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Inside the Hotline

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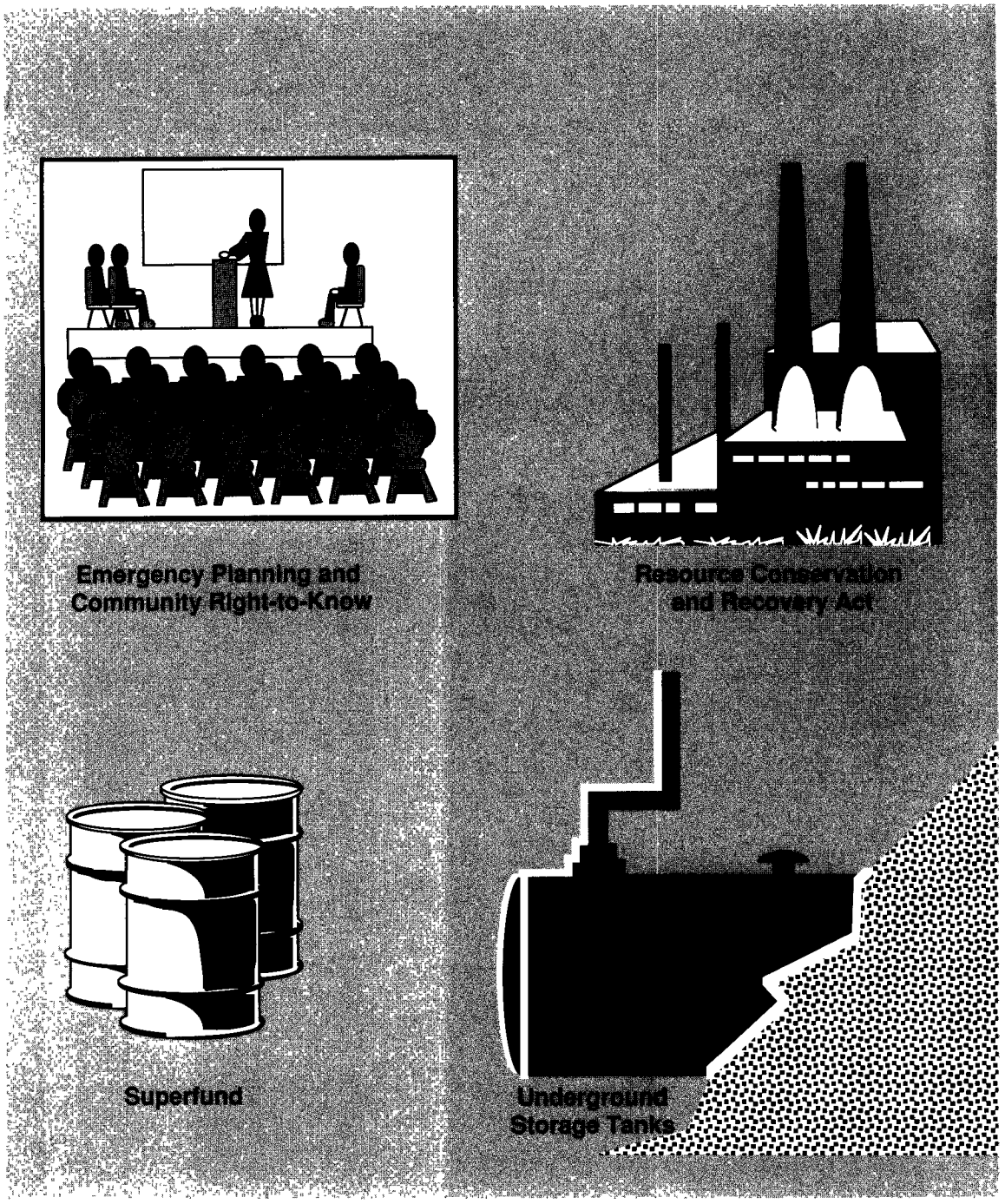

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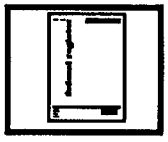

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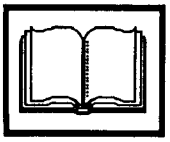

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INTRODUCTION

The Resource Conservation and Recovery Act (RCRA)/Superfund (SF)/Office of Underground Storage Tanks (OUST) and Emergency Planning and Community Right-to-Know (EPCRA) Hotlines were established to respond to inquiries from the regulated community and the public concerning waste management and disposal regulations. The Hotline also serves as a referral point on the availability and distribution of program related documents and published materials.

This document is a compilation of Questions and Answers, and Federal Register Summaries from individual Monthly Hotline Reports for the period of January to December 1991. It is divided into three parts: Questions and Answers, Federal Register Summaries, and Indices to the questions, according to subject matter, regulatory and statutory citations.

It is important that the reader be aware of the purpose and limitations of the information in this document. Neither the questions nor the Federal Register summaries are intended to fully represent or be used in place of the regulations. This document can be used by its reader to explore the application of the regulations in different scenarios or to shed light on complex issues. For an understanding of the actual regulatory requirements in any given situation, the reader must consult the appropriate sections of Title 40 of the Code of Federal Regulations (CFR), pertinent Federal Registers and EPA guidance documents, as well as relevant State regulations.

This document, *Inside the Hotline: A Compilation of 1991 Monthly Hotline Reports*, is available for purchase from the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, 1 (800) 553-6847 or (703) 487-4650. The NTIS Order No. is: PB92-131 390.

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PART 1: QUESTIONS AND ANSWERS

All questions and answers are compiled from individual RCRA/Superfund/OUST and EPCRA Monthly Hotline Reports for the period of January to December 1991 with the exception of those in the EPCRA section, which have been revised since originally published. The questions are a result of commonly-asked or significant issues from Hotline callers. The answers provided have undergone program and legal review, unless otherwise noted, and often reference other pertinent sources of information such as CFR citations, Federal Register notices and Agency memoranda.

Again, these explanations and examples of regulatory application are for informational purposes only, and do not represent the issuance of formal policy or in any way affect the implementation of the regulations.

Keywords are provided in the left-hand margin at the beginning of each question. The month the question appeared in the "Hotline Monthly Report" is cited at the end of the entry. To pinpoint a subject or topic more specific than the general regulatory area headings, please use the Indices in Part 3. The questions in this section are grouped by EPA program area, then further grouped under broad, general regulatory areas and titles.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Boilers And Industrial Furnaces (BIFs)

Key Words:

Btu/lb heating value; certification of compliance; and recycling

"Sham Recycling Policy As Applied to Certified BIFs"

QUESTION: The February 21, 1991, Federal Register (56 FR 7134) promulgated regulations for hazardous waste boilers and industrial furnaces (BIFs) found at 40 CFR Part 266, Subpart H. The preamble (page 7183) to the rule explains that prior to certification of compliance with the emissions standards under §266.103(c), BIFs (other than BIFs burning waste solely as an ingredient or solely for material recovery) must comply with EPA's sham recycling policy published in the March 16, 1983, Federal Register (48 FR 11157). This policy requires burners of hazardous waste who claim that their burning activities constitute legitimate recycling to demonstrate that the waste has a heating value of 5,000 Btu/lb or more. How does the sham recycling policy apply to BIFs which have certified compliance with the §266.103(c) air emissions standards under the BIF rule?

ANSWER: Certified BIFs are no longer required to prove that the wastes they are burning have an as-generated heating value of 5,000 Btu/lb or more. The requirement that burning be protective of human health and the environment is now satisfied through compliance with emissions standards. The February 21, 1991, BIF rule states that the sham recycling policy stays in effect (except for wastes fed solely as an ingredient or solely for material recovery) until an existing facility certifies compliance with the emissions standards of §266.103(c) (56 FR 7149).

The 5,000 Btu/lb policy was intended to prevent the burning of hazardous wastes for destruction purposes (i.e., incineration) rather than for energy recovery in units which do not meet incinerator standards. Wastes going to boilers which are not legitimately burning for energy recovery are likely to vent hazardous contaminants to the atmosphere as unburned or partially burned combustion products, presenting a risk to human health and the environment. By requiring burners to demonstrate that a waste's heating value is greater than or equal to 5,000 Btu/lb, the Agency is able to assure a high enough temperature and long enough residence time in the boiler to destroy hazardous constituents at a rate which is protective of human health and the environment. After certification of compliance, however, protection of human health and the environment will be achieved through the new air emission standards. **(October 1991 Monthly Hotline Report)**

Generators

Key Words:

Hazardous waste definition; LDR treatment standard; recordkeeping; waste code; and generators

"Generator Waste Determination and Land Disposal Restrictions (LDR) Recordkeeping Modifications"

QUESTION: The Land Disposal Restrictions (LDR) Third Third final rule (55 FR 22520; June 1, 1990) revised the waste identification requirements of 40 CFR §262.11. Prior to the revision, §262.11 set out an either/or scheme where, if the generator determined that a waste was listed in Part 261, Subpart D, he or she need not determine whether the waste exhibited a characteristic under Part 261, Subpart C. With the promulgation of the Third Third rule, the Agency amended §262.11 to indicate that generators must determine whether listed wastes also exhibit any hazardous waste characteristics for purposes of compliance with LDR.

A generator is required to develop and maintain records for hazardous waste under two regulatory programs: LDR (Part 268) and generator standards (Part 262). How does the amended language of 40 CFR §262.11(c) affect the paperwork associated with these two regulatory programs?

ANSWER: The amended language of §262.11(c) does not affect the generator paperwork required in Part 262. When a generator determines that a solid waste is a Part 261, Subpart D hazardous waste, he or she is not required to determine whether the listed waste exhibits any characteristics for purposes of filling out Part 262 paperwork such as generator notification forms (8700-12) and biennial reports. (The generator may elect to determine whether the waste exhibits a characteristic for his or her own information or for other reasons.) On the other hand, the paperwork of Part 268 must reflect the amended language of §262.11(c), which states that for the purposes of compliance with Part 268 a generator must determine if a listed waste is also characteristically hazardous.

The general principal of the §262.11 waste identification modification is that if both the treatment standard for a listed waste and the treatment standard for a characteristic waste are in effect for a common constituent, then the treatment standard for the listed waste applies because it is more specific. If, however, the treatment standard for the listed waste does not specifically address the characteristic(s), the waste codes for both the listed waste and the characteristic waste(s) should be included on the notification paperwork for §268.7 (55 FR 22659). In the Third Third technical amendment rule (56 FR 3864; January 31, 1991), the Agency provided an example of this second scenario. K062 is listed for toxicity as well as for the characteristic of corrosivity. Because the K062 treatment standard does not specifically address the characteristic of corrosivity, both K062 and D002 must be included in the §268.7 paperwork (56 FR 3872).

"Generator Waste Determination and LDR Recordkeeping Modifications" (cont'd)

ANSWER (cont'd): There is also a variation of the principle illustrated above. If the most specific treatment standard is subject to a national capacity variance or a case-by-case extension and thus is not yet in effect, then the treatment standard for the most specific waste code that is in effect must be met. The January 31, 1991, Federal Register also provides an example of this situation. During the K048 variance period from August 8, 1990, until November 8, 1990, K048 was subject to the treatment standards for EP toxic chromium and lead (D007 and D008) since the treatment standards for these two characteristics were in effect. After the variance expired for K048, §268.7 notification for the K048 treatment standard would only apply because the listing treatment standard is more waste-specific than the two characteristic waste treatment standards (56 FR 3873). **(March 1991 Monthly Hotline Report)**

Land Disposal Restrictions

"Treatment Standard for Reinjected Groundwater from Corrective Action"

Key Words:

Contained-in; corrective action; groundwater; hazardous waste definition; LDR treatment standard; and underground injection

QUESTION: For the purposes of RCRA corrective action, must all contaminated groundwater that is withdrawn from an underlying drinking water aquifer be treated to BDAT standards established in the Land Disposal Restrictions (LDR) (40 CFR Part 268) prior to reinjection of the water into the same aquifer?

ANSWER: No. There are two provisions which potentially restrict or prohibit injection of contaminated groundwater: LDR under RCRA §3004 and the injection prohibition under RCRA §3020(a).

Groundwater which is not contaminated with "hazardous waste" is not subject to either LDR or §3020. Groundwater which contains hazardous waste, but for which there is no LDR standard, is subject only to §3020.

RCRA §3020(a) prohibits the disposal of a hazardous waste by underground injection into or above an aquifer formation which contains an underground source of drinking water. Section 3020(b) specifies that such prohibition does not apply to contaminated groundwater which is reinjected into an aquifer from which it was withdrawn if three criteria are met: (1) it is part of a corrective action required under RCRA or CERCLA intended to clean up such contamination; (2) the contaminated groundwater is treated to substantially reduce hazardous constituents prior to reinjection; and (3) the proposed corrective action will be sufficient to protect human health and the environment upon completion.

"Treatment Standard for Reinjected Groundwater from Corrective Action" (cont'd)

ANSWER (cont'd): Groundwater contaminated by a hazardous waste for which treatment standards have been promulgated is also subject to the prohibition in § 3020(a). Moreover, EPA has interpreted the waiver provision under § 3020(b) to also be available for these wastes. (See OSWER Directive 9234.1-06.) Under this interpretation, the §3004 restrictions otherwise applicable to disposal of contaminated groundwater have been superceded, where the waste is disposed of by underground injection, by the restrictions on such disposal under §3020. Thus, if the implementing agency at a particular site finds that the treatment of groundwater as part of the response action has "substantially reduced" the hazardous constituents and the response action is "sufficient to protect human health and the environment," then the groundwater may be reinjected even if it does not meet otherwise applicable BDAT requirements. **(April 1991 Monthly Hotline Report)**

PERMITS

"Interim Status Part A Permit Application Withdrawal"

Key Words:

Generator accumulation; interim status; Part A permit; protective filer; and treatment

QUESTION: A generator is treating hazardous waste on-site in its 90-day accumulation tanks. The waste exhibits a toxicity characteristic (TC). A Part A application for 40 CFR Part 265 interim status was filed prior to the effective date of the TC rule. The generator subsequently discovered that a permit is not required for treatment in accumulation tanks provided that the tanks are operated in strict compliance with all applicable standards referenced in 40 CFR §262.34 (51 FR 10168). What procedures should be followed for the Part A permit application to be withdrawn? Would the generator be subject to interim status standards until the application is withdrawn?

ANSWER: In an internal memorandum, EPA clarified the protective filer procedures for withdrawal of a Part A permit application. The memorandum stated that filings for facilities which have not been regulated under interim status standards should be returned to the owner or operator, preferably after EPA has (1) obtained written confirmation that the facility was not subject to the permitting requirements, and (2) possibly conducted an investigation to verify the data. Such a facility is not subject to the Part 265 standards prior to the application being withdrawn.

RCRA §3005(e) states that the interim status standards apply to any person who owns or operates a facility required to have a permit under that section. If, in fact, the facility has not managed hazardous waste in a manner that would subject it to regulation, then the Part 265 standards would not be applicable, even if a Part A permit application had been mistakenly submitted (as in the case of protective filers). Thus, the generator would not have to operate or close in accordance with interim status standards. **(June 1991 Monthly Hotline Report)**

State Programs

"Air Emission Permitting and Closed-loop Recycling Units"

Key Words:

Emissions; permit; recycling; solid waste definition; and state program

QUESTION: A closed-loop recycling unit is located at a treatment, storage, or disposal facility (TSDF) in Pennsylvania. While 40 CFR §261.4(a)(8) exempts materials which are reclaimed in these units from the definition of solid waste, the Commonwealth of Pennsylvania does not honor that exemption in its State program. The material in the recycling unit, therefore, becomes hazardous waste under Pennsylvania law.

The June 21, 1990, rule on organic air emissions for equipment leaks (55 FR 25454) provides standards for "equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight" in units which are subject to permitting under Part 270. Under Pennsylvania regulations, the closed loop recycling unit is subject to TSDF permitting. Would this unit be required to comply with the air emissions standards?

ANSWER: While the closed-loop unit does contain "hazardous waste" under Pennsylvania regulations, the material inside is not considered solid waste (and so not a hazardous waste) under the Federal program. This State provision extends control over a unit not regulated by Federal RCRA requirements, increasing the size of the regulated community and thus becoming "broader in scope" than the Federal program. Although the Federal government retains enforcement authority in authorized States over State provisions which are more stringent than Federal standards, it does not have jurisdiction over provisions which are broader in scope (see OSWER Directive 9541.04(84)). Since the closed-loop unit is only brought under State regulation by a provision which is not part of the authorized program, Federal standards, including the air emissions rule, would not apply.

Until such time as the State revises its program to incorporate the June 21 rule, there is no authority for EPA to enforce the RCRA emissions standards for the closed-loop unit. It is still possible, however, for the State to write its own regulations governing air emissions with which the unit would have to comply. **(July 1991 Monthly Hotline Report)**

TSDFs

"Closure and Post-Closure After Loss of Interim Status"

Key Words:

Closure; enforcement; interim status; land disposal unit; and Part A permit

QUESTION: Pursuant to 40 CFR §270.73(c)(2), a Subtitle C land disposal facility lost its interim status due to the owner/operator's failure to submit certification that the facility was in compliance with all applicable groundwater monitoring and financial responsibility requirements. The owner/operator has been told by his enforcement agency that he is required to close his facility in accordance with 40 CFR Part 265, Subpart G closure standards. If the facility has lost its interim status to operate, why should the owner/operator be required to comply with interim status standards to close the facility?

ANSWER: According to 40 CFR §265.1(b), the standards of Part 265 are applicable to interim status facilities until Part 265 closure and post-closure responsibilities are fulfilled. As EPA explained in the preamble to its November 21, 1984, amendments to the applicability sections of Part 265 (49 FR 46094), EPA has statutory authority under RCRA §3004 to enforce the Part 265 standards at facilities which no longer have interim status to operate. The preamble explains that such facilities must close in accordance with 40 CFR Part 265, Subpart G. The September 25, 1985, Federal Register (50 FR 38949) specifically indicates that compliance with all applicable closure and post-closure requirements specified in 40 CFR Part 265, Subpart G is required when a facility has lost its interim status due to the owner/operator's failure to submit certification of compliance with all applicable groundwater monitoring and financial requirements to the Regional Administrator (40 CFR §270.73(c)(2)). Such a facility owner/operator must, in accordance with 40 CFR §§265.112(d)(3)(i) and 265.118(e)(1), submit a closure and post-closure plan to the Regional Administrator no later than 15 days after termination of interim status. **(October 1991 Monthly Hotline Report)**

"Drip Pad Administrative Stay for Wood Preserving Facilities"

Key Words:

Drip pad; F032; F034 F035; waste code; and wood preserving

QUESTION: On June 13, 1991, EPA announced an administrative stay that extends the date by which owners and operators of facilities that manage F032, F034, and F035 wastes on drip pads are required to comply with the standards of Parts 264/265 Subpart W (56 FR 27332). How does this affect the management and disposal of wood preserving wastes?

"Drip Pad Administrative Stay for Wood Preserving Facilities" (cont'd)

ANSWER: Three new listings for wastes generated by wood preserving processes, F032, F034, and F035, were finalized on December 6, 1990 (55 FR 50450). Due to the inability of a significant portion of the affected facilities to comply with the new drip pad standards by the effective date of June 6, 1991, EPA announced an administrative stay that postpones the applicability of the new listings to certain process areas and drip pads at facilities that "intend to comply with the Subpart W standards and that are willing to make bona fide efforts to do so during the stay period" (56 FR 27333). In order to qualify for the stay, by August 6, 1991, affected facilities must have notified the appropriate authorized State or EPA Regional Office of their intent to comply with the new regulations or to cease operation (56 FR 27333). By November 6, 1991, affected facilities must have submitted a second notification providing evidence that they expect to comply in good faith.

Provided the facility gives proper notice, certain activities which would otherwise constitute disposal of F032, F034, or F035 wastes into a process area or onto an existing drip pad are not regulated during the stay. Nevertheless, the removal or subsequent management of such wastes outside of the process area or drip pad, including soil contaminated with these wastes, would be considered generation of a hazardous waste and cause the waste to become subject to regulation under Subtitle C of RCRA. The scope of the stay is therefore limited, and applies only to those wood preserving wastes managed in process areas or on existing drip pads (56 FR 27333). In addition, any active management of previously unregulated wastes after the expiration of the stay would constitute generation of an F032, F034, or F035 waste.

Although the administrative stay does postpone the effective date of the F032, F034, and F035 listings for certain wastes, these wastes may already be regulated as hazardous if they exhibit the toxicity characteristic (TC). During the stay, wood preserving wastes which exhibit the TC are subject to full Subtitle C regulation, and cannot be disposed of on the land except in a properly permitted land disposal facility. According to 40 CFR §§264.570(a) and 265.440(a), Subpart W standards "apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and/or surface water run-on* to an associated collection system." Therefore, owners and operators who manage wood preserving wastes which exhibit the TC on drip pads must be in compliance with Subpart W (55 FR 50470-71). **(June 1991 Monthly Hotline Report)**

*NOTE: Per the technical correction notice signed on June 21, 1991 (55 FR 50470-71).

Waste Identification

Key Words:

Contained-in; corrective action; F039; groundwater; hazardous waste definition; LDR treatment standard; leachate; underground injection; and waste code

"Leachate-Contaminated Groundwater"

QUESTION: Hazardous waste migration from an active Subtitle C landfill has resulted in local groundwater contamination. As part of a corrective action at the facility, 400 gallons of contaminated groundwater are withdrawn from the uppermost aquifer and sent off-site for underground injection. During the course of the cleanup, the facility determined that a leachate resulting from the disposal of a variety of listed hazardous wastes is responsible for the contamination. In accordance with the EPA "contained-in" policy, the groundwater must be managed as a hazardous waste, (i.e., leachate from the landfill). For purposes of compliance with the Land Disposal Restrictions (LDR) in 40 CFR Part 268, which hazardous waste classification and treatment standard would apply to the groundwater?

ANSWER: The leachate meets the definition of a multisource leachate that is derived from the treatment, storage or disposal of more than one listed waste, excluding F020-F023 and F026-F028. In the Third Third LDR rule promulgated on June 1, 1990 (55 FR 22520), EPA announced its decision to eliminate the practice of classifying multisource leachate according to the various listed wastes from which it was derived. In this rule, the Agency established a separate treatability group for multisource leachate, classified by a single waste code, F039 (55 FR 22619). The effective date for this new designation was August 8, 1990, at which time the landfill facility was required to classify its groundwater, or more precisely, the multisource leachate contained in the groundwater, as F039 (55 FR 22650).

Although the F039 waste classification became effective on August 8, 1990, EPA granted a two-year national capacity variance until May 8, 1992, for F039 wastewaters that are destined for underground injection (40 CFR §148.16). The extension of the effective date was based on EPA's assessment that current treatment capacity for underground injected F039 wastewaters was insufficient to require an immediate LDR prohibition effective date (55 FR 22646). During the period in which the variance is in effect, the F039 groundwater mixture, if disposed of in a landfill or surface impoundment, must be managed in a unit that satisfies the minimum technological standards in RCRA §3004(o)(1)(A) (40 CFR §268.5(h)(2)). After May 8, 1992, the F039 groundwater must meet the F039 treatment standards for all applicable constituents as described in 40 CFR §268.43, Table CCW, prior to underground injection (55 FR 22623-22626). **(January 1991 Monthly Hotline Report)**

"Municipal Waste Combustion Ash"

Key Words:

Ash; Clean Air Act Amendments; hazardous waste definition; and municipal waste

QUESTION: Two cities have recently constructed combustion facilities to manage municipal solid waste. The first city has an energy recovery plant, while the second has a non-energy recovery incinerator. Both units generate fly and bottom ash. Would these types of ash be subject to RCRA hazardous waste regulations if the ash exhibited the toxicity characteristic?

ANSWER: No, the ash would not be subject to 40 CFR §261.24 toxicity characteristic (TC) regulation. The Clean Air Act Amendments of 1990 were enacted on November 15, 1990. Section 306, entitled "Ash Management and Disposal," established that for a period of two years after the date of enactment, Municipal Waste Combustion (MWC) ash from "solid waste incineration units" would not be regulated as a RCRA Subtitle C waste should it exhibit a hazardous waste characteristic of ignitability, corrosivity, reactivity, or toxicity (40 CFR Part 261, Subpart C). (MWC ash would not be regulated as a hazardous waste under 40 CFR Part 261, Subpart D since it is not listed.). The description "ash from solid waste incineration units burning municipal waste" includes fly and bottom ash from both energy recovery and incineration facilities managing municipal waste. During the two-year moratorium, however, MWC ash would be subject to: (1) current Federal regulations in 40 CFR Part 257 governing the disposal of solid waste, (2) State regulations governing solid waste disposal, and (3) State regulations governing municipal waste combustion ash disposal or utilization and reuse, where they exist. See also Environmental Defense Fund, Inc. v. Wheelaborator Technologies, Inc., Docket No. 90-7437 (2d Cir., April 24, 1991). **(May 1991 Monthly Hotline Report)**

"Off-specification Circuit Printing Boards"

Key Words:

Commercial chemical product; hazardous waste definition; recycling; and solid waste definition

QUESTION: Periodically, in a circuit board manufacturing process, individual circuit boards fail to meet manufacturing specification standards. These units are dismantled and the materials are reclaimed for use in the construction of new circuit boards. Assuming the circuit boards would exhibit a hazardous characteristic under 40 CFR Subpart C, would the dismantling and recycling of the boards be subject to RCRA Subtitle C hazardous waste regulations?

"Off-specification Circuit Printing Boards" (cont'd)

ANSWER: No, reclamation of the off-specification circuit boards would not be subject to the RCRA Subtitle C hazardous waste regulations because the circuit boards are not hazardous wastes.

By definition, for a waste to be a hazardous waste, it must be a solid waste (40 CFR §261.3). To determine whether a material is a solid waste when reclaimed, it must first be determined whether the material is a spent material, sludge, byproduct, commercial chemical product, or scrap metal (40 CFR §261.2(c)(3)). An unused circuit board is classified in the chemical products category. Although the commercial chemical products category in Table 1 of 40 CFR §261.2(c)(3) is labeled "commercial chemical products listed in 40 CFR §261.33," as explained in a Federal Register notice published on April 11, 1985 (50 FR 14219), the status of commercial chemical products not listed in 40 CFR Part 261 (i.e., those that exhibit hazardous waste characteristics) is "the same as those that are listed in §261.33." These materials are normally solid wastes only if thrown away, and so are not solid waste if reclaimed. Further, the Agency interprets commercial chemical products to include all types of unused commercial products that exhibit hazardous waste characteristics, whether or not they would commonly be considered chemicals (e.g., circuit boards, batteries, and other types of equipment).

Once it has been determined that the circuit boards are commercial chemical products, 40 CFR §261.2(c)(3) indicates that they are not solid wastes when they are to be reclaimed. Since the circuit boards are not solid wastes, they are not hazardous wastes and the reclamation is not subject to RCRA Subtitle C hazardous waste regulations. The 40 CFR §261.2(f) requirement (persons who raise a claim that a material is not a solid waste must document that they meet the terms of the exemption) also may be applicable. **(August 1991 Monthly Hotline Report)**

"Petroleum Refinery Wastewater Treatment Sludge"

Key Words:

F037; F038; hazardous waste definition; petroleum refinery waste; and waste code

QUESTION: A petroleum refinery produces large volumes of process and oily cooling wastewaters. Prior to discharge into the facility's privately owned treatment works, the wastewater undergoes treatment to meet applicable Clean Water Act discharge limits. At various points throughout the wastewater treatment process, the facility generates a sludge which is disposed of in a RCRA Subtitle D landfill. The November 2, 1990, Federal Register (55 FR 46354) promulgated two new petroleum refinery wastewater treatment sludge listings: F037 and F038. After May 2, 1991, the effective date of this rule, which of the facility's treatment sludges will need to be classified according to the new designations and therefore become subject to RCRA Subtitle C requirements?

"Petroleum Refinery Wastewater Treatment Sludge" (cont'd)

ANSWER: In developing the new listings, EPA concluded that sludges resulting from various petroleum refinery wastewater treatment sources contain similar levels of hazardous constituents as those generated in Dissolved Air Flotation (DAF) units and American Petroleum Institute (API) separators, which are already designated as K048 and K051, respectively. Consequently, the Agency promulgated the nonspecific source F037 and F038 waste listings to ensure that regulatory coverage was extended to all petroleum floats and sludges resulting from primary wastewater treatment that are not covered under more unit-specific K designations (55 FR 46356).

To determine the applicability of the F037 and F038 listings, the facility must ascertain the origin of the wastewater treatment sludges. Petroleum refinery process and oily cooling wastewaters are generally treated in two phases: primary treatment and secondary (biological) treatment. Primary wastewater treatment in the petroleum refining industry covers only the two initial stages of treatment which are designed to use physical and chemical processes to separate oil, water and solids from the wastewater stream.

Specifically, the F037 listing description is assigned to sludges resulting from the first stage of primary treatment where gravitational oil/water/solids separation is performed. The F038 designation pertains to floats and sludges that arise from the second stage of primary treatment in which physical and chemical processes are employed to separate emulsified oil/water/solids from refinery wastewaters (55 FR 46363). Note that sludges resulting from secondary wastewater treatment, which are distinguished by the active biological degradation phase that follows primary treatment, are not covered by the new petroleum refinery sludge rule.

A final consideration when determining the scope of the F037 and F038 listings is the exemptions for sludges generated from specific situations. These include (1) sludges generated from stormwater units that do not receive dry weather flow; (2) sludges (or floats) generated from aggressive treatment units; and (3) sludges resulting from specific wastewater treatment units already designated as K048 and/or K051 (55 FR 46358). The exemptions ensure that only sludges and floats resulting from previously unregulated activities or activities within the scope of the new listings (i.e., only primary treatment) are identified as hazardous under the F037 and F038 waste codes. **(February 1991 Monthly Hotline Report)**

"Solvent Wastes F001 and F002 Definitions Compared"

Key Words:

Degreasing; F001; F002 hazardous waste definition; solvent waste; and waste code

QUESTION: Tetrachloroethylene, trichloroethylene, methylene chloride, and 1,1,1-trichloroethylene are listed in the definitions of both F001 and F002 in 40 CFR §261.31. The listing for F001 reads "the following spent halogenated solvents used in degreasing...," while the F002 listing begins with "the following spent halogenated solvents...." Although F001 applies specifically to solvents used in degreasing according to the December 31, 1985, Federal Register, the F001-F005 listings cover only those solvents used for their solvent properties. A solvent used in degreasing is considered to be used for its solvent properties (50 FR 53316). Thus, a solvent which is listed in both F001 and F002 (e.g., methylene chloride) and is used in degreasing could be both F001 and F002. Would such a spent solvent be appropriately classified as F001, F002, or both?

ANSWER: It was not the Agency's intent to apply both listings to a solvent constituent which is listed in both F001 and F002. The waste code that the spent solvent receives depends on the type of degreasing involved. Page 6 of the *Listing of Hazardous Waste (40 CFR §§261.31 and 261.32); Identification and Listing of Hazardous Waste Under RCRA, Subtitle C, §3001* (also known as the Background Listing Document) clarifies the intent of the F001 listing as opposed to other spent solvents. Specifically, the F001 listing is appropriate when tetrachloroethylene, trichloroethylene, methylene chloride, and 1,1,1-trichloroethane are used in large-scale industrial degreasing operations (e.g., cold cleaning, open top and conveyorized vapor degreasing, and fabric scouring). Alternatively, tetrachloroethylene, trichloroethylene, methylene chloride, and 1,1,1-trichloroethane used in equipment cleaning or in smaller scale degreasing operations involving repair work (that do not employ industrial degreasing processes as described above), such as industrial maintenance and repair, commercial service and repair, and consumer-performed maintenance and repair, receive the F002 listing. **(May 1991 Monthly Hotline Report)**

"Wastewater Trucked Under Section 261.3(a)(2)(iv)(A) Exemption"

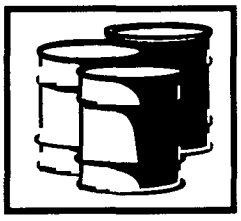
Key Words:

De minimis; mixture; solvent waste; transportation; and wastewater treatment unit

QUESTION: A treatment, storage and disposal facility manages a wastewater which is a mixture of a solid waste and trichloroethylene in de minimis quantities, as defined in §261.3(a)(2)(iv)(A). If the facility transports the wastewater in trucks from an on-site sump to its on-site NPDES-permitted wastewater treatment unit, does the waste still qualify for the exemption from the definition of hazardous waste under §261.3(a)(2)(iv)?

"Wastewater Trucked Under Section 261.3(a)(2)(iv)(A) Exemption" (cont'd)

ANSWER: Yes, the waste still qualifies for the exemption. Section 261.3(a)(2)(iv) does not limit the means by which the wastewater may reach the wastewater treatment unit in order to be eligible for the exemption from the definition of a hazardous waste. The exemption requires only that that the wastewater be treated in a wastewater treatment unit at a facility subject to regulation under either §402 or § 307(b) of the Clean Water Act and that the wastewater meet the de minimis levels established in paragraphs (A) through (E) of §261.3(a)(2)(iv). **(July 1991 Monthly Hotline Report)**



SUPERFUND (SF)

Hazardous Sustances

"CAA Amendments Hazardous Air Pollutants Under UST Program"

Key Words:

Clean Air Act Amendments; hazardous substance; regulated substance; and underground storage tank

QUESTION: Section 301 of the Clean Air Act Amendments of 1990 modifies the Clean Air Act (CAA) of 1986 by incorporating within §112 a list of 189 hazardous air pollutants. Many of these pollutants were not previously regulated under the CAA. Would an underground storage tank (UST) containing a newly designated CAA hazardous air pollutant be subject to the standards promulgated in 40 CFR Part 280?

ANSWER: Yes. Owners and operators of USTs containing regulated substances, as defined in §280.12, must comply with the Part 280 standards. A regulated substance is any hazardous substance designated pursuant to §101(14) of CERCLA (excluding any substance regulated as a hazardous waste under Subtitle C of RCRA), and petroleum products or any fraction thereof. The term hazardous substance under §101(14) of CERCLA is defined as any substance designated pursuant to §3001 of RCRA, §112 of the CAA, §§307(a) and 311(b)(2)(A) of the Federal Water Pollution Act, §7 of the Toxic Substances Control Act, and any substance so designated in §102 of CERCLA. When a substance is added under a statute identified in CERCLA §101(14) it would then become a CERCLA hazardous substance by statutory definition and therefore become a regulated substance under Part 280. Although the new CAA substances that were not previously CERCLA hazardous substances have not yet been codified in §302.4 (the regulatory list of CERCLA hazardous substances), any underground storage tank storing these substances must be in compliance with the requirements of 40 CFR Part 280 regulations.

Note that any of the new substances or chemical categories added to the CAA that are CERCLA hazardous substances (e.g., ethylene glycol) or petroleum products are subject to regulation under Part 280 and this would not change. **(October 1991 Monthly Hotline Report)**

Notification

"Citizen Notification for CERCLIS Sites"

Key Words:

CERCLIS; citizen notification; discovery; petition; and preliminary assessment

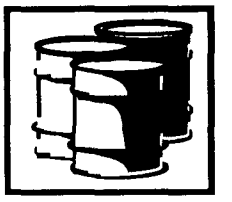
QUESTION: A citizen is interested in knowing the process for getting a site into the CERCLA Information System (CERCLIS) and having a site reviewed by EPA to see if there is contamination. How are sites discovered, and how can a citizen have a site listed in CERCLIS?

ANSWER: CERCLIS is the national database that EPA uses as a tool to track activity at potential and actual hazardous waste sites. Once the site is entered in CERCLIS, EPA or another appropriate agency reviews the site and site information to determine if cleanup actions are necessary. This process is known as site assessment. There are several avenues for site discovery or notification and resultant entry into CERCLIS and subsequent Preliminary Assessment (PA).

Section 300.405 of the National Contingency Plan (NCP) lists the primary methods of discovery and notification. Notification may come from a facility, a government agency, or a citizen. The primary methods available to a citizen are reporting observations and submission of citizen petitions. Public observations should be reported to the 24-hour emergency response telephone number for each EPA Region, to the Coast Guard, or to the National Response Center.

Once EPA has assessed and, if necessary, responded to the immediate danger, the on-scene coordinator (OSC) submits a standard report and site information is entered into CERCLIS. In the case of a nonemergency threat, the site is entered into CERCLIS and the PA process begins. All sites in CERCLIS must have a PA within a year of notification.

The 1986 amendments to CERCLA (§105(d)) require EPA to give timely consideration to citizen petitions for preliminary assessment of a site. Such petitions may be submitted by any organization affected by a release or threat of release. There is a sample format included in the Fact Sheet, "Preliminary Assessments Petitions," available from NTIS (PB90-273 723). The petition need not follow the exact format but must contain basic information about the person or group submitting the petition, the location, and the actual or potential effect of the release. The petition should be sent to the EPA Regional Administrator or, if the potential site is on Federal land, the petition should be sent directly to the Federal agency that owns the land. More than 11 percent of the 33,000 sites in CERCLIS were identified through citizen notice. **(March 1991 Monthly Hotline Report)**



Key Words:

Newspaper notice; and release

"Notice to Potentially Injured Parties"

QUESTION: The owner of a facility identifies a release of a hazardous substance that poses a threat to persons residing near the facility. The owner is concerned about statutory and regulatory requirements for notification to potentially injured parties. According to §111(g) of CERCLA, the President must promulgate rules and regulations with respect to notification to be provided to potentially injured parties from a release of a hazardous substance. CERCLA §111(g) states that "[u]ntil the promulgation of such rules and regulations, the owner and operator of any vessel or facility from which a hazardous substance has been released shall provide reasonable notice to potentially injured parties by publication in the local newspaper serving the affected area." Have such regulations been promulgated pursuant to CERCLA §111(g), or does the statute contain the only provision for such notice?

ANSWER: No regulations have been promulgated pursuant to §111(g) of CERCLA. Thus an owner or operator would be required to publish notice to potentially injured parties in a newspaper serving the affected area as provided by the statute. **(May 1991 Monthly Hotline Report)**

Reportable Quantities

Key Words:

Hazardous substance; release; and reportable quantity

"Release Into the Environment of Hazardous Substances"

QUESTION: A facility has a spill of metal chloride into the soil. Workers clean up the release by applying water to the spill. With the application of the water, a chemical reaction takes place with the metal chloride, converting into hydrochloric acid. What are the possible reporting requirements under 40 CFR §302.6?

ANSWER: According to 40 CFR §302.6, a release of a reportable quantity (RQ) or more of a hazardous substance into the environment during any 24-hour period is reportable. The term "release into the environment" is defined in the April 4, 1985, Federal Register (50 FR 13456) and includes "...spills from tanks or valves onto concrete pads or into lined ditches open to the outside air, releases from pipes into open lagoons or ponds, or any other discharges that are not wholly contained within buildings or structures" (50 FR 13462).

If the particular metal chloride is not a specifically listed hazardous substance under CERCLA, then the initial spill of the metal chloride into the soil is not reportable. In the process of cleaning up the spilled material, however, a CERCLA hazardous substance, hydrochloric acid, is generated. Therefore, a release of a CERCLA hazardous substance into the environment has occurred. Notification is required if an RQ or more of the hydrochloric acid is released within a 24-hour period.

"Release Into the Environment of Hazardous Substances" (cont'd)

ANSWER (cont'd): If the particular metal chloride is a specifically listed CERCLA hazardous substance, then the initial spill of the metal chloride into the soil becomes reportable when an RQ or more is released within a 24-hour period. If upon cleaning up the spill another CERCLA hazardous substance is produced, this release also should be reported when an RQ or more is released within a 24-hour period.

Furthermore, certain persons connected to releases of CERCLA hazardous substances are liable for the cleanup of the release under CERCLA §107(a). Also, note that some substances that fall within listed broad generic categories are CERCLA hazardous substances (50 FR 13461). **(February 1991 Monthly Hotline Report)**

"Reportable Quantities of ICR Substances"

Key Words:

Characteristic waste; Clean Water Act mixture rule; hazardous substance; reportable quantity; and unlisted hazardous substance

QUESTION: A hazardous waste is released into the environment. The waste is hazardous due to its corrosive characteristic. The owner or operator responsible for the release knows that 50 percent of the waste mixture is hydrochloric acid and that the waste contains no other CERCLA hazardous substances or ignitable, corrosive, or reactive (ICR) characteristics. What is the reportable quantity (RQ) for the waste and the associated CERCLA notification requirements for the release?

ANSWER: 40 CFR §302.4(b) designates solid wastes which are hazardous due to the characteristics of ignitability, corrosivity, reactivity (ICR) or toxicity as "unlisted hazardous substances." The RQs for these substances are identified in §302.4, Table 302.4, under "Unlisted Hazardous Wastes." For ICR wastes, the RQ is 100 pounds. If, however, the waste was analyzed prior to release and determined to be corrosive due to its hydrochloric acid content and no other CERCLA hazardous substances or ICR characteristics are present, the RQ assigned to the waste would be that for the component hazardous substance (50 FR 13463). The RQ for hydrochloric acid is 5000 pounds. Accordingly, the RQ for this waste is reached when 5000 pounds or more of hydrochloric acid is released within a 24-hour period. By applying the Clean Water Act mixture rule, the owner or operator may use his knowledge of the concentration of the waste within the mixture to determine if an RQ of any hazardous substance has been equaled or exceeded (44 FR 50767). Since the concentration of the hydrochloric acid in the waste is only 50 percent, the RQ for the waste would not be reached until 10,000 pounds of this particular waste is released.

"Reportable Quantities of ICR Substances" (cont'd)

ANSWER (cont'd): CERCLA §103(a), as codified in 40 CFR §302.6, contains the notification requirements for facility owners and operators which release hazardous substances. Specifically, §302.6 requires any person in charge of a vessel or facility to notify the National Response Center (NRC), as soon as he or she has knowledge of any release of a hazardous substance, other than a Federally permitted release or application of a pesticide, from such vessel or facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period. **(January 1991 Monthly Hotline Report)**

UNDERGROUND STORAGE TANKS (UST)

Applicability

Key Words:

Flow-through process tank; manufacturing operation; and underground storage tank

"Flow-through Process Tank Exclusion"

QUESTION: In a manufacturing operation a coating which contains regulated substances is applied to a metal part that is manufactured on-site. The metal part is coated using the following steps. After machining processes are completed, individual metal parts are clipped to the bottom of a chain which is attached at its top to an overhead conveyor system. The conveyor carries the metal part to an open-topped tank containing a coating solution. The tank meets the definition of "underground" provided in 40 CFR §280.12. Once over the tank, the conveyor system lowers the metal part into the coating solution. The metal part remains submerged in the solution as the conveyor travels the length of the tank, then the conveyor system raises the metal part out of the tank. The metal part is then transported via the conveyor to an area where a facility employee unclips the part and places it on a drying pad. Would this tank be exempt from the UST regulations of 40 CFR Part 280, under the "flow-through process tank" exclusion of 40 CFR §280.12?

ANSWER: Yes, the tank would qualify for the exclusion because it meets the three necessary conditions to be considered a "flow-through process tank": it (1) forms an integral part of a production process; (2) has a steady, variable, recurring, or intermittent flow of materials through the tank during the operation of the process; and (3) is not used for the storage of materials prior to their introduction into the production process or for the storage of finished products or byproducts from the production process. These conditions are met because the production process (coating) actually occurs in the tank and therefore it is integral, and it does not store prior to or after production. The flow is intermittent, satisfying the second condition. **(May 1991 Monthly Hotline Report)**

Regulated Substances

Key Words:

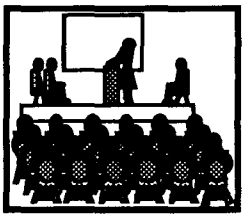
Clean Air Act Amendments hazardous substance regulated substance, and underground storage tank

CAA Amendments Hazardous Air Pollutants Under UST Program

QUESTION: Section 301 of the Clean Air Act Amendments of 1990 modifies the Clean Air Act (CAA) of 1986 by incorporating within §112 a list of 189 hazardous air pollutants. Many of these pollutants were not previously regulated under the CAA. Would an underground storage tank (UST) containing a newly designated CAA hazardous air pollutant be subject to the standards promulgated in 40 CFR Part 280?

ANSWER: Yes. Owners and operators of USTs containing regulated substances, as defined in §280.12, must comply with the Part 280 standards. A regulated substance is any hazardous substance designated pursuant to §101(14) of CERCLA (excluding any substance regulated as a hazardous waste under Subtitle C of RCRA), and petroleum products or any fraction thereof. The term hazardous substance under §101(14) of CERCLA is defined as any substance designated pursuant to §3001 of RCRA, §112 of the CAA, §§307(a) and 311(b)(2)(A) of the State Water Pollution Act, Section 7 of the Toxic Substances Control Act, and any substance so designated in §102 of CERCLA. When a substance is added under a statute identified in CERCLA §101(14) it would then become a CERCLA hazardous substance by statutory definition and therefore become a regulated substance under Part 280. Although the new CAA substances that were not previously CERCLA hazardous substances have not yet been codified in §302.4 (the regulatory list of CERCLA hazardous substances), any underground storage tank storing these substances must be in compliance with the requirements of 40 CFR Part 280 regulations.

Note that any of the new substances or chemical categories added to the CAA that are CERCLA hazardous substances (e.g., ethylene glycol) or petroleum products are subject to regulation under Part 280 and this would not change. **(October 1991 Monthly Hotline Report)**



EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)*

Hazardous Chemical Inventory Reporting

"Inspections of Facilities by Fire Department"

Key Words:

Location information; on-site inspection; and threshold

QUESTION: Section 312(f) of the EPCRA states that "upon request to an owner or operator of a facility which files an inventory form under this section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility, and shall provide to the fire department specific location information on hazardous chemicals at the facility." Can the fire department request an on-site inspection of a facility which does not file an inventory form under §312 since the chemicals present at the facility are below the threshold?

ANSWER: Yes. Section 312(e)(1) permits the fire department with jurisdiction over the facility to request that the owner or operator of the facility provide Tier II information concerning the facility. When a fire department requests Tier II information pursuant to §312(e)(1), the applicable threshold for the facility subject to the request is zero (40 CFR §370.20(b)). Therefore, upon a fire department's request, the facility would have to file Tier II forms. Because the owner or operator of the facility would be required to file a Tier II form, the owner or operator must allow the fire department to conduct an on-site inspection of a facility that has not previously filed. **(February 1991 Monthly Hotline Report)**

"Lease Agreement Reporting Responsibility"

Key Words:

Contract; lease agreement; and liability

QUESTION: An owner leases a facility to another person. The lease agreement states that "in its use and occupancy of the facility and in its use of the leased equipment, the lessee shall abide by and comply with all governmental laws, regulations and requirements." Does this contractual language exempt the owner of the facility from reporting under EPCRA §§311 and 312 ?

*Note: Questions and answers that appear in this section have been revised by the responsible EPA program office since the monthly reports were individually issued.

"Lease Agreement Reporting Responsibility" (cont'd)

ANSWER: No. Private parties cannot by contract exempt themselves from liability created by the statutory provisions of Title III. Note, however, that the law assigns the responsibility for reporting under §§311 and 312 to "the owner or operator of any facility which is required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations under that act." In some instances, both the owner/lessor and operator/lessee may have the responsibility for MSDS requirements, even for the same chemicals. In other instances only one party is assigned responsibility for MSDS preparation or availability under the OSHA Hazard Communication Standard. **(February 1991 Monthly Hotline Report)**

"Ownership Change and Responsibility for Reporting"

Key Words:

Emergency planning; liability; owner/operator; and report, combined/separate

QUESTION: A facility changed ownership during the third quarter of the 1990 calendar year. Which owner/operator is responsible for the submission of the §312 Tier II form for the calendar year 1990?

ANSWER: Both owners and operators have responsibility for reporting under §312. While it is not required under §§311 and 312, it would further the purposes of SARA Title III if owners and operators informed the State Emergency Response Commission (SERC) about the change in ownership of the facility. Specifically, 40 CFR §355.30(d)(1) requires that the owner of a facility subject to §§302 and 303 promptly inform the Local Emergency Planning Committee (LEPC) of any change relevant to emergency planning. Also, the SERC should be consulted to determine if two separate reports, one for each period of ownership, are preferred to be filed, or if one combined report capturing all information for the entire year is more desirable.

Parties may wish to address who will report and the provision of necessary records in the purchase agreement. Of course, a person who is liable for reporting cannot shed his liability through any private arrangement such as a purchase agreement. **(February 1991 Monthly Hotline Report)**

Toxic Chemical Release Inventory

"Acid Waste Stream Release Reporting"

Key Words:

Emissions; neutralization; pH; and strong acid

QUESTION: A waste stream containing hydrochloric acid and sulfuric acid goes up a stack. Before exiting the stack, the waste stream passes through a scrubber where the acids are neutralized. The resulting mist that exits the stack (pH = 8) contains chloride and sulfate ions. Does the facility report a release of hydrochloric or sulfuric acid?

ANSWER: No. Since the resulting waste stream has a pH between 6 and 9, the facility should report a release of zero for hydrochloric and sulfuric acid. This interpretation is consistent with the Agency's interpretation regarding zero releases from neutralized wastewater streams (53 FR 4517). **(March 1991 Monthly Hotline Report)**

"Ammonia Reporting"

Key Words:

Ammonia; and manufacturing threshold

QUESTION: Excess body parts from the slaughtering and butchering of animals are manipulated to separate the fats and proteins from other material present (e.g., bones). The bones and other materials not used are discarded by the facility. The separated fats and proteins are further processed to make a final product. Some of the amino acids and other nitrogenous materials present in the animal parts may decompose to produce ammonia. In addition, the animal parts contain, prior to processing, amounts of metabolic ammonia. The ammonia present in the fats and proteins remains in the final product. How does the facility consider these amounts of ammonia for purposes of threshold and release calculations under EPCRA §313 (40 CFR Part 372)?

ANSWER: The amount of ammonia produced due to decomposition of amino acids and other nitrogenous materials must be counted toward a manufacturing threshold for ammonia. Ammonia resulting from decomposition that is present in the separated fat and proteins must also be counted toward a processing threshold for ammonia since it becomes incorporated into the final product. Any amounts of ammonia resulting from decomposition that remain with the material to be discarded are not counted towards a processing threshold since they are not incorporated into the final product.

"Ammonia Reporting" (cont'd)

ANSWER (cont'd): The amount of ammonia initially present as a metabolite is counted as follows:

- The amount of metabolic ammonia present in the separated fats and proteins is counted towards a processing threshold for ammonia
- The amount of metabolic ammonia present in the material that is discarded (e.g., bones) is not considered for threshold purposes since it is not manufactured, processed, or otherwise used. This amount of ammonia simply passes through the facility as a waste.

If the facility meets a threshold for ammonia, all releases and transfers off-site of ammonia must be reported, including releases and transfers off-site associated with the animal parts not used (e.g., bones). **(July 1991 Monthly Hotline Report)**

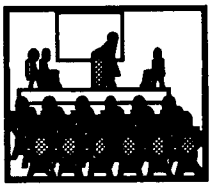
"Barges Release Reporting Requirements"

Key Words:

Equipment; facility; and release

QUESTION: A facility covered under EPCRA §313 has a barge terminal. Are releases from the loading and unloading of a barge reportable on the Form R?

ANSWER: Releases from the covered facility (i.e., barge terminal) must be reported. This would include releases from buildings, equipment, and storage at the terminal. The barge terminal ends where the equipment physically meets the barge. Therefore, releases from equipment (e.g., pipelines, connections, hoses) that may extend into public water space must also be reported. Releases from the barge itself (e.g., air displacement of volatiles) are not reportable since barges are not covered under the definition of a facility (EPCRA §329(4)). **(July 1991 Monthly Hotline Report)**



"Construction Work During Calendar Year"

Key Words:

Construction work; temporary shutdown; and threshold

QUESTION: A manufacturing facility ceased manufacturing operations at the beginning of the reporting year and construction work took place through July. At that time the facility resumed manufacturing operations. Listed toxic chemicals were used at the facility during the construction phase. For purposes of threshold and release determinations under EPCRA §313, does the facility include in its threshold and release calculations the toxic chemicals used during construction when the facility was not in operation?

ANSWER: Yes. Since the facility is a manufacturing facility, any covered activity of a listed toxic chemical will count toward an applicable threshold. Therefore, the toxic chemicals used during the construction phase would be counted toward threshold determinations unless they become a structural component of the facility. Releases of a given toxic chemical used during construction would also be reported if, during the course of a calendar year, an activity threshold was exceeded for that chemical. **(April 1991 Monthly Hotline Report)**

"Disabled Employee Toward FTE Threshold"

Key Words:

Full-time employee threshold

QUESTION: A covered facility under §313 of EPCRA has nine full-time employees. The facility also has one paid employee who is on permanent disability (the employee has terminal cancer and is not expected to return). Should the facility include this employee in their full-time employee (FTE) threshold determination (40 CFR §372)?

ANSWER: No, the facility does not have to include the hours of the disabled employee when determining the employee threshold. Even though paid by the facility, the employee does not contribute any hours towards the operation of the facility. In this case, the disabled employee can be considered the equivalent of a retired employee. **(June 1991 Monthly Hotline Report)**

Key Words:

Ammonia; personal use exemption; and release

"Human Waste Release Reporting"

QUESTION: A facility covered under §313 of EPCRA has met a reporting threshold for ammonia. A sewage system within the facility collects human waste from different parts of the facility. The ammonia present in the sewage is not involved in any manufacturing, processing, or other use activities at the facility. Since the facility has already exceeded an activity threshold for ammonia, are they required to report the releases of ammonia resulting from the sewage?

ANSWER: No. The ammonia present in the sewage is derived from the employees working at the plant and is subject to the personal use exemption (40 CFR §372.38(c)). Even though the facility has exceeded an activity threshold, it would not be required to report the exempted releases of ammonia. **(October 1991 Monthly Hotline Report)**

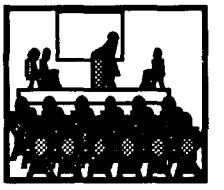
Key Words:

Full-time employee threshold

"Non-salaried Worker Toward FTE Threshold"

QUESTION: A facility covered under §313 of EPCRA (40 CFR Part 372) has nine full-time employees and one part-time employee. The facility also has an employee who works at the facility, but does not draw a salary. Should the hours worked by the employee who does not draw a salary be counted towards the employee threshold for the facility?

ANSWER: Yes. Even though the employee does not draw a salary he or she is still working at the facility. Any such hours worked by an employee at the facility must be counted towards that facility's employee threshold. **(May 1991 Monthly Hotline Report)**



Key Words:

Form R; and NPDES number

"NPDES Number on the Form R"

QUESTION: When filing a Form R under EPCRA §313, the reporting facility must identify the numbers of any permits they hold under the National Pollutant Discharge Elimination System (NPDES) even if the permit(s) do not pertain to the toxic chemical being reported. The facility identification portion of the Form R, Part I, section 3.9, has two spaces, (a) and (b), in which the facility enters its NPDES permit numbers, if any. If a facility has been assigned more than two NPDES numbers, how should it complete the Form R?

ANSWER: The current version of the Form R only allows for identification of two NPDES permit numbers, and there is no additional space on Form R for more than two NPDES permit numbers to be recorded. If a facility has more than two NPDES permit numbers, the facility should report the two numbers that are most applicable to the toxic chemical reported on Form R. If the NPDES numbers assigned to the facility do not apply to the chemical reported on the particular Form R, any two current NPDES numbers may be submitted. The facility should attempt, however, to supply the same NPDES permit numbers.

As an example, a facility has five NPDES permit numbers, two of which apply to toluene, and three others which apply to non-TRI chemicals. The facility must file Form Rs for toluene and chlorine. On the form for toluene, the facility should include the NPDES numbers that are applicable to toluene. On the form for chlorine, the facility should also use the same NPDES numbers as were used on the toluene form (as opposed to using two of the other three NPDES numbers). In any event, only current NPDES numbers should be reported on Form R. **(August 1991 Monthly Hotline Report)**

Key Words:

De minimis; evaporation; otherwise use threshold

"Otherwise Use Activity"

QUESTION: A melamine formaldehyde resin containing a small amount of unreacted formaldehyde monomer is purchased by a facility, dissolved in water, and applied to paper to produce a polymer-coated product. In the process of coating the paper, all of the formaldehyde evaporates. Is the formaldehyde processed or otherwise used?

ANSWER: Since the formaldehyde is not incorporated into the product, it is otherwise used. The formaldehyde would not need to be counted at all if the amount is below the de minimis of 0.1 percent in the incoming resin mixture (53 FR 4509). **(March 1991 Monthly Hotline Report)**

"Ownership Change: Effect on Facility TRI Identification Number"

Key Words:

New facility; owner/operator

QUESTION: A part of a facility covered under §313 of EPCRA was sold in July 1990 to another facility owned and operated by a different person. For reporting on the Form R for the year 1990, what TRI facility identification numbers should be used by the reporting facilities (40 CFR Part 372)?

ANSWER: For purpose of reporting on the Form R, the old facility would maintain the TRI identification number originally assigned to the facility. The new facility, however, would indicate in Part I, section 3.1 that the report is a first time submission by the facility. Once the reports have been submitted by the new facility, a new TRI identification number will be assigned to the facility for use in subsequent years. **(June 1991 Monthly Hotline Report)**

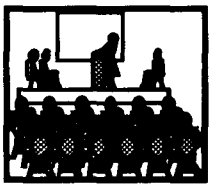
"Packaging Material Effect on Threshold Determination"

Key Words:

Otherwise use threshold; packaging; and threshold

QUESTION: A facility receives material X packaged in 50-gallon drums. Material X is immersed in methanol which acts as a packaging/coolant medium for material X during transport. As soon as the facility received the delivery, material X is removed from the methanol, and the drum is recapped and sent back to the supplier. Should the owner/operator consider the methanol for threshold and release calculations under EPCRA §313?

ANSWER: Yes. The owner/operator should consider, for threshold and release calculations, the methanol in drums that it opens to remove material X. The methanol, in this instance, is being otherwise used. **(September 1991 Monthly Hotline Report)**



"Supplier Notification for Articles"

Key Words:

Article; supplier notification

QUESTION: A manufacturer distributes an item to its customers. Some of the customers use the item in such a way that allows them to claim the "article exemption" (40 CFR §372.38(b)). Other customers use the supplied item in such a way that negates the "article exemption." How can the manufacturer determine when to provide a supplier notification for the items it distributes since it is not required to provide such a notification for "articles" (40 CFR §372.45(d)(1)(i)), and may not know the end result of the distributed items?

ANSWER: If the end result of an item a manufacturer sells or otherwise distributes is unknown, no notification is necessary if the manufacturer knows that normal processing or use of the item by recipients would not negate its article status. If, however, the manufacturer anticipates that a recipient uses an item in such a way that negates its article status, the manufacturer must provide a notification to that recipient. **(August 1991 Monthly Hotline Report)**

"Supplier Notification for Pure Chemicals"

Key Words:

Concentration; pure chemical; and supplier notification

QUESTION: Under 40 CFR §372.45, supplier notification is required for mixtures and trade name products containing listed toxic chemicals. The notification is not required for pure toxic chemicals. If a facility covered by the supplier notification requirements receives a substance which is labeled as a toxic chemical but no concentration is given, are they required to provide notification when selling or otherwise distributing the substance?

ANSWER: No, Supplier notification is not required for substances labeled as the toxic chemical. If a substance is labeled as a toxic chemical and no concentration is given, then the processor (supplier) and the recipient of the chemical should consider it to have a concentration of 100 percent. **(July 1991 Monthly Hotline Report)**

"Range Reporting on Supplier Notification"

Key Words:

Concentration; mixture; and supplier notification

QUESTION: A facility covered under EPCRA §313 makes and distributes a product that contains a listed toxic chemical. The composition of the toxic chemical in the product may vary between 20 and 80 percent. In order to comply with the supplier notification requirements specified in 40 CFR §372.45, is it acceptable to provide this range, or would a single figure which is either the average or upper bound of the range be more acceptable?

ANSWER: The purpose of the supplier notification is to provide manufacturers and users of toxic chemicals with information to help them comply with the EPCRA §313 reporting requirements. The notification must contain specifics about the toxic chemical, including the weight percentage of the chemical in the mixture. If the composition of the mixture is not considered a trade secret, provide the one concentration which best represents the product. The average of the range does not always accurately reflect the product. The facility, however, may know that batches tend to favor one end of the concentration range (e.g., most may have a concentration of 20 percent and only a few may have a concentration of 80 percent). If the concentration of the toxic chemical in the mixtures is highly variable, it is acceptable to provide a midpoint or a range of concentrations. If the composition of the mixture is considered a trade secret, you must provide a maximum concentration level which is no greater than necessary to protect the trade secrecy claim.
(September 1991 Monthly Hotline Report)

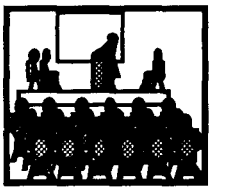
"Sample Product for Distribution"

Key Words:

Laboratory exemption; sample distribution; and trial sample

QUESTION: A facility prepares a product that contains a listed toxic chemical for sample distribution. The sample product is prepared on a small scale and is distributed to potential customers for trial use. Would the amount of toxic chemical processed in the preparation of these samples be exempted from threshold and release calculations under the laboratory activities exemption (40 CFR §378.38(d))?

ANSWER: No. Amounts of listed toxic chemicals that are manufactured, processed, or otherwise used in conjunction with the preparation of trial samples are not excluded from threshold and release calculations under the laboratory activities exemption. **(April 1991 Monthly Hotline Report)**



Key Words:

Back reporting; nonmanufacturing activity; and SIC code

"SIC Code Change"

QUESTION: A facility whose SIC code is outside of the manufacturing sector (20-39) believes that its current SIC code is misrepresentative of the facility's activities. In actuality, the facility may be better represented by an SIC code within the manufacturing sector. If the facility changes its SIC code to a manufacturing group, should it back report for calendar years 1987, 1988 and 1989 under §313 of EPCRA (40 CFR Part 372)?

ANSWER: If the facility has not altered its operations and should have been classified as a manufacturing facility, it should report for all the previous years under §313 of EPCRA. If the mix of activities at the facility shifted from nonmanufacturing to manufacturing (activities within SIC codes 20-39), then it should begin reporting with the year in which the mix changed to manufacturing activities. **(May 1991 Monthly Hotline Report)**

Key Words:

Emergency release reporting; transportation

"Tank-Truck Gasoline Leak During Transport"

QUESTION: A facility receives a shipment of gasoline from a tank-truck. The loading dock is located within the facility boundaries. The tank-truck delivers gasoline through a hose into the tank operated by the facility. While stationed at the dock, the valve of the tank-truck ruptures and the gasoline leaks from the hose of the tank-truck. This release occurs before the shipping papers are signed by the facility operator. Gasoline contains listed §313 chemicals such as benzene. If an activity threshold for benzene is met, would the facility report this release of benzene under EPCRA §313 (40 CFR Part 372)?

ANSWER: No. In the above case, the chemicals in the tank-truck are considered in transport until shipping papers are signed at the loading dock. Section 327 of the statute states that "[e]xcept as provided in §304, this title does not apply to the transportation, including the storage incident to such transportation, of any substance or chemical subject to the requirements of this title, including the transportation and distribution of natural gas." In the above scenario, the material in the tank-truck is considered to fall under the transportation exemption, and releases from this truck would be exempt from reporting under §313. This release, however, would be reportable under §304, if the quantity of any extremely hazardous substances (EHS) released exceeds the RQ within a period of 24 hours. **(May 1991 Monthly Hotline Report)**

PART 2: FEDERAL REGISTER SUMMARIES

The Federal Register summaries presented in this section include the major changes to 40 CFR regulations implementing RCRA, Superfund, UST, and Emergency Planning and Community Right-to-Know Act during 1991. Both proposed and final rules with significant impact on these programs are included. This is not a complete list of all applicable FR notices for the year. For a comprehensive review of FR notices, the reader may wish to obtain FR reference materials or a reporting service. The summaries in this section are included to provide a convenient and easy-to-use overview.

The Federal Register summaries are grouped by program area and status (proposed, final) and presented chronologically within each section. Complete citations are provided for ease of reference.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Proposed Rules

Citation:

May 30, 1991
(56 FR 24444)

"LDR/Contaminated Debris"

SUMMARY: This advanced notice of proposed rulemaking requests data and comments on possible BDAT treatment capacity and treatment standards for certain wastes listed as hazardous since HSWA, and for contaminated debris under 40 CFR Part 268 land disposal restrictions. In addition the Agency is soliciting comments on several other provisions of the land disposal restrictions, such as potential universal treatment standards for F001-F005 solvent wastes and modifications of treatment standards for lab packs. Comments on the waste minimization portion of the proposal were accepted through July 29, 1991, while comments on all other subjects were accepted through July 1, 1991.

Citation:

July 22, 1991
(56 FR 33490)

"Air Emissions for TSDFs"

SUMMARY: This proposed rule would require emissions controls on tanks, surface impoundments, containers and certain miscellaneous units. In addition, it would impose air emissions control requirements on generators accumulating hazardous waste in tanks and containers pursuant to 40 CFR §262.34. This action represents the second phase of the three-phase regulatory program and would be codified as Subparts CC and DD to 40 CFR Parts 264 and 265. Comments were accepted through September 20, 1991.

Citation:

July 26, 1991
(56 FR 35758)

"Coke By-products"

SUMMARY: This rule proposed to add seven additional wastes generated during the production, recovery and refining of coke by-products produced from coal to the list of hazardous wastes at 40 CFR §261.32. This rule also proposes to amend Appendix VIII of 40 CFR Part 261 by adding the constituents for which these waste are being listed. CERCLA §103 would also be amended by the designation of reportable quantities for these wastes. In addition to the listings, the Agency is also proposing a series of exclusions to the definition of solid waste designed to facilitate the recycling of the wastes proposed. Comments were accepted through September 24, 1991.

Proposed Rules (cont'd)

Citation:

September 23, 1991
(56 FR 48000)

"Used Oil"

SUMMARY: This supplemental notice of proposed rulemaking discusses options regarding listing used oil as a hazardous waste, management standards for used oil handlers, and possible future incentives for encouraging used oil recycling. Comments were accepted through November 7, 1991.

Citation:

October 11, 1991
(56 FR 51592)

"Chlorinated Toluenes"

SUMMARY: This rule proposes to add three waste streams generated by the production of chlorinated toluenes to the list of hazardous wastes at 40 CFR §261.32. EPA also proposed to designate these wastes as hazardous substances under CERCLA and establish reportable quantities. Comments were accepted through December 10, 1991.

Citation:

October 24, 1991
(56 FR 55160)

"LDR Contaminated Soils"

SUMMARY: This advance notice of proposed rulemaking requests data and comments on possible BDATs for many wastes that have been identified and listed as hazardous since HSWA. This notice discusses potential BDATs and related capacity for wood preserving wastes (F032, F034 and F035), spent potliners from primary aluminum reduction (K088), characteristic waste generated by the mining and mineral processing industries that are no longer suspended by the Bevill Amendment, and wastes that have been recently identified as D004 through D043 based on the TCLP. EPA is also soliciting data and comments on its approach to developing BDATs for contaminated soils. Comments were accepted through December 9, 1991.

Citation:

December 5, 1991
(56 FR 63848)

"Wood Preserving Modification"

SUMMARY: In this action, EPA proposed to amend regulations for drip pads in 40 CFR Parts 264 and 265, Subpart W, and the F032, F034, and F035 hazardous waste listings. These changes would affect final rules promulgated on December 6, 1990 (55 FR 50449) and June 13, 1991 (56 FR 27332). Comments were accepted through January 6, 1992.

Final Rules

"Land Disposal Restrictions Technical Amendment"

Citation:
January 31, 1991
(56 FR 3864)

SUMMARY: This final rule corrects errors and clarifies the language in the preamble and regulations of the June 1, 1990, land disposal restrictions third third final rule (55 FR 22520). It modifies 40 CFR Part 268.

"TCLP/CFCs"

Citation:
February 13, 1991
(56 FR 5910)

SUMMARY: This interim final rule suspends the toxicity characteristic rule for used refrigerants that would exhibit the toxicity characteristic but would be reclaimed for reuse. The exemption is found at 40 CFR §261.4(b)(12).

"Boilers and Industrial Furnaces"

Citation:
February 21, 1991
(56 FR 7134)

SUMMARY: This final rule expands the regulations on the burning of hazardous waste in boilers and industrial furnaces to regulate air emissions from such units, codified at 40 CFR Part 266, Subpart H. This rule also subjects owners and operators of these devices to general facility standards applicable to hazardous waste treatment storage and disposal facilities, and subjects hazardous waste storage units at regulated burner facilities to Part 264 standards. Finally, this rule also takes action on two petitions for rulemaking from Dow Chemical Company and the American Iron and Steel Institute and makes several technical corrections to 40 CFR §270.73.

"TCLP/Hydrocarbon Recovery"

Citation:
April 2, 1991
(56 FR 13406)

SUMMARY: This final rule extends the compliance date for the toxicity characteristic regulations from March 25, 1991 (see 56 FR 3978; February 1, 1991), to January 25, 1993, for produced groundwaters from free-phase hydrocarbon recovery operations at petroleum refineries, marketing terminals, bulk plants, petroleum pipelines and transportation sector spill sites. The purpose of this extension is to ensure that cleanup activities at these facilities are not disrupted or stopped due to noncompliance with the toxicity characteristic rule. The rule amended 40 CFR §261.4(b)(11).

Final Rules (cont'd)

Citation:
May 1, 1991
(56 FR 19951)

"K069 Listing - Administrative Stay"

SUMMARY: This final rule announces an administrative stay on a portion of the hazardous waste listing for K069 found at 40 CFR §261.32 so that the listing does not apply to slurries generated from air pollution control devices that are intended to capture acid gases and are not dedicated chiefly to control of particulate air emissions. The administrative stay remains in effect until 30 days after the completion of a rulemaking that permanently amends the language of the K069 listing to clarify the scope of the listing.

Citation:
May 13, 1991
(56 FR 21955)

"F037/F038 Revised Definition"

SUMMARY: This interim final rule revises the definition of waste subject to the F037 and F038 listings found at 40 CFR §261.31 to state that sludges from non-contact once-through cooling waters are not included. This rule further amends F038 listings to clarify that floats generated in aggressive biological treatment units are not included in the listing description of that waste stream.

Citation:
June 13, 1991
(56 FR 27300)

"Bevill Waste Final Determination"

SUMMARY: This final rule presents the Agency's final regulatory determination on mineral processing wastes. EPA concluded that regulation under Subtitle C of RCRA is inappropriate for all 20 of the special wastes that were studied and listed under §261.4(b)(7). EPA plans to address 18 of these wastes under Subtitle D of RCRA. The remaining two wastes, phosphogypsum and process waste phosphoric acid production, are slated to be regulated under a program EPA plans to develop under the Toxic Substance Control Act.

Citation:
June 13, 1991
(56 FR 27332)

"Wood Preserving Listings - Administrative Stay"

SUMMARY: This final rule announces an administrative stay of the hazardous waste listings F032, F034, and F035 for wastes in process areas at wood preserving plants. The primary effect of the stay is to conditionally extend the effective date of the drip pad management standards to February 6, 1992, for the upgrade of existing drip pads, and to May 6, 1992, for the installation of new drip pads. The stay is only available to facilities meeting certain conditions, and is intended to limit the extension to those facilities making a bona fide effort to comply with this rule.

Final Rules (cont'd)

Citation:

July 17, 1991
(56 FR 32688)

"BIF - Technical Amendments"

SUMMARY: In this final rule, EPA published technical corrections to the BIF regulations in 40 CFR Part 266, Subpart H (56 FR 7134; February 21, 1991). This rule also added Appendix IX and Appendix X to Part 266.

Citation:

August 19, 1991
(56 FR 41164)

"K061 Treatment Standards"

SUMMARY: This final rule promulgated under 40 CFR Part 268 treatment standards under the land disposal restrictions program for K061 (electric arc furnace dust) nonwastewaters that contain 15 percent or more total zinc at the point of initial generation. The rule also finalizes a generic exclusion from the derived from rule (40 CFR §261.3(c)(2)(i)) for high temperature metals recovery (HTMR) nonwastewater slag residues from K061 processing, provided the residues meet certain conditions. Finally, this rule grants a conditional exclusion for K061 HTMR splash condenser dross residue from classification as a solid waste.

Citation:

August 27, 1991
(56 FR 42504)

"BIF - Technical Amendments"

SUMMARY: This final rule made technical amendments to the BIF regulations in 40 CFR Part 266, Subpart H. These revisions provide clarification and correct unintended consequences of the rule.

Citation:

September 5, 1991
(56 FR 43873)

"BIF Coke Ovens - Administrative Stay"

SUMMARY: This final rule announces an administrative stay of the permitting standards for boilers and industrial furnaces adopted pursuant to RCRA as they apply to coke ovens burning certain hazardous wastes from the coke by-products process. Coke ovens that reprocess these wastes need not submit their applications for a permit under 40 CFR Part 266, Subpart H, while EPA evaluates comments on a proposal to exclude such wastes from RCRA Subtitle C regulation.

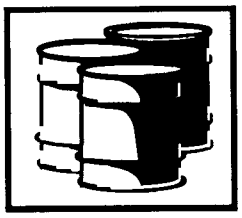
Final Rules (cont'd)

Citation:

October 9, 1991
(56 FR 50978)

"Subtitle D"

SUMMARY: This final rule established requirements for municipal solid waste landfills under 40 CFR Parts 257 and 258. Specifically, it covers location restrictions, facility design operations, groundwater monitoring, corrective action measures and conditions for closing including financial responsibility. The rule conditionally exempts certain small landfills from the design, groundwater monitoring and corrective action requirements.



SUPERFUND (SF)

Proposed Rules

Citation:
March 27, 1991
(56 FR 12826)

"Reportable Quantity Adjustment"

SUMMARY: This rule proposes to adjust the reportable quantities (RQs) for hazardous waste listings F037 and F038, sludges from petroleum refinery separation processes, as found at 40 CFR §302.4. Comments were accepted through May 28, 1991.

Citation:
June 24, 1991
(56 FR 28798)

"Lender Liability"

SUMMARY: EPA proposed to clarify the range of activities that may be undertaken by a private or governmental lending institution or other entity that holds a security interest in a facility, without being considered to have participated in the facility's management and thereby voiding the "security interest exemption" of CERCLA §101(20)(A). Comments on this proposed rule were accepted through July 24, 1991.

Final Rules

Citation:
February 11, 1991
(56 FR 5634)

"Recategorization of NPL"

SUMMARY: This notice announces the recategorization of 14 Superfund sites on the National Priorities List (NPL). The purpose of the recategorization is to more clearly communicate to the public the status of the cleanup process at sites.

Citation:
February 11, 1991
(56 FR 5598)

"Six Sites Added to NPL"

SUMMARY: This final rule amends Appendix B of the National Oil and Hazardous Substance Pollution Contingency Plan (NCP) by adding six sites to the NPL.

Citation:
March 21, 1991
(56 FR 11938)

"One Site Deleted from NPL"

SUMMARY: This notice announces the deletion of the M&T DeLisa Landfill site from the NPL.

Final Rules (cont'd)

Citation:

September 10, 1991
(56 FR 46121)

"Four Sites Deleted from NPL"

SUMMARY: This notice announces the deletion of four sites from the NPL: Union Scrap Iron and Metal, Minneapolis, Minnesota; Wedzeb Enterprise, Lebanon, Indiana; Jibboom Junkyard, Sacramento, California; Lansdowne Radiation, Lansdowne, Pennsylvania.

Citation:

September 25, 1991
(56 FR 48439)

"One Site Added to NPL"

SUMMARY: This final rule amends Appendix B of the NCP by adding the White Chemical Corporation site in Newark, New Jersey to the NPL.

Citation:

October 17, 1991
(56 FR 52166)

"Revised Hazardous Substance Priority List"

SUMMARY: This notice provides a revised priority list of 275 hazardous substances most commonly found at NPL facilities which have been determined to pose the most significant potential threat to human health.

Citation:

December 24, 1991
(56 FR 66601)

"Delinking Policy"

SUMMARY: This notice announces a change in the EPA policy that had linked deletion from the NPL with "five-year reviews" conducted pursuant to §121(c) of CERCLA. The Agency has now determined that the two processes should be managed separately.

UNDERGROUND STORAGE TANKS (UST)

Final Rules

"Extension for Automatic Line Leak Detectors"

Citation:
January 2, 1991
(56 FR 24)

SUMMARY: This interim final rule delays for 270 days the requirements of 40 CFR §280.40(a)(3) for owners and operators to meet the specified leak rate (under specified conditions) with a probability of detection of 0.95 and a probability of false alarm of 0.05 on installed automatic line leak detectors on USTs.

"Georgia - Final Approval of UST Program"

Citation:
May 10, 1991
(56 FR 21603)

SUMMARY: This notice announces the final approval of the State of Georgia's underground storage tank program under Subtitle I of RCRA.

"New Hampshire - Final Approval of UST Program"

Citation:
June 19, 1991
(56 FR 28089)

SUMMARY: This notice announces the final approval of the State of New Hampshire's underground storage tank program under Subtitle I of RCRA.

"UST Overfill Requirements - Technical Amendments"

Citation:
August 13, 1991
(56 FR 38342)

SUMMARY: This final rule allows overfill equipment to be used closer to the top of larger bulk storage tanks because the Agency acknowledges that sufficient volumes to receive excess product would still be available there. It amends 40 CFR §280.20(c)(1)(ii).

"North Dakota - Final Approval of UST Program"

Citation:
October 11, 1991
(56 FR 51333)

SUMMARY: This notices announces the final approval of the State of North Dakota's underground storage tank program under Subtitle I of RCRA.

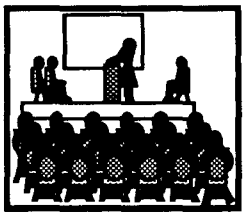
Final Rules (cont'd)

Citation:

December 23, 1991
(56 FR 66369)

"UST Financial Responsibility Compliance Date"

SUMMARY: This final rule extends the date for compliance with financial responsibility for Group 4 petroleum UST owners to December 31, 1993. The previous deadline under 40 CFR §280.91(d) was October 26, 1991.



EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)

Proposed Rules

Citation:
January 11, 1991
(56 FR 1154)

"Sunset Provisions"

SUMMARY: This proposed rule pertains to the "sunset" provision of 40 CFR §372.30(e). It proposes to retain range reporting on the Form R with only minor modifications. Comments were accepted through February 11, 1991.

Citation:
July 26, 1991
(56 FR 34156)

"Toxic Chemical List Modification"

SUMMARY: EPA is proposing to delete the non-aerosol form of sulfuric acid from the list of toxic chemicals subject to reporting under EPCRA §313. Comments on this proposed deletion were accepted through September 24, 1991.

Citation:
September 25, 1991
(56 FR 48475)

"Pollution Prevention Act Form R Changes"

SUMMARY: This proposed rule contains the collection mechanism that would incorporate into existing regulations the source reduction and recycling information, specified in the Pollution Prevention Act, that all facilities subject to reporting under EPCRA §313 must provide beginning in the 1991 reporting year. Comments were accepted through November 12, 1991.

Final Rules

Citation:
May 23, 1991
(56 FR 23650)

"Copper Compound Category Amendment"

SUMMARY: This rule delists Pigment Blue 15, Pigment Green 7, and Pigment Green 36 from the copper compounds category under EPCRA §313. Facilities are relieved from reporting releases of these compounds that occurred in 1990 and subsequent years.

Final Rules (cont'd)

Citation:

May 23, 1991
(56 FR 23703)

"Delisting Petition Policy"

SUMMARY: This notice outlines EPA's policy concurring with the provisions for petitions to delist individual members of the metal compound categories reportable under EPCRA §313 and provides guidance regarding the appropriate support documentation necessary to allow the Agency to make decisions on such petitions.

Citation:

June 26, 1991
(56 FR 29183)

"Sunset Provisions"

SUMMARY: This rule finalizes the decision that the range reporting option on Form R used in 1990 will continue for subsequent years. This rule also replaces the Form R and instructions found in the CFR with a Notice of Availability and a listing of reportable data elements.

Citation:

September 26, 1991
(56 FR 48795)

"Revisions to TRI Reporting Form"

SUMMARY: This notice contains the Agency's guidelines for making revisions to the toxic chemical release inventory (TRI) reporting form, or Form R. This notice also identifies which data elements should and should not be revised.

Citation:

November 22, 1991
(56 FR 58859)

"Denial of Chromium (III) Compounds Petition"

SUMMARY: EPA is denying a petition to delete chromium (III) oxide from the §313 list of toxic chemicals. The petition was to exclude chromium (III) compounds from the §313 list of chemicals. It was denied because chromium (III) can be oxidized to chromium (IV) which is a human carcinogen.

PART 3: INDICES

This section provides three indices to help you select and access the questions and answers in Part 1. The first index references the questions by subject. The questions that address that topic are listed below each subject. For example, to find questions dealing with emissions, you would look in the subject index for the word "emissions" and find two questions referenced under that subject: "Acid Waste Stream Release Reporting" and "Air Emissions Permitting and Closed-loop Recycling." The reference provides the page number for full text and is coded with a capital letter to indicate the relevant program (i.e., R=RCRA, S=Superfund, U=UST, and E=EPCRA).

The second index organizes the questions by regulatory citation, beginning with 40 CFR Part 261. This index is useful for identifying questions affecting specific portions of the regulations. For example, under the heading "40 CFR Part 280 - Underground Storage Tanks" is a question entitled "Flow-through Process Tank Exclusion."

Similarly, the third index organizes the questions by statutory citation. This index references only Superfund and EPCRA questions by applicable CERCLA statute citation. For example, the question entitled "SIC Code Change" is referenced under "Section 313 - Toxic Chemical Release Forms."

These three indices allow the reader flexibility in searching for a specific topic or getting an overview of the scope of the questions by selecting the approach most useful to the reader.

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LEGEND:
(E) = EPCRA (S) = SUPERFUND
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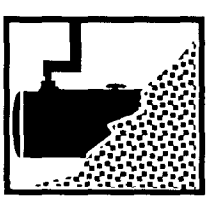

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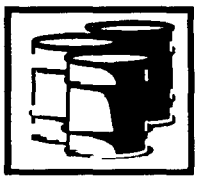

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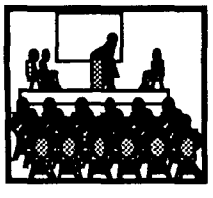

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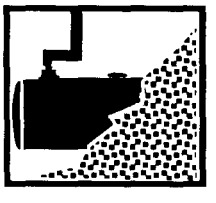

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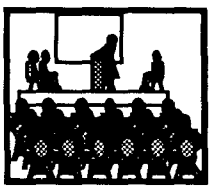

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56 FR 48475; September 25, 1991 p. 49
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