

Working Draft Prepared by the Center for Regulatory Effectiveness (Jan. 17, 2000)

**Petition Processes as a Mechanism for Providing
Due Process to the Regulated Community:
A Survey of the Environmental Protection Agency**

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I. Introduction.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. § 3501, et seq., and the fiscal year 1999 Omnibus Appropriations Act, P.L. 105-277 Federal agencies are now obligated to ensure the quality of information they create, use, fund or disseminate. The Office of Management and Budget ("OMB") is tasked with developing mechanisms for implementing and overseeing agency compliance with this Congressional requirement. In particular, as the Federal agency responsible for oversight of other Federal agencies, OMB is now in the process of considering mechanisms for resolving disputes arising over data quality. The effectiveness (or ineffectiveness) of the dispute resolution mechanism ultimately promulgated by OMB will have a significant impact on whether or not the Congressional mandate will have any real effect.

THE BENEFITS OF PETITION PROCESSES

One commonly utilized regulatory mechanism for ensuring the ability of members of the regulated community to resolve disputes with Federal agencies is the petition process. The use of petition processes provides the following benefits to both agencies and the regulated community:

- Less costly than litigation. The petition process is a relatively informal process that provides the agency with the opportunity to correct itself without the necessity for costly judicial review. In many cases, the process will bring to light a manifest defect in either the petitioner's or the agency's position, and thus enable the dispute to be finally resolved at an early stage. In more borderline cases, the petition process will enable the parties to develop and set forth their arguments for any subsequent review by a higher regulatory review board or court.
- Creation of documentary record. The petition process provides an opportunity for the regulated party to document in writing the facts giving rise to the dispute. Similarly, the agency must document the reasons for its decisions on the petition, which streamlines the court's task should judicial review become necessary.
- Availability of subsequent Judicial review, if necessary. Judicial review is available under the Administrative Procedure Act, 5 U.S.C. §500 et seq.; however, court review is most often avoided.
- Administrative efficiency. As is demonstrated in this survey, petition processes are already the mechanism of choice for regulatory dispute resolution. For example, the Environmental Protection Agency ("EPA") has already established 143 such petition process on an agency-wide basis; a minimum of 25 of these processes (see items marked with an asterisk ("*") in the roster below) are open to any interested member of the public. The availability of such liberal 'petitioner standing' provisions has not 'opened up the floodgates' to nuisance petitions or 'shut down' the Federal Government. Rather, the ability of EPA (and other agencies) to resolve disputes through an informal mechanism enables the Government to avoid costly litigation.

THE PRESENT USE OF PETITION PROCESSES AT EPA

In this study CRE has systematically identified the extent to which petition processes are utilized by a key Federal agency- EPA. CRE surveyed all of the EPA regulations containing the word "petition" found in the Code of Federal Regulations ("CFR"). CRE then read each regulatory provision and prepared the roster of petition processes set forth at Chapter 11.

The petition processes identified in this study can be divided into the following functional categories (some of which overlap):

- (1) Petition Processes open to any concerned member of the public.

- (2) Petitions (or disclosure of information). Though few in number, the fact that such provisions already exist demonstrates that this is a workable manner for implementing data access and quality requirements.
- (3) Petitions to initiate rulemaking proceedings or to amend rules.
- (4) Petitions (or agency action that would constitute final agency action). Many of the existing processes result in "final agency actions" under the APA, because an agency's denial is final and thus subject to judicial review. Other existing petition processes require review by a higher agency review board prior to the filing of a lawsuit.
- (5) Petitions for variances or exceptions. For example, EPA's procedure allowing generators and treaters of hazardous wastes for a variance from otherwise applicable treatment standards. See r120 at page 15, *infra*.
- (6) Petitions (or administrative hearings including reconsideration and meal). This category enables private parties to appeal specific determinations affecting specific parties.

In conclusion, the number and breadth of the petition mechanisms already implemented by the agency studied in this report demonstrate that the establishment of a petition process is the optimal mechanism for enabling private parties to correct agencies' noncompliance with their obligation to ensure data quality. Such a petition process could entitle the petitioner to immediate reconsideration by a higher agency review board (or by OMB), or to judicial review.

II. Roster of Existing Petition Processes at the Environmental Protection Agency.

1. Petition for disclosure of trade secret information (i. e., identification of chemicals) to health professionals under EPCRA. 40 C.F.R. §§ 350.15. 350.16.
2. Petition by any person to establish or modify a tolerance for a pesticide chemical residue in a food. 40 C.F.R. § 2.308.
3. Petition to set aside an order not to hold a hearing on the complaint before assessing a Class 11 civil penalty under the Clean Water Act. 40 C.F.R. §22.38(f).
4. Petition to EPA's Environmental Appeals Board to appeal an initial decision of liability for civil penalty or assessment pursuant to the Program Fraud Civil Remedies Act of 1986. 40 C.F.R. §27.39.
5. Petition for discretionary review by the Assistant Administrator responsible for assistance program in connection with disputes arising under grants or cooperative agreements to state & local governments. 40 C.F.R. §31.70(i).
6. Petition to reinstate the eligibility to a CAA or CWA ineligible Facility (due to debarment) may be submitted to the EPA debarring official. 40 C.F.R. §32.32.
7. Petition by a state to modify the EPA-approved priority list for implementation of cooperative agreements for protecting and restoring publicly owned fresh water lakes. 40 C.F.R. §35.1620-5(a)(2).
8. "Requests for Regional Review" by construction grant applicant or grantee who is adversely affected by a State's act or omission in connection with waste water treatment works construction grants to States (provided that a prior petition is filed with the state). 40 C.F.R. §35.3030(a).
9. Technical Assistance Grants under CERCLA. Requests for EPA review of disputes between Technical Assistance Grantees and State administrators of such grants (after unsatisfactory petition to State). 40 C.F.R. §35.4100(b).
10. State and local government petitions for Nor exemption. See 40 C.F.R. 52.326 (Denver); 52.992(a) (Louisiana).
11. Petition to review EPA decision to exempt or not exempt an outer continental shelf air pollution source from a control technology requirement. 40 C.F.R. §55.7(f)(5).
12. Petition for review of EPA findings regarding compliance of new stationary air source with opacity standards. 40 C.F.R. §60.11(e)(6).
13. Petition to waive relative accuracy test requirement (and to apply substitute monitoring procedures) for stationary air sources. 40 C.F.R. §60.130(1).
14. Petition by hospital/medical/infectious waste incinerator facilities to establish sitespecific operating parameters specified in the reg.) 40 C.F.R. §60.56c(i).
15. Petition by owner or operator of primary aluminum reduction plant for alternative testing requirements. 40 C.F.R. §60.194(d).
16. Petition by owner-operator of steel plant for alternative to monthly operational status inspections. 40 C.F.R. §60.274a(e).
17. Petition by owner or operator of asphalt processing or roofing manufacturing facility to establish an opacity standard for blowing stills. 40 C.F.R. §60.474(g).

18. Petition by owner or operator of primary copper smelter for modified sampling analysis schedule. 40 C.F.R. §61.174(g).
19. Petition by owner operator of non-operational uranium mill tailings disposal sight for reconsideration of recession of alternative disposal and barrier emplacement requirements. 40 C.F.R. §61.226(b).
20. Petition by owner or operator of stationary service subject to Sec. 112 of the Clean Air Act to make appropriate adjustment to the opacity emission standard for the source. 40 C.F.R. §63.6(h)(9).
21. Petition by owner or operator of stationary source subject to section 112 of CAA to use an alternative to the "relative accuracy" monitoring test. 40 C.F.R. §63.8(e)(6)(ii).
22. Petition by owner or operator of a batch process that operates on organic HAP service for approval for alternative testing-monitoring procedure for equipment leaks. 40 C.F.R. §63.178(a).
23. Petition by owner or operator of by-product recovery battery for approval of alternative control device or system for destruction or control of coke oven emissions. 40 C.F.R. §63.307(d).
24. Petition by dry cleaning facility owners and operators for determination that perchloroethylene control equipment achieves results equivalent to equipment conforming to section 63.322. 40 C.F.R. §63.325(7)(b).
25. Petition for alternative opacity limit for aluminum reduction plants. 40 C.F.R. §63.845(i).
26. Petition for hearing to challenge EPA's finding of noncompliance/ and assessed of penalties for the same. 40 C.F.R. §66.12(a)(4); 66.13(a)(2); also 66.41
27. Petition for exemption from de minimis noncompliance. 40 C.F.R. §66.32(a).
28. Petition for exemption from noncompliance caused by sudden, unavoidable, de minimis, or equipment breakdown. 40 C.F.R. §63.33(a).
29. Petition for reconsideration of penalty calculation. 40 C.F.R. §66.52: 66.53.
30. Petition for reconsideration of determination that noncomplying source owner or operator has not subsequently achieves compliance. 40 C.F.R. §66.71(c).
31. Petition for reconsideration of EPA's recalculation of source owner or operator penalty due to subsequent achievement of compliance. -10 C.F.R. §66.73.
32. Petition of appeal from decision of administrative law judge. 40 C.F.R. §66.95(c).
33. Petition for direct EPA review of state noncompliance determination. 40 C.F.R. §67.31; 67.32(c).
34. Petition for direct EPA review of state penalty assessment. 40 C.F.R. §67.41(a); 67.42.
- *35. Petition for the addition or deletion of substance from list of regulated toxic substances and threshold quantities for accidental release prevention. 40 C.F.R. §63.120.
- *36. Petition for review of EPA's failure to object to states issuance of a section 70 permit. 40 C.F.R. §70.8(d).

37. Petition by U.S. territories for exemption of specific sources or classes of sources from the requirement of obtaining a section 70 (air quality permitting program) permit. 40 C.F.R. §71.4(m).
- *38. Petition to reopen a delegated section 71 permitting proceeding for cause. 40 C.F.R. §71.10(h).
- *39. Petition to appeal section 71 permit decision (or permit condition). 40 C.F.R. §71.11(1).
- *40. Permit for early reduction sources - i.e., for alternative emission limitations for early reductions of hazardous air pollutants. 40 C.F.R. §71.26(e)(6).
41. Acid rain operating permits. Petition by unit owner or operator for determination as to whether an acid rain operating permit is required. 40 C.F.R. §72.6(c).
42. Petition for exemption of industrial (non-congeneration) utility unit from acid rain operation permit requirements. 40 C.F.R. §72.14.
43. Petition for approval of repowering technology (in connection with acid rain compliance plans). 40 C.F.R. §72.44(c),(d).
44. Sulfur-dioxide opt-ins. Petition by designated representative of a combustion or process source for extension of sulfur - dioxide opt-in permit. 40 C.F.R. §74.14(e).
45. Petition by designated representative of owner or operator of coal-fired units for alternative method for monitoring volumetric flow (SO₂ emissions).
46. Petition to use substitute methods for apportioning SO₂ mass emissions (in connection with monitoring of emissions (in connection with monitoring emissions from common, bypass and multiple stacks). 40 C.F.R. §75.16(b)(2)(ii)(D).
47. Petition to use a particular method for apportioning combined NO_x emission rate among units with common, bypass or multiple stacks. 40 C.F.R. §75.17(a)(2)(i)(c).
48. Petition for approval of recertification testing of continuous or opacity monitoring systems (for process sources under the Acid Rain Testing program of the Clean Air Act). 40 C.F.R. §75.20(b)(I).
49. Petition by unit representative for alternative to any standard incorporated by reference or prescribed under the Acid Rain Testing Program. 40 C.F.R. §75.23(a).
50. Petition by owner or operator of an affected unit with add-on emission controls to replace the maximum recorded value in the last , 20 quality-assured monitor operating hours with a value corresponding to the maximum controlled emission rate recorded during the last 720 quality-assured monitor operating hours with a value corresponding to the maximum controlled emission rate recorded during the last 720 quality-assured monitor operating hours. 40 C.F.R. §75.34(a)(2).
51. Petition for alternative flow monitoring method for affected unit under Acid Rain Program. 40 C.F.R. §75.66(b).
52. Petition for alternative to any standard incorporated by reference into the Acid Rain Program. 40 C.F.R. §75.66(c).
53. Petition for exemption from Acid Rain monitoring requirements due to retirement of units due to entry into Opt-In Program (in connection with thermal energy plan). 40 C.F.R. §75.67(b).
54. Petition by affected unit rep. for less stringent alternative emission limitation under the Acid Rain Nitrogen Oxides Emission Reduction Program. 40 C.F.R.

§76.10(a).

55. Petition for extension of deadline for meeting applicable emission limitation for Phase I unit with tangentially-fired boiler (which is unable to install low NO_x burner technology by the deadline). 40 C.F.R. §76.12(e)(i).
56. Petition for administrative review by the Environmental Appeals Board of EPA determinations under the Acid Rain Program. 40 C.F.R. §78.1(c) - 78.20.
57. Petition by fuel manufacturer subject to registration of fuel additives for modification of the testing requirements. 40 C.F.R. §79.51(g).
58. Petition for approval of alternative test for fuel emissions. based on claim that certain emission reduction benefits are not included in the complex emission model set forth. 40 C.F.R. §80.45. 40 C.F.R. §80.48.
59. Petition by refiner or importer of reformulated gasoline for exemption from requirement of carrying out a program of independent sample collection and analyses for such reformulated gasoline. 40 C.F.R. §80.65(f)(i).
60. Petition by refiner or importer of reformulated gasoline to use non-oxygen/benzene average standards to offset oxygen/benzene average standards. 40 C.F.R. §80.67(a)(2)(i)(B).
61. Petition by State governor to have a marginal, moderate, serious, or severe ozone non-attainment area classified or designated under Part 81 for air quality purposes (i.e., for removal of an opt-in area from inclusion as a covered area under Part 80). 40 C.F.R. §80.70(k), 80.72(a).
62. Petition by refiner, importer or oxygenate blender of California gasoline who has been assessed a civil, criminal or administrative penalty for relief from exclusion from enforcement exemption. 40 C.F.R. §80.81(e)(3)(ii).
63. Petition by refinery, refiner or importer of gasoline for lowered data transmission requirement (for baseline emissions determination purposes) where available data is of sufficient quality and quantity to use in baseline determination. 40 C.F.R. §80.91(d)(3)(c).
64. Petition for waiver of some of the requirements governing the technical capability of baseline determination methodology auditor. 40 C.F.R. §§80.92(c)(3)(iii); 80.93(a)(3).
65. Petition by refiner or importer for waiver of blendstock accounting requirements in connection with blendstock controls. 40 C.F.R. §80.102(f)(i)(iii).
66. Petition for the import of used, recycled or reclaimed controlled substances (e.g. air conditioning and refrigeration equipment). 40 C.F.R. §82.13(b)(2)(3).
67. Petition for application of ozone-depleting product labeling requirements to substances or products to which the requirements do not otherwise apply, or to temporarily exempt a product due to lack of alternatives. 40 C.F.R. §82.120(a).
- *68. Petition to amend listing decisions under the "Significant New Alternatives Policy" for the substitution of ozone-depleting compounds, or to add a new substance to the SNAP lists. 40 C.F.R. §82.184.
69. Petition to appeal decision of the Director of manufacturers Operation Division. Office of Mobile Sources, Office of Air and Radiation ("Mod Director"), regarding whether retrofit/rebuild equipment may continue to be sold. 40 C.F.R. §85.1413(d)(1).
70. Petition to intervene in hearing regarding recall of vehicles or engines for noncompliance with the Clean Air Act. 40 C.F.R. §85.1807(g).

71. Petition to appeal decision of the MOD Director regarding the continued sale of aftermarket parts. 40 C.F.R. §85.2121(d)(i).
72. Petition by light-duty vehicle manufacturer to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. Sales for purposes of determining compliance with implementation schedule for emission standards. 40 C.F.R. §86.000-8(e)(i)(iv).
73. Petition by light-duty truck manufacturer to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with implementation schedule for emission standards. 40 C.F.R. §86.000-9(e)(i)(D).
74. Petition by vehicle manufacturer to use volume produced for U.S. sale to be used in lieu of actual U.S. sales in connection with year-end reports. 40 C.F.R. §86.000-23(f)(2)(ii)
75. Petition by truck engine manufacturer to use an alternative useful-life period in connection with application for certificate of conformity with emission standards. 40 C.F.R. §§86.091-21(f); 86.094-21(f).
76. Petition by engine manufacturer to maintain records of actual volume produced for U.S. sale in lieu of actual U.S. sales. 40 C.F.R. §§86.094-7(h)(2); 86.094-23(k)(2)(ii).
77. Petition by vehicle manufacturer to substitute a different whole vehicle mileage accumulation schedule for the (exhaust) durability driving schedule otherwise specified. 40 C.F.R. §86.094-13(c)(6)(ii).
78. Petition by small-volume manufacturer to use volume produced for U.S. sale in lieu of U.S. sales in connection with year-end reports. 40 C.F.R. §86.095-23(1)(2)(ii).
79. Petition by applicant for certification of the projected sales volume of evaporative families certifying to the respective evaporative test procedure for use of volume produced for U.S. sale in lieu of actual U.S. sales. 40 C.F.R. §86.098-24(m)(2)(ii).
80. Petition by vehicle manufacturer for approval of a simulation of the environmental cell for air conditioning test. 40 C.F.R. §§86.162-00(a); 86.162-03(a)
81. Petition for reconsideration of decision of the Environmental Appeals Board on suspension, revocation or voiding of certificate of conformity of light-duty vehicle. 40 C.F.R. §§86.614-84(x); 86-1014-84(x).
82. Petition by state governor for exemption from HOV lane restrictions for low emission vehicles. 40 C.F.R. §88.313-93(c)(2).
83. Petition for judicial review of penalty assessment for violation of emissions requirements applicable to nonroad compression-ignition engines under the Clean Air Act. 40 C.F.R. §89.1006(c)(4).
84. Petition for judicial review of penalty assessment for violation of emissions requirements applicable to nonroad spark-ignition engines under the Clean Air Act. 40 C.F.R. §90.1006(c)(4).
85. Petition by manufacturer of non-locomotive-specific engines for use of a shorter useful life for an engine family containing only non-locomotive-specific engines in connection with emissions standards. 40 C.F.R. §92.9(a)(3).
86. Petition to intervene in a hearing held pursuant to Section 207 (c)(1) of the Clean Air Act (pertaining to locomotive emissions). 40 C.F.R. §92.709(g).
87. Petition for judicial review of civil penalty assessment for violation of locomotive engine emissions requirements. 40 C.F.R. §92.1106(c)(4).
88. Petition for mandatory patent license under sections 111, 112 or 202 of the Clean Air Act. 40 C.F.R. §95.2(a).
- *89. Petition for determination of whether an onshore or offshore oil facility poses the

threat of significant harm to the environment. 40 C.F.R. §I 12.20(f)(2)(ii).

90. Petition for designation of separate storm sewers as a "large municipal separate storm sewer system" 40 C.F.R. 4122.-6(b)(4)(iv).
- *91. Petition by "any interested person" to require a discharger authorized by a general permit to apply for and obtain an individual permit under the National Pollutant Discharge Elimination System ("NPDES"). 40 C.F.R. § 122.28(b)(3)(i).
92. Petition by permittee for new notification level under State under NPDES. 40 C.F.R. § 122.440.
- *93. Petition for listing a given navigable waters for inclusion in the relevant State's "control strategy" under the State's NPDES program. 40 C.F.R. § 123.46(6).
- *94. Petition by an "interested person" for withdrawal of State authority to implement NPDES program responsibilities due to State noncompliance with program requirements 40 C.F.R. §123.64(6)(1).
- *95. Petition by any person who filed comments or participated in public hearings concerning draft permit under RCRA, UIC, or PSC for review of the permit decision. 40 C.F.R. §124.19(a).
- *96. Petition for review of adverse initial decision regarding a RCRA permit. 40 C.F.R. §124.89(6)(1); 124.91(a)(1).
- *97. Petition in connection with the Regional Administrator's disapproval of State decision listing waters within the State that will not be in compliance with section 303 of the Clean Water Act. 40 C.F.R. § 130.10(d)(10)(vi).
- *98. Petition for review of permit decision in connection with the Underground Injection Control ("OIC") program as applied to the Osage Mineral Reserve in Oklahoma. 40 C.F.R. § 147.29290).
99. Petition to allow injection of restricted wastes into Class I wells. 40 C.F.R. §§148.1(c)(2);148.20-148.24.
- * 100. Petition requesting the Regional Administrator to review a project to determine if the project may contaminate an aquifer. 40 C.F.R. §§149.104; 149.105(b)
101. Petition by applicant for federal financial assistance (or by grantor agency) for withdrawal by Regional Administrator of his or her determination that a project may contaminate an acquirer, in light of redesign of the project. 40 C.F.R. §149.110.
102. Petition by original data submitter for denial or cancellation of the registration of a new pesticide produce under FIFRA. 40 C.F.R. §§ 152.99; 152.116(b).
- *103. Petition for "Special Review" of a pesticide use. 40 C.F.R. § 154.10.
104. Petition for establishment or modification of a tolerance, or for exemption from the need for a tolerance, under section 408 of FFDCA. 40 C.F.R. §§ 160.3(4); 172.4(b)(2)(ii); 180.29(a); 180.32.
105. Petition for establishment or modification of a food additive regulation or other clearance under section 409 of FIFRA. -10 C.F.R. §§160.3(5); 177.81-177.98; 177-102-177.125.
106. Petition for reconsideration of order regarding use of a pesticide at a site and on a pest for which registration has been finally cancelled or suspended. 40 C.F.R. §§164.130;164.132.
107. Petition for exemption from notification requirement with respect to specific classes of genetically modified microbial pesticides. 40 C.F.R. §172.52(b)(1).

108. Petition for action or unresolved petition for establishment, modification, or revocation of a food additive regulation. -10 C.F.R. § 177.99.
109. Petition for amendment of a regulation under FFDCA. -40 C.F.R. §178.30(a)(3).
110. Petition for reconsideration of decision of the Environmental Appeals Board on complaint alleging violations of the Noise Control Act. 40 C.F.R. §209.34.
111. Petition for the commencement of proceedings to withdraw approval of State programs under section 404 of the Clean Water Act. 40 C.F.R. §233.53(c)(1).
112. Petition by a State for review of the State's determination that a municipal solid waste landfill complies with Federal performance standards. -10 C.F.R. §258.40(e)(2).
113. Petition to amend, modify or revoke a regulation pertaining to hazardous waste management systems and facilities (under parts 260-265 and 268). 40 C.F.R. §§260.1(6)(4); 260.20.
114. Petition to add a testing or analytical method with respect to hazardous waste management systems. 40 C.F.R. §260.21.
115. Pertaining to exclude a waste product produced at a particular facility from the list of hazardous wastes. 40 C.F.R. §260.22.
116. Petition to add a hazardous waste or category of waste to the universal waste regulations of Part 273. 40 C.F.R. §260.33.
- * 117. Petition by owner or operator of a hazardous waste disposal unit (or by any member of the public) to extend or reduce the post-closure care period applicable to the unit. 40 C.F.R. §265.118(g)(1).
118. Petition by one who generates, treats, stores or disposes hazardous waste for extension of the effective date of any applicable restriction on land disposal. 40 C.F.R. §268.5(a),(e).
119. Petition for an exemption from land disposal restrictions with respect to particular units. 40 C.F.R. §268.6.
120. Petition by a generator or treater of hazardous waste for a variance from an applicable treatment standard. 40 C.F.R. §268.44(a).
121. Petition by owner or operator of a facility subject to RCRA for a determination that a post-closure permit is not required. 40 C.F.R. §270.1(c)(5)(ii).
- * 122. Petition appealing approval or denial of a Remedial Action Plan (allowing a facility owner or operator to treat, store, or dispose of hazardous remediation waste at a remediation waste management site). 40 C.F.R. §270.155(a).
- * 123. Petition appealing approval or denial of a modification, revocation-and-reissuance, or termination of a Remedial Action Plan. 40 C.F.R. §270.190(a).
- * 124. Petition for withdrawal of approval of State hazardous waste programs pursuant to RCRA. 40C.F.R. §271.23(b)(1),(2).
125. Petition by a State for authorization of State hazardous waste program. 40 C.F.R. §§271.5(a); 271.26(g); 279.52(b).
- * 126. Petition to add a hazardous waste or category of wastes to Part 273. 40 C.F.R. §273.80(a).
- * 127. Petition to approval of a specified financial responsibility mechanism in order to meet the financial responsibility requirements of Section 280.93. 40 C.F.R. §280.100(c).
- * 128. Petition for withdrawal of approval of State underground storage tank program. 40 C.F.R. §281.61(b).

129. Petition for performance of health assessment by the Agency for Toxic Substances and Disease Registry ("ATSDR") at facilities on or proposed to be listed on the National Priorities List ("NPL") under the National Oil and Hazardous Substances Pollution Contingency Plan. 40 C.F.R. §300.400(1).
- * 130. Petition by any person who is or may be affected by a release requesting the lead agency to perform a preliminary assessment of the release. 40 C.F.R. §§300.405(a)(6);300.420(b)(5).
131. Petition by any person who is or may be affected by a hazardous substance release requesting the lead agency to perform a "removal preliminary assessment." 40 C.F.R. §300.410(b).
132. Petition by party required to comply with an order pursuant to section 106(a) of CERCLA for reimbursement of reasonable costs, plus interest. 40 C.F.R. §300.700(b)(3),(e).
- *133. Petition by member of the public seeking disclosure of chemical identity claimed as a trade secret. 40 C.F.R. §§350.3(a); 350.9(b),(d)(2); 350.11(a); 350.15; 350.16.
134. Petition by an industrial user (e.g., of process wastewater for a finding that the user has no reasonable potential for adversely affecting the operation of a publicly owned treatment work ("POTW") or for violating any pretreatment standard or requirement (and, hence, that the user is not a "significant" industrial user). 40 C.F.R. §403.3(t)(2).
135. Petition for reconsideration of the Regional Administrator's decision as to whether an industrial user should be included within a particular industrial subcategory. 40 C.F.R. §403.6(a)(5).
136. Petition by an industrial user, a POTW or an interested person for reconsideration of Administrator's decision on a request for a variance from a categorical pretreatment standard. -40C.F.R. §403.13(m).
137. [600.511-80(b)(2)]
138. Petition for exemption from the PCB manufacturing ban. 40 C.F.R. §750.11.
139. Petition to preserve the confidentiality of information in connection with otherwise public petition for exemption from PCB manufacturing ban. 40 C.F.R. §750.16.
140. Petition for exemption from the PCB processing and distribution in commerce prohibitions under TSCA. 40 C.F.R. §750.31(a).
141. Petition to preserve the confidentiality of information in connection with otherwise public petition for exemption from PCB processing/distribution prohibitions. 40 C.F.R. §750.36.
142. Petition for exemption from asbestos manufacturing, processing or distribution prohibitions, or to develop and use an asbestos product. 40 C.F.R. §763.173(a),(d)(3).
143. Petition for review by Administrator of hearing officer's proposed order regarding reimbursement of costs incurred under section 4(a) of TSCA. 40 C.F.R. §791.60.