

interested in commenting on this document should do so at this time.

**DATES:** Comments must be submitted by August 26, 1996.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101; Washington Department of Ecology, Attention Tami Dahlgren, Olympia, Washington 98504-7600, telephone (360)407-6830; and the Puget Sound Air Pollution Control Authority, 110 Union Street, Suite 500, Seattle, Washington 98101-2038.

**FOR FURTHER INFORMATION CONTACT:** William M. Hedgebeth, EPA Region 10, Office of Air Quality, 1200 Sixth Avenue, M/S OAQ-107, Seattle, Washington 98101, (206) 553-7369.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: July 2, 1996.

Chuck Clarke,

Regional Administrator.

[FR Doc. 96-18650 Filed 7-24-96; 8:45 am]

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#### 40 CFR Parts 148, 261, 268, 271

[FRL-5542-2]

RIN 2050-AD38

#### Land Disposal Program Flexibility Act of 1996—Surface Impoundment Study

**AGENCY:** Environmental Protection Agency.

**ACTION:** Request for comments.

**SUMMARY:** On March 26, 1996, the President signed the Land Disposal Program Flexibility Act of 1996. This statute overrules certain parts of the D.C. Circuit's opinion in *Chemical Waste Management v. EPA*, 976 F. 2d 2 (D.C. Cir. 1992), cert. denied 113 S.Ct. 1961 (1993) which relate to managing so-called decharacterized wastes—characteristic hazardous waste whose characteristic has been removed before land disposal—in centralized wastewater management systems

regulated under the Clean Water Act (CWA) or the Safe Drinking Water Act (SDWA).

The subject of this Federal Register document is a related provision in the statute which requires that not later than five years after the date of enactment, EPA shall complete a study of potential risks to human health or the environment posed by managing these decharacterized hazardous wastes in either a) surface impoundments which are part of wastewater treatment systems whose ultimate discharge is regulated under the CWA, or b) Class I non-hazardous injection wells regulated under the SDWA.

EPA is seeking to develop more information in order to prepare the portion of the study dealing with surface impoundments. This Federal Register document has been prepared for industry representatives and environmental groups to clearly define the Agency's expectations in requesting draft methodologies that outline the conceptual design of the study, including how best to collect data, data quality assurance/quality control (QA/QC), risk assessment, and peer review. Concurrently, the Agency will develop a methodology to ensure that requirements of the legislation are satisfied and the conceptual design of the study is balanced with those of the commenters. Upon receipt of draft methodologies from commenters, the Agency will convene a workgroup to select an overall, scientifically defensible approach to address the requirements of the legislation. The selected methodology will then be subject to a peer review process conducted by a peer review panel set up by the Agency to provide oversight and QA/QC of the study.

**DATES:** Draft methodologies are requested by September 23, 1996.

**ADDRESSES:** To submit draft methodologies, the public must send an original and two copies to Docket Number F-96-PMWA-FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305G), 401 M Street, SW., Washington, DC 20460. The RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy a maximum

of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information or to order paper copies of this Federal Register document, call the RCRA Hotline. Callers within the Washington Metropolitan Area must dial (703) 412-9810 or TDD (703) 412-3323 (hearing impaired). Long-distance callers may call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Hotline is open Monday through Friday from 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For other information on this notice, contact Linda Martin (5307W), Office of Solid Waste, 401 M Street, SW., Washington, D.C. 20460, phone (703) 308-0499.

#### SUPPLEMENTARY INFORMATION:

##### Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. This expedited procedure is in conjunction with the Agency "Paperless Office" campaign. For further information on the submission of diskettes, contact Linda Martin of the Economics, Methods, and Risk Assessment Division at (703) 308-0499. This Federal Register Notice is available on the Internet System through EPA Public Access Server at [gopher.epa.gov](http://gopher.epa.gov) or through [WWW.epa.gov](http://WWW.epa.gov). For the text of the notice, choose: Rules, Regulations, and Legislation; the FR-Waste; finally, Year/Month/Day.

##### Request for Comments

On March 26, 1996, President Clinton signed into law the Land Disposal Program Flexibility Act of 1996. This legislation amends section 3004(g) of RCRA to overrule portions of the District of Columbia Circuit Court of Appeals' 1992 decision (*Chemical Waste Management v. EPA*, 976 F. 2d 2) dealing with the requirement to treat wastes that as generated exhibit a characteristic of hazardous waste, but

are diluted to remove that characteristic and are then placed in land disposal units—either surface impoundments that are part of Clean Water Act wastewater treatment systems or Class I injection wells. The legislation, by and large, states that treatment of such wastes is not required before placing them in these land disposal units. See generally, 61 FR 15660 (April 8, 1996) codifying portions of this legislation.

The statute further requires EPA to conduct a study characterizing risks to human health or the environment associated with management of decharacterized wastes in impoundments which are part of Clean Water Act treatment systems, or in Class I injection wells. EPA is also authorized to develop additional standards for such units as may be necessary to protect human health and the environment, and such standards could be based on the results of the study. (RCRA section 3004(g)(10)). This notice concerns the part of the study dealing with surface impoundments.

In conducting the Surface Impoundment Study (hereafter referred to as “the study”), the Agency hopes to arrange and maintain a cooperative effort with all interested parties as EPA moves forward to develop a scientifically defensible work plan for conducting the study. Input into the data collection and development of the study design, as well as information regarding current management practices will prove invaluable in developing such a work plan.

Currently, the Agency is developing a draft methodology to assess potential risks posed by management of decharacterized wastes in surface impoundments. Key steps being taken to develop a draft methodology include identifying issues related to conducting the study, conducting meetings with interested parties, establishing a methodology for conducting the study, and establishing a peer-review structure for the study. The objective of the approach is to address Congress’ concerns by assessing potential risks posed by management of decharacterized wastes in surface impoundments, assessing the degree to which existing State/Federal/Tribal programs effectively mitigate those risks, and finally determining which State/Federal/Tribal laws or programs are best equipped to manage the remaining risks, or whether independent controls may be needed.

To this end, EPA requests that interested industry, environmental and state groups provide input to the Agency into the development of the study such that Congress’ concerns are

addressed. Issues for which input is needed include data collection, quality assurance/quality control of data, development of risk assessment methods, establishment of a peer-review structure for the study, and assessment of current State/Federal/Tribal regulations or programs that address risks posed by decharacterized wastewaters managed in surface impoundments. Additionally, the Agency also requests input regarding regulations or programs that could be developed to address these risks.

Specifically, EPA requests that each interested group develop proposed methodologies and work plans for conducting the study of risks and existing regulations associated with surface impoundments receiving decharacterized wastes. Specific elements to be included in the methodology are outlined below. Following the methodology outline is EPA’s preliminary schedule for completing the study, which is included in this document in order that commenters can better understand how and when EPA intends to proceed, and the role commenters can play. EPA will then evaluate proposed work plans submitted by commenters, in combination with its own work plan, by means of a peer review process.

#### Methodology Outline

Proposed methodologies should be organized according to the following format.

##### *I. Conceptual Approach to the Study*

The most critical element of the study is the completion of a high-quality, peer-reviewed risk assessment, since accurate identification of priorities for surface impoundment regulation and conclusions about the need for new regulations depend on the risk results. The development of an appropriate risk assessment methodology is therefore very important. The purpose of this section of the proposed methodology is to address key elements of the methodology and threshold questions, including but not limited to:

- A. What should be the overall scope of the study?
- B. What should be done to ensure credibility of the study?
- C. What do you expect your group’s role to be in conducting the study?
- D. How heavily should we rely upon fate and transport modeling versus actual exposure monitoring?
- E. Can the study be completed with available data?
- F. How should additional data be collected?

G. Are there innovative mechanisms to conducting or designing the study using third parties (scientific organizations)?

##### *II. Detailed Methodology*

A. Sampling strategy:  
 i. Identification of the universe of facilities/ Study Population  
 ii. Description of the approach to sampling the universe of facilities/ Study Population (representativeness of the sample)

1. Random versus Judgmental
2. Stratification
3. Sample size

B. Risk Characterization<sup>1</sup>:

- i. Data/Source Term Characterization
  1. Facility
    - a. History
    - b. Location
    - c. Surrounding Land Uses
    - d. Meteorological Data
    - e. Subsurface Hydrogeology
  2. Units
    - a. Point of Generation quantity of characteristic waste generated for each facility and/or industry; quantity of sludge generated (including sludge that is currently dredged from affected surface impoundments and sludge left in place in these units)
    - b. Surface Impoundments (including the use of surface impoundments or tanks to treat decharacterized wastewaters; types of surface impoundments used; size of surface impoundments; waste segregation and treatment practices at the unit, including the quantity of characteristic wastewaters that are segregated and the potential cost associated with segregating wastewaters)
    - c. Storm water Runoff (including the use of surface impoundments for Storm water runoff)
  3. Hazardous Constituents in Decharacterized Wastewaters
    - a. Physical state
    - b. Toxicity information
    - c. Concentration
      1. At the point of generation (prior to aggregation and/or decharacterization)
      2. In surface impoundment based treatment systems (near the point at which they might be released to the environment)

1. Facility  
 a. History  
 b. Location  
 c. Surrounding Land Uses  
 d. Meteorological Data  
 e. Subsurface Hydrogeology

2. Units  
 a. Point of Generation quantity of characteristic waste generated for each facility and/or industry; quantity of sludge generated (including sludge that is currently dredged from affected surface impoundments and sludge left in place in these units)

b. Surface Impoundments (including the use of surface impoundments or tanks to treat decharacterized wastewaters; types of surface impoundments used; size of surface impoundments; waste segregation and treatment practices at the unit, including the quantity of characteristic wastewaters that are segregated and the potential cost associated with segregating wastewaters)

c. Storm water Runoff (including the use of surface impoundments for Storm water runoff)

3. Hazardous Constituents in Decharacterized Wastewaters  
 a. Physical state  
 b. Toxicity information  
 c. Concentration

1. At the point of generation (prior to aggregation and/or decharacterization)

2. In surface impoundment based treatment systems (near the point at which they might be released to the environment)

<sup>1</sup> It should be noted that, from the advent of the D.C. Circuit’s decision, EPA has repeatedly solicited data on the types, volumes, and concentrations of hazardous constituents, plus types and magnitudes of releases from surface impoundments managing decharacterized wastes. See, e.g., Supplemental Information to Notice of Data Availability (58 FR 4972, Jan. 19, 1993) at pp. 17, 18, 19; Phase 4 Proposed Rule (60 FR 43654, Aug. 22, 1995). To date, members of affected industry have provided virtually no hard information in response. EPA hopes that such information will be forthcoming as it develops the surface impoundment study.

- 3. In leachate from surface impoundments (including leachate release quantities and estimates of the relationship between constituent concentrations in surface impoundment wastewater and constituent concentration in leaks)
- 4. Estimates of the relationship between the concentration in surface impoundments and the subsequent releases to air at affected facilities (including concentrations of toxic constituents in ambient air around affected facilities)
- 5. Sludge constituent concentrations
  - ii. Fate and Transport
    - 1. Estimation of future fate and transport
      - a. What models should be used to estimate fate and transport? What are the limitations of applying each model?
      - b. Pathways of concern
      - c. Handling complex environments; in subsurface, extreme meteorological events
      - 2. Describe key elements of fate and transport parameter selection
        - a. Leachate flow volumes
        - b. An assessment of surrounding hydrogeologic conditions
        - c. Results from site specific fate and transport analyses that consider a site's hydrogeologic conditions
        - d. Distance from the surface impoundment or landfill to the nearest well and the numbers of persons using those wells
        - e. The exact location of the affected surface impoundment or facility (e.g., county, city, latitude and longitude)
      - C. Exposure:
        - i. Describe key elements of parameter selection
          - a. Distance to potential receptor populations
          - b. Size of potential receptor populations
        - ii. Describe the extent to which modeling should be used to estimate risks, including which models should

- be used to determine risk, and whether the exposure model should be linked with the selected fate and transport model.
- iii. Describe the extent to which Monte Carlo analysis should be used to estimate risks
- iv. Describe the extent to which the study should focus upon highly exposed sub-populations versus individuals
- v. Describe whether the study should estimate High-End and/or Central Tendency risks
- D. Data QA/QC and Peer Review:
  - i. Develop a QA Project Plan:
    - 1. data quality objectives;
    - 2. project objectives;
    - 3. sample collection;
    - 4. analysis and testing;
    - 5. quality control;
    - 6. project documentation;
    - 7. organization performing field or laboratory operations (performance evaluation; internal assessment by QA function; external assessment; on-site evaluation (field activities, laboratory activities); QA reports).
  - ii. Describe how to establish a peer review process, including composition of the peer review panel.

*Terms of Reference/ Evaluation Criteria*

To stimulate thinking on this topic and establish criteria for evaluating methodologies, the Agency has established terms of reference for the risk assessment. Input Data Requirements—Data collected to support the risk assessment must be quality controlled, must be representative of the target universe and must be sufficiently detailed to support statistical modeling of uncertainty in risk outputs. Release Estimates—The risk assessment should consider all plausible forms of release from surface impoundments. Releases to be considered should include, but not be limited to: releases to groundwater and air from the unit, overland releases, and

releases associated with the dredging, treatment, and disposal of sludges.

Fate and Transport Modeling—Fate and transport modeling should, to the extent possible, reflect the state of the art in groundwater and air dispersion modeling. At a minimum, the fate and transport modeling should incorporate speciation chemistry to non-toxic forms of chemical constituents where relevant, and, to facilitate review of the results, rely on non-proprietary models.

Exposure Assessment—Exposure assessment should consider both direct and indirect pathways. Constituent-specific estimates of exposure should reflect cumulative exposure across all relevant pathways. Pathways should be omitted only after careful consideration of whether they contribute significantly to total exposure.

Cancer and Non-Cancer Health Risk Assessment—The cancer and non-cancer health risk assessment methodology should reflect new Agency guidelines for conducting these types of studies.

Peer Review—The analysis must include provisions for peer review of proposed methodologies; intermediate results for input data, fate and transport, exposure assessment, and risk characterization; and, overall results. Elements of separate methodologies, including the Agency's own methodology may be combined to form an overall approach to assess risk. In this case, the overall approach would be subject to peer review.

III. Assessment of Existing State/ Federal/Tribal Programs:

A. Establish a methodology to conduct a systematic review of current and future planned regulations that might influence the management of decharacterized wastewaters at affected facilities. Include in the methodology a description of information collection activities and any limitations.

MAJOR MILESTONES AND PRELIMINARY COMPLETION DATE

Milestone	Completion date
1. Meetings with —Industry; and, —Environmental Groups.	Initiated in April 1996; On-going.
2. Publish FEDERAL REGISTER Notice Soliciting Proposed Methodologies from Commenters, with 60-day comment period.	July 1996.
3. EPA develops proposed methodology to conduct study .....	June–August 1996.
4. Receive proposed methodologies .....	August 1996.
5. Convene EPA workgroup from relevant offices to evaluate proposed methodologies and select one methodology for peer review.	October 1996.
6. Develop peer review panel for the selected methodology .....	December 1996–February 1997.
7. Finalize work plan and methodology .....	April 1997–May 1997.
8. Develop and implement survey and data collection, including: EPA-conducted sampling; pretesting; OMB approval of ICR; full implementation of survey for several hundred facilities; data compilation; and quality control checks.	April 1997–April 1999.
9. Assess coverage of existing regulations .....	September 1997–September 1998.

MAJOR MILESTONES AND PRELIMINARY COMPLETION DATE—Continued

Milestone	Completion date
10. Reassess risks of the wastewaters; interim Report to Congress on risk results .....	April 1997–December 1999.
11. Combine risk results with regulatory review results, develop report recommendations, write draft report.	January 2000–July 2000.
12. Conduct review and finalize report .....	August 2000–March 2001.

Dated: July 18, 1996.  
 Elliott P. Laws,  
*Assistant Administrator, Office of Solid Waste and Emergency Response.*  
 [FR Doc. 96–18836 Filed 7–24–96; 8:45 am]  
 BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 20 and 52**

[CC Docket No. 95–116; FCC 96–286]

**Telephone Number Portability**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed Rule.

**SUMMARY:** On July 13, 1995, the Commission issued a Notice of Proposed Rulemaking (CC Docket No. 95–116) seeking comments on a wide variety of policy and technical issues related to number portability. On June 27, 1996, the Commission adopted a First Report and Order which is published elsewhere in this issue. On the same day, the Commission adopted a Further Notice of Proposed Rulemaking (Further Notice or FNPRM) seeking comment on the appropriate methods of cost recovery of long-term number portability. Since the Telecommunications Act of 1996 requires that the costs of number portability be borne by all telecommunications carriers on a competitively neutral basis, the Commission will determine the appropriate method of cost recovery in this proceeding.

**DATES:** Comments are due on or before August 16, 1996, and reply comments are due on or before September 16, 1996.

**ADDRESSES:** Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Wanda Harris of the Competitive Pricing Division of the Common Carrier Bureau, 1919 M Street, NW., Room 518, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the

Commission’s copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037.

**FOR FURTHER INFORMATION CONTACT:** Neil Fried, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Further Notice of Proposed Rulemaking June 27, 1996, and released July 2, 1996 (FCC 96–286). This FNPRM contains no proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). The full text of this Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc96286.wp>, or may be purchased from the Commission’s copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW., Suite 140, Washington, DC 20037.

**Initial Regulatory Flexibility Analysis**

Pursuant to section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in the Further Notice of Proposed Rulemaking. The IRFA is set forth in Appendix C of the FNPRM. The Commission, in compliance with sections 251(b)(2) and 251(d)(1) of the Act, proposes rules necessary to implement section 251(e)(2) of the Act, which requires that the costs of number portability be borne by all telecommunications carriers on a competitively neutral basis. The Commission’s objective in issuing the FNPRM is to propose and seek comment on rules establishing a cost recovery mechanism for carriers to use in implementing a long-term number portability method pursuant to the Act and in accordance with the First Report and Order in this proceeding. Specifically, the Commission’s goal is to propose rules which implement section

251(e)(2) of the Act, requiring that the cost of “number portability be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.” 47 U.S.C. 251(e)(2). The legal basis for action as proposed in the FNPRM is contained in sections 1, 4(i), 4(j), 201–205, 218, 251(b), 251(e), and 332 of the Communications Act of 1934, as amended. 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 251(b), 251(d), 251(e). The Commission’s proposed rules governing cost recovery for long-term number portability apply to all LECs, including incumbent LECs as well as new LEC entrants, and also apply to cellular, broadband PCS, and covered SMR providers. According to the SBA definition, incumbent LECs do not qualify as small businesses because they are dominant in their field of operation. However, the proposed rules may have a significant economic impact on a substantial number of small businesses insofar as they may apply to telecommunications carriers other than incumbent LECs. The proposed rules may have such an impact upon new entrant LECs as well as cellular, broadband PCS, and covered SMR providers. Based upon data contained in the most recent census and a report by the Commission’s Common Carrier Bureau, the Commission estimates that 2,100 carriers could be affected. The Commission requests comment on this estimate. These entities could include various categories of carriers, including competitive access providers, cellular carriers, interexchange carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. The FNPRM requests comment on the appropriate method by which the costs of long-term number portability should be recovered. One possible cost recovery method would be based upon a percentage of a carrier’s gross revenues. Such a rule, if promulgated, would not impose a reporting requirement on LECs because they already file information about gross revenues with the Commission for other purposes. There are no other reporting requirements contemplated by the FNPRM. There are no federal rules