the definition of hazardous waste, for the specific waste that is subject to this rule.

The effect of EPA granting the conditional exemption is that a RCRA Part B permit is not required. The waste pyrotechnics, generated on-site at the Autoliv facility, are now exempted from

regulation as a hazardous waste exempt from 40 CFR Parts 262 through 270 when treated in the MRF in accordance with the provisions in the site-specific rule. The facility will continue to comply with certain general RCRA conditions on facility operations, as described in this Project XL site-specific rule for the Autoliv facility and any State of Utah regulations that grant the conditional exemption. The project signatories believe that processing pyrotechnic materials in the MRF can be both cost-effective and achieve superior environmental results as compared to open burning.

This site-specific rule is necessary to allow for the temporary conditional exemption/deferral, and would add exclusion (b)(18) to 40 CFR 261.4 to clarify that the on-site treatment of Autoliv's wastes would be covered by a new section to 40 CFR.

2. State Regulatory Changes

The State of Utah is authorized under Section 3003 of RCRA (Sec. 6926. Authorized State Hazardous Waste Programs), to implement the federal RCRA Program. The state program operates in lieu of the federal program. The Utah hazardous waste management regulations, codified in Utah Code of Regulations contain equivalent or more stringent requirements as compared to the federal regulations. Autoliv is subject to the federal and the Utah regulations, which would include requirements that the pyrotechnic waste be handled according to the waste management provisions of RCRA. Conforming state regulatory changes or legal mechanisms need to be implemented in addition to the federal changes in order for this XL Project to proceed.

D. Why Is EPA Supporting This New Approach to Autoliv's Waste Treatment?

EPA is supporting this regulatory model contained in this rule because it provides for a degree of environmental protection that is at least as protective as that which existing RCRA regulations would provide for the Autoliv's Promontory facility. The approach to be tested under this project would be to explore the efficacy of treating waste on-site in cases where there is a clear benefit to the environment for doing so. This would entail the substitution of current RCRA permitting requirements outlined in 40 CFR Parts 264 and 266 with those for interim status facilities. EPA is interested in testing and evaluating alternative approaches to regulating RCRA facilities that can achieve superior environmental

performance while reducing costs and paperwork burden. Autoliv has a history of implementing waste minimization techniques and practices with control over manufacturing with emphasis on quality and waste minimization. Providing Autoliv the flexibility to dispose of waste on a regular schedule means professional resources can be redirected from reactive waste management to proactive waste management. EPA anticipates that this rule will result in a successful innovative pilot of a new on-site treatment system for Autoliv. EPA recognizes that the new systems may not be appropriate or necessary for some institutions but may, at some point, depending on the results of this XL project, consider the possibility of offering it as a regulatory option. For this pilot, Autoliv will be implementing an Environmental Reinvestment Project (ERP) that will be finalized one year from the project start date.

E. How Have Various Stakeholders Been Involved in This Project?

Stakeholder involvement during the project development stage was encouraged in several ways. The methods included communicating through the media, directly contacting interested parties and offering an educational program regarding the regulatory requirements impacted by the XL project. Stakeholders have been kept informed on the project status via mailing lists, newspaper articles, public meetings and the establishment of a website. Both local and regional stakeholders have expressed support for this project. They see this as a unique opportunity to improve the air quality in Box Elder County and surrounding communities. Participation in Project XL provides Autoliv, the Box Elder County, the Utah Division of Environmental Quality and the EPA the opportunity to explore new ways to improve the environment. The neighboring community of Howell and the surrounding area would benefit by reducing emissions associated with open burning. The highly visible nature of open burning tends to heighten awareness of the associated environmental impacts. A kickoff meeting and site tour held on June 8th, 1999 garnered stakeholder support and input for the project plan. Additional stakeholder meetings will be held as appropriate. Stakeholders that have been active in the project and have given oral or written support are: Utah Division of Environmental Quality, Bear River Health Department, Howell City, and Box Elder County. Stakeholders have been made aware of Autoliv's

intentions and the environmental benefits associated with Project XL. Autoliv will continue to provide the stakeholder group with any information regarding the project including semi-annual project updates and will encourage them to meet on a regular basis. Copies of all comment letters, as well as EPA's response to comment letters, will be located in the rulemaking Docket (see the **ADDRESSES** section of today's preamble). As this XL project continues to be implemented, the stakeholder involvement program would shift its focus to ensure that: (1) Stakeholders are informed of the status of project implementation and (2) stakeholders have access to information sufficient to judge the success of this Project XL initiative. Anticipated stakeholder involvement during the term of the project will likely include other general public meetings to present periodic status reports, availability of data and other information generated. In addition to the state and federal reporting requirements of today's rulemaking, the FPA includes provisions whereby Autoliv will make copies of interim project reports available to all interested parties. A public file on this XL project has been maintained at the website <http://www.epa.gov/projectxl/> throughout project development, and Autoliv has committed to continue to update it as the project is implemented. A detailed description of this program and the stakeholder support for this project is included in the FPA, which is available through the docket or through EPA's Project XL site on the Internet (see **ADDRESSES** section of this preamble).

F. How Will This Project Result in Cost Savings and Paperwork Reduction?

The waste treatment currently accounts for the most substantial expense for environmental, health and safety programs at Autoliv. This XL Project would result in cost savings and paperwork reduction in several key areas. These include a decrease in paperwork through a streamlined process for approval of hazardous waste treatment, elimination of paperwork related to transporting the waste off-site to a permitted facility, and a reduction in the disposal costs that the company would pay to a RCRA treatment or disposal facility. Autoliv disposed of 82,361 lbs. of pyrotechnic waste in 1998 at an incurred cost of \$164,722. The pyrotechnic waste could easily have been processed in the MRF with minimal additional operating cost. Autoliv estimates that 158,000 lbs. of waste material were generated in the year 2000. The contracted disposal fee

at present time is \$2.00 per pound. Through Project XL, Autoliv will save an estimated \$316,000 in disposal costs in the first year. It has been estimated that issuance of a RCRA permit may take three to five years and may cost the facility \$500,000. Part of Autoliv's cost savings from the XL project will be used to fund an ERP. In addition, the following changes would be anticipated: waste pyrotechnics would no longer be transported across public roads, reducing potential liability and associated costs, and increasing public safety. The paperwork burden would be reduced because hazardous waste manifests and shipping papers would not be required or needed. Operational flexibility would allow materials to be processed more regularly, which further reduces paperwork as well as the amount of pyrotechnics stored at any given time. It is expected with this project a certain amount of paperwork associated with RCRA compliance is likely to be reduced.

G. How Will the Terms of This XL Project and Site Specific Rule Be Enforced?

EPA retains its full range of enforcement options under this Site Specific rule. The conditional exemption of certain RCRA requirements are conditional upon Autoliv's implementation and compliance with the conditions set forth in 40 CFR 261.4 of this rule (b)(18). If the conditions for the exemption are not met, the XL project may be terminated pursuant to the terms of the Final Project Agreement setting out the agreement of the parties to this project. The final project agreement further provides for a return to compliance with any regulations deferred under the project, and may include an agreed-upon interim compliance period. As with all XL projects, testing alternative environmental protection strategies, the term of the Autoliv XL project is one of limited duration. This Site Specific rule would set the term of the XL Project at five years after the effective date of this rule. Because Project XL is a voluntary and experimental program, the FPA contains provisions that allow the project to conclude prior to the end of the five years in the event that it is desirable or necessary to do so.

During the five year project term, Autoliv will comply with the following:

(1) Autoliv will comply with the Project XL site-specific rule for the Promontory facility and the requirements specified in 40 CFR Part 262, Part 265, Subparts B, C, D, E, G, H, I, and O, and Part 268. Waste material will still be managed and stored as

hazardous waste prior to treatment. Autoliv will comply with the RCRA 90-day storage requirements.

(2) All waste materials processed will be characterized and an initial stack test described in the site-specific rule will be conducted by Autoliv to evaluate the safety and the efficiency of the MRF system.

(3) The amounts of pyrotechnic wastes will be reported to EPA and the State of Utah at each periodic performance review conference conducted every six months.

(4) Due to the dynamic and ever changing nature of the air bag industry, it will be pertinent to allow for new development and provide flexibility for future materials. Emission product limitations will comply with air bag industry emissions standards listed in the Superior Environmental Performance section.

(5) The Utah Division of Air Quality under authority delegated by EPA has agreed that a separate Approval Order will be issued for the pyrotechnic waste disposal process which will serve as an amendment to the existing Approval Order which covers the current operation of processing airbag inflators and their components. No regulatory flexibility or modification of federal regulations is required for the new approval order to be issued by the Division of Air Quality.

(6) No off-site pyrotechnic wastes will be received or processed at this location and in the MRF.

(7) An MRF Operating Record, including waste feed composition, feed rates, temperatures, pressures, upset conditions, spills and releases, etc., will be maintained at the facility and made available for the State of Utah and EPA to review and copy for enforcement purposes if necessary.

(8) The State of Utah and EPA will be notified of any upset conditions, such as, spills and releases of hazardous or toxic substances at the MRF. The information will be reported orally within 24 hours from the time Autoliv becomes aware of the circumstances. A written submission to the State of Utah and EPA will be provided within five days of the time Autoliv becomes aware of the circumstances of the noncompliance. The severity and type of upset condition that would trigger the reporting threshold is described in the site-specific rule.

IV. Additional Information

A. How To Request a Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral

presentations regarding this regulation in accordance with 40 CFR Part 25. Persons wishing to make an oral presentation on the site specific rule to implement the Autoliv XL Project should contact Ms. Mary Byrne of the EPA Region 8 office, at the address given in the **ADDRESSES** section of this document. Any member of the public may file a written statement before the hearing, or after the hearing, to be received by EPA no later than February 27, 2001.

Written statements should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the 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. How Does This Rule Comply With Executive Order 12866?

This is a rule of particular applicability and therefore not within the scope of EO 12866.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), 5 U.S.C. section 601 *et seq.*, 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. This rule will not have a significant impact on a substantial number of small entities because it only affects Autoliv. Therefore, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

D. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

This action applies only to Autoliv, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

E. Does This Project Trigger the Requirements of the 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 the Autoliv facility in Promontory, Utah. 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 & Hazardous and Solid Waste Amendments of 1984

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, 3013 and 7003 of RCRA.

After authorization, federal rules written under RCRA (non-HSWA), no longer apply in the authorized state except for those issued pursuant to the Hazardous and Solid Waste Act Amendments of 1984 (HSWA). 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 non authorized states. EPA is directed to carry out HSWA requirements and prohibitions in authorized states until the state is granted authorization to do so.

2. Effect on Utah Authorization

This rule is being promulgated pursuant to non-HSWA authority, rather than HSWA. Utah has received authority to administer most of the RCRA program; thus, authorized provisions of each state's hazardous waste program are administered in lieu of the federal program. Utah has received authority to administer hazardous waste standards for generators. As a result, this rule, would not be effective in Utah until the state adopts equivalent legal mechanisms or requirements as state law. EPA may not enforce these requirements until it approves the state requirements as a revision to the authorized state program.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

The Executive Order 13045, "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 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.

H. How Does This Rule Comply With 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 and 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."

The rule does not have federalism implications. It does not have substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of powers and responsibilities among various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this proposed rule.

I. How Does This Rule Comply With 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 6, 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 proposed rule does not have tribal implications. It does 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. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There are no communities of Indian tribal governments located in the vicinity of Autoliv. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 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 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 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.

K. Is EPA Required to Submit a Rule Report Under the Congressional Review Act?

The Congressional Review Act, 5 U.S.C. 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 the Comptroller General of the United States. Section 804, however, exempts from Section 801 the following types of rules: rules of particular applicability, rules relating to agency management or personnel, and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under Section

801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Waste determination.

Dated: May 3, 2001.

Christine Todd Whitman,
Administrator.

For the reasons set forth in the preamble, part 261 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

2. Section 261.4 is amended by adding paragraph (b)(18) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(18) By-products resulting from the production of automobile air bag gas generants at the Autoliv ASP Inc. facility in Promontory Utah, (Autoliv) are exempt from the D003 listing, for a period of five years from May 9, 2001, provided that:

(i) The by-product gas generants are processed on-site in Autoliv's Metal Recovery Furnace (MRF).

(A) By-product gas generants must only be fed to the MRF when it is operating in conformance with the State of Utah, Division of Air Quality's Approval Order DAQE-549-97.

(B) Combustion gas temperature must be maintained below 400 degrees Fahrenheit at the baghouse inlet.

(ii) Prior to processing in the MRF, the by-product gas generants are managed in accordance with the requirements specified in 40 CFR 262.34.

(iii) The Autoliv facility and the MRF are operated and managed in accordance with the requirements of 40 CFR Part 265, Subparts B, C, D, E, G, H, I, and O.

(iv) Residues derived from the processing of by-product gas generants in the MRF are managed in accordance with the requirements specified in 40 CFR Parts 262 and 268.

(v) The following testing of the MRF's stack gas emissions is conducted:

(A) An initial test shall be conducted within 30 operating days of starting feed of by-product gas generants to the MRF. EPA may extend this deadline, at the request of Autoliv, when good cause is shown. The initial test shall consist of three duplicate runs sampling for:

(1) Particulate matter using Method 5 as specified in 40 CFR Part 60, Appendix A.

(2) The metals Aluminum, Arsenic, Barium, Beryllium, Boron, Cadmium, Chromium, Cobalt, Copper, Lead, and Nickel using Method 29 as specified in 40 CFR Part 60, Appendix A.

(3) Polychlorinated di-benzo dioxins and furans using Method 23 0023A as specified in 40 CFR Part 60, Appendix A.

(4) Carbon monoxide using Method 10 as specified in 40 CFR Part 60, Appendix A.

(B) After the initial test is completed, an annual stack test (12 months from the previous initial stack test) of the MRF shall be conducted. The annual tests shall consist of three duplicate runs using Method 29 and Method 5 as specified in 40 CFR Part 60, Appendix A.

(C) Testing shall be conducted while by-product gas generants are fed to the MRF at no less than 90% of the planned maximum feed rate, and with the MRF operating parameters within normal ranges.

(D) Initial stack testing results and additional project performance data and information, including the quantity of by-product gas generants processed and the operating parameter values during the test runs, will be submitted by Autoliv to the State of Utah and EPA within 60 days of the completion of the initial stack test.

(E) Annual stack test results and additional project performance data and information, including the quantity of by-product gas generants processed and the operating parameter values during the test runs, will be submitted by Autoliv to EPA and the State of Utah within 60 days of the completion of the annual test.

(vi) Combustion gas discharged to the atmosphere from the MRF meets the following limits:

(A) Dioxin emissions do not exceed 0.4 ng per dry standard cubic meter on a toxicity equivalent quotient (TEQ) basis corrected to 7% Oxygen.

(B) Combined lead and cadmium emissions do not exceed 240 ug per dry standard cubic meter corrected to 7% Oxygen.

(C) Combined arsenic, beryllium, and chromium emissions do not exceed 97 ug per dry standard cubic meter corrected to 7% Oxygen.

(D) Particulate matter emissions do not exceed 34 mg per dry standard cubic meter corrected to 7% Oxygen.

(E) If the limits specified in paragraphs (b)(18)(vi)(A) through (D) of this section are exceeded, Autoliv shall discontinue feeding gas generants to the

MRF until such time as Autoliv can demonstrate to EPA and the state of Utah satisfaction that the MRF combustion gas emissions can meet the limits specified in paragraphs (b)(18)(vi)(A) through (D) of this section

(vii) No by-product gas generants or other pyrotechnic wastes generated off-site will be received at the Autoliv facility in Promontory, Utah or processed in the MRF unless otherwise allowed by law (permit or regulation).

(viii) Autoliv will provide EPA and the state of Utah with semi-annual reports (by January 30 and July 30 of each year).

(A) The semi-annual reports will document the amounts of by-product gas generants processed during the reporting period.

(B) The semi-annual reports will provide a summary of the MRF Operating Record during the reporting period, including information on by-product gas generant composition, average feed rates, upset conditions, and spills or releases.

(ix) No significant changes are made to the operating parameter production values of Autoliv's production of air bag gas generants such that any of the constituents listed in appendix VIII of this part are introduced into the process.

(x) Autoliv reports to the EPA any noncompliance which may endanger health or the environment orally within 24 hours from the time Autoliv becomes aware of the circumstances, including:

(A) Any information of a release, discharge, fire, or explosion from the MRF, which could threaten the environment or human health.

(B) The description of the occurrence and its cause shall include:

(1) Name, address, and telephone number of the facility;

(2) Date, time, and type of incident;

(3) Name and quantity of material(s) involved;

(4) The extent of injuries, if any;

(5) An assessment of actual or potential hazards to the environment and human health, and

(6) Estimated quantity and disposition of recovered material that resulted from the incident.

(C) A written notice shall also be provided within five days of the time Autoliv becomes aware of the circumstances. The written notice shall contain a description of the non-compliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The EPA may waive the

five day written notice requirement in favor of a written report within fifteen days.

(xi) Notifications and submissions made under paragraph (b)(18) of this section shall be sent to the Regional Assistant Administrator for the Office of Partnerships and Regulatory Assistance, U.S. EPA, Region 8 and the Executive Secretary of the Utah Solid and Hazardous Waste Control Board.

[FR Doc. 01-11670 Filed 5-8-01; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

[CC Docket No. 99-216, FCC 00-400]

2000 Biennial Regulatory Review of Adopting Technical Criteria and Approving Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission (Commission) amended its rules governing the connection of terminal equipment to the public switched telephone network to streamline the standards development and approval processes. These rules contained information collection requirements that became effective on May 9, 2001.

DATES: Effective May 9, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, (202) 418-2320 (voice), smagnotti@fcc.gov, or Dennis Johnson, (202) 418-2320 (voice), dcjohnso@fcc.gov, of the Network Services Division, Common Carrier Bureau. The TTY number is (202) 418-0484.

SUPPLEMENTARY INFORMATION: On December 21, 2000, the Commission adopted the *Part 68 Streamlining Order* which amended the Commission's rules governing the connection of terminal equipment to the public switched telephone network in an effort to privatize and streamline the standards development and approval processes; a summary of the order was published in the **Federal Register**, 66 FR 7579 (January 24, 2001). Some of the regulations adopted in that order included information collection that required approval from the Office of Management and Budget. The order explained that "[t]he collections of information contained within are contingent upon approval by the OMB.

The Commission will publish a document at a later date establishing the effective date." OMB approved the amendments to 47 CFR 68.106-68.610 that establish those reporting requirements. See OMB No. 3060-0056. Accordingly, these regulations will become effective upon publication of this document in the **Federal Register**. This document constitutes publication of the effective date of the regulations. We note that the information collection requirements in § 68.105, as adopted in the *Part 68 Streamlining Order*, were originally established in a separate proceeding as part of the definition of the term "demarcation point" in 47 CFR 68.3 (1999). 15 FCC Rcd 22983 (2000). Therefore, that rule will become effective upon OMB approval in the *Competitive Networks* proceeding.

List of Subjects in 47 CFR Part 68

Communications common carriers, Terminal equipment, Part 68, Technical criteria.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

[FR Doc. 01-11589 Filed 5-8-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010208032-1109-02; I.D.121200L]

RIN 0648-AM47

Fisheries of the Northeastern United States; Final 2001 Specifications for the Atlantic Bluefish Fishery; Regulatory Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 2001 specifications for the Atlantic bluefish fishery; regulatory amendment.

SUMMARY: NMFS issues 2001 specifications for the Atlantic bluefish fishery, including total allowable harvest levels (TAL), state-by-state commercial quotas, and recreational harvest limits and possession limits for Atlantic bluefish off the east coast of the United States. NMFS also amends the regulations implementing the Fishery Management Plan for Atlantic Bluefish (FMP) to insert an inadvertently omitted paragraph in the procedure for annually

setting TAL. This action is necessary to conserve and manage the bluefish resource and is intended to provide for sustainable fisheries.

DATES: The 2001 TAL, commercial quotas, and recreational harvest limits are effective May 9, 2001 through December 31, 2001.

The amendment to § 648.160 is effective June 8, 2001.

The amendment to § 648.164 is effective May 9, 2001.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Pre Regulatory Economic Evaluation (EA/RIR/PREE), and the Essential Fish Habitat Assessment are available from: Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/PREE are accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, (978) 281-9104, e-mail at Myles.A.Raizin@noaa.gov, fax at (978) 281-9135.

SUPPLEMENTARY INFORMATION: NMFS implemented the FMP through regulations at 50 CFR part 648, subparts A and J. Section 648.160 requires annual specifications. The FMP, as adopted by the Mid-Atlantic Fishery Management Council (Council) requires that the Council recommend, on an annual basis, TAL, which is composed of a commercial quota and a recreational harvest limit. NMFS published a proposed rule to establish the 2001 bluefish specifications and insert an inadvertently omitted paragraph into § 648.160 at 66 FR 10983, February 21, 2001, with a comment period ending March 23, 2001.

Final Specifications

2001 TAL

The FMP requires that the TAL for any given year be set based on the fishing mortality rate (F) resulting from the stock rebuilding schedule contained in Amendment 1 to the FMP (F=0.41 for 2001) or on the estimated F for the fishing year preceding the Council submission of the recommended specifications, whichever F is lower. The 1999 bluefish fishery data were the most recent data that were complete when the specification process began for the 2001 bluefish fishery. Because the 1999 fishery produced an F of only 0.295 (equals a 33 percent exploitation rate for the bluefish fishery), the TAL is set to maintain this F in 2001.