ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[SW-FRL 2113-2]

Hazardous Waste Management System; General and EPA Administered Permit Programs: the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of intent to grant rulemaking petition; Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its consolidated permit regulations to provide a variance from the requirement that owners of hazardous waste management facilities, as well as operators, must sign the hazardous waste permit application. In addition, these proposed amendments provide an alternate certification that owners may use when signing hazardous waste permit documents, when the owner and operator are not the same person. These proposed changes do not affect EPA's ability to enforce against the owner as he is legally bound by both the permit conditions and any independently enforceable regulations whether or not he signs the permit application.

This proposal also constitutes a tentative decision to grant a rulemaking petition filed jointly by the Department of Agriculture (USDA) and the Department of Interior (DOI). The petition requests that EPA revise the certification statement required of a state or federal agency when it owns but does not operate a hazardous waste management facility.

These amendments are proposed. Therefore, they will have no immediate economic impact. If these amendments are promulgated in the same form as proposed here, the Agency expects that they will result in savings to the regulated community of approximately $85,000 annually over the next 10 years. The savings would be the result of not requiring the owner's signature on the permit application in some situations, and by requiring less burdensome review of permit applications by owners of hazardous waste management facilities before they sign the applications. This amendment will not have any environmental impact.

COMMENT DATE: EPA will accept public comment on these proposed amendments until September 21, 1982.

ADDRESS: Comments should be sent to the Docket Clerk (Docket 3005–owner signature/certification), Office of Solid Waste (WH–562), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Deborah Wolpe, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–4754; or the RCRA hotline in Washington, D.C. at 382–3000 or toll-free at (800) 424–9346.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980 and May 19, 1980, EPA published regulations pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.*, establishing the first phase of a comprehensive program for the handling and management of hazardous waste (45 FR 33066–33285, now codified in 40 CFR Parts 260–265).

In addition, on May 19, 1980, EPA promulgated the consolidated permit regulations, governing five permit programs the hazardous waste management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under section 402 of the Clean Water Act, the state "Dredge and Fill" permit programs under section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing section 165 of the Clean Air Act (45 FR 33290–33588, now codified in 40 CFR Parts 122–124). The changes proposed today concern only the RCRA portion of the consolidated permit regulations.

Among other things, the consolidated permit regulations require that, pursuant to Section 3005 of RCRA, facilities which treat, store, or dispose of hazardous waste must obtain a permit from EPA or a state authorized to run the RCRA program.[1] The regulations further require that to obtain a RCRA permit, the owner of a hazardous waste management facility, as well as the operator, must sign the application form (40 CFR 122.4(b)). Any person signing the permit documents must certify that he was personally examined, and is familiar with, the information submitted in the permit application and that, based on his personal inquiry of the individuals responsible for obtaining the information he believes that the application is true, accurate, and complete (40 CFR 122.6(d))[2]

The requirement that owners of HWM facilities sign the above-mentioned certification has raised a number of problems. Many applications were submitted without the owner's signature. Applicants claimed they had problems finding the owner, and if found, had difficulty getting him to sign. The problem of finding the owner of a facility has surfaced in a variety of situations, such as where there are complicated land ownership arrangements (*e.g.*, a real estate consortium, separate ownership of land and structures on the land); when the owner is an absentee landlord; and when the duration of the lease is extremely long (*e.g.*, 99-year leases where the original contracting parties are no longer available). Government-owned land presented a different problem. Although the owner is known, operators had difficulty obtaining the signature of the correct person at the responsible agency.

These, and additional problems were raised in the context of a lawsuit on the consolidated permit regulations, *NRDC v. EPA*,[3] and a petition for rulemaking filed by the Department of Agriculture (USDA) and the Department of Interior (DOI).[4]

[1] Pursuant to Section 3006 of RCRA, a state may obtain authorization to run its hazardous waste program in lieu of the Federal program. For a discussion of state authorization of the RCRA program, see the preamble to 40 CFR Part 123 in the May 19, 1980 **Federal Register**, 45 FR 33386, and the preamble discussion accompanying the January 26, 1981 amendments to those regulations, 46 FR 8298.

[2] Since both the owner and operator must sign the permit application, both must make this certification.

[3] *NRDC v. EPA*, No. 80–1607 (D.C. Cir., filed June 2, 1980) and consolidated cases. In June, 1980, numerous industry petitioners and other organizations filed petitions for judicial review of the consolidated permit regulations. Included in the issues raised in this litigation are 24 RCRA-related issues. Some of these issues are common to the other permit programs governed by the consolidated permit regulations, and are known as "common issues." On November 16, 1981, the RCRA industry petitioners and EPA signed a settlement agreement in the *NRDC* lawsuit, in which EPA agreed to issue a regulation interpretation memorandum (RIM), promulgate several technical amendments, and to propose several substantive amendments to the regulations as expeditiously as possible. The RIM and technical amendments were promulgated on April 8, 1982 (47 FR 15304). This proposal is one of the substantive amendments EPA has agreed to propose.

[4] Petition for rulemaking modification filed by USDA and DOI on June 24, 1981 pursuant to 42 U.S.C. 6974 and 40 CFR 260.20. The petition will be referred to as the "USDA–DOI petition" in this preamble.

Petitioners in the *NRDC* suit challenged § 122.4(b) as creating serious practical difficulties for the operator of a facility who must obtain the signature and certification of the property owner. The petitioners argued that requiring the owner's signature is pointless when the operator can demonstrate that the lack of the owner's signature and certification will not diminish the opertor's ability to comply with the permit and regulations.

The USDA–DOI petition requests modification of the certification in § 122.6(d) for those situations in which a federal or state agency owns but does not operate a HWM facility.[5] They assert that requiring the Federal government to sign the certification as required in § 122.6(d) in effect created a duplicative two-step permitting process. A prospective operator must first request permission from the applicable land-owning agency before he could consider siting and operating a HWM facility on public land. The request would be carefully reviewed and if found to be an acceptable land use, a lease or other type of authorization would be issued for the site. After receiving the land use authorization from the agency, the operator would prepare a RCRA permit application. The application must then be submitted to the land-owning Agency for careful scrutiny as to the truth, accuracy, and completeness of the permit application and certification before it can be submitted to EPA. Such a review, they argue, represents an inefficient allocation of the limited amount of federal and state funding available for hazardous waste management. They request that the nature of the certification required of federal and state agencies that own HWM facilities be changed. Rather than requiring them to conduct a review of the truth, accuracy, and completeness of the permit application, have them certify that they have reviewed the application to the extent necessary to be aware of its contents, and that they are aware that the government agency is liable if the operator fails to comply with the regulations. They argue that a certification of this nature could be less burdensome and require much less administrative effort.

Prior to November 19, 1980, EPA stated that operators who could not obtain the owner's signature by November 19, 1980, should inform EPA that they had tried and failed to obtain the signature, and submit the application anyway. The Agency received many permit applications without the owner's signature. Many operators demonstrated their good faith attempts to obtain the owner's signature and certification. After making all reasonable attempts to obtain the owner's certification, one operator notified the owner of his responsibilities and obligations under the rules and regulations. The operator then asked EPA to use its "inherent authority to mitigate the impact of such a refusal upon a good faith applicant" and waive the owner's signature requirement. The applicant argued that EPA retains jurisdiction over the owner regardless of his refusal to execute the certification.

EPA believes that some of the claims made by the petitioners and the regulated community are valid in whole or in part. Rather than contravening or making exceptions to existing regulations, however, the Agency is proposing a regulatory solution to these problems. The Agency is today proposing to amend 40 CFR 122.4(b) and 122.6(d) to provide a variance from the requirement that all owners of HWM facilities must sign the RCRA permit application and to provide an alternative certification for owners signing permit applications when the owner and operator are not the same person.

The Agency considers the owner and operator of a facility jointly and severally responsible for carrying out the requirements of the hazardous waste regulations and permit. There is clear congressional intent to bind the owner as evidenced by the language of sections 3004 and 3005 of RCRA.

Section 3004 states in part that "* * * the Administrator shall promulgate regulations establishing such performance standards, *applicable to owners and operators* of facilities for the treatment, storage, or disposal of hazardous waste * * * as may be necessary to protect human health and the environment * * *" (emphasis added).

Similarly, Section 3005 states in part that "* * * the Administrator shall promulgate regulations requiring each person *owning or operating* a facility for the treatment, storage or disposal of hazardous waste * * * to have a permit issued pursuant to this section * * *" (emphasis added).

In addition, the House report on RCRA states "It is the intent of the committee that responsibility for complying with the regulations pertaining to hazardous waste facilities rest equally with owners and operators of hazardous waste treatment, storage or disposal sites and facilities where the owner is not the operator." H.R. Rep. No. 94–1491, 94th Congress, 2d Sess. (1976).

Such language clearly shows that Congress intended owners, as well as operators, to be bound to both the regulations and the permit.

There are several purposes behind the requirement that an owner co-sign a RCRA permit application. One reason relates to the joint responsibility of the owner and operator. As outlined in the preamble to the May 19, 1980 regulations, there are requirements in the regulations with which only the owner can comply, such as the requirement in 40 CFR 264.120 and 265.120 that notice of land disposal activity be placed in the chain of title to the property (See 45 FR 33169, 33295 (May 19, 1980)).

A second purpose is to ensure that the owner is notified of the nature and extent of hazardous waste management activity taking place on his property and that he has notice that EPA considers him jointly and severally responsible for compliance with EPA's regulations and permit requirements. To ensure this knowledge, the owner is required to sign the permit application and certify familiarity with the information contained therein.

Third, where there is a default on any of the regulatory provisions, the Agency must attempt to gain compliance as quickly as possible. In doing so, the Agency may bring an enforcement action against either the owner or the operator, or both. The third purpose, therefore, for obtaining both the owner's and operator's signatures is to provide the Agency with an evidentiary document to use as an aid in implementing and enforcing the regulations.[6] The signed permit application established a *prima facie* case that the person is the owner of the facility, and that he has actual knowledge that hazardous wastes are being handled at the facility.

It is helpful, therefore, both from a practical and evidentiary standpoint to have the owner's signature on the application. Based on the language of RCRA and EPA's implementing regulations, however, the Agency

[5] The U.S. Department of Agriculture and the U.S. Department of the Interior have a substantial interest in this proposal as the managers of approximately 540 million acres of federal land. They are considered owners of HWM facilities because they own property upon which facilities are cited. (See definitions of "owner" and "facility" in 40 CFR 260.10 and 122.3).

[6] The owner and operator are bound to the regulations during interim status, but only to the permit once a permit has been issued, since compliance with a RCRA permit during its term constitutes compliance with Subtitle C of RCRA for enforcement purposes. (See 40 CFR 122.13(a)).

believes that the owner is legally bound by both the permit conditions and any independently enforceable regulations, whether or not he signs the permit application.

Although the Agency still feels that the reasons outlined above are valid reasons for requiring the owner to sign RCRA permit applications, the Agency is proposing today to provide a variance from this requirement in certain limited circumstances and to provide an alternate certification that the owner may use when the owner and operator are not the same person. The Agency believes that the amendments proposed today allow needed flexibilty in the regulations without sacrificing the goals of the regulations.

II. Proposed Amendments

The Agency is proposing to amend §§ 122.4(b) and 122.6(d) to (1) add a variance to the requirement that owners of HWM facilities must sign the RCRA permit application;[7] (2) add a notice which must be sent to owners who have not signed the permit application; and (3) add alternative certification language that an owner may use when the owner and operator of the facility are not the same person.

(1) *Variance from the requirement for the owner's signature.* The general rule remains that owners, as well as operators, must sign RCRA permit applications. However, EPA is proposing to give Directors [8] the discretion, providing certain prerequisites are satisfied, to waive the requirement for the owner's signature. The Director may waive the owner's signature only if the operator submits an explanation of why he has not been able to obtain the owner's signature, and why he believes the Director ought to waive it. The Director may then waive the requirement if the operator has met the following three requirements: (1) The operator has identified the owner; (2) the operator has sent a copy of the application with a copy of the notice proposed today in § 122.4(b)(2) to the owner by certified mail; and (3) the operator is able to assure compliance with all applicable standards and permit conditions.

If all of the above conditions are met, the Director has the discretion to waive the requirement. In so deciding, he may consider any factors he deems relevant including, but not limited to, the number and kind of attempts the operator has made to obtain the owner's signature, the financial responsibility of the operator, and the nature of the owner's interest in the facility. He may also want to look at the type fo facility (*i.e.*, is it a landfill or a container storage facility) and the facility's compliance record during interim status.

The Agency is also proposing today that the general rule be that the owner need not sign the RCRA permit application where the owner is a federal, state or local governmental entity. The Director must accept the application without the government entity's signature if the operator (1) has identified the owner; (2) is able to assure compliance with all applicable standards and permit conditions, and (3) has sent a copy of the notice proposed today in § 122.4(b)(2) by certified mail to the head of the agency with primary responsibility for managing the land or to another person designated by the applicable government entity to receive such a notice.

These proposals should enable most operators who have made reasonable efforts to obtain the owner's signature on the permit application, but cannot, to apply for a RCRA permit. The exceptions would be the operator who is not able to identify the owner; the operator who cannot comply with all of the applicable standards and permit conditions, *e.g.*, those that cannot themselves ensure financial responsibility or control of the facility during the post-closure care period; and operators of land disposal facilities that cannot comply with the requirement of §§ 264.120 or 265.120, that the owner record a notice in the deed or other appropriate instrument of the hazardous waste disposal activity occurring on the property. In these situations, and in whatever others the Director deems appropriate, a RCRA permit may not be issued without the owner's signature on the application.

(2) *Notice to owners who do not co-sign.* An integral part of the waiver of the owner's signature is the requirement that a notice be sent to those owners who do not sign the permit application. This notice is designed to fulfill the notification function of the signature which is being waived. The notice proposed today in § 122.4(b)(2) is designed to ensure that owners who do not sign the permit application are aware that they are jointly responsible for compliance with the regulations and any permit issued pursuant to those regulations.

This notice is only required when the owner does not sign the permit application. Where the owner and operator are different persons, but the owner has signed the application, this notice is not required. Where the owner and operator are the same person, the notice is obviously not required.

(3) *Alternate certification.* Under § 122.6(d) of the present regulations, any person signing a RCRA permit application must make the following certification:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

On August 6, 1980, EPA clarified how extensive an inquiry this certification requires (see 45 FR 52149). EPA clarified that the signer must make a "good faith effort" to ascertain whether the information is true, accurate, and complete. The inquiry must provide a "reasonable basis" to decide if the information meets the standard. Although the nature and extent of the required inquiry may vary on a case-by-case basis, the signer must inquire of the person or persons who supervised the collection of the information. This certification has been challenged as unnecessarily stringent and inefficient.[9]

The Agency agrees that this certification can be quite burdensome for owners who are nto also operators. In large corporations and government agencies, it may be impossible for the person signing the permit application as an owner but not an operator, to personally examine every permit application, or to question all the

[7] The signature requirement and the variance proposed today apply to both Part A and Part B of the permit application.

[8] The term Director as used in the consolidated permit regulations, is defined to mean the EPA Regional Administrator or the Director of an authorized state program, as the circumstances require. See 40 CFR 122.1. The change proposed today is to the Federal regulations. If promulgated, authorized states would be allowed to have equivalent or more stringent requirements than those proposed today.

[9] As part of the settlement of the common issues in the *NRDC* v. *EPA* lawsuit, the Agency is proposing, separate from this action, to change the certification in § 122.6(d). The proposed certification which must be made if the owner and operator are the same person reads: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (47 FR 25546, June 14, 1982).

individuals responsible for obtaining the information. Therefore, EPA is proposing an alternate certification to the one quoted above, that may be used by an owner when the owner and operator are not the same person. The alternate language requires the owner to certify that he understands that the application is submitted for the purpose of obtaining a permit to operate a hazardous waste management facility on the described property, and that he understands that he and the facility operator are jointly responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265, and 267, and any permit issued pursuant to those regulations. Owners of land disposal facilities must certify that they understand that they are also responsible for providing the notice in the deed to the property required by 40 CFR 264.120 and 265.120.

Under this proposed certification, owners who are not operators of a facility need not certify under penalty of law that they have personally examined the information submitted in the document. They need not inquire of the persons immediately responsible for obtaining the information. The proposed alternate language fulfills the purpose of the original certification with regard to owners who are not also operators with much less burden on them.

Although this proposal does not incorporate the exact language proposed in the USDA–DOI petition for rulemaking, it fulfills their request that a government agency certify merely that (1) it has reviewed the permit application to the extent necessary to be aware of its contents and (2) it understands that it is jointly liable for compliance with the regulations.

The alternate language may not be used by operators. An operator must still assure that the information was gathered properly, under his supervision, and that he knows that the information is true, accurate, and complete.

III. Request for Comments

The Agency invites comments on all aspects of these proposed regulations and all issues discussed in the preamble. EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of the *NRDC* v. *EPA* litigation affecting the RCRA portion of the consolidated permit regulations. EPA has also tentatively decided to grant the petition for modification of the rules submitted by USDA and DOI, although not using exactly the same regulatory language as submitted. However, EPA will carefully consider all public comments on this proposal before making its final decision.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto take effect 6 months after their promulgation. In addition, section 553(d) of the Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date. The purpose of these requirements is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today, however, the Agency believes that an effective date 30 days or 6 months after promulgation would cause substantial and unnecessary disruption in the implemention of the regulations and would contravene the purpose of these amendments. These amendments, if promulgated in final form, would allow an operator to obtain a RCRA permit without the owner's signature, which is sometimes impossible to obtain. The Agency believes that this is not the type of regulation that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, EPA believes that it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or would otherwise be inappropriate.

V. Executive Order 12291

Under Executive Order 12291, (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;
—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices to consumers, industry or government entities. Rather, the effect is to enable certain operators of hazardous waste management facilities to obtain permits without the owner's signature. There will be no adverse impact on the ability of the U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room S–269, U.S. EPA, 401 M St. S.W., Washington, D.C. 20460.

VI. President's Task Force

The President's Task Force on Regulatory Relief designated the consolidated permit regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden on the regulated community. These proposed amendments also fulfill EPA's obligations for the settlement of this issue in industry litigation on the consolidated permit regulations.

In addition to settling the litigation, this year the Agency will also propose:

- other substantive changes to further streamline the Agency's permitting processes;
- to deconsolidate the regulations and make them easier for the public to use.

As a result of deconsolidation, the regulations will be reorganized. Thus this proposed amendment may be finalized in somewhat different format and location than proposed today.

VII. Paperwork Reduction Act

The information provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how its reporting or recordkeeping provisions respond to any comments by OMB or the public.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations,

and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have a significant economic impact on a substantial number of small entities because it reduces regulatory requirements by providing a variance from a currently inflexible requirement. Accordingly, I hereby certify this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

IX. List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: July 16, 1982.

Anne M. Gorsuch,

Administrator.

It is proposed that 40 CFR Part 122 be amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority for Part 122 is proposed to read as follows:

Authority: These regulations are issued under the authority of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; the Clean Water Act, 33 U.S.C. 1251 *et seq.*; the Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. In Part 122 it is proposed that § 122.4(b) be revised to read as follows:

§ 122.4 Application for a permit.

* * * * *

(b) Who applies? When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

(1) *For RCRA only,* the owner must also sign the permit application, except that the Director may determine, in his or her discretion, that the application need not bear the owner's signature. The operator may request that the Director waive the requirement that the facility owner sign the permit application by submitting to the Director a written explanation of why he has not been able to obtain the owner's signature and why he believes the Director ought to waive it and, in addition, by demonstrating that he has met the following three requirements: (i) The operator has identified the owner; (ii) the operator has sent a copy of the application with a copy of the notice in paragraph (b)(2) of this section to the owner by certified mail; and (iii) the operator is able to assure compliance with all applicable standards and permit conditions. In deciding whether to waive the requirement that the facility owner sign the application, the Director may consider any factors he or she deems relevant including, but not limited to, the number and kind of attempts the operator has made to obtain the owner's signature, the financial responsibility of the operator, the number of owners, the relationship between the owner and the operator, and the nature of the owner's interest in the facility. In cases where the owner is a federal, state, or local governmental entity, the Director shall accept the application without the owner's signature if the applicant shows compliance with requirements (b)(1) (i) and (iii) of this section and has sent a copy of the application with a copy of the notice in paragraph (b)(2) of this section by certified mail to the head of the agency with primary responsibility for managing the land or to another person designated by the applicable governmental entity to receive such an application.

(2) *For RCRA only, notice to be sent to owners who have not signed the permit application.* This application is being submitted to the U.S. Environmental Protection Agency for the purpose of obtaining a permit to operate a hazardous waste management facility on the property as described. As owner of the property/facility, EPA considers you and (insert name of facility operator), the facility operator, jointly responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265 and 267 and any permit issued pursuant to those regulations.

* * * * *

3. In Part 122, it is proposed that § 122.6 be amended by designating the quotation in (d) as (d)(1), by revising the introductory text of (d), and by adding (d)(2) as follows:

§ 122.6 Signatures to permit applications and reports.

* * * * *

(d) *Certification.* Any person signing a document under paragraph (a) or (b) of this section shall make the certification in subparagraph (1), except that in making an application under paragraph (a) of this section, owners of RCRA facilities may make the certification in subparagraph (2) when the owner and operator are not the same person:

(1) * * *

(2) "I certify that I understand that this application is submitted for the purpose of obtaining a permit to operate a hazardous waste management facility on the property as described. As owner of the property/facility, I understand fully that the facility operator and I are jointly and severally responsible for compliance with both the regulations at 40 CFR Parts 122, 264, 265 and 267, and any permit issued pursuant to those regulations." *For owners of land disposal facilities, add:* "I further understand that I am responsible for providing the notice in the deed to the property required by 40 CFR 264.120 and 265.120."

* * * * *

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