On October 26, 1993, President Clinton issued Executive Order No. 12875, "Enhancing the Intergovernmental Partnership." This order is intended to reduce the imposition of unfunded mandates upon State, local and tribal governments. The order requires Federal agencies like EPA that impose unfunded mandates upon such governments through regulation either (1) to assure that the Federal government provides the necessary funds for compliance or (2) to describe the extent of the Agency's prior consultations with affected units of governments and the nature of their concerns. The order calls for intergovernmental consultation to begin as early as possible in the regulatory development process, preferably before the publication of the notice of proposed rulemaking. Consultation may continue after publication but must occur prior to the formal promulgation of the regulatory action containing the proposed mandate.

The rulemaking process to develop the CWT limitations guidelines and standards antedates the issuance of E.O. 12875 by a number of years as explained above. To meet its obligations under E.O. 12875, following publication of the regulation, EPA plans extensive outreach efforts to state and local governments. EPA will develop estimates of the upfront and recurring costs likely incurred by State, local or tribal governments in complying with the proposal, if adopted.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et. seq., requires EPA and other agencies to prepare an initial regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. EPA projects that today's proposed rule, if promulgated, could affect small businesses. The initial regulatory flexibility analysis for these proposed rules is incorporated into the economic impact analysis and is discussed in Section VI.A. Briefly, the small entity analysis estimates the economic impacts of the new requirements on small companies and describes the potential disparate impacts between the groups of large and Centralized Waste Treatment facilities. The analysis also presents the Agency's consideration of alternatives that might minimize the impacts on small entities.

The reasons why EPA is proposing this rule are presented in Section II. The legal basis for today's rule is presented in Legal Authority. The number of small entities and the approach for defining small entities are summarized in Section VI.A. and the economic effects on small entities detailed in the economic impact analysis report for this rulemaking. This assessment has led the Agency to conclude that small businesses are not disproportionately impacted by the proposed rule. Reporting and other compliance requirements are summarized in Sections VI. and VII. and detailed in the technical development document. While the Agency has not identified any duplicative, overlapping, or conflicting Federal rules, a discussion of other related rulemakings is presented in Section II.

F. Paperwork Reduction Act

The proposed effluent guidelines and standards contain no information collection activities and, therefore, no information collection request (ICR) has been submitted to the Office of Management and Budget (OMB) for review and approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

VIII. Solicitation of Data and Comments

A. Introduction and General Solicitation

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address any perceived deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data.

The Agency invites all parties to coordinate their data collection activities with EPA to facilitate mutually beneficial and cost-effective data submissions. EPA is interested in participating in study plans, data collection and documentation. Please refer to the FOR FURTHER INFORMATION section at the beginning of this preamble for technical contacts at EPA.

B. Specific Data and Comment Solicitations

EPA has solicited comments and data on many individual topics throughout this preamble. The Agency incorporates each and every such solicitation here, and reiterates its interest in receiving data and comments on the issues addressed by those solicitations. In addition, EPA particularly requests comments and data on the following issues:

1. Applicability of Regulation for Facilities Which Mix Centralized Waste Treatment Waste Streams With Other Industrial Waste Prior to Treatment or After Minimal Treatment

The Agency is asking for comment on whether the guidelines and standards should apply to categorical facilities which receive limited quantities of CWT waste streams for treatment. The Agency considered two approaches for this proposal.

The first approach EPA considered would have limited the applicability of the guidelines and standards to facilities which treat only the defined CWT wastes without any mixing of wastes with other categorical wastes. EPA. however, has rejected this approach for the proposal because of concern that this would create a loophole. If CWT wastes could be mixed with other wastes for treatment and escape regulation as CWT wastes, there exists significant possibility that economically achievable reduction of CWT pollutant discharge levels will not be met. The Agency believes that if the guidelines and standards do not apply to CWT wastes mixed with other waste streams there is significant potential for blending waste streams to avoid otherwise required effluent reduction levels.

Under the approach EPA is proposing, CWT wastes that are mixed with other categorical waste streams or other waste streams will be subject to CWT effluent limitations and standards. Even under this second approach, however, there exists significant potential to avoid achieving CWT effluent reduction levels by mixing wastes. Therefore, in order to ensure that facilities mixing CWT wastes and non-CWT waste streams actually treat the CWT wastes, the Agency is also proposing to require separate monitoring for compliance with CWT standards or limitations waste streams (or alternatively, a demonstration that treatment of mixed CWT wastes and other waste streams achieves the required pollutant reductions). (See discussion below.) In the absence of a requirement for separate monitoring for compliance of CWT waste streams, promulgation of the CWT guideline could have the perverse result of, in fact, discouraging centralized treatment by encouraging categorical facilities to accept CWT waste streams that are diluted with other waste streams before treatment. The result would be no treatment for the CWT wastes and no achievement of effluent reduction obtainable at facilities treating only CWT wastes. The Agency is asking for comment on this approach.

2. Monitoring To Demonstrate Compliance With CWT Limitations and Standards

EPA is today proposing to require each CWT facility that discharges wastewater resulting from the treatment of CWT wastes to monitor to demonstrate compliance with