authorized State) could question the completeness and adequacy of the information prepared by the TSDF owner or operator to support the stay claim with respect to the requirements of § 264.1089(i) or § 265.1090(i), as applicable to the facility.

The third condition for the stay is that the TSDF owner or operator claiming the benefit of the stay submit a one-time notification of that fact to the appropriate EPA Region or authorized State office. This notice is to state that the TSDF manages hazardous wastes otherwise subject to the subpart CC standards in tanks and containers, but is not subject to those rules by virtue of this administrative stay. The notice must include the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator. This notification is necessary to alert EPA and State officials of the existence of the facility and, thus, provides a means of verifying if the stay conditions have been satisfied. As explained above, the stay is self-implementing; therefore, no administrative action by the EPA is necessary for the stay to apply to a particular TSDF. Thus, the notification does not present facts warranting grant of a stay; rather, it notifies the EPA and State authorities that the stay is being claimed by a TSDF owner or operator.

### III. Administrative Requirements

#### A. Docket

Docket entries cited in this notice may be found in RCRA docket number F-94–CE2A-FFFFF. Other RCRA docket numbers that pertain to the final rule are F-91–CESP-FFFFF, F-92–CESA-FFFFF, and F-94–CESF-FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

# IV. Legal Authority

The EPA is issuing this administrative stay pursuant to 5 U.S.C. 705, authorizing administrative agencies to stay administrative action pending judicial review when "justice so requires." See also Rule 18 of the Federal Rules of Appellate Procedure authorizing issuance of administrative stays pending review. (A petition for review has been filed regarding applicability of the subpart CC standards to persons managing hazardous waste containing organic peroxides in tanks and containers.) The EPA believes that issuance of a stay for this type of hazardous waste is needed because the promulgated regulation

could (in the limited circumstances discussed in this notice) make it more dangerous to manage the waste. The stay is needed to prevent such an adverse result. The EPA also believes that the minimal conditions attached to the stay—documentation of the reason why the stay applies plus a one-time notification—are necessary to limit the stay only to the situations warranting relief.

To the extent good cause (pursuant to 5 U.S.C. 553 (b)) is needed to justify the Agency's immediately effective conditioned stay, the EPA believes that it is provided by the need to avoid the risks of explosion that could occur without the stay. In addition, the EPA notes that the general issue of providing a type of safety-override in the rule was addressed during the comment period and in the final rule, so that today's action arises from the notice and comment already provided during the rulemaking.

#### V. State Authority

As discussed in the final subpart CC standards (59 FR 62921, December 6, 1994), rules promulgated under RCRA section 3004(n) implement a provision of the 1984 Hazardous and Solid Waste Amendments (HSWA) and consequently take effect immediately in authorized States. The EPA will implement these standards in an authorized State until such a time when the State either: (1) modifies its RCRA program to adopt the rules and receives final authorization from the EPA for the modification: or (2) receives interim authorization from the EPA. Id. The EPA views today's conditioned stay as part of the rule, so that a State seeking authorization for the subpart CC standards should include this provision.

List of Subjects 40 CFR Parts 264 and 265

Air pollution control, Container, Control Device, Hazardous waste, Incorporation by reference, Inspection, Miscellaneous unit, Monitoring, Reporting and recordkeeping requirements, Standards, Surface impoundment, Tank, Waste determination.

Dated: September 14, 1995. Mary D. Nichols, Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 264 and 265 of the Code of Federal Regulations are amended as follows:

## PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

# Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

2. In § 264.1080, paragraph (d) is added to read as follows:

# § 264.1080 Applicability.

\* \* \* \* \*

(d) The requirements of this subpart, except for the recordkeeping requirements specified in § 264.1089(i) of this subpart, are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(1) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent -O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(2) The owner or operator prepares documentation, in accordance with the requirements of § 264.1089(i) of this subpart, explaining why an undue safety hazard would be created if air emission controls specified in §§ 264.1084 through 264.1087 of this subpart are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of paragraph (d)(1) of this section.

(3) The owner or operator notifies the Regional Administrator in writing that hazardous waste generated by an