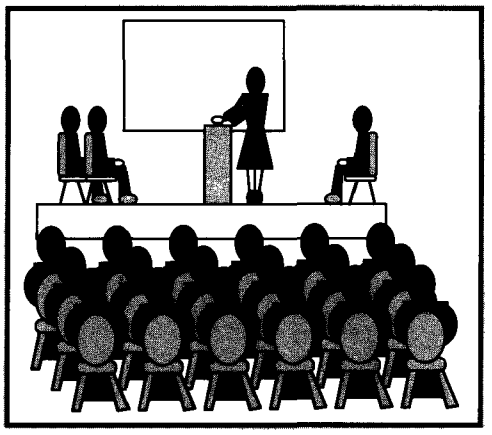
United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
(OS-305)

PB93-159 572
EPA/530-R-92-014M
March 1993

EPA Inside the Hotline

A Compilation of 1992 Monthly Hotline Reports



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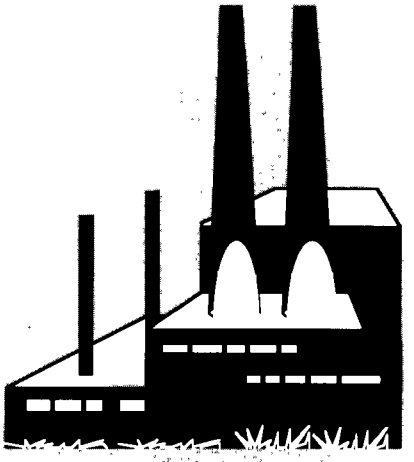
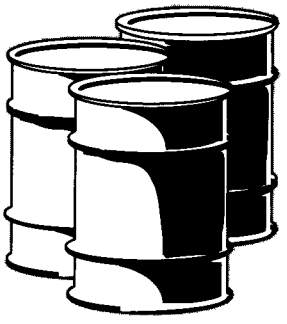
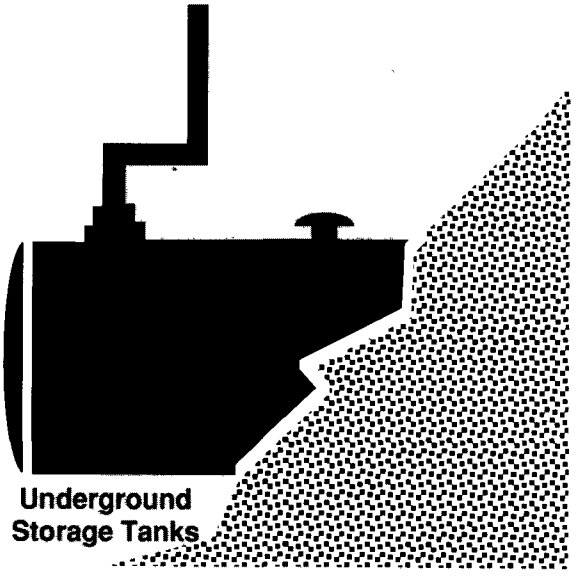


Resource Conservation
and Recovery Act



Superfund



Underground
Storage Tanks

EPA/530/R-92/014M

RCRA/SF/OUST Hotline National Toll Free No.: 800-424-9346	Emergency Planning and Community Right-to-Know Hotline National Toll Free No.: 800-535-0202

This report is in support of Contract No. 68-W0-0039.

EPA Project Officer: Barbara Roth, (202) 260-2858
U.S. Environmental Protection Agency
Washington, DC 20460

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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 1992. 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 1992 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: PB93-159 572.

Individual copies of the 1992 Monthly Hotline Reports are also available from NTIS. Order information is as follows:

January 1992	PB92-922 401
February 1992	PB92-922 402
March 1992	PB92-922 403
April 1992	PB92-922 404
May 1992	PB92-922 405
June 1992	PB92-922 406
July 1992	PB92-922 407
August 1992	PB92-922 408
September 1992	PB92-922 409
October 1992	PB92-922 410
November 1992	PB92-922 411
December 1992	PB92-922 412
January - December 1992	PB92-922 413

PART 1: QUESTIONS AND ANSWERS

This section contains a compilation of all the questions and answers from individual RCRA/Superfund/OUST and EPCRA Hotline Monthly Reports for the period of January to December 1992. The questions in these reports arise from actual Hotline calls. While the number of questions represent only a small fraction of the total questions received, they do represent commonly asked or significant questions received by the Hotline. During 1992 the Hotline responded to over 200,000 questions regarding EPA regulations, programs, guidance documents, and other related matters. Of the 207,781 questions received, over two thirds of the questions concerned regulatory information and nearly one quarter wanted EPA documents. Nine percent of the queries were not within the Hotline's purview to answer and were referred to an appropriate information source. Figure 2 breaks down the questions by program area. The RCRA program received the highest number of questions, nearly 60 percent. The number and type of questions in this report reflect the percentages cited in Figure 2.

The answers to the questions have undergone program and legal review and often reference other pertinent sources of information such as CFR citations, Federal Register notices, and Agency memoranda. 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.

Figure 1*
Questions by Type

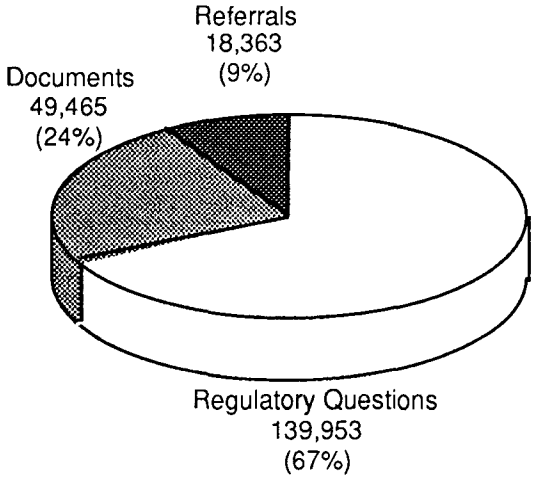
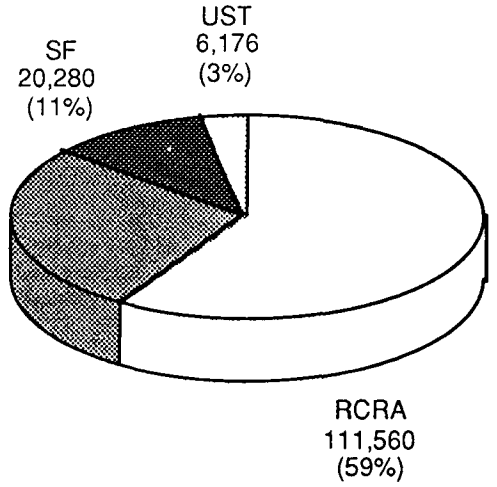
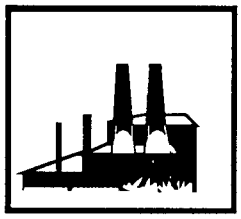


Figure 2**
Questions by Program



*Based on 207,781 questions received during 1992.
**Excludes 18,363 referrals made to other information sources.



RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

General

"Funding for the RCRA Program and RCRA Reauthorization"

Key Words:

Funding; reauthorization

QUESTION: What is the current status of the funding for the Resource Conservation and Recovery Act (RCRA) program? When will the RCRA statute be reauthorized?

ANSWER: When the Hazardous and Solid Waste Amendments of 1984 (HSWA) amended RCRA, §2007(a) authorized funding for the RCRA program through September 30, 1988. There have been no changes made to §2007(a) since 1984. Instead, funding for the RCRA program has been provided through an annual Congressional "de-facto" appropriations process. Through this process, Congress is able to appropriate money to EPA without going through the lengthy process of reauthorizing the statute. If Congress does not appropriate money, the funding for the program would expire. EPA's authority to regulate pursuant to RCRA, however, is separate from all funding issues and would not be affected. Several different bills addressing various solid and hazardous waste issues have been introduced in the House and the Senate. **(January 1992 Monthly Hotline Report)**

Clarification: These bills were introduced during the 102nd Congress. Comprehensive RCRA reauthorization bills had not been introduced during the 103rd Congress as of the publication of the Annual Report.

"Resource Conservation and Recovery Information System (RCRIS)"

Key Words:

Information management; database; RCRIS; recordkeeping

QUESTION: What is RCRIS?

ANSWER: The Resource Conservation and Recovery Information System (RCRIS) is a major national information system that helps EPA Regions and States in the daily operations and implementation of the RCRA Subtitle C program. As of December 1991, it was fully implemented by all Regions and States, effectively superseding the Hazardous Waste Data Management System (HWDMS). RCRIS also tracks data previously contained in the Corrective Action Reporting System (CARS). Both HWDMS and CARS were archived in January 1992.

RCRIS is both a program management and inventory system of RCRA hazardous waste handlers. RCRIS captures identification and location data for all handlers of hazardous waste and a wide range of information on hazardous waste treatment, storage, and disposal facilities regarding permit and closure status, compliance with Federal and State regulations, and cleanup (corrective action) activities.

"Resource Conservation and Recovery Information System (RCRIS)" (cont'd)

ANSWER: Data are collected from notification forms and permit applications submitted by hazardous waste handlers, as well as from information gathered at inspections. EPA Regions and RCRA-authorized States enter information directly into RCRIS. Core data from the Regions and States are then uploaded to the RCRIS National Oversight database monthly for use by EPA Headquarters in its oversight of the RCRA program and to respond to public requests for information. **(March 1992 Monthly Hotline Report)**

Generators

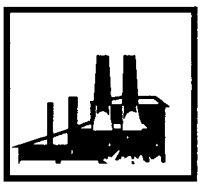
"Accumulation Time for Hazardous Waste Importers"

Key Words:

Generator accumulation; import; transportation

QUESTION: A U.S. hazardous waste broker wishes to import hazardous waste by truck from Mexico into the United States. Assuming the shipment passes U.S. Customs, the broker wishes to accumulate the hazardous waste at a warehouse near the border for 45 days in order to consolidate several shipments before transporting the hazardous waste to a designated TSDF. According to 40 CFR §262.60, an importer of hazardous waste must comply with the generator requirements of 40 CFR Part 262. Section 262.20 also requires the importer to comply with certain manifesting requirements specific to imports (§262.60(b)). Once the waste is imported into the United States, can the importer accumulate hazardous waste (per §262.34) at or near the point of entry to the United States (e.g., in a warehouse) for 90 days or less without a permit or interim status prior to shipping it to the designated TSDF?

ANSWER: Although it is correct that importers must comply with Part 262, Standards Applicable to Generators, including the special requirements of Part 262, Subpart F, importers cannot accumulate hazardous waste under §262.34. Ninety-day accumulation under §262.34 applies only to generator accumulation on-site, and is not applicable to this situation. Sections 262.20 and 262.60 require the importer to prepare a hazardous waste manifest for the waste shipment, using the importer's name and the name of the foreign generator in the generator box. At the time the manifest is initiated (at the point of entry into the United States) the waste shipment is already in transportation, and the manifested hazardous waste must proceed to the facility designated on the manifest to accept the hazardous waste. Under §263.12, the hazardous waste may be stored during the normal course of transportation to the designated facility at a transfer facility for 10 days or less, provided that the hazardous waste is packaged in accordance with DOT packaging regulations. **(August 1992 Monthly Hotline Report)**



"Treatment in a Generator's 90-Day Containment Building"

Key Words:

Containment building; generator accumulation; interim status; LDR notification; permit; treatment

QUESTION: According to the March 24, 1986, Federal Register, generators may treat hazardous waste in accumulation tanks or containers in conformance with the requirements of §262.34 and Subparts J or I of Part 265 without obtaining a permit or interim status (51 FR 10168). In the August 18, 1992, Federal Register (57 FR 37194), EPA promulgated standards for a new hazardous waste management unit known as a containment building (Parts 264 and 265, Subpart DD), and amended §262.34 to allow generators to accumulate hazardous waste on-site in containment buildings for 90 days or less without a permit or interim status (§262.34(a)(iv); 57 FR 37264). May generators accumulating hazardous waste in containment buildings in compliance with §262.34 and Part 265, Subpart DD treat the waste without obtaining a permit or interim status?

ANSWER: A generator accumulating hazardous waste in a containment building for less than 90 days in compliance with §262.34 and Part 265, Subpart DD (the technical standards for interim status containment buildings) may treat these hazardous wastes in the containment building without obtaining a permit or interim status as long as thermal treatment is not involved. The August 18, 1992, Federal Register states that §262.34 has been revised to exempt generators from permitting requirements when accumulating or treating hazardous waste on-site in containment buildings (57 FR 37242 and 37253). Generators who accumulate or treat hazardous waste in containment buildings must comply with the general Part 262 regulations, as well as the following requirements in accordance with §262.34(a)(1)(iv): comply with Subpart DD of 40 CFR Part 265; place in the facility's operating record a certification by a professional engineer that the building complies with the design standards specified in 40 CFR §265.1101; and maintain in the facility's files documentation showing no hazardous wastes remain in the unit for longer than 90 days (57 FR 37264).

If a generator chooses to treat a prohibited hazardous waste in containment buildings, however, and is conducting such treatment in order to meet applicable Part 268, Subpart D treatment standards, he or she must comply with the waste analysis plan requirements of §268.7(a)(4). Section 268.7(a)(4) has been modified to reflect the addition of containment buildings to §262.34 as accumulation/treatment units (57 FR 37270).

Thermal treatment is regulated by the specific standards for incinerators (Part 265, Subpart O), boilers and industrial furnaces (Part 266, Subpart H), and thermal treatment (Part 265, Subpart P), and is therefore not eligible for the §262.34 permit exemption even if the treatment occurs inside a containment building. **(August 1992 Monthly Hotline Report)**

Land Disposal Restrictions

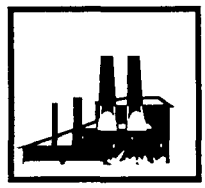
Key Words:

Characteristic waste; debris; LDR treatment standard; light bulbs; toxic

"Fluorescent Light Bulbs as Debris"

QUESTION: The May 15, 1992, Federal Register (57 FR 20766) promulgated a generic one-year, case-by-case extension of the land disposal restrictions (LDR) effective date for most hazardous debris. Debris qualifying for this extension may be land disposed without meeting the applicable Part 268, Subpart D treatment standards, provided the landfill or surface impoundment in which the hazardous debris is placed meets minimum technological requirements (§268.5(h)(2)). Do used fluorescent light bulbs that exhibit a prohibited characteristic (e.g., exhibit the toxicity characteristic (TC) and the extraction procedure toxicity characteristic (EP) for mercury) meet the definition of debris and therefore qualify for the case-by-case extension?

ANSWER: Used fluorescent light bulbs are considered debris and are eligible for the generic one-year case-by-case extension. The May 15, 1992, Federal Register (57 FR 20767) established this extension for materials that meet the definition of debris found in the Third Third final rule (55 FR 22650; June 1, 1990) and that are contaminated with hazardous waste (with the exception of debris contaminated with solvent, dioxin, and nonliquid California List wastes). This definition of debris includes materials that are primarily nongeologic in origin, such as grass, trees, stumps, shrubs, and man-made materials. In August 1992, EPA established alternative treatment standards for hazardous debris in 40 CFR §268.45 and promulgated regulatory definitions of debris and hazardous debris in §§268.2(g) and (h), respectively. The definition of debris in §268.2(g) classifies as debris solid materials exceeding a 60 mm particle size that are intended for disposal and that are manufactured objects, plant or animal matter, or natural geologic material (with several exceptions specified in §268.2(g)) (57 FR 37222; August 18, 1992). This definition also includes mixtures of debris with other materials provided that the debris comprises the primary material present based on a visual inspection (57 FR 37224). Although the May 1992 Federal Register uses the definition of debris found in the Third Third final rule, EPA has stated that the case-by-case extension applies to materials meeting either definition of debris (57 FR 37242). Fluorescent light bulbs, which are man-made (manufactured) materials exceeding a 60 mm particle size, meet both definitions when intended for discard, and thus qualify for the one-year case-by-case extension, provided the generator or facility owner/operator complies with the recordkeeping requirements outlined in the May 15, 1992, Federal Register (57 FR 20769).



"Fluorescent Light Bulbs as Debris" (cont'd)

Even if the fluorescent light bulbs are broken into pieces that have a particle size of less than or equal to 60 mm, the pieces are still eligible for the one-year case-by-case extension. Broken light bulbs meet the June 1, 1990, Federal Register definition of debris, which does not contain a minimum particle size criterion for materials other than indigenous rocks (55 FR 22650); therefore, regardless of the diameter of the pieces, broken light bulbs are considered debris for purposes of the generic one-year case-by-case extension. **(September 1992 Monthly Hotline Report)**

Clarification: After expiration of the case-by-case extension, these materials may or may not be subject to the debris standards. At that time the June 1, 1990, Federal Register definition of debris will no longer be applicable.

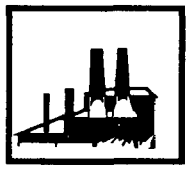
"One-Time Notification Requirement Under §268.7(a)(6)"

Key Words:

Generator accumulation; LDR notification; wastewater treatment unit

QUESTION: A manufacturer generates a listed, restricted waste which is piped directly to a wastewater treatment unit exempt from RCRA regulation under §§264.1(g)(6), 265.1(c)(10), and 270.1(c)(2)(v). After treatment, the listed waste is discharged directly to a POTW pursuant to §261.4(a)(1)(ii). Because the waste is never managed in accumulation tanks or containers regulated under §262.34, it is not subject to "substantive regulation" as defined in the March 24, 1986, Federal Register (51 FR 10152-3), and so is not counted in determining generator status (i.e., conditionally exempt, small quantity, or large quantity generator). Which Part 268 land disposal restrictions notification requirements, if any, apply to this waste?

ANSWER: The generator must comply with the one-time notification requirement under §268.7(a)(6). This section states, "[i]f a generator determines that he is managing a restricted waste that is excluded from the definition of hazardous or solid waste or exempt from Subtitle C regulation, under 40 CFR 261.2-261.6 subsequent to the point of generation, he must place a one-time notice stating such generation, subsequent exclusion from the definition of solid or hazardous waste or exemption from Subtitle C regulation, and the disposition of the waste, in the facility's file" (emphasis added). In the scenario presented above, the waste is generated during the manufacturing process and becomes excluded from the definition of solid waste at the point of discharge to the POTW (§261.4(a)(1)(ii)); in other words, subsequent to the point of generation (see 56 FR 3866; January 31, 1991). Therefore, the one-time notification requirement of §268.7(a)(6) would apply even if, prior to discharge, the generator does not manage the waste in a manner that subjects it to substantive regulation (i.e., the generator does not accumulate the waste in tanks or containers regulated under §262.34). **(July 1992 Monthly Hotline Report)**



Medical Waste

"Medical Waste Tracking Act Demonstration Program"

Key Words:

Medical waste

QUESTION: What is the status of the Medical Waste Tracking Act demonstration program, laid out in 40 CFR Part 259?

ANSWER: In response to the Medical Waste Tracking Act of 1988 (which amended RCRA by adding Subtitle J), EPA established a two-year demonstration program to track medical waste. The program began June 22, 1989, and ended June 22, 1991. Five States participated in the program: Connecticut, New Jersey, New York, Puerto Rico, and Rhode Island. The program has expired and only some of the Federal recordkeeping regulations are currently in effect.

Section 11008 of RCRA required EPA to submit to Congress two interim reports and a final report on medical waste management and the demonstration program. The first and second interim reports were submitted in May 1990 and December 1990. The first interim report summarized information that was then available from the tracking program and outlined an agenda for additional research on each of the 12 specific areas concerning medical waste that were identified in the Act. The second interim report provided a research update and forecast on each of these subject areas. The third and final report will summarize all the information gathered, evaluate the success of the demonstration program, and outline options for managing medical waste. The final report is currently under Agency review and completion is expected late in 1992. After EPA submits the final report, Congress will review the results of the two-year program and determine the most appropriate course of action for medical waste management. **(February 1992 Monthly Hotline Report)**

Municipal Solid Waste

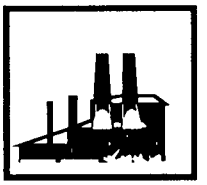
"Municipal Solid Waste Characterization"

Key Words:

Municipal waste; recycling; Subtitle D

QUESTION: How much municipal solid waste (MSW) is generated in the United States each year? What is the breakdown of the material by category (e.g., plastics, paper, glass) and how much of each material is recovered through recycling or composting?

ANSWER: According to the EPA publication Characterization of Municipal Solid Waste in the United States: 1992 Update, in 1990 we generated 195.7 million tons of municipal solid waste, or 4.3 pounds per person per day. The municipal solid waste stream is broken down by category in the chart below. These 1990 statistics show that the largest component of the municipal solid waste stream is paper and paperboard (37.5 percent) and the second largest is yard trimmings (17.9 percent).



"Municipal Solid Waste Characterization" (cont'd)

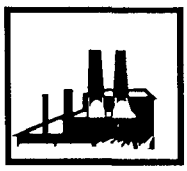
Characterization of Municipal Solid Waste in the United States: 1992 Update (PB92-207 166) also summarizes how municipal solid waste is managed (e.g., landfill, combustion, recovery). In 1990, the total amount of material recovered from the municipal solid waste stream was 33.4 million tons, or 17.1 percent. Combustion facilities handled 31.9 million tons, or 16.3 percent of the municipal solid waste generated. The remaining 130.4 million tons, or 66.6 percent of the municipal solid waste generated, were sent to landfills. By the year 2000, EPA projects that the amount of municipal solid waste generated will reach 222 million tons, or 4.5 pounds per person per day. EPA continues to emphasize the importance of source reduction and recycling as the first and second priority components of the waste management hierarchy, and projects that the recovery rate for municipal solid waste will increase to between 20 and 30 percent in 1995 and between 25 and 35 percent in 2000.

U. S. Municipal Solid Waste Stream - 1990 *

	MSW Generated (in millions of tons)	Percentage of MSW Generated	MSW Recovered (in millions of tons)	Percentage of MSW Recovered
Paper and Paperboard	73.3	37.5%	20.9	28.6%
Yard Trimmings	35.0	17.9%	4.2	12.0%
Metals	16.2	8.3%	3.7	23.0%
Plastics	16.2	8.3%	0.4	2.2%
Glass	13.2	6.7%	2.6	19.9%
Food	13.2	6.7%	neg.**	neg.**
Wood	12.3	6.3%	0.4	3.2%
Textiles	5.6	2.9%	0.2	4.3%
Rubber and Leather	4.6	2.4%	0.2	4.4%
Other	6.1	3.1%	0.8	13.1%

*Municipal solid waste estimates do not include construction and demolition waste, oil and gas waste, small quantity generator waste, and other wastes that may be disposed of in a Subtitle D landfill but are not municipal solid wastes.

neg.=negligible **(October 1992 Monthly Hotline Report)



"Municipal Solid Waste Landfill Criteria"

Key Words:

Closure; land disposal unit; municipal waste; Subtitle D

QUESTION: On October 9, 1991, EPA issued a final rule establishing minimum national standards for municipal solid waste landfills (MSWLFs). Most provisions of the rule will be effective October 9, 1993 (56 FR 51017). All MSWLF units that receive waste after October 9, 1991 (the date the rule was published), but stop receiving waste prior to the effective date must still meet certain final cover requirements at closure. If a landfill consists of three cells, and two of the cells closed before October 9, 1991, is the entire landfill subject to the new final cover requirements or just the one cell that received waste after the date of publication?

ANSWER: The new final cover requirements only apply to the third cell that continued to receive waste after the publication date of the final rule for MSWLFs. The regulations state that the new final cover standards apply to MSWLF units receiving waste after October 9, 1991 (40 CFR §258.1). Each landfill cell constitutes a separate MSWLF unit. The two cells (units) which stopped receiving waste before publication of the final rule are not subject to the new final cover requirements or any other Part 258 requirement. The cell that continued to receive waste between the publication date in 1991 and the effective date in 1993 is subject only to the final cover requirements of 40 CFR §258.60(a). In addition to the new final cover standards, all Part 258 requirements will apply to the third MSWLF unit if it continues to receive waste after October 9, 1993. Note that states may have more stringent requirements regarding final cover, closure requirements, and solid waste facilities in general. **(November 1992 Monthly Hotline Report)**

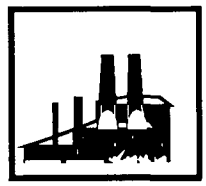
TSDFs

"Groundwater Monitoring at Newly Regulated Facilities"

Key Words:

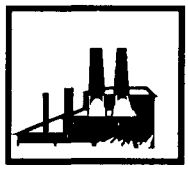
Background concentration; groundwater monitoring; interim status; land disposal unit

QUESTION: The regulations in 40 CFR Part 265, Subpart F require owners and operators of interim status surface impoundments, landfills, and land treatment units to implement groundwater monitoring programs. Section 265.92 requires these facilities to establish initial background concentrations for three groups of indicator parameters. Background concentrations are established based on the results of quarterly groundwater sampling during the first year. For newly regulated interim status facilities or units, when must the background concentrations be established -- during the first year of interim status, or the first year the groundwater monitoring system is operating?



ANSWER: Owners and operators of newly regulated interim status facilities or units must begin establishing background concentrations for the indicator parameters in §§265.92(b)(1)-(3) as soon as the groundwater monitoring system is installed. These facilities then have one year from the date the system is operable to establish these background levels. When interim status is triggered, §270.73(d)(2) requires owners and operators of land disposal facilities to certify compliance with all applicable groundwater monitoring requirements within 12 months. Land disposal facilities that do not certify compliance with these requirements within 12 months automatically lose interim status. The September 27, 1990, Federal Register (55 FR 39411) clarifies §270.73(d)(2) by stating that facilities newly subject to the Part 265, Subpart F groundwater monitoring requirements must complete site characterization and design and installation of groundwater monitoring systems within 12 months of receiving interim status (also see October 1985 Hotline Monthly Report question on loss of interim status). In other words, a newly regulated interim status facility must have characterized the hydrogeology of the site and installed a groundwater monitoring system capable of determining the facility's impact on groundwater quality by the end of the first year of interim status at the latest.

Once owners or operators have completed the installation of groundwater monitoring systems, they must then immediately begin establishing background concentrations for the three groups of indicator parameters specified in §§265.92(b)(1)-(3). These background concentrations are established during the first year of operation of the groundwater monitoring system. For newly regulated facilities or units, background concentration levels must be established by the end of the second year of interim status at the latest (sooner if the facility's groundwater monitoring system was installed and operating before the end of the first year of interim status). For example, a facility with a surface impoundment that became subject to RCRA regulation for the first time because of the TCLP final rule had until September 25, 1991 (one year after the effective date of the regulations), to certify that a groundwater monitoring system was installed. The facility then has until September 25, 1992, to establish background concentration levels pursuant to §265.92. If this facility finished installing its groundwater monitoring system before September 25, 1991 (e.g., on July 15, 1991), background concentrations for the indicator parameters would have to be established within one year of the date the groundwater monitoring system became operable (by July 15, 1992). **(April 1992 Monthly Hotline Report)**



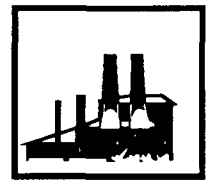
"Groundwater Monitoring Resampling Requirements"

Key Words:

Groundwater monitoring; permit; resampling

QUESTION: Owners or operators required to establish a compliance monitoring program under 40 CFR §264.99 must sample all groundwater monitoring wells located at the point of compliance for any chemical parameter or hazardous constituent specified in the permit pursuant to §264.99(a) at least semiannually, and for all Appendix IX constituents at least annually (§§264.99(f) and (g)). If the groundwater contains any additional Appendix IX constituents that are not already identified in the facility permit as monitoring constituents, the owner or operator must report the results of the analysis to the Regional Administrator within seven days or resample within one month after the initial sampling. If the owner or operator chooses to resample, must he or she resample for all Appendix IX constituents?

ANSWER: The owner or operator is not required to resample for all Appendix IX constituents. Since the purpose of resampling is to verify the presence of the additional constituents discovered in the initial sampling, resampling is only performed on those Appendix IX constituents the owner or operator wishes to contest. If the owner or operator chooses to resample and confirms the presence of the new constituents within seven days of the second sampling, he or she must report the concentrations of these additional constituents to the Regional Administrator and, through a permit modification, add them to the monitoring list required by §264.99(a)(1). The owner or operator must then monitor for these constituents at least semiannually pursuant to §264.99(f). If, after resampling, the second analysis does not confirm the initial analysis, then the "unconfirmed" constituents are not added to the monitoring list and notification to the Regional Administrator is not necessary. This, however, does not exempt the facility owner or operator from the annual Appendix IX analysis pursuant to §264.99(g). In the event that the owner or operator chooses not to resample, he or she must report the results of the initial sampling to the Regional Administrator and modify the monitoring list no later than seven days after the initial sampling. **(June 1992 Monthly Hotline Report)**



"Liners and Leak Detection Systems for Hazardous Waste Landfills, Surface Impoundments, and Waste Piles"

Key Words:

Interim status; land disposal unit; minimum technological requirements; permit

QUESTION: The Hazardous and Solid Waste Amendments (HSWA) of 1984 created new requirements for both permitted and interim status hazardous waste land disposal units. Initially, to satisfy the requirements outlined in §3004(o), EPA promulgated minimum technological requirements (i.e., double-liners) on July 15, 1985 (50 FR 28702). EPA subsequently proposed two rules on liners and leak detection. On March 28, 1986 (51 FR 10706), and April 17, 1987 (52 FR 12566), EPA proposed amendments to the double liner and leachate collection system standards for landfills and surface impoundments. On May 29, 1987 (52 FR 20218), EPA proposed leak detection system requirements for landfills, surface impoundments, waste piles, and land treatment units. This notice also proposed to expand the double liner requirement to include waste piles. On January 29, 1992 (57 FR 3462), EPA issued a final rule on liners and leak detection systems encompassing all the above proposed rules. How did the January 29, 1992, final rule affect the minimum technological requirements of RCRA §3004(o)?

ANSWER: The January 29, 1992, Federal Register finalizes EPA's proposed actions of March 28, 1986; April 17, 1987; and May 29, 1987; and completes the codification of the minimum technological requirements imposed by RCRA §§3004(o)(4) and 3004(o)(5)(A). It also modifies previous liner and leachate collection and removal system regulations for permitted and interim status landfills, surface impoundments, and waste piles. In addition, the final rule requires owners and operators of these three types of units to install a leak detection system, establish an action leakage rate, develop a response action plan, and implement a construction quality assurance program.

The following landfills, surface impoundments, and waste piles are affected by this final rule: (1) new units for which construction commences after January 29, 1992; (2) replacement units reused after July 29, 1992; and (3) lateral expansions of units for which construction commences after July 29, 1992. The rule applies to these units regardless of their permit status, and the Agency maintains that the permit does not act as a shield with respect to the leak detection requirements (57 FR 3464). The regulations at 40 CFR §270.4 have, therefore, been amended to require that an owner or operator apply for a permit modification to meet these requirements.

According to the statute, minimum technological requirements for landfills and surface impoundments include a double-liner and leachate collection system, and a leak detection system. Minimum technological requirements for waste piles include a leak detection system. The final rule expanded the double-liner requirements to waste piles (57 FR 3472).

"Liners and Leak Detection Systems for Hazardous Waste Landfills, Surface Impoundments, and Waste Piles" (cont'd)

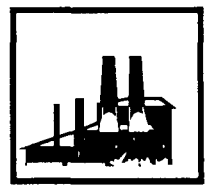
The Agency has determined that a leachate collection and removal system meeting the standards in the final rule fulfills the statutory requirement for a leak detection system. Therefore, a unit's leachate collection and removal system between the top and bottom liners is also its leak detection system.

The leak detection system must be designed to detect, collect, and remove leaks at the earliest practicable time. It must be constructed of materials that are compatible with the waste and are strong enough to resist pressure gradients, designed and operated to minimize clogging, and constructed with a minimum bottom slope of one percent. The drainage layer may be granular or synthetic. A granular drainage layer must be a least 12 inches thick, and have a minimum hydraulic conductivity of $1x10^{-2}$ cm/sec for waste pile and landfill units, or $1x10^{-1}$ cm/sec for surface impoundment units. Synthetic drainage layers must have a hydraulic transmissivity of $3x10^{-5}$ m2/sec for waste pile and landfill units, or $3x10^{-4}$ m2/sec for surface impoundment units. The system requires a sump of sufficient size to collect and remove liquids efficiently and to prevent liquids from backing up into the drainage layer. Variances for alternative system design are available. Landfill and waste pile units also require a leachate collection and removal system immediately above the top liner which ensures that the leachate depth on the top liner does not exceed one foot.

The double-liner system comprises a top and bottom liner. The top liner is the liner directly above the leak detection system. It must be designed to prevent migration of hazardous constituents into the liner during the active life of the unit and during the post-closure period (e.g., a geomembrane liner). The bottom liner must be a composite liner consisting of an upper component (e.g., geomembrane) designed to prevent the migration of hazardous constituents into the liner, underlain by at least 3 feet of compacted soil material with a hydraulic conductivity of no more than $1x10^{-7}$ cm/sec.

Each unit requires a site-specific action leakage rate and a site-specific response action plan. The action leakage rate is based on the maximum leakage rate that the leak detection system can remove without the fluid head on the bottom liner exceeding one foot. When the action leakage rate is exceeded, the response action plan must specify actions to be taken to ensure that the leakage does not migrate out of the unit.

To ensure that the constructed unit meets or exceeds all design criteria and specifications, a construction quality assurance (CQA) program must be implemented. A CQA program must include a test fill for compacted soil liner components, unless waived. It also requires a certification by a registered professional engineer that the CQA plan has been successfully carried out and the liner system meets the design and construction requirements.



"Liners and Leak Detection Systems for Hazardous Waste Landfills, Surface Impoundments, and Waste Piles" (cont'd)

The leak detection system must be monitored at least weekly during the active life of the unit, and either monthly, semi-annually, or annually during the post-closure period for disposal units, depending on the amount of liquids detected in the sumps. **(July 1992 Monthly Hotline Report)**

Used Oil

"Rebuttable Presumption for Used Oil"

Key Words:

Concentration; mixture; solvent; used oil

QUESTION: According to the recycled used oil management standards in 40 CFR Part 279, any used oil containing more than 1,000 ppm of total halogens is presumed to have been mixed with a listed hazardous waste and therefore is subject to RCRA Subtitle C hazardous waste regulation. This presumption may be rebutted by demonstrating that the used oil does not contain hazardous waste. According to §279.10(b)(1)(ii), one way to make this demonstration is to show that the used oil does not contain significant concentrations of any of the halogenated hazardous constituents listed in Appendix VIII of Part 261. What is meant by the term "significant concentrations"?

ANSWER: There is no regulatory definition of significant concentrations. The Federal Register of November 29, 1985, however, does provide guidance on the term as it relates to hazardous halogenated solvents. Specifically, EPA has stated that a level of 100 ppm of individual solvent compounds is generally considered a significant concentration. Thus, one may try to rebut the presumption by showing that less than 100 ppm of any individual hazardous halogenated constituent listed as a hazardous spent solvent in 40 CFR §261.31 is present (50 FR 49176; November 29, 1985).

This 100 ppm level applies only to concentrations of halogenated solvent constituents and cannot be applied to all hazardous halogenated compounds. For example, if a used oil contains 1,000 ppm total halogens, and some of the halogens are pesticide compounds, the presumption of mixing would not necessarily be overcome by showing that each pesticide is present at levels less than 100 ppm. Showing that individual hazardous halogenated solvents are present at levels less than 100 ppm also will not automatically rebut the presumption, as other site-specific factors must be considered in making such a determination. For example, if documentation shows that used oil has been mixed with a listed hazardous waste, that mixture would be considered a hazardous waste pursuant to the mixture rule in 40 CFR §261.3(c)(2)(iv), regardless of the level of halogenated constituents present. **(December 1992 Monthly Hotline Report)**

Waste Identification

"Alcohol-Content Exclusion for the Ignitability Characteristic"

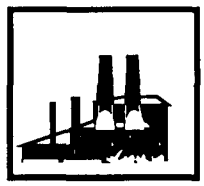
Key Words:

Alcohol; aqueous; characteristic waste; hazardous waste definition; ignitable

QUESTION: A generator produces a wastestream with a flash point of 54 degrees Celsius that contains the following three components: water (77 percent), alcohol (13 percent), and a nonalcoholic liquid component (10 percent). According to the "alcohol exclusion" in 40 CFR §261.21(a)(1), the characteristic of ignitability will not apply to an aqueous solution that contains less than 24 percent alcohol and which has a flash point less than 60 degrees Celsius. Does the presence of a nonalcoholic component cause the aqueous solution to be regulated as an ignitable waste (D001)?

ANSWER: No, the additional nonalcoholic liquid component will not cause the wastestream to be regulated as a D001 waste. Despite the presence of the nonalcoholic liquid component, the wastestream continues to qualify for the alcohol exclusion in 40 CFR §261.21(a)(1). According to the May 19, 1980, Federal Register (45 FR 33108), EPA originally intended for the alcohol exclusion to exempt alcoholic beverages and some types of latex paints, which exhibit low flash points due to the alcohol content, but do not sustain combustion because of the high water content. The alcohol exclusion in 40 CFR §261.21(a)(1), however, is not limited to those wastes mentioned in the May 19, 1980, Federal Register. It applies to all aqueous solutions containing less than 24 percent alcohol, even if additional nonalcoholic components are present. EPA clarified in the June 1, 1990, Federal Register (55 FR 22543) that the term "alcohol" in §261.21(a)(1) refers to any alcohol or combination of alcohols. The Agency notes, however, that if the alcohol is one of those alcohols specified in EPA hazardous waste codes F001-F005 and has been used for its solvent properties, the waste must be evaluated to determine if it should be classified as an F-listed spent solvent waste.

The alcohol exclusion for the ignitability characteristic was adopted from the Department of Transportation's (DOT) definition of "combustible liquids" in 49 CFR §173.115(b). The alcohol exclusion in 49 CFR §173.115(b)(2)(ii) applies to aqueous solutions containing 24 percent or less alcohol by volume which contain no less than 50 percent water. Since EPA originally intended to be consistent with DOT regulations when promulgating the alcohol exclusion in §261.21(a)(1), the 50 percent water stipulation may be applied to the ignitability characteristic. Therefore, as clarified in an internal EPA memorandum, for the purpose of the ignitability characteristic in §261.21(a)(1), "aqueous" means a solution containing at least 50 percent water by weight. **(July 1992 Monthly Hotline Report)**



"'Aqueous' as Applied to the Corrosivity Characteristic"

Key Words:

Aqueous; characteristic waste; corrosive; hazardous waste definition; liquid; pH

QUESTION: According to 40 CFR §261.22, a solid waste exhibits the characteristic of corrosivity if it has either of the following properties:

- It is aqueous and has a pH less than or equal to 2.0 or greater than or equal to 12.5 (§261.22(a)(1))
- It is a liquid which corrodes steel at a rate greater than 6.35 mm (0.250 inch) per year (§261.22(a)(2)).

Many aqueous wastes are liquids. Must aqueous liquid wastes be evaluated for both pH and rate of steel corrosion?

ANSWER: While nonaqueous liquids need only be tested using the steel corrosion test, aqueous liquids must be evaluated for both pH and rate of steel corrosion. If an aqueous liquid has a pH less than or equal to 2.0 or greater than or equal to 12.5, or corrodes steel at a rate greater than 6.35 mm per year, it is regulated as a corrosive waste (D002). Therefore even if an aqueous liquid passes the §261.22(a)(1) pH test (pH greater than 2.0 and less than 12.5), if it corrodes steel at a rate greater than 6.35 mm per year, it exhibits the characteristic of corrosivity.

According to the background document for this characteristic, Corrosivity Characteristic; Identification and Listing of Hazardous Waste Under RCRA Subtitle C, Section 3001, an aqueous waste with a pH between 2.0 and 12.5 may, under certain conditions, corrode steel at a rate greater than 6.35 mm per year. Several factors influence the rate of metal corrosion. In addition to pH, other important factors include temperature, metal(s) involved, and aeration and composition of the corrosive medium.

The background document indicates that although alkaline solutions, in practice, do not severely damage steel, ". . . a corrosive material with a pH less than 4.0 will cause iron to dissolve rapidly." In other words, although an aqueous waste in liquid form that has a pH between 2.0 and 4.0 (i.e., an acidic solution) passes the pH test, the waste may nonetheless fail the steel corrosion test and be regulated as a corrosive (D002) hazardous waste.

Although there is no regulatory definition of the term "aqueous," for purposes of the corrosivity characteristic an aqueous waste is defined as a waste for which pH is measurable. Since not all liquid wastes are in a form amenable to pH measurement, this operational definition of aqueous implies that the presence or absence of measurable dissociated hydrogen ions divides the universe of liquid wastes into two mutually exclusive categories: aqueous and nonaqueous. While all liquid wastes must be evaluated for rate of steel corrosion, those liquid wastes classified as aqueous are subject to both the pH and steel corrosion tests. The background document explains that those who generate or manage a waste can best determine whether it is in a form suitable for pH measurement, and therefore an aqueous waste requiring the pH test.

"'Aqueous' as Applied to the Corrosivity Characteristic" (cont'd)

This working definition of aqueous means that aqueous wastes can be in nonliquid form. Suspensions, sols, or gels for which pH is measurable are examples of aqueous nonliquids. The background document for the corrosivity characteristic states that, during a pH determination, the form of the waste should be taken into account. As nonaqueous liquids are subject to the steel corrosion test only, aqueous nonliquids only require evaluation for pH. Therefore, by definition, an aqueous nonliquid with a pH greater than 2.0 and less than 12.5 cannot be regulated as D002, since §261.22(a)(2) applies only to liquids that corrode steel.

The operational definition of aqueous for the characteristic of corrosivity differs from the meaning of aqueous as the term applies to the ignitability characteristic. Under §261.21(a)(1), aqueous solutions containing less than 24 percent alcohol by volume are excluded from regulation as ignitable liquids. In an internal Agency memorandum clarifying this exclusion, an aqueous solution is defined as a solution which contains at least 50 percent water by weight. Applying this 50 percent water stipulation to define "aqueous" in the context of §261.22(a)(1) is inappropriate. Instead, for purposes of the corrosivity characteristic, aqueous means in a form amenable to pH measurement. **(September 1992 Monthly Hotline Report)**

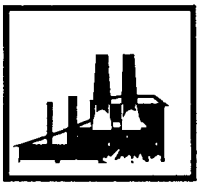
"Beryllium Dust (P015); Applicability"

Key Words:

Beryllium dust; commercial chemical product; hazardous waste definition

QUESTION: Beryllium is listed in 40 CFR §261.33(e) as an acutely hazardous waste (P015). Does the P015 listing apply to all forms of unused beryllium that are discarded?

The hazardous waste listing P015 applies only to unused commercial chemical product beryllium dust that is discarded (see §261.33(d) for a definition of commercial chemical product). On May 19, 1980, beryllium dust was listed in an interim final rule as an acutely hazardous waste in 40 CFR §261.33(e) because of its acute toxicity to humans when inhaled (45 FR 33084). The listing was finalized on November 25, 1980 (45 FR 78532). In the April 22, 1988, Federal Register, which made technical corrections to the list of commercial chemical products in §§261.33(e) and (f), the word "dust" was inadvertently omitted from the listing (53 FR 13382). Despite this omission, the applicability of the listing remains unchanged. The April 22, 1988, Federal Register was intended only to amend certain typographical errors in the hazardous waste lists. EPA never proposed to change the listing from "beryllium dust" to "beryllium" and does not intend the listing to apply to beryllium. Therefore, despite this typographical error in 40 CFR §261.33(e), the scope of the listing remains unchanged, and the hazardous waste code P015 applies only to beryllium dust. **(November 1992 Monthly Hotline Report)**



"Commercial Chemical Product Definition in §261.33"

Key Words:

Active ingredient; commercial chemical product; hazardous waste definition

QUESTION: A manufacturer intends to discard an unused formulation which contains two chemicals that serve as active ingredients. Only one of the chemicals is listed in 40 CFR §261.33. A comment in §261.33(d) states that "[t]he phrase 'commercial chemical product or manufacturing chemical intermediate having the generic name listed in...' refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient." (Emphasis added.) Does the term "sole active ingredient" refer only to chemicals which are listed in §§261.33(e) and (f)? If a product contains two active ingredients, only one of which is listed, would the discarded product be regulated as a P- or U-listed waste?

ANSWER: The discarded formulation would not be regulated as P- or U-listed waste when discarded. In order to be regulated as a P- or U-listed waste, a waste must meet all of the listing criteria. The listings in §261.33 do not include chemical mixtures where the listed chemical is not the sole active ingredient, and do not apply to chemicals that have been used for their intended purpose (54 FR 31335; July 28, 1989). In the scenario described above, while the discarded formulation meets the criterion of being unused, it contains more than one active ingredient. It is not necessary for a chemical to be listed in §§261.33(e) or (f) in order to meet the definition of an active ingredient. An active ingredient is defined as a compound or mixture that performs the function of the product. "Sole active ingredient" means the active ingredient is the only chemically active component for the function of the product. If a formulation has more than one active ingredient, the formulation, when discarded, would not be within the scope of the listing in §261.33, regardless of whether only one or both active ingredients are listed.

Generators, however, must be sure to correctly determine whether a particular constituent performs the function of the product, or only serves an ancillary function, such as mobilizing or preserving the active ingredient. For example, fillers, solvent carriers, propellants, and other components with no pesticidal role are functionally inert in pesticide formulations and therefore are not active ingredients. In cases where a hazardous constituent from §§261.33(e) or (f) is a functionally inert component of a commercial chemical product, e.g., a solvent carrier, its presence does not prevent the formulation containing another P- or U-listed constituent as the sole active ingredient from being a P- or U-list waste (internal Agency memorandum dated May 3, 1989). **(March 1992 Monthly Hotline Report)**

"Filters Used to Reclaim CFC Refrigerant"

Key Words:

CFC; characteristic waste; recycling; toxic

QUESTION: While servicing air conditioners, a facility generates spent CFC-11 which exhibits the toxicity characteristic for carbon tetrachloride (D019). The generator reclaims the used refrigerant for subsequent reuse, and during the reclamation process generates contaminated filters which also exhibit the TC for carbon tetrachloride. According to §261.4(b)(12), the used CFC refrigerant is exempt from the definition of hazardous waste if it is going to be reclaimed for further use. If the spent filters are being discarded, would they also be excluded from regulation as a hazardous waste under §261.4(b)(12) since they are generated by the reclamation of an excluded waste?

ANSWER: As explained in the February 13, 1991, Federal Register (56 FR 5910), the purpose of the exclusion provided in §261.4(b)(12) is to encourage the recycling and reuse of CFC refrigerants and discourage the practice of venting them to the air. Wastes derived from the CFC reclamation process itself, however, are not exempt, and the filters would not be covered by the exclusion. Since the filters exhibit the toxicity characteristic, they must be managed as hazardous waste. Any other residues generated by the reclamation process would also need to be evaluated for characteristics, either through testing or application of knowledge. **(September 1992 Monthly Hotline Report)**

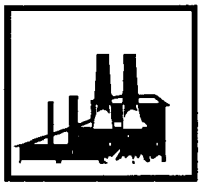
"Hydrochlorofluorocarbons Used in Degreasing"

Key Words:

CFC; F001, F002; hazardous waste definition; solvent

QUESTION: According to 40 CFR §261.31, chlorinated fluorocarbons (CFCs) used in degreasing are classified as F001. EPA included CFCs used in degreasing in the F001 listing because of concern for their potential contribution to the depletion of stratospheric ozone. Are hydrochlorofluorocarbons (HCFCs) used in degreasing also regulated as F001?

ANSWER: Because the F001 listing description includes all chlorinated fluorocarbons, hydrochlorofluorocarbons used in degreasing operations are also classified as F001. Of course, the solvent formulation must meet the 10 percent (by volume) before-use criterion in the F001 listing. Hydrogenated fluorocarbons (HFCs), however, are not included in the scope of the F001 listing. **(December 1992 Monthly Hotline Report)**



"Lead Used as Shielding in Low-Level Radioactive Waste Disposal"

Key Words:

Commercial chemical product; land disposal; mixed waste; solid waste definition

QUESTION: A generator of low-level radioactive waste places the waste in lead or lead-lined containers. These containers, used to dispose of radioactive waste, also serve as shielding. Would the containers, once disposed of in a landfill, be regulated as a mixed waste under both RCRA (because the containers exhibit the toxicity characteristic for lead) and the Atomic Energy Act (because they contain radioactive waste)?

ANSWER: No, the containers or container liners would not be regulated as a mixed waste if their primary use is for shielding in disposal operations. Because the containers would be fulfilling their intended use and thus would not be considered discarded under RCRA, they do not meet the definition of a solid waste (40 CFR §261.2(c)(1)(ii)). Since the containers would not meet the definition of solid waste, they would not meet the definition of hazardous waste. A 1987 internal Agency memorandum states, "[i]n this instance, containers or liners may be analogous to commercial chemical products (e.g., pesticides) where as a product, their normal use is placement on the land. Therefore, lead whose primary use is shielding in low-level waste disposal operations is not subject to Federal hazardous waste regulations when placed on the land as part of its normal commercial use." In this example, the containers are not subject to RCRA and are not regulated as mixed waste. The radioactive waste would, however, be subject to any applicable Atomic Energy Act regulations.

EPA notes, however, that "...lead containers and liners may be equally hazardous to human health and the environment when placed in the ground independent of [the] legal classification as a waste or container. Therefore, EPA recommends that all lead containers and lead liners be managed in an environmentally safe manner (e.g., managed in a permitted hazardous waste facility or treated such that it no longer exhibits its characteristic)" (OSWER Directive 9432.00-2; October 4, 1989). **(May 1992 Monthly Hotline Report)**

"Perchloroethylene Used in Dry Cleaning"

Key Words:

F001, F002; hazardous waste definition; solvent

QUESTION: A dry cleaner uses a 50 percent perchloroethylene (tetrachloroethylene) mixture in her cleaning process. Since tetrachloroethylene appears in the listing descriptions for both F001 and F002, would the spent solvent mixture be classified as F001 or F002?

ANSWER: Spent tetrachloroethylene used in dry cleaning is classified as F002 (40 CFR §261.31). The background listing document for F002 identifies certain industries that generate spent halogenated solvents meeting the F002 listing (Identification and Listing of Hazardous Waste, §§261.31 and 261.32 -- Listing of Hazardous Waste, page 41). According to this document, tetrachloroethylene used in laundry and dry cleaning operations is regulated as F002. Of course, the spent solvent formulation must meet the 10 percent (by volume) before-use criterion in the F002 listing. Furthermore, the F001 listing is, by its terms, limited to spent solvents "used in degreasing." **(October 1992 Monthly Hotline Report)**

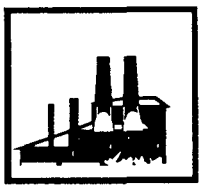
"Reclaimed Commercial Products: Regulatory Status"

Key Words:

Commercial chemical product; contained-in; hazardous waste definition; recycling; solid waste definition

QUESTION: The owner of a facility collects used railroad ties that were treated with a wood preservative containing creosote. When the owner has accumulated a sufficient amount of railroad ties he bakes them to draw out the creosote. Once this process is complete, the reclaimed creosote can be used as a wood preservative without further processing. A drum of this creosote leaked into the soil. How is the resulting contaminated soil regulated upon disposal?

ANSWER: The creosote-contaminated soil must be managed as U051. The recovered creosote formulation is classified as a product because the creosote has been reclaimed from the railroad ties and requires no additional processing before it can be beneficially used (40 CFR 261.3(c)(2)). Upon leaking into the soil, the creosote is classified as a solid waste pursuant to §261.2(b). The generator must then determine whether this solid waste is a hazardous waste. Sections 261.33(e) and (f) designate certain commercial chemical products as hazardous wastes when discarded. Specifically, §261.33(d) defines commercial chemical product in part as any commercial or technical grade of a product, or any formulation in which the listed chemical is the sole active ingredient. Assuming the reclaimed creosote is the only chemically active component for the function of the wood preservative (i.e., the sole active ingredient), and the discarded material meets the definition of a solid waste per §261.2(b), the discarded creosote is classified as U051. Since the soil is contaminated with U051, it is subject to regulation as a hazardous waste in accordance with EPA's "contained-in" policy, which requires all media (i.e., debris, soil, groundwater, sediment) that contain listed hazardous wastes to be managed as listed hazardous wastes. The soil, therefore, would have to be handled as a hazardous waste (U051) until it is decontaminated or until the hazardous waste is delisted (see, for example, 56 FR 24444, 24456; May 30, 1991). **(November 1992 Monthly Hotline Report)**



"Regulatory Status of Waste from Oil Gathering Pipelines"

Key Words:

Bevill; oil; transportation

QUESTION: An oil production facility uses gathering pipelines to transport oil from its production site to a site owned by another facility. The oil has already undergone initial oil/water separation. Waste forms in the gathering lines during the transportation of the oil. Is the waste that forms subject to the hazardous waste exclusion at 40 CFR §261.4(b)(5)?

ANSWER: The answer depends on the ownership of the oil at the time the waste forms. Section 261.4(b)(5) excludes drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy from the definition of hazardous waste. Waste generated after legal custody of the oil changes hands during transportation will not meet the exclusion because it is not intrinsic to the exploration, development, or production of crude oil.

The July 6, 1988, Federal Register (53 FR 25446, footnote 1) defines associated wastes as those wastes other than produced water, rigwash, and drilling muds and cuttings that are intrinsic to exploration, development, and production of crude oil and natural gas. The Report to Congress: Management of Wastes from the Exploration, Development, and Production of Crude Oil, Natural Gas, and Geothermal Energy, VOL 1 of 3 (EPA/530-SW-88-003-A, Dec. 1987) states on page II-17 that "[t]he phrase 'intrinsically derived from the primary field operations' is intended to differentiate exploration, development, and production operations from transportation (from the point of custody transfer or of production separation and dehydration) and manufacturing operations." Accordingly, any waste generated after a change in the custody of the oil, or, in the absence of the change in custody after the initial oil/water separation, is not subject to the §261.4(b)(5) hazardous waste exclusion because it is not intrinsic to the exploration, development, or production of crude oil. **(January 1992 Monthly Hotline Report)**

"Secondary Materials Used as Effective Substitutes for Commercial Products"

Key Words:

Commercial chemical product; recycling; solid waste definition

QUESTION: Section 261.2(e)(1) excludes certain recycled secondary materials from the definition of solid waste. Section 261.2(e)(1)(ii) excludes materials which are recycled by being used or reused as effective substitutes for commercial products. Can a material that must be reclaimed prior to use or reuse as an effective substitute for a commercial product qualify for the exclusion in Section §261.2(e)(1)(ii)?

"Secondary Materials Used as Effective Substitutes for Commercial Products" (cont'd)

ANSWER: No, this exclusion applies only to materials which are used or reused without prior reclamation. The January 4, 1985, Federal Register (50 FR 619) discusses this exclusion and states that "[w]hen secondary materials are directly used as substitutes for commercial products...these materials are functioning as raw materials...and, thus, are not wastes." A material that must be reclaimed prior to use (or reuse) as an effective substitute for a commercial product is not being directly used (or reused), and so would not qualify for this exclusion. **(May 1992 Monthly Hotline Report)**

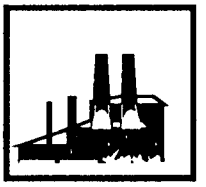
"Speculative Accumulation Calculation"

Key Words:

Recycling; solid waste definition; speculative accumulation

QUESTION: In March 1991, a facility generated 200 kg of sludge that exhibited the toxicity characteristic (TC) for lead (D008). The operator of the facility placed these materials in storage to await reclamation of lead. At that time, the facility was not accumulating any other recyclable materials. Since the sludge will be reclaimed, it is not considered a solid waste while stored prior to reclamation (40 CFR §261.2(c)(3)). On December 31, 1991, the facility still had not recycled any of this material. Is the sludge accumulated speculatively under §261.1(c)(8), since 75 percent was not recycled in the year, and therefore subject to management as a solid and hazardous waste?

ANSWER: No, the sludge would not be accumulated speculatively. Although it is accumulated before being recycled, it is not accumulated speculatively if the person accumulating it can show that (1) the material is potentially recyclable and has a feasible means of being recycled, and (2) during the calendar year (commencing on January 1) the amount of material that is recycled or sent for recycling equals at least 75 percent of the amount of that material accumulated at the beginning of the period (§261.1(c)(8)). A facility owner/operator must show that he or she has recycled 75 percent of the material in storage on January 1 of that year. "Under this provision, the amount of material turned over in a year is critical, not the total amount accumulated at the end of the year" (48 FR 14490; April 4, 1983).



"Speculative Accumulation Calculation" (cont'd)

For the above facility, the amount of material in storage on January 1, 1991, was zero, so on December 31, 1991, the operator does not have to show that any amount was recycled during the calendar year. On January 1, 1992, however, 200 kg of D008 sludge are in storage. Thus, the facility must be able to show that 75 percent of this material, or 150 kg, has been recycled or sent for recycling by December 31, 1992. If the operator cannot demonstrate this 75 percent recycling rate, the sludge remaining in storage is said to be accumulated speculatively and becomes subject to regulation as a solid waste. Because it exhibits a characteristic, the generator must begin to handle the material as a hazardous waste. The Agency notes that "this approach could allow essentially a free year to accumulate where a generator starts a year with little or no waste" (48 FR 14490; April 4, 1983). The period of one calendar year starting on January 1 was selected, however, to facilitate enforcement and achieve uniformity (50 FR 635; January 4, 1985).

In making the above calculation, the 75 percent requirement applies to all materials of the same class being recycled in the same way. If this facility also generated a by-product that exhibited the TC for chromium (D007) and reclaimed it, the owner/operator would make a separate speculative accumulation calculation for this by-product (50 FR 635-6; January 4, 1985).

The RCRA regulations provide that certain materials, which would otherwise be considered hazardous waste, will not be regulated as solid waste (and therefore hazardous waste) when they are reclaimed (§261.2(c)(3)). The requirement that materials accumulated speculatively be regulated as solid waste was intended to prevent abuse of this exemption. It is only applicable to certain situations, including the reclamation of characteristic sludges and by-products, materials used or reused as ingredients, commercial product substitutes, black liquor, sulfuric acid, and precious metals reclamation. The rule is not applicable to spent materials being reclaimed, listed sludges being reclaimed, or listed by-products being reclaimed, because these materials are already considered solid wastes when awaiting recycling (50 FR 635; January 4, 1985). It also does not apply to commercial chemical products that are stored prior to reclamation, because, by definition, these materials are not regulated as solid wastes until they are abandoned or intended for discard (48 FR 14489; April 4, 1983). **(February 1992 Monthly Hotline Report)**

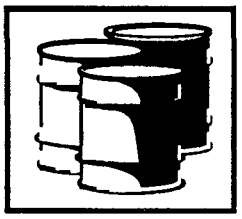
"Wastewater Treatment Units: Regulatory Status of Waste"

Key Words:

Hazardous waste definition; wastewater treatment unit

QUESTION: According to 40 CFR §§264.1(g)(6), 265.1(c)(10), and 270.1(c)(2)(v), wastewater treatment units (WWTUs) as defined in §260.10 are exempt from Parts 264/265 permitted and interim status requirements for treatment, storage, and disposal facilities. If the WWTU itself is exempt from Subtitle C regulation, what is the status of the hazardous waste that it treats?

ANSWER: As stated in an internal Agency memorandum, "[o]nly the wastewater treatment unit (i.e., the tank) is exempt; the exemption does not 'follow' or attach to the waste." Consequently, all applicable hazardous waste management standards apply to the waste prior to treatment in the WWTU, and to any residue generated by the treatment of that waste. In other words, solid waste resulting from the treatment of a listed hazardous waste in an exempt WWTU will remain a listed hazardous waste, and solid waste resulting from the treatment of a characteristic hazardous waste in an exempt unit will remain hazardous as long as the solid waste continues to exhibit a characteristic (§§261.3(c) and (d)). **(June 1992 Monthly Hotline Report)**



SUPERFUND (SF)

Cleanup Requirements

"ARARs and OSHA"

Key Words:

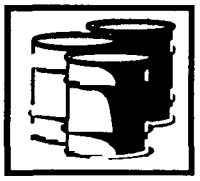
ARARs; health and safety; OSHA; worker protection

QUESTION: Should regulations promulgated pursuant to the Occupational Safety and Health Act (OSHA) be designated as applicable, relevant and appropriate requirements (ARARs) during the selection of a Superfund remedy? Must workers at a CERCLA site comply with OSHA regulations?

ANSWER: OSHA requirements are directly applicable under NCP (40 CFR §300.150), and should not be designated as an ARAR. CERCLA §121(d)(2) states that when determining cleanup levels, applicable or relevant and appropriate requirements may be drawn from any Federal environmental law or any State environmental or facility siting law that is more stringent than any Federal standard. The National Contingency Plan states that, "...EPA believes that OSHA is more properly viewed as an employee protection law, rather than an 'environmental' law, and thus the process in CERCLA §121(d) for the attainment or waiver of ARARs would not apply to OSHA standards" (55 FR 8679; March 8, 1990).

Workers at CERCLA sites, however, must comply with certain OSHA standards. CERCLA §111(c)(6) and SARA §126 charged the Department of Labor (DOL) with writing health and safety regulations that would apply to workers responding to emergency releases of hazardous substances or engaged in hazardous waste operations. In response, DOL developed the OSHA employee protection regulations found at 29 CFR §1910.120. These requirements were then incorporated by reference into the CERCLA regulations at 40 CFR §300.150.

Other OSHA employee protection regulations which have not been specifically incorporated into CERCLA regulations may also apply to CERCLA sites. For example, 29 CFR §1910.180(b) established specific safety regulations pertaining to lifting cranes. These regulations would have to be complied with during a site remediation requiring the use of a crane, but would not be designated as ARARs. CERCLA site workers would be required to comply because of DOL's authority to regulate the workplace, not because of CERCLA requirements. **(June 1992 Monthly Hotline Report)**



"National Priorities List Construction Completion Category and Site Deletion"

Key Words:

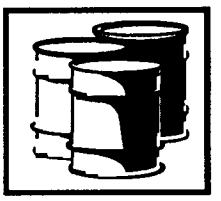
Construction completion; de-linking policy; National Priorities List

QUESTION: What is the significance of the Construction Completion category on the National Priorities List (NPL), and how was it affected by recent modifications to the NPL deletion process?

ANSWER: EPA realized that the number of sites deleted from the NPL did not accurately reflect the amount of Superfund work completed and the extent of threats actually mitigated at Superfund sites. Due to the frequent need to conduct complex, long-term remedies and the stringent regulatory deletion criteria, sites must remain on the NPL despite the fact that extensive remedial actions have taken place and the site may no longer present a threat to human health and the environment. In order to more accurately communicate progress toward cleaning up NPL sites, EPA established (1) the Construction Completion category, which allows EPA to specifically designate sites that are in the final stage of the remedial process, and (2) a policy change which facilitates more rapid deletion of a site from the NPL when cleanup is complete.

On March 8, 1990 (55 FR 8699), EPA promulgated the revised National Contingency Plan (NCP), which stated that EPA had the authority to place NPL sites into designated categories (40 CFR §300.425(d)(6)). This new regulatory language prompted the establishment of the Construction Completion category, which consists of sites that are close to being deleted. The category included (1) those sites for which a Notice of Intent to Delete had been published; (2) sites awaiting the five-year review required by CERCLA §121(c) after the completion of a remedial action; and (3) sites undergoing long-term remedial actions (primarily groundwater cleanups) at which the construction phase of the activity is complete.

The Construction Completion category no longer includes sites that are awaiting the five-year review; EPA removed that requirement from the deletion process (56 FR 66601). For several years, EPA's policy was to retain sites on the NPL until it completed a review five years after initiation of the remedial action. The review was to confirm that the remediation is protective of human health and the environment. Although CERCLA §121(c) requires that a five-year review take place, the statute does not specify that the review must take place prior to NPL deletion. The decision to delay deletion until after the five-year review arose from the EPA Administrator's June 1989 Management Review of the Superfund Program (also known as the "90-Day Study"). Subsequent experience and

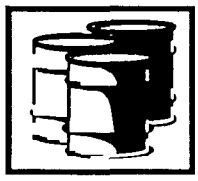


"National Priorities List Construction Completion Category and Site Deletion" (cont'd)

analysis have shown that including the five-year review as part of the NPL deletion criteria was confusing to the public. Inclusion meant that even though many sites no longer presented a health threat and were otherwise eligible for deletion, the sites had to remain on the NPL. EPA determined that the Superfund program would operate more efficiently if the NPL deletion process and the five-year review process were separated, or "de-linked." On December 24, 1991, EPA published the de-linking policy, stating that deletion is no longer deferred pending the completion of the five-year reviews. This change allows sites to be deleted from the NPL as soon as the requirements specified in the Record of Decision are met. Sites may be restored to the NPL immediately, if deemed necessary, at the time of the five-year review.

EPA first placed sites into the Construction Completion category when the February 11, 1992, NPL final rule was published (56 FR 5598). At that time, 14 NPL sites were given the special classification. On January 16, 1992, EPA issued a Federal Register notice clarifying the Construction Completion designation and placing an additional 11 sites into the category (57 FR 1873). This designation does not exempt a site from the deletion procedures found at 40 CFR §300.425(e), but does signify that major progress has been made at the site. In order for a site to be shifted into the Construction Completion category, the site must have an approved interim or final close-out report. Thus, the Construction Completion category consists of (1) sites with an operating remedy in place that will take many years to complete (such as groundwater pump-and-treatment), and (2) sites that are cleaned up and will most likely be deleted when the required public notice and State consultation process has been completed.

Separating the five-year review requirement from the deletion process and placing sites into the Construction Completion category are procedural changes that do not affect implementation of the regulations. The importance of these policies is that they streamline the deletion process, and highlight the NPL sites where health risks have been significantly reduced. These changes should provide a more effective method of demonstrating to the public the progress and achievements of the Superfund program. **(March 1992 Monthly Hotline Report)**



"Off-Site Policy and Subtitle D Regulations"

Key Words:

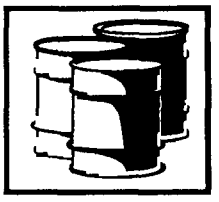
Municipal waste; off-site policy; remediation; Subtitle D

QUESTION: A CERCLA site is undergoing remediation, which is producing soil and debris. Analysis of the soil and debris indicates they do not contain RCRA hazardous waste (i.e., they are nonhazardous waste). Due to the conditions at the site, however, the soil and debris will have to be disposed of off-site. Is it permissible under the existing CERCLA off-site policy (OSWER Directive 9843.11, November 13, 1987, PB91-139 287) to dispose of nonhazardous soil and debris from a CERCLA site at a municipal solid waste landfill regulated by RCRA Subtitle D?

ANSWER: If nonhazardous waste generated during remediation of a CERCLA site is not otherwise regulated (i.e., by the Toxic Substances Control Act, the Atomic Energy Act, or other applicable Federal and state laws), a lead agency can direct this waste to be disposed of at a Subtitle D municipal solid waste landfill facility that meets the requirements set by the November 13, 1987, off-site policy. The off-site policy, promulgated pursuant to CERCLA §121(d)(3), provides that CERCLA hazardous substances, pollutants, and contaminants (CERCLA waste) transferred off-site are sent only to facilities determined to be environmentally sound.

To meet the objectives of the off-site policy, the lead agency must make a determination about the acceptability of the facility that is to receive the CERCLA waste. To be considered acceptable to receive CERCLA waste under the off-site policy, a Subtitle D facility must be in compliance with all applicable Federal or state regulations, and all environmentally significant releases from the Subtitle D facility must be controlled by a corrective action program under the applicable Federal or state authority. To ensure compliance with these standards, facilities designated to receive CERCLA wastes must be inspected by the appropriate regulatory agency prior to the planned receipt of CERCLA waste. Information about the acceptability of a particular facility to receive CERCLA waste may be obtained by calling the Regional Off-Site Coordinator (ROC) of the Region in which the facility is located.

The regulatory authority for municipal solid waste landfills rests primarily with state and local governments. In October 1991, EPA promulgated a rule requiring owners and operators of Subtitle D municipal solid waste landfills to comply with a comprehensive set of Federal minimum standards (56 FR 50978; October 9, 1991). Owners and operators must comply with these new requirements by October 9, 1993. These regulations, which include location restrictions, facility design and operating criteria, groundwater monitoring and corrective action requirements, financial assurance requirements, and closure and post-closure care requirements, are codified at 40 CFR Part 258. **(August 1992 Monthly Hotline Report)**



"Removal Activities Considered in HRS Scoring"

Key Words:

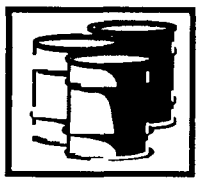
Hazard Ranking System; removal; site inspection

QUESTION: Part of a site has been cleaned up prior to the calculation of a Hazard Ranking System (HRS) score. Can the contamination that was removed be eliminated from inclusion in the HRS calculation?

ANSWER: The HRS, which evaluates threats to human health and the environment from hazardous waste sites, is the principal mechanism for placing uncontrolled hazardous waste sites on the National Priorities List (NPL). In certain circumstances it is possible for contamination that has been removed prior to HRS scoring to be excluded from the calculation.

The original HRS (47 FR 31180; July 16, 1982) based the evaluation of scoring factors on initial site conditions that existed prior to any response. Pursuant to SARA §105(c), EPA proposed to revise the HRS methodology (53 FR 51962; December 23, 1988). In the revised HRS, which was finalized on December 14, 1990 (55 FR 51532), EPA changed its policy to allow calculation of waste quantities to be based on current conditions. Reductions in quantity of waste through timely removal actions are now considered in the calculation of the HRS score. The Agency believes that when implemented correctly, consideration of removal actions in HRS scoring is likely to increase incentives for rapid, early action by responsible parties. Early cleanup actions reduce risks to the public and allow for more cost-effective expenditure of the fund.

A response action must meet three criteria to be considered a "qualifying removal" for HRS purposes: (1) wastes must have been physically removed from the site; (2) those wastes must be disposed of or destroyed at a facility permitted under RCRA, TSCA, or the NRC; and (3) the removal action must have occurred prior to the cutoff date applicable to the site (which corresponds to the start of the site inspection at the site). The first criterion, physical removal, is required to ensure that the effects of responses not reducing waste quantities (such as providing alternate drinking water supplies or relocating citizens) are not considered in calculating an HRS score (55 FR 51568). In such cases, EPA believes the initial contamination should be considered in scoring sites, so the HRS score will reflect remaining impacts. The second criterion, disposal in an appropriate facility, ensures that wastes and their associated risks are not simply moved from one uncontrolled location to another. The criterion pertaining to the timing of the action ensures that EPA does not have to recalculate site scores continually to reflect removal actions. To do so would be unduly burdensome, and would disrupt the site assessment process.

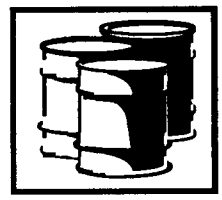


"Removal Activities Considered in HRS Scoring" (cont'd)

In calculating HRS scores, EPA will only consider qualifying removal actions conducted prior to the start of a site inspection (SI). The SI start date is also referred to as the cutoff date applicable to the site. Because of the difference in site assessment activities for different types of sites (e.g., EPA-lead, State-lead, Federal facilities), criteria for determining the appropriate cutoff date differ among sites. For Federal facility sites, the cut-off date is 18 months after the site is placed on the Federal Facilities Docket. For non-Federal facility sites, the Agency historically has not tracked SI dates, so the SI cutoff date may be determined by several analogous events. Generally, the SI cutoff date for non-Federal facility sites is the date that the workplan development for the first SI began. The Agency now tracks SI start dates in CERCLIS; thus the SI start date entered in CERCLIS will be used with increasing frequency in the future.

For sites with multiple SIs, the SI cut-off date is keyed to the first SI; however, EPA may establish a later cutoff date under certain circumstances. For example, if a wholesale change in site sampling strategy occurs, considering removals is unlikely to disrupt the site assessment process. EPA may also consider establishing a later cutoff date if the SI process lasts for more than four years. Follow-up sampling conducted to gather information for the revised HRS should not be used to determine a new cutoff date, even if more than four years have elapsed, because the bulk of the sampling generally will have been conducted previously.

For more detailed information on this policy and examples of qualifying removals, consult OSWER Directive 9345.1-03FS: The Revised Hazard Ranking System: Evaluating Sites After Waste Removals, October 1991 (available from NTIS: PB92-963 326). **(May 1992 Monthly Hotline Report)**



Financial

"Core Program Cooperative Agreements"

Key Words:

Capacity assurance plan; cooperative agreement; grant; state program

QUESTION: What are Core Program Cooperative Agreements?

ANSWER: CERCLA §104(d)(1) authorizes EPA to award cooperative agreements with States, political subdivisions, and Federally recognized Indian tribes. A Core Program Cooperative Agreement (CA) is a legal instrument EPA can use to transfer funds to a State, Federally recognized Indian tribe, or a State's political subdivision to support CERCLA implementation activities. EPA intends the Core Program to help lay the groundwork for the implementation of the integrated EPA-State/tribe approach to meeting Superfund goals.

The regulations regarding State, political subdivision, and Federally recognized Indian tribe involvement in the Superfund program are found in the National Contingency Plan at 40 CFR §300.515. The requirements for CAs are discussed in the June 5, 1990, Federal Register (55 FR 22994), and codified at 40 CFR Part 35, Subpart O, Cooperative Agreements and Superfund State Contracts for Superfund Response. These funds are not assignable to specific sites, but are intended to develop and maintain participation in the CERCLA response program. All activities that are not site-specific and that are necessary to support a recipient's Superfund program are eligible for Core Program funding. Examples include the development of recordkeeping systems, the general coordination of administration and/or management activities associated with removals, and the development of a 20-year State Waste Capacity Assurance Plan. The number of Core Program CAs has increased from 3 in 1987 to 46 in 1991. States are required to provide a 10 percent cost share for Core Program awards. **(January 1992 Monthly Hotline Report)**

"Interest Rates on Superfund Cost Recovery Actions"

Key Words:

Cost recovery; enforcement; interest rates; liability; potentially responsible party

QUESTION: EPA is authorized by CERCLA §111 to expend Superfund monies to finance response actions in order to facilitate cleanup of Superfund sites. The Agency can then take enforcement action to recover costs from potentially responsible parties (PRPs) at the site pursuant to §107. When calculating recoverable costs, may EPA charge interest on the amount expended? If so, how is the applicable interest rate calculated?

"Interest Rates on Superfund Cost Recovery Actions" (cont'd)

ANSWER: EPA is authorized to seek interest charges on all amounts recoverable under CERCLA §107(a)(4). Recoverable amounts under §107(a)(4) include costs not inconsistent with with the National Contingency Plan which are incurred during the process of conducting a removal action, remedial investigation/feasibility study (RI/FS), or remedial design and remedial action activity (RD/RA). In addition, §107(a)(4) authorizes EPA or other Federal agencies to recover damages for injury to, destruction of, or loss of natural resources, and the costs of any health assessment or health effects studies carried out under §104(i). EPA may also recover its oversight costs, legal costs, and indirect costs in accordance with CERCLA authorities.

The interest EPA seeks from PRPs on outstanding debts from monies spent to clean up Superfund sites, as well as the interest EPA earns on the fund itself, are determined by the Treasury Department each year using a one-year constant average of interest rates paid on U. S. Treasury MK bills. The interest rates for fiscal years 1985 through 1992 are as follows:

1985	10.82%	**1989**	8.39%
1986	7.43%	**1990**	8.47%
1987	5.63%	**1991**	7.99%
1988	6.99%	**1992**	5.70%

Each fiscal year begins on October 1 and ends on September 30 of the following year. When calculating cost recovery amounts, EPA applies the interest rate from the date EPA issues a demand letter or the date of any fund expenditure. Even if EPA has not made a specific demand for payment, interest is still recoverable from the date EPA incurred the costs (see U.S. v. Bell Petroleum Services, Inc., 734 F. Supp. 771, 784). If a cost recovery action takes place over a number of years, interest on the outstanding balance is recalculated using the new fiscal year's interest rate until EPA receives full payment. **(July 1992 Monthly Hotline Report)**

General

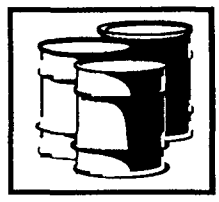
"Accessing Superfund Publications"

Key Words:

Documents; information management

QUESTION: What is the process for distributing and accessing Superfund publications?

ANSWER: There are several sources for Superfund documents and document information: the Superfund Document Center, the Superfund Docket, the National Technical Information Service (NTIS), and the Public Information Center (PIC). Each resource plays a different role in the distribution of Superfund documents and information.



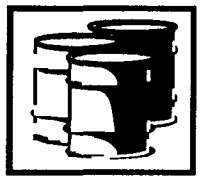
"Accessing Superfund Publications" (cont'd)

The Superfund Document Center is the primary source of Superfund documents for EPA staff. It is also the Office of Emergency and Remedial Response's (OERR's) official publication clearinghouse and, as such, sets publication standards for all Superfund documents. The Document Center reviews the document preparation process with authors, ensures that the document conforms to OERR standards, and coordinates reproduction, printing, and distribution. The Superfund Document Center houses Superfund program documents (series 9200-9300) and Enforcement program documents (series 9800-9900), and has organized these documents into a catalog entitled Compendium of Superfund Program Publications, which includes brief summaries of individual documents. The Superfund Document Center can distribute documents to EPA employees only.

The Superfund Docket is the public viewing location for rulemaking materials that support the Office of Solid Waste and Emergency Response's Superfund program. These rulemaking materials include Superfund Federal Register notices, public comments, the Agency's response to comments, and background reference materials. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 is available for viewing at the Superfund Docket. National Priorities List site documentation, including Records of Decision, Hazardous Ranking System scoring packages, and Administrative Records, are also located at the Superfund Docket. The Superfund Document Center (Room M-2514) and the Superfund Docket (Room M-2427) are located at: U.S. EPA, 401 M Street, SW, Washington, DC 20460. Hours of operation are 9:00 a.m. to 4:00 p.m., Monday through Friday.

In order to be responsive to extensive public demand, EPA has placed all current, publicly available Superfund documents with NTIS for distribution. Because NTIS receives no Congressionally appropriated funds, the public must purchase these documents. For information about the full range of available Superfund documents, the Compendium of Superfund Program Publications (Order No. PR-881) is available free of charge from NTIS.* Those documents added to the Superfund collection since the preparation of the Compendium may be searched on line in the NTIS Bibliographic Database, which is available through several of the commercial database vendors. The new NTIS standing-order service is the best way to stay current with Superfund program developments. **(April 1992 Monthly Hotline Report)**

***Addition:** The compendium, which is published annually, is supplemented by a quarterly update bulletin also available at NTIS for no charge.



"Community Environmental Response Facilitation Act"

Key Words:

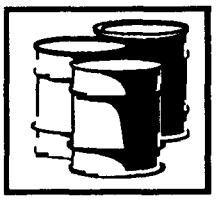
Closure; federal facility; property transfer

QUESTION: On October 19, 1992, Congress amended CERCLA §120(h) under the Community Environmental Response Facilitation Act (Public Law 102-426) to expedite the sale of federal land that is determined to be uncontaminated. What are the provisions of this amendment?

ANSWER: Congress passed the Community Environmental Response Facilitation Act (CERFA) in response to concern over the adverse economic conditions that often result from the closing of certain federal facilities. Transferring federal property to the private sector is often a lengthy process due to the concern over possible hazardous substances on the property, and the delay in remediating environmental contamination. The purpose of CERFA is to identify federal land and properties offering the greatest opportunity for reuse and redevelopment, expedite necessary remedial and corrective actions, make the property available for sale, and ensure the continued liability of the federal government when appropriate.

Under §120(h) of CERCLA, whenever the U.S. government enters into a contract to sell or transfer federal property, a notice must be placed in the contract for sale reporting any hazardous substance that has been stored for a year or more, known to be released, or was disposed of on the property. When the government sells property, a similar notice must be placed in the deed, as well as a covenant that all necessary remedial action has been taken by the time of the transfer. EPA promulgated regulations at 40 CFR Part 373 specifying the content of the notice (55 FR 14208; April 16, 1990). CERFA adds to the provisions of §120(h) by requiring the federal government, within specified deadlines, to identify "uncontaminated" property where hazardous substances or petroleum products have not been released, disposed of, or stored for more than a year.

This identification process includes a detailed search of federal government records and title documents; aerial photographs; a visual inspection; a physical inspection; reasonably obtainable federal, state, and local records of adjacent facilities; interviews with current or former employees; and sampling, if appropriate. The EPA Administrator or the appropriate state official must concur with the results of the identification at NPL and non-NPL sites, respectively. Pursuant to §120(h) of CERCLA, the sale of the property will not terminate the federal government's liability. CERFA stipulates that any undiscovered environmental problems with respect to any hazardous substances, petroleum, or petroleum derivatives present on the property at the time of the sale or transfer of the property remain the responsibility of the federal government and provides that deeds must contain access provisions to allow for such response actions.



"Community Environmental Response Facilitation Act" (cont'd)

Section 120(h)(3)(B) requires that each deed for transferred federal property contain a covenant warranting that "all remedial action" has been taken with respect to any hazardous substance remaining on the property. Section 4 of CERFA specifies that all remedial action has been taken when the construction and installation of an approved remedial design has been completed. The federal agency must demonstrate that the remedial design is operating properly and successfully. **(December 1992 Monthly Hotline Report)**

Notification

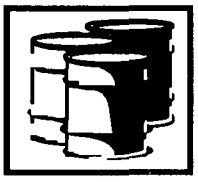
"Reportable Quantity for Metallic Compounds Under the CAA Amendments"

Key Words:

Clean Air Act Amendments; compound; hazardous substance; release; reportable quantity

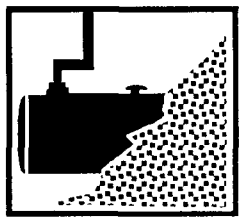
QUESTION: CERCLA §103(a) requires any person in charge of a vessel or facility, upon learning of any release of a hazardous substance in quantities equal to or exceeding a reportable quantity (RQ) in a 24-hour period, to immediately notify the National Response Center. EPA determines appropriate RQs for every hazardous substance designated pursuant to CERCLA §101(14), and codifies these quantities at 40 CFR §302.4. The Agency did not establish RQs for many generic classes of metallic compounds (e.g., nickel, mercury, and lead compounds) because it would be virtually impossible to develop standard RQs that would take into account the varying characteristics of all the specific compounds within each class (50 FR 13461; April 4, 1985). Therefore the CERCLA reporting requirements are triggered by the release of a specific compound listed in 40 CFR §302.4, but not by a release of these generic classes of compounds.

Pursuant to CERCLA §102(b), substances added to the hazardous substance list receive a statutory RQ of one pound until EPA designates a final RQ. The 1990 amendments to §112 of the Clean Air Act designated a group of generic classes of metallic compounds (e.g., lead compounds, mercury compounds, nickel compounds) as hazardous substances. Does this mean that these metallic compounds now have a statutory RQ of one pound, or would EPA's original determination exempt these releases from CERCLA reporting requirements?



ANSWER: EPA's original determination of no reportable quantity remains in effect for those generic compound categories designated as hazardous air pollutants under §112 of the Clean Air Act Amendments (CAAA) of 1990 that were on the CERCLA hazardous substances list prior to the enactment of the CAAA (EPA correspondence; August 23, 1991). The generic classes of compounds for which this applies are antimony, arsenic, beryllium, cadmium, chromium, cyanides, lead, mercury, nickel, and selenium compounds. Although releases of these generic classes of compounds do not require CERCLA §103(a) notification, the owner or operator of a vessel or facility can still be held liable for costs incurred in responding to their release (50 FR 13461; April 4, 1985).

Cobalt compounds, glycol ethers, manganese compounds, fine mineral fibers, and polycyclic organic matter were also designated as hazardous air pollutants in the CAAA. Since RQ determinations have not been previously made for these compounds, they are automatically assigned the one pound RQ pursuant to CERCLA §102(b). EPA is currently evaluating the physical, chemical, and toxicological properties of these compounds to determine whether final RQs should be assigned to these categories. **(September 1992 Monthly Hotline Report)**



UNDERGROUND STORAGE TANKS (UST)

Applicability

Key Words:

Diesel; fuel; underground storage tank

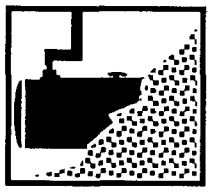
"Heating Oil UST Exclusion"

QUESTION: A company stores diesel fuel in an underground tank. The diesel fuel is burned as a substitute for heating oil in an on-site furnace. The definition of underground storage tank (UST) in 40 CFR §280.12 excludes any tank used for storing heating oil for consumptive use on the premises where stored. Does the underground tank storing diesel fuel meet this exclusion? Would it meet the exclusion if the fuel is burned in a combustion engine?

ANSWER: An underground tank storing diesel fuel will meet this exclusion if the diesel fuel will be substituted for heating oil; i.e., burned in a unit designed to use heating oil. The exclusion to the definition of UST in §280.12 has two parts: the definition of heating oil and the scope of consumptive use. A tank must meet both parts to be excluded.

Heating oil is defined in §280.12 as No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; residual fuel oils (including Navy Special Fuel Oil and Bunker C); and fuel oil substitutes such as kerosene and diesel fuel when used for heating purposes (53 FR 37117; September 23, 1988). A tank storing diesel fuel that will be burned as an alternative to one of these eight types of heating oil in a unit designed to burn heating oil is excluded from the definition of UST. If, on the other hand, the diesel fuel is being used for some other purpose, such as to power an internal combustion engine or an emergency generator, the tank would not meet this exclusion. The question of whether tanks associated with emergency power generators are excluded from the UST definition under the heating oil exclusion is discussed on page 37118 of the September 23, 1988, Federal Register, which specifically addresses such tanks. The language indicates that the use of heating oil itself is not limited to heating, but may include other on-site uses, such as emergency generators. This discussion does not incorporate or address the stipulation that USTs containing fuels other than heating oil are only exempt if the fuel is burned as a substitute for heating oil in units designed for heating oil. Therefore, the language on page 37117 should be consulted for tanks containing other fuels such as diesel fuel.

The second part of the exemption involves the meaning of consumptive use. The exclusion applies to heating oil used at the same site where it is stored, but not to heating oil that is stored prior to resale, marketing, or distribution. Consumptive use of heating oil is not limited to burning in a heater, but instead is defined as any on-site use (53 FR 37117). Therefore, the §280.12 exclusion from the definition of UST applies to (1) tanks storing one of the eight technical grades of fuel oil prior to any on-site use, and (2) tanks storing fuel oil substitutes prior to use for on-site heating purposes only. **(October 1992 Monthly Hotline Report)**



Operating Requirements

Key Words:

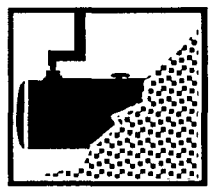
Inventory control; release detection; underground storage tank

"Calculating the Inventory Control Standard"

QUESTION: According to 40 CFR Part 280, Subpart D, new underground storage tank (UST) systems and existing systems of certain ages must be fitted with release detection. One of the options to satisfy this requirement combines tank-tightness testing at specified periods with monthly inventory control, which consists of reconciling tank measurements against delivery and dispensing quantities. Section 280.43(a) requires that this method detect releases of "...at least 1.0 percent of flow-through plus 130 gallons on a monthly basis...." How is the 1.0 percent plus 130 gallons of flow-through calculated?

ANSWER: In order to determine whether a release has been detected, an owner/operator must first determine the flow-through quantity; in other words, the amount of regulated substance moving through the UST system during any given month. Flow-through may be calculated using either the amount added to or the amount dispensed from the tank, as long as the same measure is used consistently.

After establishing the flow-through quantity, the owner/operator next computes 1.0 percent of that quantity, and then adds 130 gallons. Written mathematically, the standard may be expressed as (0.01 x flow-through) + 130 gallons. The owner/operator then compares the result against the cumulative overage or shortage for the month to determine if a leak has been detected. For example, suppose 7,000 gallons of gasoline are dispensed from an UST during September. Although 8,000 gallons were delivered during September, the owner/operator always bases flow-through on the quantity dispensed; therefore the flow-through quantity is 7,000 gallons. One percent of 7,000 gallons is 70 gallons, to which 130 gallons are added, totaling 200 gallons ((0.01 x 7,000) + 130 = 200). The resulting 200 gallons can then be compared against the cumulative overage or shortage for the month to determine the presence of a leak. The margin for error allowed by §280.43(a) helps reduce the frequency of false positive results from temperature variations and measuring inaccuracies (a detailed discussion can be found at 53 FR 37157; September 23, 1988). More information on inventory control is available in Detecting Leaks: Successful Methods Step By Step (U.S. EPA Office of Underground Storage Tanks, November 1989; 530/UST-89/012). **(August 1992 Monthly Hotline Report)**



"Temporary Closure of an UST"

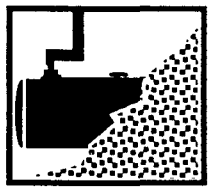
Key Words:

Closure; underground storage tank

QUESTION: A company owns an underground storage tank that is regulated under 40 CFR Part 280. Although regulated substances are not being added to or dispensed from the tank (i.e., the tank is out of service), the company plans to use the tank in the future. With what operating requirements must the owner/operator comply during the period the UST is not in use?

ANSWER: When an UST is temporarily closed, an owner/operator must continue operation and maintenance of corrosion protection, if a corrosion protection system is present, in accordance with §280.31. The owner/operator must also demonstrate financial responsibility if its compliance date in §280.91 has passed until the tank system is properly closed per §280.109, and, as appropriate, follow release confirmation, release notification, and corrective action procedures (§280.70(a)). During temporary closure, tanks may either continue to store regulated substances or be emptied. If the tank stores regulated substances during temporary closure, the owner/operator must also continue release detection. As explained in the preamble to the September 23, 1988, Federal Register (p. 37182), however, release detection is not required during temporary closure if the UST has been emptied in accordance with the procedures in §280.70(a). Of course, those USTs that are not yet required to have release detection according to the schedule in §280.40(c) (note that the schedule indicates that December 22, 1993, is the last release detection deadline), and those USTs that are deferred from release detection under §§280.10(c) and (d) also are not required to have release detection when temporarily closed.

An UST system that does not comply with the corrosion protection standards in either §280.20 or §280.21 may remain in temporary closure for a maximum of 12 months without prior approval from the implementing agency. An extension may be granted by the implementing agency. Owners and operators must complete a site assessment in accordance with §280.72 before applying for an extension. If an extension is not granted, an UST system must either meet the corrosion protection standards for new or upgraded tanks after 12 months of temporary closure, or be permanently closed (§280.70(c)). **(December 1992 Monthly Hotline Report)**



State Programs

"States Authorized for the Underground Storage Tank (UST) Program"

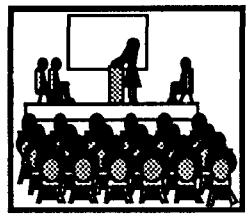
Key Words:

State programs;
underground storage tank

QUESTION: Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve State underground storage tank (UST) programs to operate in lieu of the Federal UST program. To qualify for final approval, a State program must be "no less stringent" than the Federal program and provide for adequate enforcement in accordance with §§9004(a) and (b) of RCRA. To date, how many States have received final approval?

ANSWER: Currently, six States have received final approval to operate the UST program in lieu of EPA. The States are Georgia, Mississippi, New Hampshire, New Mexico, North Dakota, and Vermont. Authorized States have primary enforcement responsibility, although EPA retains the right to conduct inspections under §9005 of RCRA and to take enforcement actions under §9006 of RCRA. As of March 1992, EPA has issued tentative determinations to grant approval to two other States, Maine and Maryland, to operate the Federal UST program. A tentative determination, like a proposed rulemaking, is followed by a comment period and requires a subsequent action granting or denying approval. Maine and Maryland are expected to receive approval during 1992.

States without UST program approval may have a Memorandum of Agreement with their EPA Regional Office which allows them to implement specific parts of the UST regulations on behalf of the Region. Questions regarding the contents of any agreement should be addressed to the appropriate State agency. **(March 1992 Monthly Hotline Report)**



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

Emergency Planning and Release Notification

Key Words:

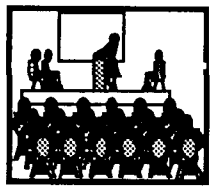
Local Emergency Planning Committee

"Establishment of a Local Emergency Planning Committee"

QUESTION: A Local Emergency Planning Committee (LEPC) must be representative of different groups and organizations, as described in §301(c) of the Superfund Amendments and Reauthorization Act (SARA) Title III.* It states that, at a minimum, an LEPC must include "...representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the requirements of this subtitle." Does an LEPC have to consist of one individual representative from each group and organization, or can one member of an LEPC represent more than one group or organization listed?

ANSWER: In order for an LEPC to properly carry out its duties, such as developing and distributing an emergency plan and responding to public comment, it must consist of representatives from different groups and organizations as described in §301(c). One member of an LEPC can be the representative for more than one group or organization, but the LEPC must include representatives from all the groups and organizations listed in the statute. For example, a member of the LEPC could be both the community group representative and the hospital representative, assuming that person is involved in both organizations. **(January 1992 Monthly Hotline Report)**

*Clarification: SARA Title III is the Emergency Planning and Community Right-to-Know Act. These terms are used interchangeably throughout this report.



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

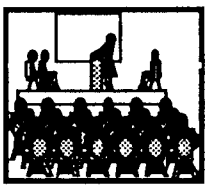
"Pesticides Toward TPQ Under SARA Section 302"

Key Words:

Emergency planning; pesticides

QUESTION: SARA §302 requires owners and operators of facilities that have extremely hazardous substances (EHS's) present above the threshold planning quantity (TPQ) to participate in emergency planning (40 CFR §355.30). If a facility has a pesticide sprayed on its grounds without first being stored at the facility, must the amount of EHS present in the pesticide that has been applied be counted towards the TPQ?

ANSWER: Under SARA §302, an owner or operator must identify any EHS's that are present at the facility and, for each EHS, determine the amount present. If the amount present equals or exceeds the EHS's TPQ, then the facility is subject to emergency planning requirements. In this specific example, the facility would not count the amount of EHS present in the soil toward the EHS's TPQ because it is not present in a contained structure. The definition of facility (40 CFR §355.20) includes all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person. This includes man-made structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. Once it is applied, the residual pesticide does not have to be applied toward the threshold determination. It can be considered no longer "present at the facility." This does not, however, exempt the owner or operator from emergency planning requirements for EHS's present above their TPQ at the facility, such as any EHS in a pesticide that is brought on-site prior to application, stored, or present anywhere else at the facility. **(February 1992 Monthly Hotline Report)**



Hazardous Chemical Inventory Reporting

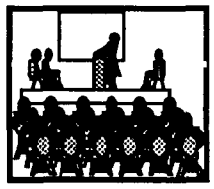
"Consumer Product Exemption Applied to §§311 and 312"

Key Words:

Consumer product exemption; hazardous chemical reporting

QUESTION: Pennsylvania restricts the use of a product that is packaged for distribution and use by the general public by requiring users within the State to obtain a license. This product requires a material safety data sheet under OSHA, and thus may be subject to the reporting requirements of the Emergency Planning and Community Right-to-Know Act, EPCRA §§311 and 312. Does this product meet the consumer product exemption under the definition of hazardous chemical, which is "...any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public" (40 CFR §370.2)?

ANSWER: Any substance that is in the same form and concentration as a product packaged for distribution and use by the general public is exempt from the definition of hazardous chemical and is not reportable under EPCRA §§311 and 312. This exception to the definition of hazardous chemical under EPCRA has been referred to as the "consumer product exemption." If a license is required for use of a product, it may not be considered a consumer product. In this case, the determining factor is accessibility of the product by the general public. If any private citizen can obtain a license for use of the product, then it is considered a consumer product. If some private citizens cannot obtain the license, then the use of the product is limited to facilities that can obtain the license; thus the product does not meet the consumer product exemption. If the restricted product is present at a facility above the applicable reporting threshold, then it is reportable under EPCRA §§311 and 312. Reporting on this product may vary from State to State depending on the requirements and limitations in obtaining a license for use. **(May 1992 Monthly Hotline Report)**



Toxic Chemical Release Inventory

"Activity Indices and Production Ratios"

Key Words:

Activity index; pollution prevention

QUESTION: For the purposes of reporting in Section 8.9 of the Form R (40 CFR §372.85), a facility must provide a ratio of the reporting year production to prior year production, or provide an "activity index" based on a variable other than production that is the primary influence on the quantity of the reported toxic chemical recycled, used for energy recovery, treated, or disposed of. How should one-time or batch processors determine an activity index or production ratio for reporting in Section 8.9 of the Form R?

ANSWER: A one-time processor in its first year of using a toxic chemical should report "NA" in Section 8.9 of the Form R. If a one-time processor uses a toxic chemical on a yearly basis but in different products, applications, and quantities, then a production ratio based on production or application involving the toxic chemical should be calculated as follows: (production involving the toxic chemical in the current year ÷ production involving the toxic chemical in the prior year).

Batch processors should calculate a ratio based on campaigns involving the toxic chemical from year to year as follows: (campaign production in the current year ÷ campaign production in the prior year). **(August 1992 Monthly Hotline Report)**

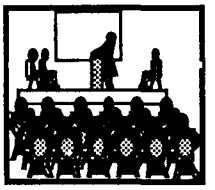
"Article Disposal After Use"

Key Words:

Article

QUESTION: A facility subject to §313 of the Emergency Planning and Community Right-to-Know Act assembles circuit boards and other "articles" to create a larger finished product by soldering them together. During assembly, the individual circuit boards retain their article status and are therefore excluded from §313 reporting under 40 CFR §372.38(b). If the final product does not meet manufacturing specifications and is disposed of, do the individual pieces retain their article status? Is disposal of the finished product considered a release for purposes of completing the Form R?

ANSWER: The individual circuit board pieces retain their article status as long as the item being disposed of is still recognizable as an article. As stated in the final rule on §313 reporting (53 FR 4507; February 16, 1988), "toxic chemicals in an item that qualifies as an article are not subject to reporting even if the facility disposes of the article after use." The disposal of the final product in this scenario, therefore, would not be considered a release. **(September 1992 Monthly Hotline Report)**



"Catalyst as an Article"

Key Words:
Article; catalyst

QUESTION: A facility uses a catalyst containing a listed toxic chemical in a fixed bed reactor. The catalyst is in the form of cylindrical or trilobed extrudates (pellets) in specific sizes. It is used to promote a chemical reaction and is not physically altered during use. The spent catalyst is sent off-site to be reclaimed. Can the catalyst be exempted as an article under §313 of the Emergency Planning and Community Right-to-Know Act?

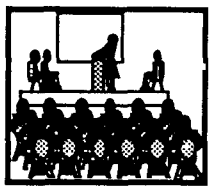
ANSWER: No. The catalyst is manufactured to a specific shape or design and has end use functions dependent upon that shape; however, EPA believes that releases occuring during use and transfer operations would prevent it from meeting the article definition. Such catalysts usually contain dust-size material that is not the same size and shape of the pellets. The likely releases would be dust emissions and spills that occur during charging and removing the catalyst from the reactor. Such operations are part of the normal conditions of processing and use that must be considered under the article definition. The spent catalyst sent off-site for recycling does not itself constitute a release that invalidates the article exemption, as long as all of the toxic chemical is recycled. The facility should also consider whether any on-site regeneration of the catalyst results in the toxic chemical being released in wastestreams. **(March 1992 Monthly Hotline Report)**

"Chlorine Added to Pool Water: Form R Reporting"

Key Words:
Chlorine; facility maintenance exemption

QUESTION: A facility maintains a swimming pool on the facility site for recreational use by the facility employees. Chlorine is used to treat the swimming pool water. Is the chlorine so utilized by the facility subject to threshold and release calculations under EPCRA §313?

ANSWER: No. The chlorine used to treat the swimming pool water is exempt from threshold and release calculations under the exemption found at 40 CFR §372.38(c)(2) for use of products for routine janitorial or facility grounds maintenance. **(November 1992 Monthly Hotline Report)**



"Estimating Releases for §313"

Key Words:
Emissions; Form R

QUESTION: For purposes of reporting on the Form R under §313 (40 CFR Part 372), a facility measures emissions from a sampling of valves, gaskets, and other potential emission points and, in turn, uses these measurements to estimate releases. Should the facility report the basis of the estimate as "M" (monitoring), or "E" (emission factors) in §5.1 of the Form R?

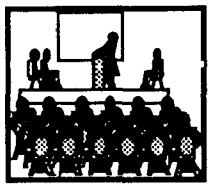
ANSWER: The facility should enter "M" (monitoring) in §5.1.B. The Form R instructions state that "M" is used when "...the estimate is based on monitoring data or measurements for the toxic chemical as released to the environment and/or off-site facility." The basis of the estimate should be "E" (emission factors) only when using published emission factors. **(June 1992 Monthly Hotline Report)**

"Laboratory Activities Exemption Under EPCRA §313"

Key Words:
Laboratory exemption

QUESTION: A manufacturing facility operates several on-site laboratories and shops (e.g., machine shops, glass blowing shops) that support the laboratories' activities. Assuming the activities in the laboratories are exempt under 40 CFR §372.38(d), are the toxic chemicals used in the shops also exempt from threshold and release determinations? If the shops also support some nonexempt laboratory activities, would they be required to account for the fraction of chemicals used for nonexempt purposes?

ANSWER: In either case the toxic chemicals used in the shops would not be exempt from threshold and release determinations. The fact that the shops support exempt laboratory activities does not exclude the toxic chemicals used in the shops from threshold and release determination. The laboratory activities exemption in §372.38(d) applies to toxic chemicals that are manufactured, processed, or otherwise used for certain purposes such as research or quality control in a laboratory under the supervision of a technically qualified individual. This exemption does not exempt the facilities themselves, it only exempts those toxic chemicals that are manufactured, processed, or otherwise used in certain laboratory activities from threshold and release determinations required under EPCRA §313. Specifically, §372.38(d)(3) states that the exemption does not apply to "activities conducted outside the laboratory." **(October 1992 Monthly Hotline Report)**



"Laboratory Use of a Manufactured Chemical"

Key Words:

Laboratory exemption; manufacturing threshold

QUESTION: A company manufactures 26,000 pounds a year of a toxic chemical, 2,000 of which are manufactured and used in an on-site laboratory under the supervision of a technically qualified individual. Should the 2,000 pounds be counted toward determination of the manufacturing threshold under §313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), or will this activity manufacturer be exempt under the laboratory use exemption (40 CFR §372.38(d))?

ANSWER: The 2,000 pounds are exempt from the threshold determination for manufacturing under the laboratory use exemption (40 CFR §372.38(d)) because the toxic chemical was manufactured in a laboratory under the supervision of a technically qualified individual. The facility will count only 24,000 pounds of the manufactured chemical toward its applicable manufacturing threshold. **(July 1992 Monthly Hotline Report)**

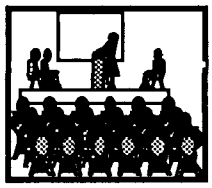
"Light Bulb Stem Disposal"

Key Words:

Article; light bulbs

QUESTION: A facility subject to §313 of the Emergency Planning and Community Right-to-Know Act crushes light bulbs and uses the crushed glass in their process. The light bulb stems are not used in the process and are disposed of. There is a lead "button" in each light bulb stem which is disposed of. Is this button considered an article and therefore exempt from threshold and release calculations under 40 CFR §372.38(b)?

ANSWER: No, the lead buttons from crushed light bulbs would not be considered articles and the lead would not be exempt from threshold and release calculations. Disposal of a toxic chemical, however, is not a covered activity (i.e., manufactured, processed, or otherwise used). Therefore the lead in these buttons would not be counted toward any threshold. The facility would only be required to report the release of lead buttons if a threshold for lead was exceeded by a covered activity elsewhere at the facility. **(September 1992 Monthly Hotline Report)**



"Maximum Amount On-Site"

Key Words:

Form R; maximum amount on-site

QUESTION: A facility regulated under §313 of the Emergency Planning and Community Right-to-Know Act (40 CFR Part 372) is completing a Form R. For Part II, Section 4 of the Form R, the facility must calculate the maximum amount of a toxic chemical on-site at any one time during the calendar year. The facility must add up the amounts of the toxic chemical present at all locations within the entire facility (e.g., storage tanks, process vessels, on-site shipping containers). Must the facility include the amount of the toxic chemical in a wastestream or in scrap metal prior to being smelted when determining the maximum amount on-site?

ANSWER: When determining the maximum amount on-site for Part II, Section 4 of the Form R, the facility must aggregate all nonexempt forms of the toxic chemical. Toxic chemicals present in waste as well as in scrap metal are not exempt from reporting on the Form R. The amount of the toxic chemical present in the waste or scrap metal must be included when calculating the maximum amount on-site for Part II, Section 4. **(September 1992 Monthly Hotline Report)**

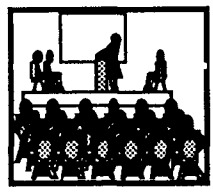
"Neutralization of Phosphoric Acid in the Process Stream"

Key Words:

Neutralization; pH; treatment

QUESTION: A facility regulated under §313 of the Emergency Planning and Community Right-to-Know Act (40 CFR Part 372) uses 11,000 pounds of phosphoric acid. In the subsequent processes, phosphoric acid reacts with other chemicals present in the stream and is neutralized to a pH above 6. Should the facility report this neutralization as a treatment step in Section 7 of the Form R?

ANSWER: No, the facility is not treating the phosphoric acid. The acid reacts with other chemicals in the processing stream. If, on the other hand, phosphoric acid exiting in the wastestream reacts with other chemicals present in the wastestream to a pH above 6, it would be reported as a treatment step in Section 7 of the Form R. The facility in the second scenario would use the appropriate code of C11 in Section 7. **(April 1992 Monthly Hotline Report)**



"Otherwise Use Activity"

Key Words:

Otherwise use threshold; processing threshold; solvents

QUESTION: A facility covered under §313 of the Emergency Planning and Community Right-to-Know Act (40 CFR Part 372) manufactures shoes. During production the facility uses adhesives that contain solvents such as acetone and toluene. Due to the inefficiency of the process, 20 percent of the solvent remains behind in the shoes when they are sold in commerce. Would the facility count the amount of solvent remaining in the shoes toward the 25,000-pound processing threshold?

ANSWER: No. The amount of solvent used in the adhesive would count toward the 10,000-pound otherwise use threshold. Since the retention of the solvents in the adhesives used to produce the shoes is unintentional, it would not be considered processed. Thus, the facility would file a Form R if it meets a 10,000-pound otherwise use threshold for the acetone or toluene in the adhesive. **(January 1992 Monthly Hotline Report)**

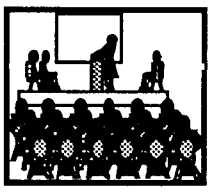
"Packaging of a Toxic Chemical"

Key Words:

Packaging; processing threshold

QUESTION: A facility receives a shipment of five-gallon cans of paint containing a listed toxic chemical. The facility breaks up the shipment into separate five-gallon cans and packages each can in a box with a paint brush for sale. Is the toxic chemical "repackaged" and thus "processed" for purposes of EPCRA §313?

ANSWER: No. "Repackaging" refers to the act of removing a toxic chemical from one container and placing it in another. Simply repackaging a container that contains a toxic chemical does not constitute "processing" of that toxic chemical under EPCRA §313. **(May 1992 Monthly Hotline Report)**



"Reclamation as Processing Under EPCRA §313"

Key Words:

Processing threshold; recycling; solvent

QUESTION: A reclamation facility receives waste solvents containing an EPCRA §313 toxic chemical from a separate facility that generated the wastes (the generating facility). The reclamation facility reclaims the toxic chemical and returns it, as a product, to the generating facility. For the purpose of EPCRA §313 threshold determinations, is the reclamation facility processing the toxic chemical?

ANSWER: The term "process" is defined at 40 CFR §372.3 as "...the preparation of a toxic chemical, after its manufacture, for distribution in commerce." The final rule implementing the EPCRA §313 regulations (53 FR 4506; February 16, 1988) further clarifies this definition by stating that "[t]he process definition focuses on the incorporation of a chemical into a product that is distributed in commerce."

By reclaiming the toxic chemical and returning it to the generator, the reclamation facility has prepared the chemical for distribution in commerce by incorporation of the chemical into a product. Therefore, the reclamation facility is processing the toxic chemical in the waste solvent it receives. Assuming the reclamation facility is a manufacturing facility with 10 or more full-time employees, it is required to report under EPCRA §313 for the toxic chemical if it exceeds an activity threshold (e.g., processing more than 25,000 pounds) during the course of a calendar year. **(December 1992 Monthly Hotline Report)**

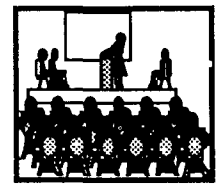
"Recycle/Reuse Activity Under §313"

Key Words:

Otherwise use threshold

QUESTION: Refractory bricks containing 12,000 pounds of lead are installed in a reaction vessel. Is the lead in the bricks considered "otherwise used" for purposes of §313 of the Emergency Planning and Community Right-to-Know Act? Also, are releases of lead from the bricks during reporting year 1991 subject to release reporting on the Form R (40 CFR Part 372) if no new bricks are added during the calendar year?

ANSWER: The lead contained in the bricks is considered "otherwise used" since it is not incorporated into the final product. The facility would count the amount of lead in the bricks that are added to the reaction vessel only for the year in which the bricks are installed. In answer to the second question, if the 10,000-pound threshold is exceeded, then all releases of lead would be reported. Neither the lead contained in the refractory bricks in the inventory (i.e., not yet installed), nor in-place lead contained in bricks (i.e., installed in a previous year) are to be included in threshold determination for the reporting year in question. If no bricks are installed during the calendar year, then a report would not be required. **(August 1992 Monthly Hotline Report)**



"Release Reporting of Process-Generated Dusts"

Key Words:

Release

QUESTION: A facility subject to §313 of the Emergency Planning and Community Right-to-Know Act processes items containing listed §313 toxic chemicals. During processing, dusts are released to air withing the facility and some of this dust settles out within the facility (on rafters, equipment, floors and in adjacent rooms). If a processing threshold is met, how would the facility report the releases of the toxic chemicals present in the dust on the Form R in section 5?

ANSWER: The facility must account for the amount of the toxic chemical released to various environmental media. Reporting of releases is based on the entire calendar year. If during the year an amount in dusts that settle out are collected and disposed of, then this would be reported as an amount disposed of on-site or off-site in the appropriate section of Form R (e.g., if the dusts are sent off-site for disposal they would be reported in Part II, Section 6.2). Any amount of toxic chemical in dusts that remain airborne would be reported as a fugitive release. Amounts released that settle out on facility structures or equipment that are not collected and disposed of should be reported in Section 5.5.4 of Form R as a release to land on-site. **(February 1992 Monthly Hotline Report)**

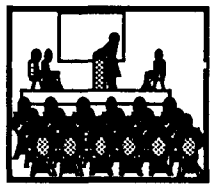
"Remedial Action for Pollution Prevention"

Key Words:

Pollution prevention; remediation

QUESTION: Is dredging a lagoon (or surface impoundment) containing a §313 toxic chemical once every five years (routine procedure) considered a remedial action under the Pollution Prevention Act? If so, how should releases from the dredging be reported in §8.8 of the Form R (40 CFR Part 372)?

ANSWER: Because the dredging of the lagoon (or surface impoundment) occurs routinely every five years, it is not considered a remedial action under the Pollution Prevention Act, and accordingly, releases from the dredging should not be reported as releases from remedial actions. Instead, releases resulting from dredging would be reported in §5 or §6 of the Form R, depending on the ultimate disposition of the chemical. **(June 1992 Monthly Hotline Report)**



"Reporting on Polymeric Lead Compounds"

Key Words:

Compound; polymer

QUESTION: A polymeric lead compound is processed at a facility in excess of the 25,000-pound threshold during the reporting year. Is a polymer that contains lead as a part of its infrastructure considered to be a lead compound under §313 of the Emergency Planning and Community Right-to-Know Act?

ANSWER: The polymer would be considered to be a lead compound. According to Directive 4 on compounds and mixtures in the Toxic Chemical Release Inventory Reporting Package for 1990, a compound is any combination of two or more chemicals where the result is (in whole or in part) a product of a chemical reaction. In the formation of a compound, the reactant chemicals lose their individual chemical identities. Polymers formed as nonreversible reaction products are an example of a compound. Since this polymer is a compound, under §313 (40 CFR §372.22(h)), a polymeric lead compound processed at a facility would count toward the threshold determination for lead compounds. **(August 1992 Monthly Hotline Report)**

"Routine Maintenance Exemption Under EPCRA §313"

Key Words:

Routine maintenance exemption

QUESTION: An EPCRA §313 toxic chemical is used to clean a process-related tower at a manufacturing facility. Is this use of the chemical exempt from threshold and release calculations under the routine janitorial and facility grounds maintenance exemption of 40 CFR §372.38(c)(2)?

ANSWER: Materials used to maintain process-related equipment at a facility (e.g., cleaners and lubricants) are not exempt under §372.38(c)(2). Because the tower is process-related, the exemption does not apply. This exemption only applies to the use of products that are similar in type or concentration to consumer products and are specifically used for routine janitorial or facility grounds maintenance. **(October 1992 Monthly Hotline Report)**

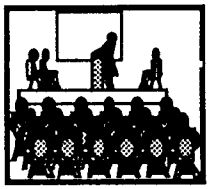
Structural Component Exemption Under EPCRA §313

Key Words:

Routine maintenance exemption; solvent

QUESTION: A manufacturing company paints on-site buildings as part of its routine facility maintenance. The solvent in the paint is an EPCRA §313 toxic chemical. The paintbrushes used to paint the buildings are cleaned with a solvent that is also an EPCRA §313 toxic chemical. Is the solvent used to clean the brushes subject to threshold and relase calculations under §313?

ANSWER: The structural component exemption set out at 40 CFR §372.38(c)(1) applies to the solvent in the paint used to paint the facility. It also applies to the solvent used to clean the paintbrushes since this is part of the painting process. Likewise, any paint and cleaning solvent residues would not be subject to threshold or release calculations. **(October 1992 Monthly Hotline Report)**



"Supplier Notification Under EPCRA §313"

Key Words:
Supplier notification

QUESTION: Chemicals are routinely added to or deleted from the existing EPCRA §313 list of toxic chemicals. When must I begin providing a supplier notification (40 CFR §372.45) for a newly added chemical? What about chemicals that were covered for calendar years 1987 and 1988?

ANSWER: For a chemical added on or after January 1 and before December 1 of any calendar year, supplier notifications are to be provided with the first shipment of the chemical in the following calendar year and every year thereafter. For example, a chemical added on April 1, 1991, requires a notification beginning with the first shipment of the chemical in the 1992 calendar year.

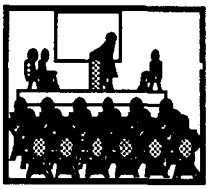
For a chemical added on or after December 1 of any calendar year and before January 1 of the next calendar year, supplier notifications are to be provided with the first shipment of the chemical in the year following the next calendar year and every year thereafter. For example, a chemical added on December 10, 1991, requires a notification beginning with the first shipment of the chemical in the 1993 calendar year. **(November 1992 Monthly Hotline Report)**

"TDI Thresholds and Releases"

Key Words:
TDI; mixture; release

QUESTION: A facility has three separate process streams: one containing 2,4-toluene diisocyanate (TDI), with CAS number 584-84-9; the second containing 2,6-TDI, with CAS number 91-08-7; and the third containing TDI (mixed isomers), with CAS number 26471-62-5. In the past, the list of §313 toxic chemicals included 2,4-TDI and 2,6-TDI. On December 1, 1989, TDI (mixed isomers) was added to the list. How should a facility calculate the thresholds and releases for each isomer and for the mixture of TDI? If the facility knows the composition of the mixture, should it total the amount of the pure 2,4-TDI and 2,6-TDI with the amount in the mixture to determine if the thresholds for the individual isomers have been met?

ANSWER: Because the §313 list of toxic chemicals includes listings for pure 2,4-TDI, pure 2,6-TDI, and TDI (mixed isomers), the facility should calculate the thresholds separately for each stream. The components of the mixture should not be applied to the thresholds of pure isomers. If the individual thresholds are not met, no reporting is necessary. If the individual thresholds are exceeded, the facility may file a single report for TDI (mixed isomers) and include the total releases and transfers of all three process streams, or file three separate reports (40 CFR Part 372). **(March 1992 Monthly Hotline Report)**



"Threshold Determination Based on the Range of Concentration Given on the MSDS"

Key Words:

Concentration; de minimis

QUESTION: A facility regulated under §313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) uses a chemical mixture that contains a listed §313 toxic chemical. The concentration of the toxic chemical is given as a range on the material safety data sheet (MSDS). If the maximum and minimum concentrations are above and below the de minimis concentration level, how can the facility determine quantities for §313 compliance (40 CFR Part 372)?

ANSWER: The amount of the chemical in the mixture that is above the de minimis level, and therefore counts toward the threshold, can be assumed to be proportional to the ratio of the amount above de minimis concentration to the amount of the total concentration range. The concentration of the chemical in the mixture that is not exempt is the average of the de minimis level and the maximum concentration.

For example, assume that a facility manufactures 10 million pounds of a mixture containing 0.25-1.20 percent of a toxic chemical that is subject to a 1 percent de minimis exemption. The quantity of that mixture subject to reporting is:

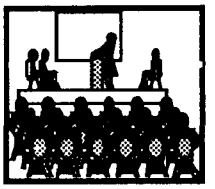
$$10{,}000{,}000 \text{ lb} \times \frac{(1.20-1.00)}{(1.20-0.25)} = 2{,}105{,}263 \text{ lb nonexempt mixture}$$

This 2,105,263 pounds of nonexempt mixture is multiplied by the average concentration above the de minimis, which is 1.1 percent, or

$$\left(\frac{1.20+1.00}{2}\right)$$

$$2{,}105{,}263 \times 0.011 = 23{,}158 \text{ lb}$$

In this example, the amount of chemical that counts toward a threshold is 23,158 pounds. **(July 1992 Monthly Hotline Report)**



"Threshold Determination Under Section 313"

Key Words:

Fuel; processing threshold

QUESTION: A facility covered under §313 of the Emergency Planning and Community Right-to-Know Act manufactures and repairs airplanes. Prior to beginning any repair work, any fuel remaining in the airplane's fuel tanks is emptied by service personnel at the facility. After the repairs are completed, the airplane is refueled with fuel removed from the airplane's fuel tanks and/or new fuel. Should the owner/operator of the manufacturing and repair facility consider the toxic chemicals present in the fuel when making §313 threshold and release calculations?

ANSWER: Yes. For purposes of §313 threshold and release calculations, the toxic chemicals present in the fuel would be considered to be processed because they are being further distributed in commerce. Thus, the toxic chemicals present in the fuel are subject to the 25,000 lb processing threshold. **(February 1992 Monthly Hotline Report)**

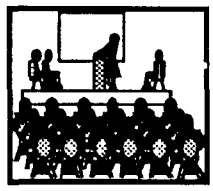
"TRI Facility Location"

Key Words:

Form R

QUESTION: A facility regulated under §313 of the Emergency Planning and Community Right-to-Know Act uses a Post Office box number or a mailing address different from its physical address to receive its mail. When the physical location is listed as the mailing address, the mail is returned to the sender by the Post Office. For reporting on the Form R, Section 3.1, what should the facility list as its mailing address?

ANSWER: The reporting year 1991 Form R contains a separate field for mailing addresses. The facility should enter its mailing address in this field if it is different from the facility's physical address. The facility must always enter its physical address in the appropriate section of the Form R (40 CFR Part 372). **(March 1992 Monthly Hotline Report)**



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

"Wastepile Releases Under EPCRA §313"

Key Words:

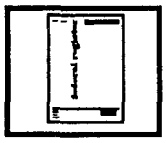
Land disposal unit; release; transfer off-site

QUESTION: A facility continually places material containing a toxic chemical on the land in a pile during a calendar year. The facility is intending to have the pile hauled off-site during the next calendar year. Must the facility report the toxic chemical in the pile as released to land for the calendar year in which it places the material in the pile?

ANSWER: (In the following answer, it is assumed that the material is being transferred off-site for the purpose of disposal, treatment, energy recovery, or recycling.)

Material that is added to a pile during a calendar year does not have to be reported, for that calendar year, as a release to land if the pile was used only for temporary storage. EPA will consider that the pile was used for temporary storage if the facility routinely made off-site transfers of material from the pile during that calendar year. The facility should be able to demonstrate that they conducted such routine transfers.

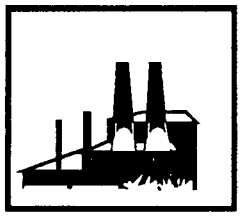
If a facility did not make such routine transfers during a calendar year in which material was added to the pile, EPA will consider that the pile was for disposal, and the quantity of toxic chemical placed on the pile during that calendar year and present at the end of that year must be reported as a release to land, regardless of the facility's intention to transfer the material off-site in an ensuing year. If, in an ensuring year, such material is transferred off-site, the movement would be counted as a transfer off-site even though this entails double counting. **(November 1992 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 1992. 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

"Timing of Surface Impoundment Retrofitting Under the Land Disposal Restrictions"

Citation:
February 4, 1992
(57 FR 4170)

SUMMARY: This proposal clarifies the deadline by which surface impoundments receiving wastes that are newly identified or listed as hazardous must be brought into compliance with the minimum technological requirements (MTR) established in RCRA §3004(o)(1)(A). The proposal would give all surface impoundments up to four years from the date of compliance to comply with the MTR.

"Proposed Hazardous Waste Identification Rule"

Citation:
May 20, 1992
(57 FR 21450)

SUMMARY: This rule proposed amendments to RCRA regulations for hazardous waste identification. The Agency presented two options. The first would establish Concentration-Based Exclusion Criteria (CBEC) or exemption levels for constituents found in certain wastes. The second option would expand the number of hazardous constituents listed under the toxicity characteristic and is referred to as the Expanded Characteristic Option, or ECHO. Comments will be accepted until July 29, 1992. This proposed rule was withdrawn on October 30, 1992 (57 FR 49280).

"Land Disposal Restrictions 'No Migration' Variances"

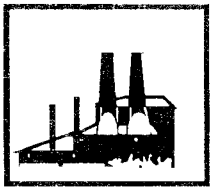
Citation:
August 11, 1992
(57 FR 35940)

SUMMARY: This rule proposes EPA's interpretation of the "no migration" variance to the Congressionally mandated restrictions on land disposal of hazardous waste. EPA also proposed new requirements for petitioning EPA and demonstrating that there will be "no migration" from a land disposal unit. Comments on this proposed rule must be received on or before September 25, 1992.

"Suspension of the Toxicity Characteristic Rule for Non-UST Petroleum Product-Contaminated Media and Debris"

Citation:
December 24, 1992
(57 FR 61542)

SUMMARY: EPA proposed to suspend the Toxicity Characterestic Rule (Hazardous Waste Codes D018 through D043 only) for three years for environmental media and debris contaminated by petroleum products released from sources other than Underground Storage Tanks. Comments must be submitted on or before February 8, 1993.



Final Rules

"Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units"

Citation:

January 29, 1992
(57 FR 34762)

SUMMARY: EPA amended the current regulations concerning liners and leachate collection and removal systems for hazardous waste surface impoundments, landfills, and waste piles. EPA also added new regulations requiring owners and operators of hazardous waste surface impoundments, waste piles, and landfills to install and operate leak detection systems when new units are added, laterally expanded, or replaced. The effective date is July 29, 1992.

"'Mixture' and 'Derived-From' Rules"

Citation:

March 3, 1992
(57 FR 7628)

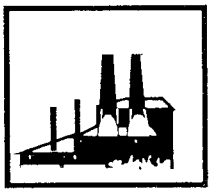
SUMMARY: EPA is today simultaneously removing and reissuing 40 CFR §261.3, including the "mixture" and "derived-from" rules, on an interim basis under §553(b)(3)(B) of the Administrative Procedure Act (APA). The effective date of this rule is February 18, 1992.

"Approval of LDR Hazardous Debris Case-by-Case Capacity Variance"

Citation:

May 15, 1992
(57 FR 20766)

SUMMARY: In response to the January 9, 1992, proposed rule on LDR for newly listed wastes and hazardous debris (57 FR 958), EPA received numerous comments regarding the availability of treatment capacity for hazardous debris. Most of the commenters indicated that it will be extremely difficult if not impossible to meet the proposed standards for hazardous debris, or the existing standards by May 8, 1992, when the national capacity variance for most debris expires. Under 40 CFR §268.5, EPA therefore approved a generic, one-year extension of the LDR effective date applicable to all persons managing hazardous debris. This rule became effective on May 8, 1992.



Final Rules (cont'd)

"Used Oil Final Rule"

Citation:

May 20, 1992
(57 FR 21524)

SUMMARY: EPA announced its decision not to list used oil destined for disposal as hazardous waste based on the finding that all used oil do not typically and frequently meet the technical criteria for listing a waste as hazardous under RCRA. EPA is promulgating a modification to the current exclusions from the definition of hazardous waste in 40 CFR §261.4(b)(15) to provide an exemption for certain types of used oil filters. The Agency also announced its deferral of a decision on whether or not to list residuals from the reprocessing and re-refining of used oil at this time. The Agency is not taking final action, at this time, on a listing determination or management standards for used oil that is recycled. This rule is effective June 19, 1992.

"Identification and Listing of Hazardous Waste; Exclusion for Coke By-Product Residues that Are Recycled"

Citation:

June 22, 1992
(57 FR 27880)

SUMMARY: This final rule excludes from the definition of solid waste those coke by-product residues that are recycled in one of three different ways. This rule is effective June 22, 1992.

"Solid Waste Disposal Facility Criteria; Corrections"

Citation:

June 26, 1992
(57 FR 28626)

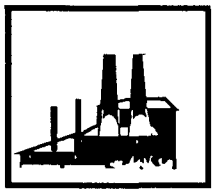
SUMMARY: This rule corrected errors in the preamble and final rule language concerning solid waste disposal facility criteria for municipal solid waste landfills that appeared in the Federal Register of October 9, 1991 (56 FR 50978).

"California: Final Authorization of Hazardous Waste Management Program"

Citation:

July 23, 1992
(57 FR 32726)

SUMMARY: In this final rule, EPA granted final authorization to California for the operation of its hazardous waste program. Final authorization for California will be effective on August 1, 1992.



Final Rules (cont'd)

"Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris"

Citation:

August 18, 1992
(57 FR 37194)

SUMMARY: EPA promulgated final treatment standards for certain hazardous wastes listed after November 8, 1984. EPA also finalized treatment standards for debris contaminated with listed hazardous waste and debris which exhibits certain hazardous waste characteristics. The majority of the requirements in this final rule are effective June 30, 1992.

"Identification and Listing of Hazardous Waste: Coke By-Product Wastes"

Citation:

August 18, 1992
(57 FR 37284)

SUMMARY: This final rule listed as hazardous seven wastes generated during the production, recovery, and refining of coke by-products produced from coal. This rule will become effective on February 18, 1993.

"Recycled Used Oil Management Standards"

Citation:

September 10, 1992
(57 FR 41566)

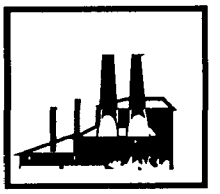
SUMMARY: EPA promulgated a final listing decision for used oils that are recycled and also promulgated standards for the management of used oil. EPA determined that recycled used oil does not have to be listed as a hazardous waste. The effective date for this rule is March 8, 1993.

"Financial Responsibility for Third-Party Liability, Closure, and Post-Closure"

Citation:

September 16, 1992
(57 FR 42832)

SUMMARY: EPA expanded the use of the non-parent corporate guarantee to owners and operators of hazardous waste facilities for demonstrating financial responsibility for closure and post-closure care. This rule was effective September 16, 1992.



Final Rules (cont'd)

"Land Disposal Restrictions; Soil Case-By-Case Capacity Variance"

Citation:
October 20, 1992
(57 FR 47772)

SUMMARY: EPA approved an interim final case-by-case extension of the Land Disposal Restrictions effective date, extending it to May 8, 1993, for Third Third hazardous soils contaminated with radioactive mixed waste or whose BDAT is either incineration, retorting, or vitrification. This action becomes effective on October 13, 1992. Comments must be submitted on or before November 19, 1992.

"Definition of Hazardous Waste; 'Mixture' and 'Derived-From' Rules"

Citation:
October 30, 1992
(57 FR 49278)

SUMMARY: EPA removed the April 28, 1993, expiration date from its reinstatement of the "mixture" and "derived-from" rules published on March 3, 1992 (57 FR 7628). This rule is effective on October 30, 1992.

"Hazardous Waste Management; Liquids in Landfills"

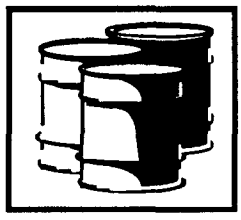
Citation:
November 18, 1992
(57 FR 54452)

SUMMARY: This final rule prohibits the disposal in hazardous waste landfills of liquids that have been sorbed in materials that biodegrade or that release liquids when compressed. This rule is effective May 18, 1993.

"Wood Preserving; Identification and Listing of Hazardous Waste"

Citation:
December 24, 1992
(57 FR 61492)

SUMMARY: EPA modified the technical standards for drip pads used to collect preservative drippage from treated wood and modified the listings of three categories of hazardous waste from the wood preserving industry. The majority of the requirements in this final rule are effective December 24, 1992.



SUPERFUND (SF)

Proposed Rules

"National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12"

Citation:
February 7, 1992
(57 FR 4824)

SUMMARY: EPA proposed to add 30 new sites to the NPL, 6 of which are Federal facility sites.

"RQ Adjustments for Lead Metal, Lead Compounds, Lead-Containing Hazardous Waste, and Methyl Isocyanate"

Citation:
May 8, 1992
(57 FR 20014)

SUMMARY: EPA proposed to adjust to 10 pounds the reportable quantities (RQs) for lead metal, 13 lead compounds, 15 wastestreams listed under RCRA that contain lead, and RCRA characteristic wastes that fail the TCLP based on their lead constituents. In addition, EPA is proposing to adjust the RQ for methyl isocyanate to 100 pounds. Comments will be accepted until July 7, 1992.

"Recovery of Costs for CERCLA Response Actions"

Citation:
August 6, 1992
(57 FR 34742)

SUMMARY: This proposed rule is intended to clarify certain aspects of the CERCLA cost recovery process and thereby avoid unnecessary costs and delays involved in that process. Comments must be received on or before October 5, 1992.

"National Priorities List for Uncontrolled Hazardous Waste Sites; Proposed Rule Number 13"

Citation:
October 14, 1992
(57 FR 47204)

SUMMARY: EPA proposed to add nine sites to the National Priorities List. In addition, one final site was proposed for expansion. Comments on the expansion of the Austin Avenue Radiation Site must be submitted by November 13, 1992. Comments on all other sites must be submitted by December 14, 1992.

Final Rules

"Deletion of Two Sites From the National Priorities List"

Citation:
January 6, 1992
(57 FR 355)

SUMMARY: EPA deleted two sites from the NPL: Beachwood/Berkeley Wells in Ocean County, New Jersey, and Johns Sludge Pond in Wichita, Kansas. The effective date was January 6, 1992.

"National Priorities List Update"

Citation:
January 16, 1992
(57 FR 1872)

SUMMARY: EPA recategorized 13 Superfund sites on the National Priorities List by placing them in the construction completion category. The effective date was January 16, 1992.

"Lender Liability Under CERCLA"

Citation:
April 29, 1992
(57 FR 18344)

SUMMARY: This final rule defines certain statutory elements in CERCLA that pertain to the liability of lenders. Specifically, it clarifies the security interest exemption in §101(20)(A). This rule is effective April 29, 1992.

"Technical Assistance Grant Program"

Citation:
October 1, 1992
(56 FR 45311)

SUMMARY: This final rule is designed to streamline the CERCLA Technical Assistance Grant (TAG) Program by simplifying application and management procedures. The intent of this rule is to make grants for technical assistance available to local community groups and promote effective public participation in the Superfund cleanup process. The effective date for this rule is October 1, 1992.

"National Priorities List for Uncontrolled Hazardous Waste Sites"

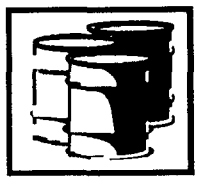
Citation:
October 14, 1992
(57 FR 47180)

SUMMARY: With this final rule, EPA added 33 sites to the National Priorities List (NPL) and deleted 4 sites. The effective date for this list of NPL sites is November 13, 1992.

"Citizen Suits Under §310 of CERCLA"

Citation:
November 23, 1992
(57 FR 55038)

SUMMARY: This final rule prescribes the manner in which notice of citizen suits is to be provided as required by §310 of CERCLA. This final rule is effective January 22, 1993.



Final Rules (cont'd)

"National Priorities List; Deletion of Metal Working Shop Site"

Citation:
December 23, 1992
(57 FR 61004)

SUMMARY: EPA announced that it is deleting the Metal Working Shop Site in Lake Ann, Michigan, from the National Priorities List. EPA and the State of Michigan have determined that no further cleanup by responsible parties is appropriate. This deletion is effective December 23, 1993.

"National Priorities List; Deletion of ARRCOM Site"

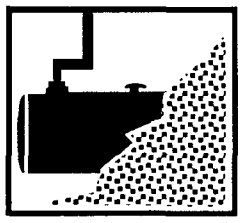
Citation:
December 23, 1992
(57 FR 61005)

SUMMARY: EPA announced that it is deleting the ARRCOM Site in Rathdrum, Idaho, from the National Priorities List. EPA and the State of Idaho have determined that no further cleanup by responsible parties is appropriate. This deletion is effective December 23, 1992.

"National Priorities List; Deletion of Adrian Well Field Site"

Citation:
December 30, 1992
(57 FR 62231)

SUMMARY: EPA announced that it is deleting the Adrian, Minnesota, from the National Priorities List. EPA and the State of Minnesota have determined that no further cleanup under CERCLA is appropriate. This deletion is effective December 30, 1992.



UNDERGROUND STORAGE TANKS (UST)

Final Rules

"Vermont; Final Approval of State Underground Storage Tank Program"

Citation:
January 3, 1992
(57 FR 186)

SUMMARY: EPA grants final approval to Vermont to operate its underground storage tank (UST) program. The effective date was February 3, 1992.

"Maine: Final Approval of State Underground Storage Tank Program"

Citation:
June 11, 1992
(57 FR 24759)

SUMMARY: EPA granted the State of Maine final authorization for its underground storage tank (UST) program. The effective date of this final rule is
July 13, 1992.

"Maryland: Final Approval of State Underground Storage Tank Program"

Citation:
June 30, 1992
(57 FR 29034)

SUMMARY: EPA granted the State of Maryland final authorization for its underground storage tank (UST) program. The effective date of this final rule is
July 30, 1992.

"Louisiana: Final Approval of State Underground Storage Tank Program"

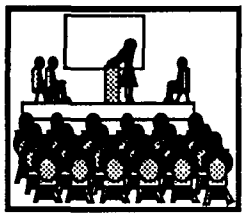
Citation:
August 5, 1992
(57 FR 34519)

SUMMARY: EPA granted final approval to the State of Louisiana to operate its underground storage tank (UST) program. This final approval will be effective on September 4, 1992.

"Oklahoma; Final Approval of State Underground Storage Tank Program"

Citation:
September 14, 1992
(57 FR 41874)

SUMMARY: EPA granted final approval to the State of Oklahoma to operate its underground storage tank (UST) program. This final approval will be effective October 14, 1992.



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

Proposed Rules

"Public Meeting: Expansion of Toxic Release Inventory"

Citation:
May 4, 1992
(57 FR 19127)

SUMMARY: EPA announced a public meeting to be held on May 29, 1992, to discuss expansion of reportable toxic chemicals and reportable facilities. An issues paper will be made available after May 15, 1992.

"Ozone Depleting Chemicals; Toxic Chemical Release Reporting"

Citation:
June 24, 1992
(57 FR 28159)

SUMMARY: EPA granted a petition by proposing to add hydrochloro-fluorocarbons (HCFCs) to the list of toxic chemicals subject to reporting under §313 of EPCRA. Written comments on this proposed rule must be received by August 24, 1992.

"Partial Granting of Petition to Amend Toxic Chemical List"

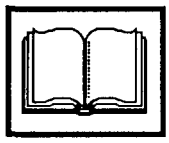
Citation:
September 8, 1992
(57 FR 41029)

SUMMARY: EPA is partially granting a petition to add 80 chemicals and 2 chemical categories to the list of toxic chemicals subject to reporting under §313 of EPCRA by proposing to add 68 chemicals and 2 chemical categories. Alternatively, EPA is proposing to add only those chemicals identified in this rule that are produced in quantities greater than a certain manufacturing threshold. Written comments should be submitted by November 9, 1992.

"Thresholds for the Toxic Chemical Release Inventory"

Citation:
October 27, 1992
(57 FR 48706)

SUMMARY: The Small Business Administration (SBA) submitted a petition requesting that EPA change the threshold structure under EPCRA §313 to exempt facilities with small source releases that meet specified release-based thresholds from the requirement to report releases. Written comments must be received by December 28, 1992.



PART 3: INDICES

This section provides three indices to help you select and access the questions and answers in Part 1 and the Federal Register summaries in Part 2. The first index references the questions and FR summaries by subject. The questions and FR summaries that address that topic are listed below each subject. For example, to find questions dealing with light bulbs, you would look in the subject index for the word "light bulbs" and find two questions referenced under that subject: "Fluorescent Light Bulbs as Debris" and "Light Bulb Stem Disposal." 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 and FR summaries 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 281 - Approval of State Underground Storage Tank Programs" is a question entitled "States Authorized for the Underground Storage Tank (UST) Program" and a Federal Register notice from January 3, 1992, regarding final approval of the UST program for the state of Vermont.

Similarly, the third index organizes the questions by statutory citation. For example, the question entitled "Article Disposal After Use" 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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(E) = EPCRA (S) = SUPERFUND
(R) = RCRA (U) = UST

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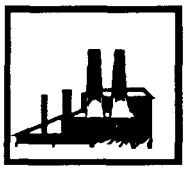

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

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40 CFR Part 266 - Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

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40 CFR Part 268 - Land Disposal Restrictions (LDR)

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40 CFR Part 270 - EPA Administered Permit Programs: The Hazardous Waste Permit Program

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40 CFR Part 279 - Standards for the Management of Used Oil

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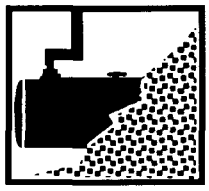

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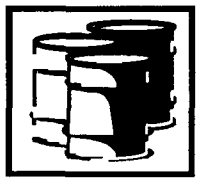

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40 CFR Part 300 - National Oil and Hazardous Substance Pollution Contingency Plan
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40 CFR Part 374 - Prior Notice of Citizen Suits
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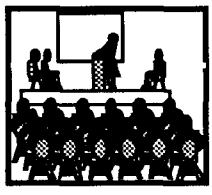

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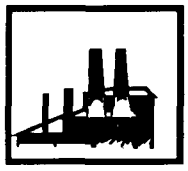

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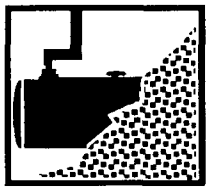

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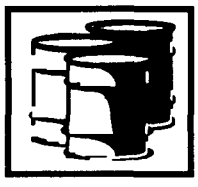

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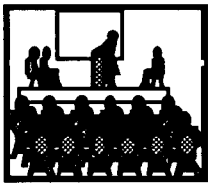

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