

Corporations, as those terms are defined in the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et. seq.*, and the Metlakata Indian community are included within the definition of entities eligible for Brownfields funding under CERCLA 104(k)(1)(H). Although Alaska Native Village Corporations and Alaska Native Regional Corporations as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) are eligible for Brownfields revitalization grants awarded under section 104(k) of CERCLA, EPA will not consider an intertribal consortium that includes one or more such Alaska Native corporations to be eligible for 104(k) grants as an intertribal consortium under this document. Those Alaska Native corporations are not federally recognized Indian tribes. Groups of Alaska Native Village Corporations and Alaska Native Regional Corporations may, however, apply for funding in combined applications as "coalitions" (*i.e.*, one eligible entity that will be accountable for grant funds applies on behalf of itself and one or more other eligible entities) under EPA's guidelines for applying for SBLRBRA grants.

EPA has determined that it would be inconsistent with EPA's policy and Congressional intent to allow intertribal consortia comprised of excluded Indian tribes in Alaska to be eligible for Brownfields revitalization grants awarded under section 104(k) of CERCLA. However, neither the eligibility provisions of section 128(a)(1)(A) of CERCLA nor the legislative history of section 128, indicate that Congress intended for Indian tribes in Alaska to be ineligible for grants to establish or enhance tribal response programs. EPA will, therefore, consider intertribal consortia comprised of Indian tribes in Alaska to be eligible for funding under section 128(a) of CERCLA. The rationale stated in the September 29, 1999 document for EPA's decision to allow intertribal consortia to be eligible for funding also applies to funding under section 104(k) and section 128(a) of CERCLA, to the extent consistent with Congressional intent: "EPA believes this approach is a practical, reasonable and prudent way to help interested Indian tribes strengthen environmental protection when limited funding is available to support tribal environmental programs. Indian tribes that form an intertribal consortium may be able to use their limited resources more efficiently and address environmental issues more effectively than they could if each tribe developed and maintained separate

environmental programs." Making grants for Indian tribes available to intertribal consortia is consistent with Executive Order 3175, which encourages agencies to adopt "flexible policy approaches" and to respect the principle of Indian self-government and sovereignty.

An organization that characterizes itself as an intertribal consortium that does not meet the definition of intertribal consortium or the eligibility requirements in this document may be eligible for funding under section 104(k) of CERCLA or other EPA grant programs, but not as an intertribal consortium under this document. This is because some of EPA's grant programs are available to a broad range of recipients, such as public or nonprofit private agencies, institutions, organizations, and individuals. Thus, an intertribal organization that does not meet the definition of an intertribal consortium or the requirements of this document nonetheless may be eligible for a grant as another type of organization, such as a nonprofit agency. This document is not intended to affect the eligibility status of intertribal consortia for grants in their capacity as other types of eligible organizations. If the organization meets the definition of a non profit organization provided in section 4(6) of the Federal Financial Management Assistance Act of 1999, Pub. L. 106-107, it will be eligible for funding as a non profit organization under section 104(k)(3) of CERCLA for Brownfields site remediation grants and under section 104(k)(6) Brownfields research, training, and technical assistance grants. Non profit organizations are not eligible for grants to establish or enhance State and tribal response programs under section 128(a) of CERCLA.

## II. EPA Policy

The following definition and statement of eligibility requirements for awarding grants to intertribal consortia apply to the following grant programs: Superfund Cooperative Agreements (section 104(d) of the CERCLA); Leaking Underground Storage Tanks (Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, Pub. L. 105-276, 112 Stat. 2461, 2497-98(1998)); Brownfields Revitalization (section 104(k) of CERCLA); and Tribal Response Programs (section 128(a) of CERCLA).

**Definition:** The term intertribal consortium means a partnership between two or more federally recognized Indian tribes that is authorized by the governing bodies of

those Indian tribes to apply for and receive assistance under one of the EPA grant programs covered by this document.

**Eligibility Requirements for an Intertribal Consortium:** (a) An intertribal consortium is eligible to receive a grant from EPA under the statutes authorizing grants to federally recognized Indian tribes listed in this document only if the intertribal consortium demonstrates that all members of the consortium (1) meet the eligibility requirements for the grant and (2) authorize the consortium to apply for and receive assistance in accordance with paragraph (b).

(b) An intertribal consortium must submit to EPA adequate documentation of: (1) The existence of the partnership between federally recognized Indian Tribal governments, and (2) Authorization of the consortium by all its members to apply for and receive the grant(s) for which the consortium has applied.

Dated: October 29, 2002.

**Marianne Lamont Horinko,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7403-8]

### Preliminary Administrative Determination Document on the Question of Whether Ferric Ferrocyanide Is One of the "Cyanides" Within the Meaning of the List of Toxic Pollutants Under the Clean Water Act

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of new information and reopening of comment period.

**SUMMARY:** On January 25, 2001, EPA published a notice announcing a preliminary administrative determination document on whether Ferric Ferrocyanide is one of the "cyanides" within the meaning of the list of toxic pollutants under the Clean Water Act. The comment period ended on July 10, 2001. Today's action reopens the comment period for an additional 60 days for a limited purpose.

**DATES:** Comments will be accepted through December 4, 2002.

**ADDRESSES:** Send your comments by mail to "Ferric Ferrocyanide; Preliminary Administrative Determination" Comment Clerk (W-00-24), Water Docket (4101T), U. S.

Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460. You may also submit comments electronically or through hand delivery or courier. Follow the detailed instruction in I. B.

**FOR FURTHER INFORMATION CONTACT:** For further information and to request a copy of the administrative determination, contact Marion Kelly, USEPA, Engineering and Analysis Division (4303T), Office of Science and Technology, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460; or call (202) 566-1045; or fax (202) 566-1053; or e-mail [kelly.marion@epa.gov](mailto:kelly.marion@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. W-00-24. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public

docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in I.A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

*B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. However, late comments may be considered if time permits.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment

due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OW-2002-0036. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *OW-Docket@epa.gov* Attention Docket ID No. OW-2002-0036. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three of copies of your comments to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. W-00-24 (Electronic Docket No. OW-2002-0036).

3. *By Hand Delivery or Courier.* Deliver your comments to: Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, DC., Attention Docket ID No. W-00-24 (Electronic Docket No. OW-2002-0036).

Such deliveries are only accepted during the Docket's normal hours of operation as identified in I.A.1.

### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## **II. Subject of Notice**

On January 25, 2001, EPA published a notice announcing availability of the preliminary administrative determination document (66 FR 7759). While EPA initially scheduled a 60 day comment period (to end March 12, 2001), EPA received requests for additional time to provide comments. EPA reopened the comment period for an additional 90 days (66 FR 14581, March 13, 2001) and then extended the comment period until July 10, 2001 (66 FR 29800, June 1, 2001).

On March 1, 2001, Narragansett Electric Company ("Narragansett") submitted a request for Agency records under the Freedom of Information Act (FOIA) relating to the preliminary administrative determination and records concerning the interpretation of the term "cyanides." EPA released some documents and withheld others pursuant to discretionary exclusions under the FOIA. Narragansett appealed the withholding of documents. EPA and Narragansett agreed to a settlement of the appeal based on EPA's release of 29 of the withheld documents and access

to other historical documentation. These records include scientific articles, reports, legal briefs and memoranda pertaining to the development of the Toxic Pollutant List and effluent guidelines. Recently, Narragansett requested that EPA reopen the comment period on the preliminary administrative determination in order to allow for comment on these recently released records.

In response to this request, EPA has placed these documents in the docket and is reopening the comment period to allow public comment on the records released pursuant to the FOIA as they relate to the determination of whether ferric ferrocyanide (FFC) is one of the "cyanides" within the meaning of EPA regulations promulgated pursuant to section 307(a) of the Clean Water Act. These documents are designated in the index to Docket W-00-24, section F, numbers 1-199 and in the index to the electronic docket (OW-2002-0036) as numbers 1-199. In addition, on October 3, 2002, EPA officials met with representatives of Narragansett where Narragansett presented a document concerning some of the recently released records. This document has also been placed in the docket and is designated as number 207 in the index to the Docket W-00-24, section F and in the index to the electronic docket (OW-2002-0036) as number 207. By placing these documents in the docket and reopening the comment period with respect to these documents, EPA is not conceding that any of the documents are necessarily relevant to the final administrative determination nor are they necessarily a part of the administrative record.

In addition, EPA has gathered additional documents that may affect the final determination, independent of the FOIA request, and has placed these in the docket for public review and comment. These documents are recently-published scientific articles, and appear in the Docket W-00-24, section F as numbers 200-206 and in the index to the electronic docket (OW-2002-0036) as numbers 200-206. Today's action makes these records available for public comment.

EPA is hereby requesting comment on whether any of these newly-released records or other documents provide additional information that is relevant to the final determination on whether FFC is one of the "cyanides" within the list of toxic pollutants promulgated under section 307(a) of the Clean Water Act, and, if so, whether and how such document or documents should affect EPA's final administrative determination regarding FFC.

Dated: October 29, 2002.

**G. Tracy Mehan, III,**

*Assistant Administrator for Water.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

**[OPPT-2002-0068; FRL-7279-8]**

### **Certain New Chemicals; Receipt and Status Information**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from October 1, 2002 to October 18, 2002, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

**DATES:** Comments identified by the docket ID number OPPT-2002-0068 and the specific PMN number or TME number, must be received on or before December 4, 2002.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: *TSCA-Hotline@epa.gov*.