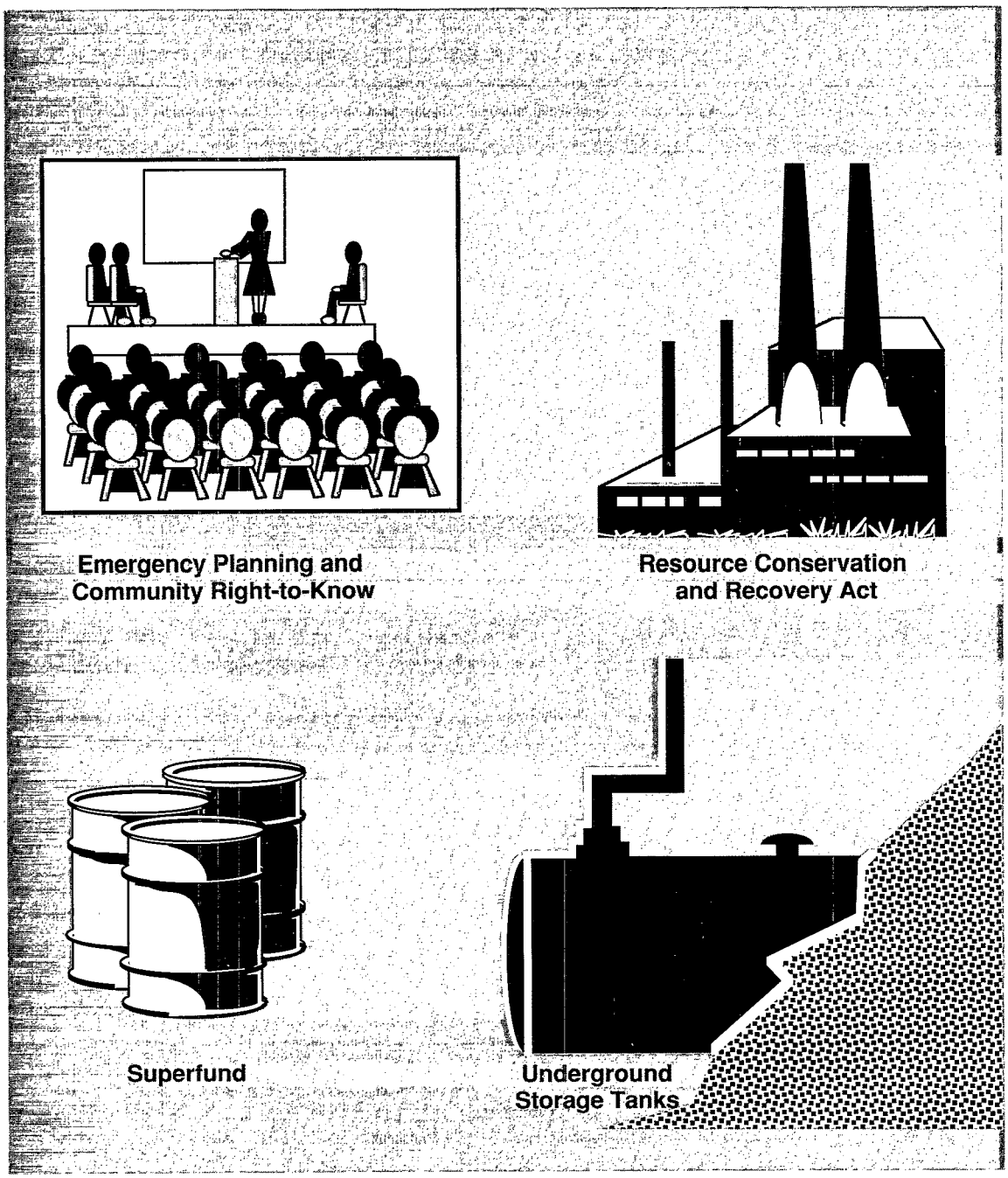
United States
Environmental Protection
Agency

Solid Waste and
Emergency Response
5305W

PB96-163 423
EPA/530-R-95-002m
April 1996

Inside the Hotline

A Compilation of 1995 Monthly Hotline Reports



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RCRA, Superfund & EPCRA Hotline Phone Numbers:

National toll-free (outside of DC area)	(800) 424-9346
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National toll-free for the hearing impaired (TDD)	(800) 553-7672
Local TDD number (within DC area)	(703) 412-3323

This document is prepared by Booz·Allen & Hamilton and submitted in support of Contract No. 68-W6-0016

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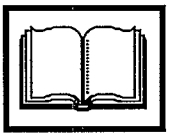

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INTRODUCTION

The Resource Conservation and Recovery Act (RCRA), Superfund, and Emergency Planning and Community Right-to-Know Act (EPCRA) Hotline was established to respond to inquiries from the regulated community and the public concerning waste management, disposal, and emergency planning and response regulations. In addition, the Hotline serves as point of contact for the Radiation Sites Cleanup Program and the risk management program under the Clean Air Act §112(r). The Hotline also functions 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 1995. It is divided into three parts: Questions and Answers, Federal Register summaries, and Indices organized according to subject matter, regulatory citations, and statutory citations.

It is important that the reader understand 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 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.

AVAILABILITY

This document, *Inside the Hotline: A Compilation of 1995 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: PB96-163 423.

Other Hotline publications are also available from NTIS. Individual Monthly Hotline Reports from 1982 up through the current report and Monthly Hotline Report subscriptions are available, as well as the following:

Inside the Hotline: A Compilation of 1994 Monthly Hotline Reports	PB95-179 388
Inside the Hotline: A Compilation of 1993 Monthly Hotline Reports	PB93-127 966
Inside the Hotline: A Compilation of 1992 Monthly Hotline Reports	PB93-159 572
Inside the Hotline: A Compilation of 1991 Monthly Hotline Reports	PB92-131 390
Index to the Monthly Hotline Report Questions (June 1982 to December 1994)	PB95-179 396

Electronic Availability

The Monthly Hotline Report Questions and Answers are also available for downloading at no charge from EPA's Cleanup Information BBS (CLU-IN). CLU-IN can be accessed via modem at **(301) 589-8366** or via the Internet by Telnet at **clu-in.epa.gov**. The file containing the 1995 Monthly Hotline Reports is **HOTLIN95.ZIP**.

1995 Monthly Hotline Reports are also available through EPA's Internet servers at the following routes:

Access through Gopher:

- Go to **gopher.epa.gov**

- Choose the following:
EPA Offices and Regions -> Office of Solid Waste and Emergency Response -> Office of Solid Waste (RCRA) -> RCRA: General -> RCRA/UST, Superfund & EPCRA Hotline Reports

Access through the World Wide Web:

- Go to the Hotline's Home Page at **http://www.epa.gov/epaoswer/hotline.htm**

- Choose "Monthly Hotline Reports"

PART 1: QUESTIONS AND ANSWERS

This section contains a compilation of all the questions and answers from individual Monthly Hotline Reports for the period of January to December 1995. 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 1995 the Hotline responded to over 240,000 questions regarding EPA regulations, programs, guidance documents, and other related matters. Figure 2 breaks down the questions by program area. The RCRA program received the highest number of questions, nearly 53 percent. The number and type of questions in this report reflect the percentages cited in Figure 2.

The questions and answers have undergone EPA technical 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 Monthly Hotline Report is cited at the end of the entry. The questions in this section are grouped by EPA program area, then further grouped under broad, general regulatory areas and titles. To pinpoint a subject or topic more specific than the general regulatory area headings, please use the Indices in Part 3.

Figure 1*
Questions by Type

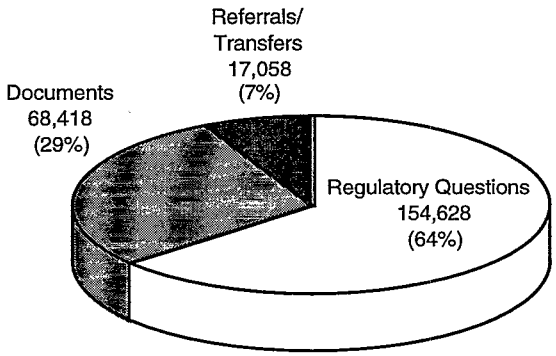
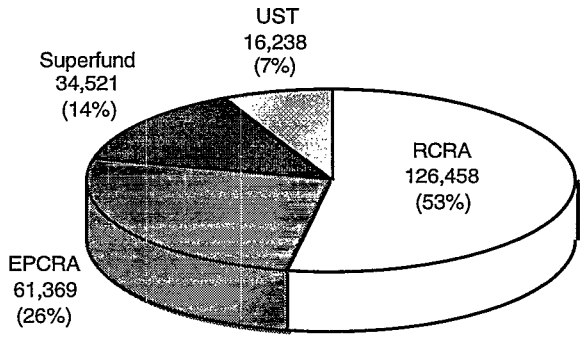


Figure 2**
Questions by Program



*Based on 240,104 questions received during 1995.
**Excludes 17,058 referrals and transfers made to other information sources.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Corrective Action

"Corrective Action Authorities"

Key Words:

Corrective action; remedial action; solid waste management unit (SWMU)

QUESTION: RCRA §3004(u) requires corrective action for all releases of hazardous waste or hazardous constituents from solid waste management units (SWMUs) at permitted hazardous waste treatment, storage, and disposal facilities (TSDFs). Is RCRA corrective action limited to releases from SWMUs?

ANSWER: Any release of solid or hazardous waste which poses a threat to health or the environment is potentially subject to RCRA remedial authority. To this end, RCRA provides EPA with several distinct authorities to require corrective action for contamination stemming from sources other than SWMUs. A SWMU is a discernible unit in which solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous wastes. This definition includes any area at a facility at which solid wastes have been routinely and systematically released. RCRA §3004(u), which is specifically limited to releases from SWMUs, is the primary authority requiring corrective action at permitted TSDFs. Section 3004(u) requires a facility owner or operator to address releases from SWMUs whenever seeking a RCRA permit.

Many potential releases at permitted TSDFs do not originate from SWMUs, however, and are not subject to §3004 cleanup requirements. For example, a one-time spill of hazardous waste from a vehicle traveling across a facility is not a release from a SWMU. For such releases not originating from SWMUs at permitted TSDFs, and for releases at TSDFs with permits that pre-date HSWA and which therefore do not contain §3004(u) provisions, EPA may choose to use its omnibus permitting authority pursuant to RCRA §3005(c)(3) to modify the facility's permit as necessary to require corrective action for any potential threat to human health or the environment. Additionally, RCRA §3004(v), which is not limited to releases from SWMUs, requires TSDFs to cleanup contamination beyond the facility boundary of a permitted TSDF.

RCRA also provides EPA with the authority to issue administrative corrective action orders or bring suit in a United States District Court against TSDFs operating under interim status. The interim status TSDF corrective action order authority, provided by RCRA §3008(h), is not limited to releases from SWMUs or any other type of unit. EPA can invoke §3008(h) to address any release of hazardous waste from an interim status facility. Section 3008(h) gives EPA authority to issue corrective action orders or bring suit for both on-site releases at interim status facilities and releases which have migrated beyond an interim status facility boundary.

"Corrective Action Authorities" (cont'd)

Finally, RCRA §7003 gives EPA broad authority to abate hazards caused by releases of solid or hazardous waste from any source, including SWMUs. Specifically, §7003 provides EPA with the authority to seek injunctive relief in the appropriate United States District Court, or, after notice to the affected state, issue administrative corrective action orders for releases from any site where the handling, storage, treatment, transportation or disposal of solid or hazardous waste may pose an imminent and substantial endangerment to health or the environment. Use of §7003 is not limited to any particular type of facility or waste unit. **(February 1995 Monthly Hotline Report)**

"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action"

Key Words:

Corrective action; deletion/deferral policy; National Priorities List (NPL)

QUESTION: EPA has the authority under both CERCLA and RCRA to address the cleanup of contaminated sites. Under what circumstances will EPA address a contaminated site through one of the RCRA Subtitle C corrective action authorities rather than list the site on the CERCLA National Priorities List (NPL)? If a site is already on the NPL, what are the criteria for deleting the site and deferring it to RCRA?

ANSWER: To conserve Superfund resources and avoid duplication of effort, EPA has maintained a policy not to undertake CERCLA responses at certain sites that can or will be adequately addressed by RCRA. Consequently, instead of listing sites on the NPL, the Agency often defers sites that otherwise meet the NPL criteria to RCRA Subtitle C corrective action. Under current policy, EPA may defer sites to RCRA at any point in the NPL process, including after placement on the NPL. EPA has had a policy of deferring certain sites from listing since the first NPL final rule on September 8, 1983 (48 FR 40658).

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), the RCRA Subtitle C corrective action authorities only applied to certain releases from surface impoundments, waste piles, land treatment areas, and landfills that received hazardous wastes after July 27, 1982. HSWA expanded the RCRA Subtitle C corrective action authorities, giving EPA the authority to address the on- and off-site cleanup of releases from active and inactive permitted and interim status hazardous waste treatment, storage, and disposal facilities (TSDFs). In order to implement this broader authority, in 1986, the Agency developed a policy for the listing or deferral from listing of potential NPL sites (51 FR 21057; June 10, 1986). According to the 1986 deferral policy, EPA will generally defer the listing of potential NPL sites when other authorities exist that are capable of accomplishing the needed corrective action.

The Agency will not automatically defer all sites eligible for cleanup under RCRA. For example, EPA will not defer federal facilities from the NPL, because federal facilities are not eligible for Fund-financed remedial action, and deferring them would not conserve Fund monies (54 FR 10520; March 13, 1989).

"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action" (cont'd)

In addition, the Agency will continue to include RCRA sites not subject to Subtitle C corrective action authorities, such as generator and transporter sites, on the NPL. EPA is also reluctant to defer sites owned by persons who are unwilling or unable to pay for corrective action and related activities because these owners are unlikely to take corrective action as required by RCRA. For this reason, the 1986 deferral policy clarifies that the Agency will not defer sites meeting the criteria for listing on the NPL that fall into one of the following categories:

- RCRA facilities owned by bankrupt persons;
- RCRA facilities that have lost authorization to operate under the RCRA Loss of Interim Status (LOIS) provision and are owned by persons who have indicated an unwillingness to undertake corrective action; and
- Facilities that have not lost authorization to operate, but that are owned by people who have, as determined on a case-by-case basis, a clear history of unwillingness to undertake corrective action.

On June 24, 1988 (53 FR 23979), EPA clarified the deferral policy and added the following four categories of RCRA facilities to those types of sites which it will not defer from inclusion on the NPL:

- Non- or late-filers — treatment, storage, or disposal facilities that managed hazardous waste after November 19, 1980, but did not file Part A RCRA permit applications by that date and have little or no history of compliance with RCRA;
- Converters — facilities that previously treated or stored hazardous waste, but have since converted to activities that do not require interim status and have therefore formally withdrawn their Part A applications;
- Protective filers — facilities that filed RCRA Part A permit applications as a precautionary measure for treatment, storage, or disposal operations that do not require interim status and are not subject to RCRA Subtitle C corrective action authorities; and
- Pre-HSWA permittees — sites holding permits issued before the enactment of the Hazardous and Solid Waste Amendments (HSWA).

These types of sites are either not subject to RCRA Subtitle C corrective action authorities or are not high priorities under RCRA and would not be promptly addressed by the RCRA corrective action program. The Agency has therefore decided to place these sites on the NPL if they meet the listing criteria so that, if necessary, the Superfund authorities are fully available.

"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action" (cont'd)

On March 20, 1995 (60 FR 14641), EPA issued a new deferral policy for sites after their placement on the NPL. Previously, once EPA made the decision to place a site on the NPL (rather than defer the site to another cleanup authority), the Agency would only delete the site from the NPL when no further response at that site was appropriate (55 FR 8845; March 8, 1990). This policy meant EPA would not delete sites from the NPL to defer them to RCRA during the response process, even if the Agency determined that a RCRA response was appropriate. Under the 1995 deletion/deferral policy, the Agency may, during the response process, delete sites from the NPL based on deferral to the RCRA Subtitle C corrective action program. To be eligible for deletion from the NPL based on deferral to RCRA, NPL sites must meet the following criteria:

- The site must be eligible for deferral from inclusion on the NPL under EPA's current deferral policy (as discussed above);
- EPA must be currently addressing the site through a RCRA corrective action authority under an existing enforceable order or permit containing corrective action provisions;
- Response under RCRA must be progressing adequately; and
- Deletion must not disrupt any ongoing CERCLA response actions.

Before a site may be deleted from the NPL under the deferral/deletion policy, it must also meet other applicable deletion requirements under CERCLA regulations. In particular, a site may only be deleted from the NPL after the state in which the release was located has concurred with the proposed deletion (40 CFR §300.425(e)(2)). Thus, sites must also be evaluated by the appropriate state authority before EPA can delete them from the NPL for deferral to RCRA. **(July 1995 Monthly Hotline Report)**

Generator Requirements

"Spent Lead-Acid Batteries and Counting Requirements"

Key Words:

Batteries; counting; generator

QUESTION: EPA promulgated specific requirements for counting hazardous wastes to facilitate accurate determination of monthly generator status. While most hazardous wastes produced at generator sites are counted in the monthly quantity determination, some special hazardous wastes are exempt from this requirement (§261.5(c)). If a generator is accumulating spent lead-acid batteries that will be sent for reclamation, should the batteries be counted towards the determination of monthly generator status?

ANSWER: Spent lead-acid batteries that will be sent for reclamation are not

"Spent Lead-Acid Batteries and Counting Requirements" (cont'd)

subject to the monthly generator counting requirements. Hazardous waste is counted only if it is subject to substantive regulation (40 CFR §261.5(c)). Substantive regulations are those regulations which directly relate to the storage, transportation, treatment, or disposal of hazardous waste (51 FR 10152; March 24, 1986). Persons who generate, transport, or store spent lead-acid batteries destined for reclamation, but who do not reclaim them themselves, are not subject to substantive regulation, specifically Parts 262-266, 270 or 124 (40 CFR §266.80). Therefore, spent lead-acid batteries destined for reclamation are not counted when determining monthly generator status. Such wastes should not be counted because they are not subject to regulation in the hands of the generator (50 FR 14218; April 11, 1985). **(June 1995 Monthly Hotline Report)**

"Status of WWTUs/ENUs at Generator Sites"

Key Words:

Elementary neutralization unit; exemptions; wastewater treatment unit

QUESTION: A generator may treat hazardous waste without a permit or interim status in an on-site accumulation unit that is in compliance with the regulations in §262.34 (51 FR 10146, 10168; March 24, 1986). If a generator chooses to treat hazardous waste in an on-site wastewater treatment unit or in an on-site elementary neutralization unit, must the generator comply with §262.34?

ANSWER: No. A generator treating hazardous waste in an on-site wastewater treatment unit or in an on-site elementary neutralization unit, need not comply with §262.34, which is a conditional exemption from permitting requirements, because these units are already exempt from certain RCRA requirements. Specifically, wastewater treatment units and elementary neutralization units, as defined in §260.10, are exempt from RCRA treatment, storage, and disposal facility (TSDF) standards as well as from permitting standards (§§264.1(g)(6), 265.1(c)(10), and 270.1(c)(2)(v)). **(February 1995 Monthly Hotline Report)**

Import/Export

"Export Requirements for Transportation Through Transit Countries"

Key Words:

Exports; generator; receiving country

QUESTION: A facility generates hazardous waste in Alaska. The generator arranges to send the hazardous waste to a disposal facility in California. In the process of transportation, the hazardous waste will pass through Canadian territory. Will the facility be required to comply with any of the export regulations found under Part 262, Subpart E?

ANSWER: In this scenario, RCRA export regulations do not apply. The regulations for exports of hazardous waste in Part 262, Subpart E apply to any person who meets the definition of a primary exporter. Primary exporter is

"Export Requirements for Transportation Through Transit Countries" (cont'd)

defined under §262.51 as generally, any person required to initiate a hazardous waste manifest which designates a treatment, storage, or disposal facility in a receiving country. Receiving country is subsequently defined under §262.51 as "a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation)." In the above scenario, there are no treatment, storage, or disposal facilities in a receiving country that are designated on the manifest, rather, the waste simply passes through a foreign country. RCRA does not require that transit countries be notified. **(March 1995 Monthly Hotline Report)**

"International Agreements and Hazardous Waste Export Regulations"

Key Words:

Bilateral agreements; exports; imports

QUESTION: The United States is party to several international agreements addressing hazardous waste. RCRA §3017 allows for international agreements to provide alternative regulatory standards applicable to hazardous waste exporters under §262.58. Currently, no alternative requirements have been promulgated. When the United States signs international environmental agreements, what is the process for implementing any alternative requirements?

ANSWER: International agreements regarding transboundary movement of hazardous waste establish governmental control over and responsibility for the acts of U.S. importers and exporters. Once agreements are executed by the United States, EPA issues regulations to implement them, if necessary. Without the necessary implementing regulations, U.S. importers and exporters are not subject to the particular requirements of the agreement.

Currently, the United States is party to agreements with Canada, Mexico, and member countries of the Organization for Economic Cooperation and Development (OECD). The bilateral agreements with Canada and Mexico do not differ substantially from EPA's current export regulations in 40 CFR Part 262, Subpart E. For this reason, the Agency did not need to promulgate specific regulations to implement these agreements. EPA expects to promulgate regulations implementing the OECD agreement which would, among other things, expand the requirements applicable to U.S. exporters in the OECD context. **(February 1995 Monthly Hotline Report)**

"Manifest Requirements for Imported Hazardous Waste"

Key Words:

EPA ID number; imports; manifest

QUESTION: Any person who imports hazardous waste into the United States must comply with all applicable generator requirements and the special requirements for importers in Part 262, Subpart F (§262.60(a)). This includes preparing a manifest with a generator EPA identification number before transporting the imported hazardous waste within the United States. Because waste generated in another country will not have an EPA identification number, the importer's identification number should be used on the manifest. Any party who helped arrange for the importation (e.g., a broker, a transporter, a TSDF), however, may be considered an importer (June 25, 1985, memo from Skinner to Seraydarian). In cases where there is more than one importer, each with an identification number, whose number should be used on the manifest?

ANSWER: EPA does not require any particular identification number to be used on the manifest. The Agency recommends that the parties to the movement decide among themselves who will act as the importer. The importer's responsibility includes providing an identification number on the manifest (§262.60(b)(1)). Regardless of who performs the importer duties, EPA reserves the right to enforce against any of the involved parties if the requirements of the RCRA hazardous waste regulations are not adequately met. **(January 1995 Monthly Hotline Report)**

"Signing the Manifest as an Agent When Importing Hazardous Waste"

Key Words:

Generator; imports; manifest

QUESTION: A waste broker in Mexico arranges to collect hazardous waste from several different Mexican generators, and exports 1500 kilograms of hazardous waste for disposal at a U.S. facility. The RCRA regulations under Part 262, Subpart F require an importer to initiate a manifest when hazardous waste enters the United States. Since the broker from Mexico accepts all responsibility for the hazardous waste from the generator facilities and handles the hazardous waste for the U.S. disposal facility, can the broker sign the Uniform Hazardous Waste Manifest as an agent of the U.S. disposal facility that is importing the waste?

ANSWER: The regulations for imports of hazardous waste allow the importer or his/her agent to sign the generator certification statement on the manifest in place of the generator (§262.60(b)(2)). The only requirement for an agent signing the manifest is that the agent must be somehow legally affiliated with the EPA identification number used on the manifest. The Mexican broker could sign the manifest certification only if the broker's company has a U.S. EPA identification number (requiring a U.S. address) or the broker is legally related to the importer (e.g., a subsidiary). A broker signing as an agent because of a

"Signing the Manifest as an Agent When Importing Hazardous Waste" (cont'd)

legal relation to the importer must place the U.S. address and U.S. EPA identification number of the importer on the manifest. **(March 1995 Monthly Hotline Report)**

Municipal Waste Landfills

"Design Criteria Exemption for Small, Arid, Remote MSWLFs"

Key Words:

Groundwater; municipal waste; solid waste disposal

QUESTION: A small municipal solid waste landfill (MSWLF) which is located in an arid or remote area is exempt from the design criteria of 40 CFR Part 258, Subpart D, provided there is no evidence of groundwater contamination from the facility (40 CFR §258.1(f)). If evidence of groundwater contamination is found and the facility can no longer meet the conditions of the exemption, when must the facility comply with the design criteria of Part 258, Subpart D?

ANSWER: Owners and operators of small MSWLFs in arid or remote areas must begin to work towards compliance with all applicable design criteria immediately upon the discovery of evidence of groundwater contamination from the facility. The exemption from the design criteria is a conditional exemption. If a MSWLF does not meet the conditions of the exemption under 40 CFR §258.1(f), the landfill is immediately and fully subject to all applicable design requirements. **(June 1995 Monthly Hotline Report)**

Recycling

"Lead-Acid Batteries and Universal Waste"

Key Words:

Batteries; reclamation; universal waste

QUESTION: How do the Part 273, Standards for Universal Waste Management, affect the management of lead-acid batteries regulated under the Part 266, Subpart G, regulations for spent lead-acid batteries being reclaimed?

ANSWER: Lead-acid batteries that are managed under Part 266, Subpart G, are not subject to the universal waste management standards. The universal management standards only apply to those lead-acid batteries that are not managed under Part 266, Subpart G. The existing recycling program for automotive lead-acid batteries has been extremely successful, with recycling rates in excess of 90 percent nationwide. By retaining the Part 266, Subpart G, requirements, EPA can continue to operate this program without modification or adverse effect on the environment. EPA expects that most non-automotive lead-acid batteries will be managed under Part 273 (60 FR 25492, 25505; May 11, 1995). **(December 1995 Monthly Hotline Report)**

"Purpose and Applicability of Speculative Accumulation Provision"

Key Words:

Commercial chemical product; recycling; speculative accumulation

QUESTION: RCRA regulates secondary materials that are defined as solid wastes when recycled. Whether or not a given material meets the definition of solid waste when recycled depends primarily on how the material is categorized (e.g., spent material, sludge, commercial chemical product) and the means of recycling (e.g., burning for energy recovery, reclamation, use or reuse). The RCRA Subtitle C regulations also indicate that materials which are "accumulated speculatively" prior to recycling are solid wastes (§261.2(c)(4)). What is the purpose of this speculative accumulation provision? To which materials does the provision apply?

ANSWER: EPA created the speculative accumulation provision to mitigate the risk posed by facilities that overaccumulate hazardous secondary materials prior to recycling. The provision serves as a safety net, preventing recyclable materials that are not otherwise regulated under RCRA from being stored indefinitely and potentially causing environmental damage. EPA subjects persons who "accumulate speculatively" (i.e., persons who fail to recycle a sufficient percentage of a recyclable material during the calendar year or fail to demonstrate that a feasible means of recycling exists) to immediate regulation as hazardous waste generators or storage facilities (50 FR 614, 650; January 4, 1985).

The speculative accumulation provision generally applies to secondary materials that are not solid wastes when recycled (§§261.1(c)(8), 261.2(c)(4), and 261.2(e)(2)(iii)). In other words, certain secondary materials that are otherwise excluded from the definition of solid waste become regulated as solid and hazardous waste if accumulated speculatively. Among the materials subject to this provision are:

- Materials that are not solid wastes when recycled according to §261.2(e), including materials used or reused in an industrial process to make a product; used or reused as effective substitutes for commercial products; or returned to the original process from which they are generated, without first being reclaimed

- Materials that are not solid wastes when reclaimed according to §261.2, Table 1, such as by-products and sludges which exhibit a characteristic of hazardous waste

- Materials identified under §261.4(a) as exempt from the definition of solid waste when reclaimed, including pulping liquors that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process (§261.4(a)(6)) and spent sulfuric acid used to produce virgin sulfuric acid (§261.4(a)(7)).

"Purpose and Applicability of Speculative Accumulation Provision" (cont'd)

The speculative accumulation provision generally does not apply to materials that are defined as solid waste when recycled. Speculative accumulation is thus not a factor in determining the regulatory status of spent materials that are being reclaimed, secondary materials burned for energy recovery, materials used in a manner constituting disposal, or scrap metal (50 FR 614, 635). Since EPA already exerts the appropriate level of regulatory control over these solid wastes, as provided under §261.6 and Part 266, the safety net provided by the speculative accumulation provision is not needed.

There are two exceptions to the rule that speculative accumulation applies to all materials that are not solid wastes when recycled and does not apply to materials that are solid wastes when recycled. Commercial chemical products are not solid wastes when reclaimed (§261.2, Table 1), or when they are burned for energy recovery or used in a manner constituting disposal if that is their normal manner of use (§§261.2(c)(1)(ii) and 261.2(c)(2)(ii)). Commercial chemical products are not, however, subject to the speculative accumulation provision. EPA has not placed any time constraint on the accumulation of commercial chemical products prior to reclamation (50 FR 614, 636). In addition, precious metal-containing materials are defined as solid wastes when recycled but are also subject to accumulation restrictions. If accumulated speculatively prior to reclamation, precious metals become subject to full RCRA regulation, rather than the reduced standards of Part 266, Subpart F (§266.70(d)). **(August 1995 Monthly Hotline Report)**

"Solid Waste Determination for Spilled Commercial Chemical Products"

Key Words:

Commercial chemical product; hazardous waste definition; recycling

QUESTION: According to 40 CFR §261.2, Table 1, hazardous commercial chemical products, when recycled, are exempt from RCRA because they are not solid wastes. If a manufacturer spills a commercial chemical product into the soil and intends to reclaim the spill residue, is the spill residue exempt from RCRA standards?

ANSWER: The intent to recycle a commercial chemical product spill residue does not exempt the material from RCRA jurisdiction. In fact, EPA has stated that contaminated soils and other cleanup residues generally are solid wastes because of the difficulty associated with recycling wastes contained within environmental media (54 FR 48494; November 22, 1989). Sometimes, however, a spill residue can be returned to a process or otherwise put to use, and thus remain exempt from RCRA standards.

In order to demonstrate that a spill residue is not a solid waste, the generator has the burden of proving that legitimate recycling will take place. The Agency

"Solid Waste Determination for Spilled Commercial Chemical Products" (cont'd)

has adopted objective considerations to evaluate a generator's claim that a spilled product will be legitimately recycled. The length of time the spill residue has existed is one such consideration. In order to prove that legitimate recycling will occur, a generator may also show that recycling has already begun, the material is valuable, the material can feasibly be recycled and/or the company has recycled such material in the past (55 FR 22671; June 1, 1990).

In the absence of strong, objective indicators of recycling or intent to recycle a spill residue, "the materials are solid wastes immediately upon being spilled because they have been abandoned" (54 FR 48494; November 22, 1989), and must be managed in accordance with all applicable RCRA standards. **(May 1995 Monthly Hotline Report)**

TSDFs

"The Liquids in Landfills Prohibition and Sorbed Free Liquids"

Key Words:

Free liquids; landfill; sorbent

QUESTION: EPA prohibits the direct placement in a hazardous waste landfill of liquid hazardous waste or hazardous waste containing free liquids (40 CFR §§264/265.314(b)). The Agency also prohibits the placement in a hazardous waste landfill of containers holding free liquids, except for lab packs, very small containers (i.e., ampules), and containers designed to hold free liquids for use other than storage (i.e., batteries) (§264.314(d)(2), (3), and (4) and §265.314(c)(2), (3), and (4)). On November 18, 1992 (57 FR 54454), the Agency retained the Paint Filter Liquids Test (PFT) as the required test to determine if hazardous wastes hold free liquids. If the PFT demonstrates that a waste to which sorbents have been added no longer contains free liquids, may the waste be placed in a landfill, or is additional treatment required?

ANSWER: EPA's criteria for the use of sorbents to treat wastes containing free liquids vary according to whether the wastes will be disposed of directly or will be placed in a container prior to disposal. EPA allows the use of sorbents to remove free liquids from "containerized" wastes. If the PFT demonstrates that a containerized waste to which sorbents have been added contains no free liquids, the waste may be disposed of in a hazardous waste landfill (40 CFR §264.314(d)(1)(ii) and §265.314(c)(1)(ii)), provided that it meets all applicable land disposal restriction (LDR) treatment standards. As a precaution against the use of inadequate sorbents, EPA regulations require that sorbents used to treat free liquids prior to land disposal be nonbiodegradeable (40 CFR §264.314(e) and §265.314(f)).

EPA prohibits the use of sorbents to treat liquid hazardous waste or hazardous waste containing free liquids that will be disposed of directly (e.g., without first

"The Liquids in Landfills Prohibition and Sorbed Free Liquids" (cont'd)

being placed in a container) in a landfill. Free liquids in such "bulk or noncontainerized" hazardous wastes must be "chemically, thermally, physically, or biologically treated without the use of absorbents" before the wastes may be landfilled (OSWER Directive 9487.00-2A). To demonstrate that chemical stabilization rather than absorption or adsorption is occurring, the bulk or noncontainerized hazardous wastes should undergo an indirect chemical stabilization test (also known as an unconfined compressive strength test). The indirect chemical stabilization test ensures that, prior to direct disposal, liquid hazardous wastes or hazardous wastes containing free liquids wastes have been adequately treated through some means other than the addition of sorbents. **(January 1995 Monthly Hotline Report)**

"Location of Operating Records at Treatment, Storage, and Disposal Facilities"

Key Words:

Recordkeeping; treatment, storage, and disposal facility

QUESTION: The owner or operator of each hazardous waste treatment, storage, or disposal facility (TSDF) must keep a written operating record at the facility. This record retention requirement applies to both facilities operating under permits and facilities qualifying for interim status (40 CFR §§264/265.73). The operating record must include a significant number of records ranging from waste analysis results to closure cost estimates to tank integrity assessment records. Must TSDF owner/operators maintain all of the different documents making up the operating record in one central location?

ANSWER: No, the federal RCRA regulations do not require owner/operators of hazardous waste TSDFs to maintain all of the documents making up the operating record in one designated area. Compliance with the operating record requirements of §§264/265.73 demands only that the specified information be maintained on site at the facility; other records can be kept at remote locations. In addition, for the records that must be kept on site, the various documents making up the operating record need not be consolidated in one office as long as they are available for review somewhere on the facility grounds (this might be more practical in the case of a large facility with multiple buildings). In order to improve accessibility to and control over these key documents, however, EPA recommends that, where possible, all of the contents of the operating record be retained in a central area under the supervision of one designated individual. **(October 1995 Monthly Hotline Report)**

Waste Identification

"Definition of Formerly Bevill Exempt Wastes"

Key Words:

Beneficiation; Bevill wastes; exemptions; land disposal restrictions (LDR); mineral processing

QUESTION: According to 40 CFR §268.1(e)(3), wastes identified or listed as hazardous waste after November 8, 1984, are not subject to land disposal restrictions (LDR) until EPA promulgates prohibitions or treatment standards. For purposes of LDR, certain mineral processing wastes which were formerly exempt under the Bevill Amendment, but lost that exemption are considered to be newly identified and therefore not subject to LDR until EPA promulgates standards specific to this category of wastes. What wastes are included within this category of formerly exempt Bevill wastes?

ANSWER: On November 19, 1980, EPA promulgated an exclusion from regulation under RCRA Subtitle C for, "solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal), including phosphate rock, and overburden for the mining of uranium ore" (45 FR 76618, 76620). This is one of the exclusions commonly referred to as a Bevill exclusion. In this Federal Register, EPA clarified that the exclusion covered "...solid waste from the exploration, mining, milling, smelting and refining of ores and minerals" (45 FR 76619). On September 1, 1989, EPA published a final rule that narrowed the scope of the exclusion as it applies to mineral processing (54 FR 36592). Specifically, EPA finalized the exclusion for five mineral processing wastes and conditionally excluded twenty wastes pending additional studies. After completing a study of the twenty wastes, EPA removed five of the wastes that had been subject to the September 1, 1989, conditional exclusion, bringing the total number of excluded mineral processing wastes to twenty (55 FR 2322; January 23, 1990). On June 13, 1991, EPA finalized this list of twenty exempt mineral processing wastes in §261.4(b)(7) (56 FR 27300). All other mineral processing wastes are subject to RCRA Subtitle C. Wastes from the extraction/ beneficiation of ores and minerals remain covered by the exclusion generally, and are not subject to Subtitle C.

EPA considers all mineral processing wastes which are not currently listed in §261.4(b)(7), to be newly identified wastes and therefore not subject to LDR requirements until treatment standards are promulgated. Treatment standards for these wastes are currently being developed as part of the court-ordered LDR Phase IV Proposed Rule. **(March 1995 Monthly Hotline Report)**

"Hotel Dry Cleaning Waste and the Household Waste Exclusion"

Key Words:

Hazardous waste definition; household hazardous waste

QUESTION: A hotel generates spent solvents from its on-site dry cleaning facility. For purposes of the 40 CFR §261.4(b)(1) household waste exclusion, EPA defines households to include hotels and motels. Will hotel dry cleaning wastes be excluded from RCRA Subtitle C regulation as household waste?

ANSWER: Wastes produced by a hotel dry cleaning facility are not household wastes and therefore will not be excluded from RCRA hazardous waste regulation. A waste has to meet two conditions to be excluded as household waste. Household waste must be generated on the premises of a temporary or permanent residence and be comprised primarily of materials generated by consumers in their homes. In general, wastes from hotels and motels will be excluded as household waste as long as the waste is similar to the type of waste that consumers generate in their home. Even though generated on premises of a temporary residence (i.e. hotel), dry cleaning waste is not household waste because the spent solvents from the dry cleaning operations are not similar to wastes typically produced by a consumer in the home. The dry cleaning wastes produced by the hotel do not meet both criteria for household waste and will not qualify for the household waste exclusion per §261.4(b)(1) (49 FR 44978; November 13, 1984). **(March 1995 Monthly Hotline Report)**

"Isomers of P- and U-Listed Wastes"

Key Words:

Chemical abstract service (CAS) number; commercial chemical product; hazardous waste definition; isomer

QUESTION: The P and U lists at 40 CFR §§261.33(e) and (f) identify chemicals which, when discarded as unused commercial chemical products, are listed hazardous wastes. If a particular P- or U-listed chemical has many isomers, are those isomers listed hazardous wastes as well?

ANSWER: Many chemicals on the P and U lists have multiple isomers. Isomers are compounds made up of the same atoms in the same proportions, but which have different chemical structures and potentially different chemical properties. These different forms of a chemical can be identified precisely and given unique Chemical Abstract Service (CAS) numbers. For example, toluenediamine ($C_7H_{13}N_2$) may have many isomers, including toluene-2-4-diamine (CAS# 95-80-7) and toluene-2-6-diamine (CAS# 823-40-5), that differ structurally. Chemicals also may be identified as "mixed isomers." Mixed isomers include all mixtures of individual isomers of a compound. For instance, the generic mixed isomer designation of toluenediamine (CAS# 25376-45-8) includes mixtures of the isomers toluene-2-4-diamine and toluene-2-6-diamine.

EPA may choose to include all isomers of a chemical on the P or U list by listing the mixed isomer or generic name of the compound. If the generic mixed isomer name and CAS number of a compound appear on the P or U list, then

"Isomers of P- and U-Listed Wastes" (cont'd)

any individual isomers of that compound and all mixtures of isomers of that compound meet the listing description. Thus, when discarded in its commercial chemical product form, the isomer toluene-2-4-diamine (CAS# 95-80-7) is a listed hazardous waste, because the generic mixed isomer toluenediamine (CAS# 25376-45-8) is listed as U221.

EPA may also choose to designate only specific isomers of a chemical as P- or U-listed hazardous wastes. When a particular isomer is designated, then only that isomer is covered by that particular listing. For example, U140 covers isobutyl alcohol (CAS# 78-83-1), an isomer of butanol. Since the U140 listing includes only isobutyl alcohol, other isomers of butanol are not U140 (although they may be listed elsewhere). **(September 1995 Monthly Hotline Report)**

"Restaurant Waste and the Household Waste Exclusion (§261.4(b)(1))"

Key Words:

Hazardous waste definition; hazardous waste exclusion; household hazardous waste

QUESTION: Are restaurant wastes excluded from RCRA Subtitle C regulation as household wastes per 40 CFR §261.4(b)(1)?

ANSWER: Wastes produced by restaurants are not household wastes and therefore will not be excluded from RCRA hazardous waste regulation. The applicability of the household waste exclusion is based on two conditions: the place of generation and the type of waste generated. Household waste must be generated on the premises of a temporary or permanent residence and be comprised primarily of materials generated by consumers in their homes. Restaurants do not serve as temporary or permanent residences for individuals and therefore do not meet both of the criteria for household waste and will not qualify for the household waste exclusion (49 FR 44978; November 13, 1984). If however, the restaurant is part of a temporary or permanent residence, the waste generated would qualify for the household waste exclusion as it would be generated on the premises of a temporary or permanent residence and be comprised primarily of materials generated by consumers in their homes. **(May 1995 Monthly Hotline Report)**

"Status of Fossil Fuel Combustion Waste Exclusion"

Key Words:

Hazardous waste definition; hazardous waste exclusion

QUESTION: In 1980, EPA temporarily exempted, among other things, large volume fossil fuel combustion wastes from RCRA Subtitle C regulation, pending further study and issuance of a final regulatory determination regarding these wastes. What is the current regulatory status of fossil fuel combustion wastes?

"Status of Fossil Fuel Combustion Waste Exclusion" (cont'd)

ANSWER: The regulatory status of fossil fuel combustion wastes is dependent upon the type of waste generated. Fossil fuel combustion wastes have been divided into two categories, independently managed large volume coal-fired utility wastes and remaining wastes, each having different schedules for regulatory determination. On August 9, 1993, EPA made the final regulatory determination on the first category, retaining the exclusion of independently managed large volume coal-fired utility wastes from RCRA Subtitle C regulation (58 FR 42466). This category includes fly ash, bottom ash, boiler slag, and flue gas emission control waste. EPA has deferred the final regulatory determination on remaining wastes; they continue to be excluded from Subtitle C until that determination is made in 1998. The remaining waste category includes wastes from utilities burning other non-coal fossil fuels, wastes from non-utility boilers burning any type of fossil fuel, large volume coal-fired utility wastes that are co-managed with low volume wastes that are produced in conjunction with the combustion of coal, and wastes generated by fluidized bed combustion operations. Low volume coal combustion wastes that are not co-managed with the large volume waste enumerated in RCRA do not benefit from the exclusion. Examples of low volume wastes that are not excluded if they are not co-managed include: boiler blowdown, coal pile runoff, cooling tower blowdown, demineralizer regenerate and rinses, metal and boiler cleaning wastes, pyrites, and sump effluents. Based on the original scope of the exclusion, these wastes have always been subject to Subtitle C regulation when managed independently. **(April 1995 Monthly Hotline Report)**

Waste Minimization

"RCRA Waste Minimization Requirements"

Key Words:

Generator; pollution prevention; treatment, storage, and disposal facility; waste minimization

QUESTION: RCRA subjects generators of hazardous waste and treatment, storage, and disposal facilities (TSDFs) that manage their own hazardous waste on site to waste minimization requirements. What are the specific requirements?

ANSWER: Generators who generate 1,000 or more kilograms per month of hazardous waste ("large quantity" generators) and owners and operators of hazardous waste TSDFs who manage their own hazardous waste on site must comply with similar waste minimization requirements. RCRA §3002(b) requires large quantity generators who transport waste off site to certify on the manifest that they have established a "program in place" to reduce the volume or quantity and toxicity of hazardous waste generated to the extent economically practicable. For owner/operators that manage waste on site in a permitted TSDF, §3005(h) requires that a certification that a waste minimization

"RCRA Waste Minimization Requirements" (cont'd)

program is in place be prepared annually and maintained in the facility operating record. In the May 28, 1993, Federal Register (58 FR 31114), EPA published interim final guidance on the elements of a waste minimization "program in place" to assist generators and TSDFs in fulfilling these requirements. The guidance provides latitude for a facility to tailor program elements to meet the individual facility's needs. EPA has published a Facility Pollution Prevention Guide, EPA600-R-92-088, to assist generators in tailoring the guidance to the individual facility's needs.

RCRA §3002(a)(6) also requires large quantity generators to submit biennial reports describing their waste minimization efforts. Specifically, large quantity generators must describe the efforts undertaken to achieve waste minimization and the actual changes in the volume and toxicity achieved relative to other years (§§262.41(a)(6)-(7)). The biennial report requirements for TSDFs that generate waste parallel those specific to large quantity generators (§§264/265.75(h) and (i)).

Small quantity generators who generate greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per month are not subject to the same "program in place" certification requirement as large quantity generators. Instead, they must certify on their hazardous waste manifests that they have "made a good faith effort to minimize" their waste generation (51 FR 35190; October 1, 1986). **(June 1995 Monthly Hotline Report)**

UNDERGROUND STORAGE TANKS (UST)

Financial Responsibility

"Calculating Annual Throughput for Underground Storage Tanks (USTs)"

Key Words:

Financial responsibility; underground storage tank (UST)

QUESTION: The financial responsibility requirement for petroleum USTs located at facilities that are not engaged in petroleum production, refining, or marketing depends upon the average amount of petroleum handled at a facility in a month, based on annual throughput. Facilities that handle, on average, more than 10,000 gallons a month must demonstrate coverage for $1 million per occurrence, while facilities that handle an average of 10,000 gallons or less a month must demonstrate coverage of $500,000 per occurrence. How is "annual throughput" calculated?

ANSWER: Annual throughput is the total amount of product removed or dispensed from USTs at a facility over the course of the previous calendar year. Consider a facility which has three 10,000-gallon tanks. At the beginning of the last calendar year, the facility put 10,000 gallons into tank A, where it was stored for the remainder of the year. The facility used tanks B and C for storing and dispensing fuel throughout the year, removing 55,000 gallons from each. The annual throughput of this facility is 110,000 gallons (since the 10,000 gallons in tank A was not removed during the year, it would not be included in the throughput calculations). In this example, the average amount of petroleum handled in a month based on annual throughput is 110,000 gallons divided by 12 months, or 9,167 gallons per month. Since the facility handles, on an average, less than 10,000 gallons a month based on its annual throughput, it is only required to demonstrate financial responsibility of $500,000 (§280.93(a)(2)). **(April 1995 Monthly Hotline Report)**

"Leaking Underground Storage Tank Trust Fund"

Key Words:

LUST Trust Fund; underground storage tank (UST)

QUESTION: In 1986, the Superfund Amendments and Reauthorization Act (SARA) amended Subtitle I of RCRA and added RCRA §9003(h) which established a program to address releases from petroleum underground storage tanks (USTs). Congress created the Leaking Underground Storage Tank (LUST) Trust Fund to help ensure that money was available for the cleanup of petroleum releases at facilities which are unable to pay for the cleanup. How can EPA and states use the LUST Trust Fund to pay for cleanups at sites with leaking petroleum USTs?

ANSWER: The LUST Trust Fund program provides EPA with funding to initiate cleanup at sites contaminated by leaking petroleum USTs as necessary to protect human health and the environment. This program is similar to EPA's Superfund Program, which establishes a Fund for the cleanup of hazardous

"Leaking Underground Storage Tank Trust Fund" (cont'd)

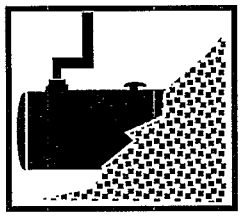
substance sites. The LUST Trust Fund is available to EPA and states to help pay for the cleanup of releases when a responsible party capable of performing corrective action cannot be identified. The Fund is financed through a 0.1 cent per gallon excise tax on gasoline, diesel, and aviation fuels, and is appropriated to EPA by Congress. EPA distributes Fund money to states that have signed Cooperative Agreements with the Agency. The Cooperative Agreements give states the authority to use money from the Fund to initiate corrective action at sites with leaking petroleum USTs and specify the actions states will take when responding to releases.

States generally play the primary role in implementing corrective action at UST sites, and determine when and how to utilize Trust Fund money. When states initiate corrective action at a particular site, they can use Fund money only for activities directly related to responding to releases from petroleum USTs subject to Subtitle I regulation. Such activities include inspecting the tank and identifying suspected releases, developing and enforcing corrective action orders, performing corrective action (including exposure assessment, cleanup, provision of safe drinking water to residents), and recovering costs of Fund-financed activities from responsible owners and operators. The Fund cannot be used for addressing releases from hazardous substance USTs or from USTs that are not subject to Subtitle I.

States generally require responsible owners or operators to perform and pay for corrective action when petroleum releases are discovered. The LUST Trust Fund is used to pay for corrective action in, among other circumstances, situations when a capable owner or operator cannot be identified or when an owner or operator refuses to comply with a corrective action order. States have the authority to recover corrective action costs to replenish the Fund from a responsible party.

There are certain limitations on the use of the LUST Trust Fund at government facilities. The Fund may not be used to clean up actual releases from petroleum USTs at state and federal facilities. It may, however, be used for site investigations, enforcement actions, and to address emergency situations at these sites as necessary to protect human health and the environment. States can utilize the Trust Fund to initiate corrective action and pay for the cleanup of releases at local government UST sites, similar to other responsible party sites. **(February 1995 Monthly Hotline Report)**

UNDERGROUND STORAGE TANKS (UST)



"UST Financial Responsibility: Classification as a State or Local Government"

Key Words:

Financial responsibility; state/local government; underground storage tank (UST)

QUESTION: The underground storage tank (UST) regulations in 40 CFR Part 280 require that owners or operators of regulated petroleum UST systems demonstrate financial responsibility. State and federal government entities are specifically exempt from the federal UST financial responsibility requirements (§280.90(c)). Does a public transportation company, created by a state but whose debts and liabilities are not those of a state, qualify as a state government entity exempt from the federal UST financial responsibility requirements?

ANSWER: The public transportation company referenced above does not qualify as a state entity under the federal UST regulations. Only state and federal government entities, whose debts and liabilities are the debts and liabilities of a state or the United States, are exempt from UST financial responsibility requirements (§280.90(c)). This company would not be considered a state entity exempt from UST financial responsibility because the public transportation company's debts and liabilities are not those of a state.

Although this company does not qualify as a state entity, it may be considered a local government entity. Local government entities are created under state law and include general purpose local governments and special purpose local government entities. A special purpose local government entity is defined as a government entity created to perform a single or limited range of functions. A public transportation company is a typical example of a special purpose local government entity, but whether or not a particular public transportation company qualifies as a local government is ultimately a matter of state law (40 CFR §280.92 (definition of local government) and 58 FR 9030; February 18, 1993). Therefore, if the public transportation company cited above qualifies as a local government under applicable state law, it can use the local government financial responsibility mechanisms (§280.104 through §280.107), as well as the standard financial responsibility mechanisms (§280.95 through §280.103) in order to satisfy the federal UST financial responsibility requirements (Subpart H of 40 CFR Part 280). **(May 1995 Monthly Hotline Report)**

Regulated Substance

"Clean Air Act Hazardous Air Pollutants and Hazardous Substance USTs"

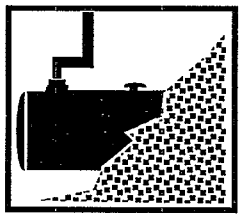
Key Words:

Clean Air Act amendments; hazardous substance; regulated substance; underground storage tank (UST)

QUESTION: Underground storage tanks (USTs) are subject to the requirements of 40 CFR Part 280 if they contain hazardous substances, as defined in CERCLA §101(14), or petroleum. The list of hazardous substances identified under CERCLA is not, however, a static list, as it is comprised of chemicals identified under a number of different environmental laws. Chemicals, such as ethylene glycol, identified as hazardous air pollutants under the 1990 amendments to the Clean Air Act were subject to regulation as CERCLA hazardous substances when the bill was signed into law on November 15, 1990. Moreover, USTs containing these newly identified hazardous substances became immediately subject to regulation as hazardous substance USTs. If a tank was installed after December 22, 1988, but prior to the date upon which the material stored in the tank was identified as a hazardous substance, would the tank be considered a new or existing tank system?

ANSWER: The tank would qualify as an existing system. While §280.12 separates "existing tank system[s]" from "new tank system[s]" on the basis of their status as of December 22, 1988, use of this date is inappropriate to determine the regulatory status of tanks that store newly identified hazardous substances; the tank would be considered an existing system if it was in use on the date that the material became identified as a hazardous substance. In contrast, any UST brought into use for storage of a material after it has been identified by statute or regulation as a CERCLA hazardous substance would need to meet the standards for new UST systems prior to use.

By way of example, an ethylene glycol underground storage tank installed in 1989 would qualify as an existing tank system. As a result, the UST would not be subject to upgrade requirements until December 22, 1998. Yet, if installed in 1991, the UST would have been a new tank system, and, therefore, would be required to meet the new tank standards described in 40 CFR Part 280. **(December 1995 Monthly Hotline Report)**



Tank Requirements

"Aboveground Storage Tanks With Underground Piping"

Key Words:

Piping; underground storage tank (UST)

QUESTION: An aboveground storage tank is connected with underground pipes. Although the tank itself is entirely above the ground surface, would the underground piping cause it to be regulated as an underground storage tank (UST) subject to the requirements of 40 CFR Part 280?

ANSWER: Extensive underground piping may subject an aboveground storage tank to regulation as an UST. The definition of UST includes tanks, and any underground pipes connected thereto, the total volume of which is at least ten percent beneath the surface of the ground (§280.12). If the volume of the underground pipes comprises 10 percent or greater of the tank system's total volume, the aboveground tank would meet the definition of an UST and would need to comply with the technical and financial requirements of Part 280. **(June 1995 Monthly Hotline Report)**

"Cathodic Protection Inspections on Existing Underground Storage Tanks"

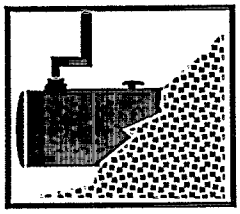
Key Words:

Cathodic protection; inspections; underground storage tank (UST)

QUESTION: An owner/operator of an existing steel underground storage tank (UST) installed a cathodic protection system on the tank in order to comply with the upgrading requirements for existing USTs in 1995 (40 CFR §280.21). Must the owner/operator begin inspecting the cathodic protection system even though the system is installed prior to the December 22, 1998, upgrading deadline?

ANSWER: The 1998 upgrading deadline has no bearing on the inspection requirements for cathodic protection systems on existing UST systems. All cathodic protection systems must be tested within six months of installation and then once every three years to ensure proper operation (§280.31(b)(1)). This requirement applies to cathodic protection systems installed prior to and after the 1998 regulatory deadline for upgrading existing tanks. Through regular inspections, owners/operators can ensure that corrosion protection systems are operated and maintained to continuously provide protection to the metal components of an UST, thereby preventing releases to the environment.

Owners/operators must maintain records of the results for the last two triennial inspections of the cathodic protection system (§280.31(d)(2)). In addition, impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly (§280.31(c)). Owners/operators must maintain records from the last three inspections for the 60-day checks of impressed current systems (§280.31(d)(1)). **(November 1995 Monthly Hotline Report)**



UNDERGROUND STORAGE TANKS (UST)

"Closure and Conversion to a Non-Regulated Tank"

Key Words:

Change-in-service; closure; underground storage tank (UST)

QUESTION: A regulated underground storage tank (UST) is being converted to store heating oil for consumptive use on site and therefore will be exempt from 40 CFR Part 280 regulation (§280.12). What closure requirements will the tank need to meet when changing from a regulated to exempt UST system?

ANSWER: Under the Part 280, Subpart G, closure requirements, an owner or operator can choose from three UST closure options: temporary closure, permanent closure, or change-in-service. The UST in this case will have to comply with the change-in-service procedures prior to being used to store heating oil in order to satisfy the closure requirements. The change-in-service provisions apply when an UST will continue to be used to store a "non-regulated substance" (§280.71(c)). When the regulated UST is converted to storing heating oil, since the tank will now be exempt from regulation, the tank is treated as if it were storing a non-regulated substance. The owner or operator of the UST will have to notify the implementing agency, empty and clean the tank, and assess the site prior to converting the UST into an exempt tank system (§§280.71 and 280.72). States may have more stringent closure and corrective action requirements for UST systems exempt from the federal regulations. **(September 1995 Monthly Hotline Report)**

"Statistical Inventory Reconciliation for Underground Storage Tank Leak Detection"

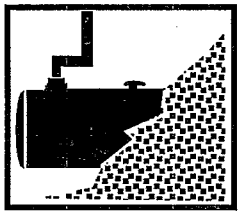
Key Words:

Leak detection; underground storage tank (UST)

QUESTION: Statistical inventory reconciliation (SIR) is a leak detection method which analyzes product inventory, delivery, and dispensing data collected over a period of time to determine whether or not an underground storage tank (UST) system is leaking. Pursuant to 40 CFR §280.41, owners/operators of petroleum USTs monitoring monthly for leaks are required to use a method listed in 40 CFR §§280.43(d)-(h). SIR is not one of the methods listed in §§280.43(d)-(g). Is SIR an allowable alternative method for leak detection under §280.43(h)?

ANSWER: Yes. Provided that a SIR method is capable of detecting a 0.2 gallon per hour leak rate or a release of 150 gallons within a month, and meets federal requirements for probabilities of detection (0.95) and false alarm (0.05), SIR is a valid method for monthly monitoring (§280.43(h)(1)).

For a SIR method, data are gathered daily and submitted periodically to a SIR vendor for analysis. When first applied to an UST system, SIR may not produce conclusive results. When initiating use of a SIR method, or when transitioning from another form of leak detection to SIR, owners/operators should employ a backup method for leak detection to ensure compliance with the leak detection regulations under §280.41 until the SIR method provides



"Statistical Inventory Reconciliation for Underground Storage Tank Leak Detection" (cont'd)

conclusive results that the performance criteria in §280.43(h) are being met. **(August 1995 Monthly Hotline Report)**

"Underground Storage Tank Piping"

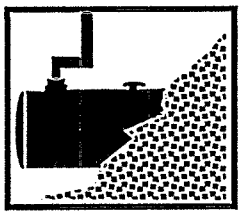
Key Words:

Cathodic protection; piping; underground storage tank (UST)

QUESTION: The regulations for new or upgraded underground storage tank (UST) systems require piping that routinely contains product and is in contact with the ground to be constructed or installed in a manner that protects the pipes from leaking into the environment. Fiberglass-reinforced plastic piping automatically meets this requirement, while metal piping requires cathodic protection, or certification that there is no threat of a release due to corrosion of the metal. Would the owner or operator of a tank system using fiberglass-reinforced piping with metal "T" and "L" joints that routinely contain product and are in contact with the ground be required to provide additional protection to these joints, or provide certification of protection?

ANSWER: Yes. The UST regulations require corrosion protection of operational underground piping and components including joints (53 FR 37128; September 23, 1988). The corrosion prevention provision for piping construction at 40 CFR §280.20(b) makes no exception for metal piping joints. Although metal pipe joints are but a minor portion of a tank system, they must have cathodic protection (§280.20(b)(2)), be installed at a site that is determined not to require corrosion protection (§280.20(b)(3)), or be determined not to show a potential for release or threatened release of regulated substances (§280.20(b)(4)).

Because pipe joints make up such a relatively small portion of a tank system, one of the latter two protection measures is usually most efficient. For metal piping to meet the §280.20(b)(3) conditions, the piping must be installed at a site that is determined by a corrosion expert to not be corrosive enough to cause the piping to have a release due to corrosion during its operating life. The regulations note two standards which may be used to comply with this requirement (National Fire Protection Association Standard 30, and National Association of Corrosion Engineers RP-01-69), although other appropriate methods may be used. The owner or operator must maintain records that demonstrate compliance with this requirement. The implementing agency must approve of the construction and corrosion protection of the piping to meet the requirements of §280.20(b)(4). Depending on the requirements of the implementing agency, pipe construction may be approved via specific industry standards, state regulatory requirements, or on a case-by-case basis. **(March 1995 Monthly Hotline Report)**



UNDERGROUND STORAGE TANKS (UST)

"Upgrading Requirements for Existing Underground Storage Tank (UST) Systems"

Key Words:

Corrosion protection; underground storage tank (UST); upgrading

QUESTION: What upgrading requirements must owners and operators of existing underground storage tank (UST) systems meet by December 22, 1998?

ANSWER: Owners and operators of existing USTs subject to the requirements of 40 CFR Part 280 must either meet the new UST system performance standards set forth in 40 CFR §280.20 or upgrade as explained below (40 CFR §§280.21(a)(1) and (2)). Existing UST systems not upgraded by December 22, 1998, must be closed in compliance with Subpart G closure requirements by that date (§280.21(a)(3)).

The upgrading regulations for RCRA-regulated USTs require owners and operators to install spill and overfill prevention equipment on existing tank systems (§280.21(d)). The spill and overfill prevention requirements for existing UST systems are the same as the standards for new UST systems (§280.21(d)). These standards require owners and operators to use equipment such as spill buckets that will prevent spills from occurring when product is added to the UST (§280.20(c)(1)(i)). Owners and operators must use either automatic shutoff devices, overfill alarms, or flow restrictors as overfill prevention equipment (§280.21(c)(1)(ii)). An UST which never receives more than 25 gallons of regulated substance at a time does not have to meet the spill and overfill protection requirements (§280.20(c)).

In addition, steel tanks and metal piping must be equipped with corrosion protection by the 1998 deadline. Owners and operators may comply with the corrosion protection requirement for steel tanks by installing an internal lining (§280.21(b)(1)), installing a cathodic protection system (§280.21(b)(2)), or by utilizing a combination of internal lining and cathodic protection (§280.21(b)(3)). Metal piping which routinely contains regulated substances and is in contact with the ground must be cathodically protected (§280.21(c)). **(June 1995 Monthly Hotline Report)**

"Use of Manual Tank Gauging as Sole Means of Release Detection for 1,000-Gallon Tanks"

Key Words:

Release detection; tank gauging; underground storage tank (UST)

QUESTION: The regulations of 40 CFR Part 280, Subpart D require owners and operators of new and existing underground storage tanks (USTs) to demonstrate release detection by using one of the methods found in §§280.43(d) through (h). Can manual tank gauging alone be used to meet the requirements for "other types of release detection methods" acceptable under 40 CFR §280.43(h)?

"Use of Manual Tank Gauging as Sole Means of Release Detection for 1,000-Gallon Tanks" (cont'd)

ANSWER: Almost all owners and operators of USTs must eventually meet the release detection requirements of Part 280, Subpart D, by using one of the methods listed in 40 CFR §§280.43(d) through (h). Section 280.43(h)(1) allows the use of an alternative method, or a combination of methods, to satisfy the UST release detection requirements. These methods must be able to detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05.

To the Agency's knowledge, manual tank gauging alone has not been shown to be able to meet the performance standards in 40 CFR §280.43(h)(1) for tanks constructed to hold more than 1000 gallons. For smaller tanks designed to contain 1000 gallons or less, however, manual tank gauging has been demonstrated to meet the performance standard when conducted in accordance with the following procedure:

1. Tank liquid measurement levels are taken at the beginning and end of a time period during which no liquid is added to or removed from the tank. The appropriate time period is listed in the chart below.

2. Level measurements are based on an average of two consecutive stick readings at both the beginning and end of the period.

3. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch.

4. Testing is conducted at least once a week and four weekly results are averaged to obtain a monthly result. If the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table, a leak is suspected and will be subject to the release reporting requirements of 40 CFR Subpart E.

Tank Size	Minimum Duration of Test	Weekly Standard (1 test)	Monthly Standard (4-test average)
up to 550 gallons	36 hours	10 gallons	5 gallons
551-1,000 gallons (when tank diameter is 64")	44 hours	9 gallons	4 gallons
551-1,000 gallons (when tank diameter is 48")	58 hours	12 gallons	6 gallons

(July 1995 Monthly Hotline Report)

Applicable or Relevant and Appropriate Requirements

Key Words:

Applicable or relevant and appropriate requirements (ARARs); land disposal restrictions (LDR); remedial action

"Placement within an Area of Contamination"

QUESTION: During the Superfund response process, EPA uses the area of contamination (AOC) concept to assist officials in determining when placement does and does not occur for CERCLA actions involving on-site disposal of RCRA hazardous wastes. EPA equates an AOC with a single RCRA land disposal unit consisting of continuous contamination of varying amounts and types. Often, an AOC contains separate, discrete wastes. Those CERCLA hazardous substances which are defined as hazardous waste under RCRA must meet substantive land disposal restrictions (LDR) standards in certain circumstances.

An AOC at a CERCLA site contains two piles of RCRA-regulated hazardous waste, generated from the same source. The first pile is removed from the AOC and is treated to meet RCRA LDR. The second waste pile is left untouched. When the first waste pile is subsequently returned to the AOC, it is co-mingled with the waste which never left the AOC. Despite the fact that it was never removed from the AOC, is the untreated waste subject to LDR treatment standards?

ANSWER: The untreated waste is not subject to LDR. CERCLA §121(d)(2) specifically requires that remedial activities comply with applicable or relevant and appropriate requirements (ARARs) of federal, state, and local environmental laws. LDR is an applicable requirement only when waste such as contaminated soil is placed on the land. Placement does not occur, however, when waste at a site is left undisturbed within an AOC, when it is treated in situ, or when it is managed within the AOC without any intervening treatment outside of the AOC (55 FR 8758; March 8, 1990). Since the untreated waste is not "placed" during the CERCLA response action, the LDRs are not ARARs. Conversely, if the waste is removed from an AOC, or treated in a separate unit within the AOC and subsequently returned, the action constitutes placement, and that waste must be treated to meet LDR standards (55 FR 8758, 8760; March 8, 1990). **(July 1995 Monthly Hotline Report)**

Hazardous Substances and Reportable Quantities

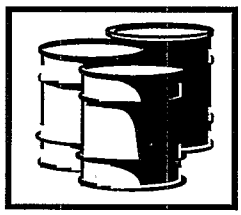
"CERCLA §103(a) and EPCRA §304 Reporting Requirements for Aqueous Film Forming Foam"

Key Words:

Glycol ethers; release notification

QUESTION: Aqueous Film Forming Foam (AFFF), a substance commonly used by firefighters, contains ethanol, 2-(2-butoxyethoxy) which is categorized as a glycol ether. Glycol ethers meet the definition of hazardous substance in CERCLA §101(14) because they are hazardous air pollutants pursuant to §112(b) of the Clean Air Act. In 1990, the Clean Air Amendments added 47 individual hazardous air pollutants and 5 hazardous air pollutant categories, including the broad category of glycol ethers. These hazardous air pollutants newly identified as hazardous substances automatically received a reportable quantity of one pound (CERCLA §102(b)). On June 12, 1995, EPA published a final rule adjusting the reportable quantities for the CAA hazardous air pollutants, in particular, removing the one pound reportable quantity for the five broad generic categories (60 FR 30926). Do the notification provisions in CERCLA §103 and EPCRA §304 still apply to releases of AFFF?

ANSWER: CERCLA §103 and EPCRA §304 notification requirements no longer apply to releases of AFFF containing ethanol, 2-(2-butoxyethoxy), unless the AFFF released contains another listed CERCLA hazardous substance found at 40 CFR §302.4 or extremely hazardous substance found at 40 CFR Part 355 Appendix A. In the June 12, 1995, Federal Register, EPA decided not to assign reportable quantities to the additional five broad categories, but rather to identify, designate, and assign reportable quantities to certain specific substances within the categories at a later date. As a result, releases of AFFF containing only chemicals within the glycol ethers category no longer require reporting to the National Response Center pursuant to CERCLA §103(a) or the State Emergency Response Commission and Local Emergency Planning Committee pursuant to EPCRA §304. Owner/operators can still be held liable under CERCLA for clean-up costs or damages caused by a release of AFFF containing a glycol ether, even though the release itself is not reportable (60 FR 30926, 30933; June 12, 1995). **(November 1995 Monthly Hotline Report)**



"Releases of Hazardous Substances from NPL Sites"

Key Words:

Hazardous substance; releases; reportable quantity

QUESTION: During the remedial action at a National Priorities List (NPL) site, hazardous substances are generated and placed into containers on site. Due to a breach in a container, the hazardous substances stored on site are released into the environment and the EPA Remedial Project Manager (RPM) initiates an immediate response. If the amount of hazardous substance released equals or exceeds a CERCLA reportable quantity (RQ) within a 24 hour period, would the National Response Center (NRC) need to be notified?

ANSWER: Yes. A release from an NPL site that occurs during cleanup activities is not exempt from CERCLA §103 notification requirements, and therefore must be reported to the NRC if the release equals or exceeds the RQ. CERCLA §103(a) requires the person in charge of a vessel or facility to immediately notify the NRC when a release of a hazardous substance within a 24 hour period equals or exceeds the designated RQ. Unless the release is specifically exempted from CERCLA §103 notification requirements, a release of a hazardous substance which meets these criteria must be reported to the NRC. The reporting obligation applies even if response to the release has already been initiated. In the above scenario, since EPA response teams are likely to be present at the site, the RPM will probably have the opportunity to determine the appropriate federal response. **(February 1995 Monthly Hotline Report)**

National Priorities List

"Deferral of NPL Listing While States Oversee Response Action"

Key Words:

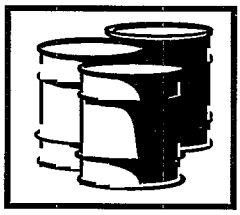
Deferral; national priorities list (NPL); state programs

QUESTION: The June 23, 1993, Superfund Administrative Improvements, Final Report (OSWER Directive 9200.0-14-2) identified numerous initiatives to improve the Superfund process, including enhancing the role of states in the cleanup process. The report recommended developing a program to encourage qualified states and tribes to address, using their own laws, sites that are currently in the queue to be considered for inclusion on the National Priorities List (NPL). The report suggested that a state deferral program would accelerate cleanup, minimize duplication of federal and state efforts, and encourage potentially responsible parties (PRPs) to undertake response actions. To implement the recommendations of the report, on May 3, 1995, EPA issued Guidance on Deferral of NPL Listing Determinations While States Oversee Response Actions (OSWER 9375.6-11). How are sites deferred to states, and what criteria or guidelines must be followed?

"Deferral of NPL Listing While States Oversee Response Action" (cont'd)

ANSWER: To be eligible to participate in the deferral program, a state or tribe should meet certain criteria to assure that response actions at deferred sites will be successfully implemented. An EPA Region and state should enter into a generic Memorandum of Agreement (MOA) that certifies that the state has: (1) adequate statutory, regulatory, or administrative provisions to select protective remedies and to pursue necessary enforcement actions; and (2) adequate program and resource capabilities to select actions, conduct enforcement action, oversee cleanup activities, and provide for community participation at deferred sites. Having met all these criteria, a state may implement a "full-scale" or area-wide deferral program. If the eligibility criteria cannot be met sufficiently for a state to implement a full-scale deferral program, the state may still be able to participate in the deferral program on a site-specific basis, provided the eligibility criteria are met for each site that is deferred. EPA Regional offices and states should determine eligibility for deferral based on the following criteria:

- The state must express an interest in having the site deferred.
- The site proposed for deferral must be included in EPA's Comprehensive Environmental Response Compensation and Liability Act Inventory System (CERCLIS).
- The deferred site must be "NPL caliber" as defined in Additional Guidance on 'Worst Sites' and 'NPL Caliber Sites' to Assist in SACM Implementation (OSWER Directive 9320.2-07A; October 12, 1993).
- Viable and cooperative PRPs generally must be available to conduct the response actions at the deferred sites. The PRPs should be willing to enter into an enforceable agreement with the state to conduct all response actions (including providing for operation and maintenance) at the site and repay any state and fund-financed response costs related to the deferral.
- Generally, the site proposed for deferral should not yet have been entered into the Hazard Ranking System (HRS) package development process. If a task or work assignment to develop the HRS package for the site has already been issued, the site could be deferred if the state provides a compelling reason why the listing process should be terminated. A site on the final NPL is not eligible for deferral.
- If a Region, after consulting with the state, determines the affected community or other parties have significant, valid objections to the deferral of the site that cannot be resolved, the Region should not defer the site.



"Deferral of NPL Listing While States Oversee Response Action" (cont'd)

The deferral program guidance also identifies certain requirements with which a state must comply when taking responsibility for the response action at a deferred site. Generally, the remedies selected for deferred sites should be protective within the 10^{-4} to 10^{-6} risk range and must comply with all applicable federal and state requirements. Site-specific agreements between states and EPA should describe the roles and responsibilities of the different agencies, including EPA's review and oversight functions, and schedules for conducting response actions.

Under the deferral program, the state is responsible for acquiring the necessary resources to conduct response actions. EPA does not anticipate using Fund resources to conduct response actions at deferred sites. Under limited circumstances, however, states may receive funds through cooperative agreements to conduct site-specific activity or to develop their capability to participate in the deferral program. **(August 1995 Monthly Hotline Report)**

"Five-Year Reviews under CERCLA"

Key Words:

CERCLA Information System (CERCLIS); construction completion; national priorities list (NPL)

QUESTION: Certain sites on the National Priorities List (NPL) must undergo a review no less often than every five years after the initiation of remedial action. The purpose of this review is to determine if the response action remains protective of human health and the environment. How does EPA determine which sites are subject to these five-year reviews? What date triggers commencement of the five-year time period?

ANSWER: There are two types of five-year reviews conducted by EPA, statutory reviews and policy reviews. Statutory reviews are conducted pursuant to SARA §121(c) and §300.430(f)(4)(ii) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at sites at which a post-SARA remedy, upon attainment of the cleanup levels specified in the Record of Decision (ROD), will not allow unlimited use and unrestricted exposure. These reviews must be completed within five years of the "initiation of remedial action" (OSWER Directive 9355.7-02). This is the date the potentially responsible party (PRP) or contractor mobilizes to begin remedial action construction. EPA Headquarters determines this based on the date of the subevent "RA On-Site Construction" recorded by the EPA Regional Office in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). If this event is not listed in a site's CERCLIS entry, the earliest of the following dates will be used: the planned or actual contract award date; the planned or actual remedial action start date; or the ROD date (OSWER Directive 9355.7-02A). Statutory reviews are conducted at least every five years or until contaminant levels allow for unlimited use and unrestricted exposure (OSWER Directive 9355.7-02).

"Five-Year Reviews Under CERCLA" (cont'd)

As a matter of policy, EPA will conduct five-year reviews at sites where the ROD cleanup levels will allow unlimited use and unrestricted exposure at a site, but more than five years will be required to attain those levels (e.g., long-term response action sites). EPA will also conduct these policy reviews at sites addressed *before* SARA by remedies that, upon attainment of the ROD cleanup levels, do not allow unlimited use and unrestricted exposure (OSWER Directive 9355.7-02). Policy reviews should be initiated within five years of the completion of physical construction at a site, which is the date that a site qualifies for inclusion on the Construction Completion List. A site qualifies for this designation at the time of signature of the preliminary or final Close Out Report, the final no-action ROD, or the deletion notice (OSWER Directive 9355.7-02A).

Due to logistical or other concerns, EPA may choose to conduct a five-year policy review at a site either before or after its due date. If a five-year policy review is conducted before it was originally due, the next review will be due within five years of the completion of the early review. If a five-year policy review is conducted after the time it was originally due, the next review is due within five years of the time the original review was due (OSWER Directive 9355.7-02A). **(April 1995 Monthly Hotline Report)**

"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action"

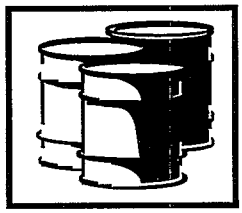
Key Words:

Corrective action; deletion/deferral policy; national priorities list (NPL)

QUESTION: EPA has the authority under both CERCLA and RCRA to address the cleanup of contaminated sites. Under what circumstances will EPA address a contaminated site through one of the RCRA Subtitle C corrective action authorities rather than list the site on the CERCLA National Priorities List (NPL)? If a site is already on the NPL, what are the criteria for deleting the site and deferring it to RCRA?

ANSWER: To conserve Superfund resources and avoid duplication of effort, EPA has maintained a policy not to undertake CERCLA responses at certain sites that can or will be adequately addressed by RCRA. Consequently, instead of listing sites on the NPL, the Agency often defers sites that otherwise meet the NPL criteria to RCRA Subtitle C corrective action. Under current policy, EPA may defer sites to RCRA at any point in the NPL process, including after placement on the NPL. EPA has had a policy of deferring certain sites from listing since the first NPL final rule on September 8, 1983 (48 FR 40658).

Prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), the RCRA Subtitle C corrective action authorities only applied to certain releases from surface impoundments, waste piles, land treatment areas, and landfills that received hazardous wastes after July 27, 1982. HSWA



"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action" (cont'd)

expanded the RCRA Subtitle C corrective action authorities, giving EPA the authority to address the on- and off-site cleanup of releases from active and inactive permitted and interim status hazardous waste treatment, storage, and disposal facilities (TSDFs). In order to implement this broader authority, in 1986, the Agency developed a policy for the listing or deferral from listing of potential NPL sites (51 FR 21057; June 10, 1986). According to the 1986 deferral policy, EPA will generally defer the listing of potential NPL sites when other authorities exist that are capable of accomplishing the needed corrective action.

The Agency will not automatically defer all sites eligible for cleanup under RCRA. For example, EPA will not defer federal facilities from the NPL, because federal facilities are not eligible for Fund-financed remedial action, and deferring them would not conserve Fund monies (54 FR 10520; March 13, 1989). In addition, the Agency will continue to include RCRA sites not subject to Subtitle C corrective action authorities, such as generator and transporter sites, on the NPL. EPA is also reluctant to defer sites owned by persons who are unwilling or unable to pay for corrective action and related activities because these owners are unlikely to take corrective action as required by RCRA. For this reason, the 1986 deferral policy clarifies that the Agency will not defer sites meeting the criteria for listing on the NPL that fall into one of the following categories:

- RCRA facilities owned by bankrupt persons;
- RCRA facilities that have lost authorization to operate under the RCRA Loss of Interim Status (LOIS) provision and are owned by persons who have indicated an unwillingness to undertake corrective action; and
- Facilities that have not lost authorization to operate, but that are owned by people who have, as determined on a case-by-case basis, a clear history of unwillingness to undertake corrective action.

On June 24, 1988 (53 FR 23979), EPA clarified the deferral policy and added the following four categories of RCRA facilities to those types of sites which it will not defer from inclusion on the NPL:

- Non- or late-filers — treatment, storage, or disposal facilities that managed hazardous waste after November 19, 1980, but did not file Part A RCRA permit applications by that date and have little or no history of compliance with RCRA;
- Converters — facilities that previously treated or stored hazardous waste, but have since converted to activities that do not require interim status and have therefore formally withdrawn their Part A applications;

"NPL Deletion/Deferral Policy and RCRA Subtitle C Corrective Action" (cont'd)

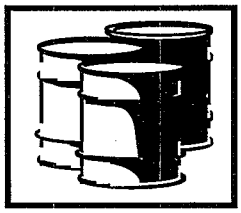
- Protective filers — facilities that filed RCRA Part A permit applications as a precautionary measure for treatment, storage, or disposal operations that do not require interim status and are not subject to RCRA Subtitle C corrective action authorities; and
- Pre-HSWA permittees — sites holding permits issued before the enactment of the Hazardous and Solid Waste Amendments (HSWA).

These types of sites are either not subject to RCRA Subtitle C corrective action authorities or are not high priorities under RCRA and would not be promptly addressed by the RCRA corrective action program. The Agency has therefore decided to place these sites on the NPL if they meet the listing criteria so that, if necessary, the Superfund authorities are fully available.

On March 20, 1995 (60 FR 14641), EPA issued a new deferral policy for sites after their placement on the NPL. Previously, once EPA made the decision to place a site on the NPL (rather than defer the site to another cleanup authority), the Agency would only delete the site from the NPL when no further response at that site was appropriate (55 FR 8845; March 8, 1990). This policy meant EPA would not delete sites from the NPL to defer them to RCRA during the response process, even if the Agency determined that a RCRA response was appropriate. Under the 1995 deletion/deferral policy, the Agency may, during the response process, delete sites from the NPL based on deferral to the RCRA Subtitle C corrective action program. To be eligible for deletion from the NPL based on deferral to RCRA, NPL sites must meet the following criteria:

- The site must be eligible for deferral from inclusion on the NPL under EPA's current deferral policy (as discussed above);
- EPA must be currently addressing the site through a RCRA corrective action authority under an existing enforceable order or permit containing corrective action provisions;
- Response under RCRA must be progressing adequately; and
- Deletion must not disrupt any ongoing CERCLA response actions.

Before a site may be deleted from the NPL under the deferral/deletion policy, it must also meet other applicable deletion requirements under CERCLA regulations. In particular, a site may only be deleted from the NPL after the state in which the release was located has concurred with the proposed deletion (40 CFR §300.425(e)(2)). Thus, sites must also be evaluated by the appropriate state authority before EPA can delete sites from the NPL for deferral to RCRA. **(July 1995 Monthly Hotline Report)**



Response Process

"Clarification of the Definition of On-Scene Coordinator"

Key Words:

On-scene coordinator; remedial action; remedial project manager

QUESTION: The hazardous substance response requirements under Subpart E of the National Contingency Plan (NCP) provide EPA the authority and mechanisms to conduct removal and remedial activities at Superfund sites. The lead agency (usually EPA) may designate an On-Scene Coordinator (OSC) to direct response for a removal action or a Remedial Project Manager (RPM) to coordinate the cleanup response for the remedial action. At a site where both remedial and removal responses are required, must the lead agency designate two coordinators?

ANSWER: The lead agency conducting a Superfund cleanup has great flexibility in designating either an OSC, an RPM, or both to oversee the response action. Where both the OSC and RPM are designated to lead response actions at one site, the responsibilities of the OSC will generally be to lead removal activities, while the RPM will generally oversee remedial activities. Because this situation may promote duplication of information collected or activities performed at some sites, oversight by either an OSC or an RPM of both removal and remedial activities at one site is an option. The definition of RPM in 40 CFR §300.5, clearly indicates that an RPM has the authority to oversee remedial activities as well as "other response actions under Subpart E" (i.e., removal actions). In contrast, the definition of an OSC did not explicitly extend the same authority for that individual to oversee any action beyond a removal action until a recent clarification in the July 14, 1994, Federal Register (59 FR 35852). This clarification amended the definition of OSC to explain that he or she can direct removal or, "other response actions under Subpart E of the NCP." Thus, a lead agency can designate one OSC or RPM to oversee both types of response activities under Subpart E of the NCP. **(March 1995 Monthly Hotline Report)**

"Data Quality Objectives and the Superfund Process"

Key Words:

Data quality objectives; preliminary assessment/ site investigation (PA/SI); remedial investigation/ feasibility study (RI/FS); sampling

QUESTION: Data quality objectives (DQOs) are an important part of the data collection process at Superfund sites. DQOs are an integral component of the Sampling and Analysis Plan (SAP), a formal document that specifies the process for obtaining environmental data of sufficient quantity and quality. What are DQOs, and when are they implemented in the Superfund process?

ANSWER: DQOs are quantitative and qualitative statements that clarify the study objective, define the most appropriate type of data to collect, determine the appropriate conditions for data collection, and specify decision error levels.

"Data Quality Objectives and the Superfund Process" (cont'd)

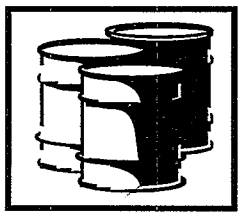
EPA or the lead agency applies DQOs to ensure that environmental data collected at a Superfund site are legally defensible and appropriate for remediation decisions. Since each Superfund site is unique, EPA develops DQOs on a site-specific basis. These statements specify the quality and quantity of data required to support Agency decisions during the Superfund process and establish the criteria to be included in the SAP.

DQOs serve as a useful planning tool to enable EPA or the lead agency to collect the appropriate data. According to the regulations governing the development of SAPs, EPA or the lead agency is required to develop DQOs for all site inspections (40 CFR §300.420(c)(4)(ii)), remedial investigations (40 CFR §300.430(b)(8)(ii)), and non-time-critical removal actions (40 CFR §300.415(b)(4)(ii)(B)). In general, EPA's policy is to use the DQO process to plan all data collection efforts that will require or result in a substantial commitment of resources. Even when there is not sufficient time to complete the entire DQO process, as in the case of a time-critical removal action, the principles behind DQOs can and should be used as a guide to ensure that the data will be appropriate for supporting a decision.

The DQO process is a scientific data collection planning process through which site managers determine the type, quality, and quantity of data appropriate for environmental decision making. This process consists of seven prescribed steps that are outlined in the document entitled Data Quality Objectives Process for Superfund, Interim Final Guidance (OSWER Directive 9355.9-01). These steps are:

1. State the contamination problem by describing the source, nature, and location of contamination
2. Identify the decision for which the data is being collected
3. Identify the inputs, or samples needed to make the decision
4. Define the spatial, temporal, and practical boundaries to which the study will apply, such as the geographical boundaries of the study and conditions under which the study will be done
5. Develop an "if...then..." statement by which the final decision will be made (i.e., if the level of contaminants in the affected media is above a certain level, then a response action must be taken)
6. Specify limits on decision errors which define what level of certainty is being used to make the environmental decision
7. Incorporate the entire set of DQO outputs into a sampling design and document the outputs in the SAP.

By applying the DQO process to data collection projects, EPA ensures protection of human health and the environment by producing reliable data to



"Data Quality Objectives and the Superfund Process" (cont'd)

make informed decisions. The DQO process also produces legally defensible data by enabling site managers to determine the appropriate number of samples and what type of analyses are required to support defensible decision making. DQOs reduce sampling costs by preventing the collection of unnecessary, duplicative, or overly precise data. In addition, DQOs define where and when samples are to be collected and assist in the development of statistical sampling designs from which the uncertainty in data can be quantified. **(November 1995 Monthly Hotline Report)**

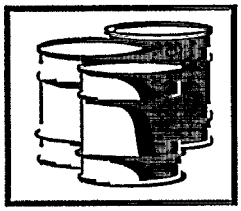
"No Further Response Action Planned (NFRAP) Sites and the CERCLA Information System (CERCLIS)"

Key Words:

CERCLA information system (CERCLIS); No Further Response Action Planned (NFRAP)

QUESTION: The CERCLA Information System (CERCLIS) is the database and management system used by EPA to track activities at sites considered for cleanup under CERCLA. CERCLIS also contains information about sites that, according to EPA, do not warrant further action in the site evaluation process. These sites are given a No Further Response Action Planned (NFRAP) designation in CERCLIS. Under the definition of CERCLIS, a NFRAP designation indicates that no additional federal steps under CERCLA will be taken at the site unless information is found indicating that further action is necessary (40 CFR §300.5). Can a site with a NFRAP designation ever be removed from CERCLIS?

ANSWER: Yes. Even though sites with a NFRAP designation are not undergoing any response action, EPA has received comments stating that their inclusion in the CERCLIS database has caused a negative stigma to be associated with the sites. This unintended stigma has resulted in the disincentive to purchase, improve, redevelop, and revitalize NFRAP sites. As a result of the problems associated with the stigma, EPA published a final rule in the Federal Register on March 29, 1995, which amended the definition of CERCLIS to specifically exclude NFRAP sites from the CERCLIS database (60 FR 16053). Previously, the definition of CERCLIS stipulated that sites remain in the database after completion of evaluations in order to record the actions that were taken and to preclude the possibility of repetition. The amended definition states that NFRAP sites will be placed in a separate archival database which serves as a mechanism to record activities taken at NFRAP sites and prevent duplicative efforts. This final rule does not affect any EPA enforcement decisions, and sites in the NFRAP database will still not undergo any enforcement action unless new information is found that would alter this determination. **(May 1995 Monthly Hotline Report)**



SUPERFUND (SF)

"The Use of Soil Screening Levels and Their Relationship to Preliminary Remediation Goals"

Key Words:

Applicable or relevant and appropriate requirements (ARARs); preliminary assessment/site investigation (PA/SI); remedial investigation/ feasibility study (RI/FS); soil

QUESTION: Both soil screening levels (SSLs) and preliminary remediation goals (PRGs) are risk-based contaminant levels developed to streamline the CERCLA response process. SSLs are chemical concentrations in soil that represent levels of contamination below which there is generally no concern under CERCLA. PRGs are draft, media-specific cleanup levels based on preliminary site information. How are SSLs and PRGs related, and how should each be used during the remedial investigation/feasibility study (RI/FS)? May SSLs be used as cleanup standards?

ANSWER: While SSLs and PRGs are both risk-based levels of contamination, they may be developed using different assumptions, land uses, or exposures, and have distinct uses. SSLs are used to identify those areas of a site where levels of contaminants in soil are generally not of concern under CERCLA. By excluding these areas from further investigation, the site manager may focus on areas that have levels of soil contamination that require further study. PRGs are developed for the purpose of screening remedial technologies, in order to focus study on those alternatives that can achieve remediation goals.

The use of SSLs is not mandatory. The decision to use SSLs is made early in the RI/FS, and should be based on two considerations: the potential benefits of eliminating areas of the site, potential chemicals of concern, or exposure pathways from further study; and whether site conditions are suitable for the application of the soil screening framework. This framework is the process used to develop SSLs, and is based on several assumptions. The assumptions include default values and prescribed parameters for residential land use and for human exposure through the soil ingestion pathway, the inhalation pathway, and ingestion of groundwater contaminated by the migration of chemicals through the soil. SSLs cannot be applied at all CERCLA sites, especially sites with exposure and risk scenarios differing from the assumptions used in developing the framework (e.g., no ecological threats, no agricultural land use). If a site is found to be suitable, the site manager then collects a small amount of site characteristic data to develop site-specific SSLs. (Generic, conservative SSLs may also be developed for crude comparisons.) After the site manager establishes SSLs for a particular site, actual soil contaminant concentrations are then measured and compared to the appropriate SSLs. Those areas with average soil concentrations below SSLs can generally be eliminated from further evaluation under CERCLA, while areas with concentrations exceeding SSLs generally receive further investigation to determine the degree of risk posed by those areas.

PRGs are an integral part of each RI/FS. When developing the RI/FS workplan, remedial action objectives are established, providing a general description of what the remedial action will accomplish. PRGs are specified in the remedial action

"The Use of Soil Screening Levels and Their Relationship to Preliminary Remediation Goals" (cont'd)

objectives as desired endpoint contaminant concentrations or risk levels (i.e., "draft" cleanup levels). They focus the feasibility study on technologies that can achieve the remedial goals, thereby limiting the number of alternatives considered in the detailed analysis required at 40 CFR §300.430(e)(9). Initially, PRGs are based upon readily available environmental or health-based applicable or relevant and appropriate requirements (ARARs) as developed under other laws. Common examples include chemical-specific maximum contaminant levels and water quality criteria. PRGs may be modified into final cleanup levels after the completion of the baseline risk assessment, and as additional information is derived from the RI/FS (55 FR 8712; March 8, 1990).

SSLs are not universal remediation goals or cleanup standards, although there may be some circumstances where SSLs may be used as PRGs. The general methodology for developing SSLs is an update of methodology presented in the Risk Assessment Guidance for Superfund, Part B, for developing health-based PRGs. The use of SSLs as PRGs, however, is limited to sites where the site conditions are consistent with the assumptions inherent in the soil screening guidance. SSLs may be used as PRGs where basis for response action exists, and provided that site parameters approximate the assumptions used in developing the soil screening framework (e.g., residential use, no ecological problems, consistent exposure pathways). SSLs may be modified as the RI proceeds. SSLs will only become final cleanup levels when the nine criteria considered in the remedy selection process (40 CFR §300.430(e)(9)(iii)) support a remedy that achieves the SSLs. **(December 1995 Monthly Hotline Report)**

State Involvement

"Transfers of Real Property Interests to States"

Key Words:

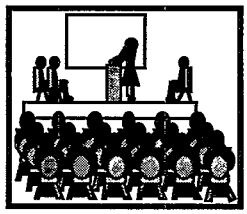
Property transfer; remedial action; state involvement

QUESTION: A site on the National Priorities List (NPL) is entering the final stages of remedial action. EPA acquired ownership of an interest in real property in order to conduct a Fund-financed cleanup and is in the process of preparing to legally transfer the property to the state. The state contends that the ongoing remediation will take several years and is therefore hesitant to accept the transfer. When must a state accept the transfer of an interest in real estate?

ANSWER: In instances in which EPA acquires an interest in real estate in order to conduct a Fund-financed remedial action, the state must agree to accept transfer of that property on or before completion of the remedial action (CERCLA §104(j); 40 CFR §300.510(f)). In the July 14, 1994, Federal Register (59 FR 35852), the Agency clarified that for purposes of §300.510(f), the completion

"Transfers of Real Property Interests to States" (cont'd)

of the remedial action is the point at which operation and maintenance (O&M) measures are initiated under §300.435(f). O&M typically begins when the remedy has been constructed and is operational and functional. The requirement that states accept property transfers at initiation of O&M is in effect whether the state or another party is conducting the O&M. **(January 1995 Monthly Hotline Report)**



Emergency Planning and Release Notification

"Ammonia and Ammonium Hydroxide Reporting Under EPCRA §§302 and 304"

Key Words:

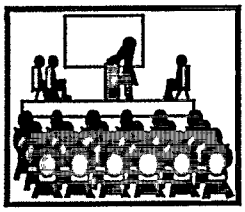
Extremely hazardous substance; reportable quantity (RQ); threshold planning quantity (TPQ)

QUESTION: Ammonia (CAS #7664-41-7) is listed on the Extremely Hazardous Substance (EHS) List found at 40 CFR Part 355 Appendix A and B, with a threshold planning quantity (TPQ) of 500 pounds. A facility stores ammonium hydroxide (CAS #1336-21-6), which does not appear on the EHS list, on site in excess of 500 pounds. Since ammonium hydroxide is essentially a mixture of ammonia and water, should the facility include the quantity of ammonia in ammonium hydroxide toward TPQ and reportable quantity (RQ) calculations for purposes of EPCRA §§302 and 304 reporting?

ANSWER: The quantities of ammonia in ammonium hydroxide should be considered separately when determining reporting requirements under EPCRA §§302 and 304. This is consistent with the listing under CERCLA (40 CFR Table §302.4), where ammonia and ammonium hydroxide are specifically and separately listed as hazardous substances. Thus, ammonia (CAS #7664-41-7) and ammonium hydroxide (CAS #1336-21-6) are considered different chemicals for EHS listing purposes.

The notification requirement in EPCRA §302 applies to facilities with quantities of EHSs present on site equal to or in excess of a TPQ. Ammonia is considered an EHS, therefore, a facility with a TPQ or more of ammonia is required to provide EPCRA §302 notification. Since ammonium hydroxide is considered distinct from ammonia, and is not specifically listed as an EHS, it is not subject to emergency planning requirements. A facility storing a large quantity of ammonium hydroxide, however, may have free ammonia in the headspace of a storage tank. A facility must report the ammonia in the headspace of a storage tank under EPCRA §302 if this amount of free ammonia equals or exceeds the TPQ at any time.

EPCRA §304 applies to chemicals listed as either CERCLA hazardous substances (40 CFR §302.4) or EHSs. Both ammonia and ammonium hydroxide are specifically listed as CERCLA hazardous substances and both chemicals, therefore, are subject to EPCRA §304 reporting requirements. Ammonia has a RQ of 100 pounds and ammonium hydroxide has an RQ of 1000 pounds. If either chemical is released to the environment above its designated RQ within a 24-hour period, the facility is subject to EPCRA §304 notification requirements (40 CFR §355.40). **(July 1995 Monthly Hotline Report)**



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

"CERCLA §103(a) and EPCRA §304 Reporting Requirements for Aqueous Film Forming Foam"

Key Words:

Glycol ethers; release notification

QUESTION: Aqueous Film Forming Foam (AFFF), a substance commonly used by firefighters, contains ethanol, 2-(2-butoxyethoxy) which is categorized as a glycol ether. Glycol ethers meet the definition of hazardous substance in CERCLA §101(14) because they are hazardous air pollutants pursuant to §112(b) of the Clean Air Act. In 1990, the Clean Air Amendments added 47 individual hazardous air pollutants and 5 hazardous air pollutant categories, including the broad category of glycol ethers. These hazardous air pollutants newly identified as hazardous substances automatically received a reportable quantity of one pound (CERCLA §102(b)). On June 12, 1995, EPA published a final rule adjusting the reportable quantities for the CAA hazardous air pollutants, in particular, removing the one pound reportable quantity for the five broad generic categories (60 FR 30926). Do the notification provisions in CERCLA §103 and EPCRA §304 still apply to releases of AFFF?

ANSWER: CERCLA §103 and EPCRA §304 notification requirements no longer apply to releases of AFFF containing ethanol, 2-(2-butoxyethoxy), unless the AFFF released contains another listed CERCLA hazardous substance found at 40 CFR §302.4 or extremely hazardous substance found at 40 CFR Part 355 Appendix A. In the June 12, 1995, Federal Register, EPA decided not to assign reportable quantities to the additional five broad categories, but rather to identify, designate, and assign reportable quantities to certain specific substances within the categories at a later date. As a result, releases of AFFF containing only chemicals within the glycol ethers category no longer require reporting to the National Response Center pursuant to CERCLA §103(a) or the State Emergency Response Commission and Local Emergency Planning Committee pursuant to EPCRA §304. Owner/operators can still be held liable under CERCLA for clean-up costs or damages caused by a release of AFFF containing a glycol ether, even though the release itself is not reportable (60 FR 30926, 30933; June 12, 1995). **(November 1995 Monthly Hotline Report)**

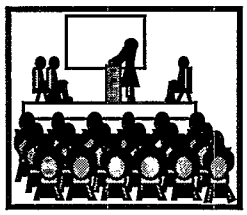
General

"EPCRA Requirements for a Facility Located within the Planning Districts of Two LEPCs"

Key Words:

Emergency planning; hazardous chemical inventory reporting; local emergency planning committee (LEPC); release notification

QUESTION: The reporting requirements of EPCRA §§303(d), 311, and 312 require covered facilities to provide information on the presence of extremely hazardous substances (EHSs) and hazardous chemicals to the Local Emergency Planning Committee (LEPC) for the purpose of preparing an emergency plan. In general, facilities are located within the boundaries of a single LEPC's emergency planning district, allowing all notification to be made to the same planning entity. A certain facility subject to EPCRA emergency planning requirements is located such that its perimeter extends across the planning



"EPCRA Requirements for a Facility Located within the Planning Districts of Two LEPCs" (cont'd)

jurisdiction boundaries of two LEPCs. In this case, which LEPC is responsible for including the facility in its emergency response plan? To which LEPC should the facility fulfill its reporting obligations under EPCRA §§303(d), 304, 311, and 312?

ANSWER: LEPCs who share jurisdiction over a facility should decide on how they will share responsibility for including the facility in their emergency planning activities and how they will accept information required under EPCRA §§303(d), 304, 311, and 312. With respect to §303(d), if the facility is located within two districts, it must provide the required notification to both LEPCs. Since EPCRA §304 requires facilities to notify the LEPC responsible for any area likely to be affected by a release of a reportable chemical (40 CFR §355.40(b)(1)), both LEPCs should receive release notification to ensure sufficient emergency response. EPCRA §§311 and 312 require information to be submitted to the appropriate LEPC (EPCRA §§311(a)(1)(A), and 312(a)(1)(A)). LEPCs may reach an agreement as to which is the appropriate LEPC, and thus determine which would receive information submitted under §§311 and 312. In the absence of such an agreement, the facility would need to report to both LEPCs. **(July 1995 Monthly Hotline Report)**

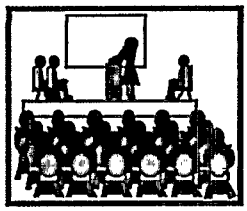
"SARA Title III on Indian Lands"

Key Words:

Emergency planning; hazardous chemical inventory reporting; Indian lands; toxics release inventory reporting; tribal emergency response commissions (TERCs)

QUESTION: In 1986, Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act (SARA), to help local communities, including Indian reservations, protect public health and the environment from chemical hazards by informing citizens about the chemicals present in their communities. On July 26, 1990, EPA published a rulemaking in the Federal Register designating Indian Tribes and their chief executive officers as the implementing authority for SARA Title III on all Indian lands (55 FR 30632). What is EPA's policy regarding the implementation of the different provisions of SARA Title III on Indian lands?

ANSWER: EPA's policy is to work with Tribes on a "government to government" basis in implementing the requirements of SARA Title III. SARA Title III contains four major provisions: planning for chemical emergencies, emergency notification of chemical accidents and releases, reporting of hazardous chemical inventories, and toxic chemical release reporting. The emergency planning provisions of SARA Title III §§301-303 are designed to help Indian Tribes prepare for, and respond to chemical emergencies occurring on Indian lands that involve extremely hazardous substances (EHSs), found at 40 CFR Part 355, Appendix A and B. The chief executive officers of federally

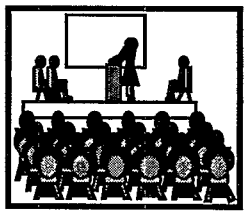


"SARA Title III on Indian Lands" (cont'd)

recognized Tribes must appoint Tribal Emergency Response Commissions (TERCs), responsible for carrying out the provisions of EPCRA in the same manner as State Emergency Response Commissions (SERCs). Alternatively, Tribal leaders can join a Tribal Coalition which functions as the TERC, or establish a Memorandum of Understanding with a state to participate under the SERC. TERCs establish emergency planning districts and can appoint Local Emergency Planning Committees (LEPCs) or act as TERCs/LEPCs, performing the functions of both. LEPCs use information collected under SARA Title III to develop local emergency response plans to respond quickly to chemical accidents. The chief executive officer should ensure that TERCs maintain a broad-based representation, including Tribal public agencies and departments dealing with environmental, energy, public health and safety issues, as well as other tribal community groups with interest in SARA Title III. The Tribal LEPC should also be representative of the community, and should include elected Tribal officials, fire chiefs, Indian Health Services officials, Bureau of Indian Affairs officials, Tribal elders and leaders, representatives of industries on or near the reservation, and members of the general community.

The emergency release notification provisions of SARA Title III §304 require facilities to immediately notify TERCs and LEPCs of releases in excess of reportable quantities of EHSs and CERCLA hazardous substances, found at 40 CFR §302.4. Facilities must also provide written follow-up reports on the actions taken to respond to releases and possible health effects of the released substances. The emergency release notification provisions cover releases from commercial, municipal, and other facilities on Tribal lands, including those owned by the Tribe, and those from accidents on transportation routes within the reservation. Substances covered by this section include not only EHSs, but also hazardous substances subject to the emergency release notification requirements of CERCLA §103. CERCLA requires notification of releases to the National Response Center. In cases where releases from facilities located on Indian lands may affect areas outside Indian jurisdiction, the legislation under SARA Title III §304(b)(1) requires that notice be provided to all SERCs and LEPCs likely to be affected by the releases. Response to such releases will be handled by cooperation between the affected jurisdictions. EPA encourages Indian Tribes, SERCs, and LEPCs to participate in joint planning efforts to prepare for such potential emergencies.

The hazardous chemical right-to-know provisions of SARA Title III §§311 and 312, require facilities that prepare material safety data sheets (MSDSs) for hazardous chemicals under OSHA, and have hazardous chemicals or EHSs present above applicable threshold levels, to submit these MSDSs, or lists of such chemicals to TERCs, LEPCs, and local fire departments. Facilities are also required to submit hazardous chemical inventory forms which detail the



"SARA Title III on Indian Lands" (cont'd)

amounts, conditions of storage, and locations of hazardous chemicals and EHSs to TERCs, LEPCs, and local fire departments. It is the responsibility of TERCs and LEPCs to make this information available to the public.

Toxic chemical release reporting under SARA Title III §313 requires covered facilities to submit annual reports on routine and accidental toxic chemical releases to EPA and the Tribal environmental, health, or emergency response agency which coordinates with the TERC. TERCs and EPA make this information available to the community through the national Toxics Release Inventory (TRI) database. The data are also released to the public annually in national and state TRI reports.

The information collected under SARA Title III enables TERCs and LEPCs to paint a picture of the hazardous substances, chemicals, and toxics found on Indian lands. It also allows the Tribal communities to work with industries to reduce the use and releases of toxic chemicals into the environment and prevent chemical accidents. EPA recognizes that resources are often limited on Indian lands, and is committed to helping Indian tribes comply with SARA Title III. EPA provides technical assistance, guidance, and training tailored to the needs and capabilities of Indian tribes. EPA's Chemical Emergency Preparedness and Prevention Office (CEPPO) can provide TERCs with grants/ cooperative agreements to aid in the implementation and effectiveness of their SARA Title III programs. To be eligible for consideration under this grant program, a tribe or Tribal Coalition must function as an independent TERC. To the extent that Tribes have these functions performed by states, they are not eligible for these grants. Tribal agencies can also apply for training grants provided by FEMA under SARA Title III §305(a) to gain or improve skills needed for carrying out emergency planning and preparedness programs. These grants are provided through the TERCs or other agencies. The Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA) also includes funding grants for Indian tribes for training public sector employees in emergency response activities. HMTUSA provides planning grants for developing, improving, and implementing Title III plans, and for developing a training curriculum for TERCs and LEPCs. Tribes should contact their EPA Regional office for information on how to apply for these grants.

Enforcing the provisions of SARA Title III is key to providing Tribal communities with the information necessary to prepare for and prevent chemical accidents. EPA provides assistance to Tribal communities for specific enforcement actions against violators of §§302, 311, and 312. Since EPA does not receive or process information under these sections, actions should be initiated at the tribal and district levels. **(August 1995 Monthly Hotline Report)**

Hazardous Chemical Inventory Reporting

"Applicability of EPCRA §§311/312 to Horticultural Operations and Golf Courses"

Key Words:

Agriculture exemption; fertilizer; hazardous chemical inventory reporting; material safety data sheet (MSDS)

QUESTION: EPCRA §§311 and 312 require facility owners or operators to submit material safety data sheets (MSDS) and annual inventory reports (Tier I/Tier II Forms) for any hazardous chemical subject to OSHA's Hazard Communication Standard (29 CFR §1910.1200) when present at a facility above threshold amounts (40 CFR §370.20(b)). Under EPCRA §311(e)(5), any substance used in routine agricultural operations is exempt from EPCRA §§311/312 reporting requirements. Is the growing of turf by a nursery considered routine agricultural operations? Does this exemption apply if the turf is grown and maintained by a golf course?

ANSWER: The agricultural exemption found at EPCRA §311(e)(5) excludes fertilizers held for sale by retailers and any substance which is used in routine agricultural operations. Agricultural operations is a broad term which EPA has interpreted to apply to various types of facilities, including nurseries and other horticultural operations (52 FR 38344, 38349; October 15, 1987). Therefore, chemicals used in direct support of turf growing by a nursery are exempt under EPCRA §311(e)(5).

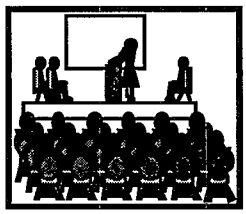
In contrast, a golf course is not an agricultural operation. Golf courses derive their income from the playing of golf, not the sale of turf or other horticultural products. Therefore, all hazardous chemicals (e.g., pesticides, fuel for equipment) on site must be reported under EPCRA §§311/312 if they exceed applicable thresholds. **(January 1995 Monthly Hotline Report)**

"EPCRA §§311/312 Consumer Use Exemption and Batteries"

Key Words:

Batteries; consumer product exemption; hazardous chemical inventory reporting

QUESTION: EPCRA §§311 and 312 apply to owners or operators of any facility that is required to have available or prepare a material safety data sheet (MSDS) for an OSHA defined hazardous chemical present at the facility at any one time in amounts equal to or greater than established thresholds. Facility owners or operators must file MSDSs and Tier inventory forms for each hazardous chemical which meets the reporting criteria. A facility purchases non-industrial batteries in the same form as those packaged for use by the



"EPCRA §§311/312 Consumer Use Exemption and Batteries" (cont'd)

general public. Later, the facility services the batteries by adding water or sulfuric acid. Must the facility consider the batteries when calculating whether EPCRA §§311/312 thresholds have been triggered?

ANSWER: No. EPCRA §311(e), codified at 40 CFR §370.20(3), exempts "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 for the general public." Because the public is generally familiar with the hazards posed by such materials, the disclosure of such substances is unnecessary for right-to-know purposes. The exemption extends to any substance packaged in the same form or concentration as a consumer product whether or not it is used for the same purpose as the consumer product (52 FR 38344, 38348; October 15, 1987). EPA interprets this exemption to enable the facility to service batteries which are in such forms without negating the exemption. Any chemicals used for servicing that are present at the facility in bulk form, however, would not fall under the exemption. **(April 1995 Monthly Hotline Report)**

"Federal Facilities and the Consumer Product Exemption Under EPCRA §§311 and 312"

Key Words:

Consumer product exemption; federal facilities; hazardous chemical inventory reporting

QUESTION: Executive Order 12856 required federal facilities to comply with all aspects of EPCRA (58 FR 41981; August 6, 1993). Prior to this action, EPCRA did not apply to federal facilities. Consequently, interpretive language previously issued as guidance for non-federal facilities often does not address issues specific to federal facilities. For example, the federal government produces many of its own products (i.e., scouring powder, bleach) for use by its own service people. These products are similar in form and concentration to analogous products manufactured by private companies for distribution to the general public. Many of the federal government's products are packaged in comparable quantities to those produced in the private sector. EPCRA provides an exemption at 40 CFR §370.2 for consumer products present in the same form and concentration as products packaged for distribution and use by the general public. The federal government's products, however, are not available to the general public. Would the federal products be exempt under the consumer product exemption if they are packaged in the same form and concentration as those manufactured in the private sector, even though they are not available for purchase by the general public?

ANSWER: Yes. Products manufactured by the federal government that are packaged in the same form (i.e., package size) and concentration as products manufactured by private industry are exempt from EPCRA §§311/312 reporting requirements. The federal products need not be available to the

"Federal Facilities and the Consumer Product Exemption Under EPCRA §§311 and 312" (cont'd)

general public to meet this exemption. The exemption applies either to the extent a product is used for personal, family, or household purposes, or is present in the same form and concentration as a product used by the general public (whether or not it is actually used by the general public (40 CFR §370.2)). For further guidance on specific scenarios, federal agencies should look to their respective Executive Order implementing offices to determine the extent of reporting. Some federal agencies have agreed to disregard certain exemptions even though their facilities may qualify for them in order to demonstrate the Federal Government's leadership role in source reduction and pollution prevention. **(March 1995 Monthly Hotline Report)**

"Reporting Requirements for Chemically Treated Wood Under EPCRA §§311 and 312"

Key Words:

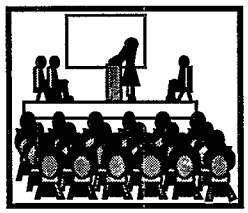
Article exemption; consumer product exemption; creosote; hazardous chemical inventory reporting; material safety data sheet (MSDS)

QUESTION: Until recently, OSHA exempted wood and wood products from the Hazard Communication Standard (HCS) program. On February 9, 1994, OSHA amended its HCS to no longer exempt certain wood and wood products (59 FR 6126). The revised exemption found at 29 CFR §1910.1200(b)(6)(iv) applies only to wood and wood products for which the hazard potential is limited to its flammability or combustibility. Wood that has been chemically treated is now subject to the HCS and thus requires a facility to maintain a material safety data sheet (MSDS) for the wood product. In addition, the wood product is potentially subject to EPCRA §§311 and 312.

A manufacturer of creosote-treated wood stores various sizes of treated lumber, which it sells to retailers and wholesalers. The facility never stores more than 10,000 pounds of creosote prior to being incorporated into the wood. Would the consumer product exemption found at 40 CFR §370.2 apply to the creosote-treated wood? If the treated wood in storage is subject to EPCRA §§311 and 312, does the facility apply the total weight of the wood products towards the 10,000-pound threshold, or just the weight of creosote contained in the wood?

ANSWER: EPCRA §§311 and 312 apply to any facility that is required to prepare or have available an MSDS and has a hazardous chemical, as defined by OSHA, present in excess of 10,000 pounds, or has an extremely hazardous substance in excess of 500 pounds or the threshold planning quantity, whichever is lower (40 CFR §370.20). Despite the new applicability of OSHA's HCS to chemically treated wood, the wood may not be subject to EPCRA §§311 and 312 if certain exemptions apply.

A manufacturer of creosote-treated wood would not have to count the wood products in storage towards the 10,000-pound threshold if the treated wood is



"Reporting Requirements for Chemically Treated Wood Under EPCRA §§311 and 312" (cont'd)

in the same form and concentration as a product distributed to the general public (40 CFR §370.2). If, however, the wood products are treated with levels of creosote not typically used in consumer products, then the wood products in storage must be counted in the threshold determination. Likewise, any wood products in sizes not typically available to the general public must be counted towards threshold calculations.

A facility subject to the requirements of EPCRA §§311 and 312 has two options for reporting mixtures. An owner or operator may meet the requirements by either providing the required information on each component of a mixture or by providing the information on the mixture itself (40 CFR §370.28(a)). If the manufacturer of creosote-treated wood knows the concentration of the creosote in the wood, the manufacturer can apply the weight of creosote contained in the wood along with any other creosote on site towards the 10,000-pound threshold. The owner or operator may prefer, however, to simply apply the total weight of the wood products towards the threshold. The owner/operator may choose which reporting option to use, but the option chosen must be consistently applied for purposes of reporting under EPCRA §§311 and 312 (40 CFR §370.28(a)(2)). **(March 1995 Monthly Hotline Report)**

Toxics Release Inventory

"Alternate Threshold Under EPCRA §313"

Key Words:

Alternate threshold; Form R; threshold; toxics release inventory reporting

QUESTION: EPCRA §313 established a set of activity thresholds which, if exceeded, trigger toxic chemical release inventory reporting for manufacturing facilities (SIC codes 20-39) with 10 or more full-time employees (40 CFR §§372.22 and 372.25). EPA published a final rule in the Federal Register on November 30, 1994 (59 FR 61488), which created an alternate threshold of 1 million pounds for certain facilities. How can a facility that exceeds one of the original thresholds qualify for the alternate threshold?

ANSWER: Facilities which have an annual reportable amount of no greater than 500 pounds for a listed toxic chemical may qualify for the 1 million pound alternate threshold for that chemical, beginning with the 1995 reporting year. For purposes of the alternate threshold, the "annual reportable amount" includes toxic chemicals listed at 40 CFR §372.65 which are released, disposed, treated, recycled, and burned for energy recovery at the facility; and amounts transferred from the facility to off-site locations for the purposes of recycling, energy recovery, treatment, and/or disposal. These amounts correspond to column B, sections 8.1 through 8.7 of the reporting Form R (revised

"Alternate Threshold Under EPCRA §313" (cont'd)

December 4, 1993). If a facility's combined annual reportable amount does not exceed 500 pounds for a specific toxic chemical, the facility can qualify for reduced reporting requirements unless the amount of that toxic chemical manufactured, processed, or otherwise used within the calendar year exceeds one million pounds.

Manufacturing facilities that qualify for the alternate threshold are not exempt from reporting, but must fulfill certain requirements. In lieu of submitting a Form R, the owner or operator of a facility must submit an annual certification statement indicating that the facility met the requirements for use of the alternate threshold for a specific chemical. The facility must also maintain, and make available upon request, records substantiating the claim. The certification statement includes basic information regarding the facility's identification, the chemical in question, and a statement of accuracy to be signed by a senior management official of the facility. **(April 1995 Monthly Hotline Report)**

"Article Exemption and Paint Under EPCRA §313"

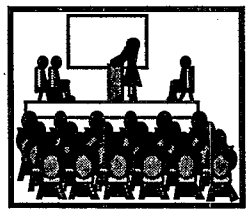
Key Words:

Article exemption; threshold; toxics release inventory reporting

QUESTION: A manufacturing facility processes steel rods containing toxic chemicals listed under EPCRA §313 (40 CFR §372.65). The toxic chemicals contained in the steel rods meet the article exemption and therefore are not included in EPCRA §313 threshold or release determinations (40 CFR §372.38(b)). To qualify for the article exemption, an item must meet each of the criteria of the article definition (40 CFR §372.3). The item must be formed to a specific shape or design during manufacture, must have end use functions dependent in whole or in part upon its shape or design during end use, and must not release a toxic chemical under normal conditions of processing or use. EPA has interpreted the first part of the article definition "formed to a specific shape or design" to apply to items that retain their initial thickness or diameter, in whole or in part, throughout the item's production cycle at a facility.

In this case, the steel rods meet each part of the article definition throughout the entire process. During the final stage of production, however, two coats of paint are applied to the steel rods. Does the application of the paint negate the article status of the steel rods even though the thickness of the steel does not change?

ANSWER: No. The Agency has determined that the painting or coating of an item that otherwise meets the EPCRA §313 definition of an article does not affect the article status of that item because the initial thickness or diameter of that item is retained. Therefore, the facility does not need to count the toxic chemicals present in the rods toward activity thresholds. The facility, however,



"Article Exemption and Paint Under EPCRA §313" (cont'd)

must count any listed toxic chemicals found in the paint or coating materials toward EPCRA §313 activity thresholds. **(September 1995 Monthly Hotline Report)**

"EPCRA §313 and the Revised Reporting of Ammonium Hydroxide"

Key Words:

Aqueous; ammonia; material safety data sheet (MSDS)

QUESTION: An EPCRA §313 covered facility maintains a material safety data sheet (MSDS) for ammonium hydroxide (CAS #1336-21-6). The MSDS lists the concentration of total ammonia in the ammonium hydroxide at 29 percent. To assist covered facilities in calculating total ammonia in aqueous solutions, EPA has published a guidance document titled EPCRA §313 Guidance for Reporting Aqueous Ammonia, which lists NH_3 equivalent weight percents for chemical sources of aqueous ammonia. Ammonium hydroxide is listed as a "chemical source of aqueous ammonia" consisting of 48.59 percent total aqueous ammonia (Table 1, p. 12). When calculating the weight of total aqueous ammonia from ammonium hydroxide, should a facility use the percentage on the MSDS or the percentage in the Agency's guidance document? When calculating the weight of total aqueous ammonia in other solutions of aqueous ammonia, what percentage should a facility use if given the choice between EPA's guidance document and solution-specific information?

ANSWER: Facilities should use the percent total ammonia specified on the label of ammonium hydroxide solutions they purchase to determine the total ammonia content in these solutions. Ammonium hydroxide has the chemical formula NH_4OH; however, strong evidence indicates that the species NH_4OH does not exist. Bottles of concentrated aqueous ammonia purchased from chemical supply companies are almost always labeled "ammonium hydroxide." These solutions primarily consist of molecules of NH_3 dissolved in water (along with small amounts of ionized ammonia). The 48.59 percent listed in Table 1 for ammonium hydroxide is based on the chemical formula NH_4OH, not the actual concentration of total ammonia in ammonium hydroxide solutions. The actual concentration may vary depending upon the amount of NH_3 used to make the solution. Thus, Table 1 may not accurately reflect the actual weight of total aqueous ammonia in any given solution labeled ammonium hydroxide.

The percentages, reported in Table 1 as NH_3 equivalent weight percents for chemical sources, are the precise percentages of total ammonia (expressed as NH_3 equivalent weights) contained in each chemical listed based on the molecular formula for each chemical. Except for ammonium hydroxide, these numbers are exact for the pure chemical and do not vary. Facilities can use these numbers to calculate how much total ammonia will be in aqueous solutions made from these chemicals. If more specific information on the

"EPCRA §313 and the Revised Reporting of Ammonium Hydroxide" (cont'd)

actual concentration of total ammonia in an aqueous solution is available from another source such as an MSDS, label, or measurement, facilities can use this information rather than performing the calculations prescribed in the EPCRA §313 Guidance for Reporting Aqueous Ammonia. **(October 1995 Monthly Hotline Report)**

"EPCRA §313 - Estimating Releases of Mineral Acids Using pH Measurements"

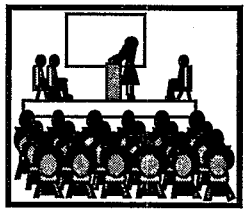
Key Words:

Estimating releases; Form R; mineral acids; toxics release inventory reporting

QUESTION: Mineral acids such as hydrochloric acid are commonly used throughout the manufacturing sector as product ingredients, reactants, and chemical processing aids. Often, listed mineral acids are present in aqueous waste streams that are neutralized on site. If the mineral acid is neutralized on site, EPCRA §313 requires an indication on the Form R of the range of concentration of the listed toxic chemical in the influent waste stream. These concentrations are expressed in percentages, parts per million (ppm), or parts per billion (ppb). If the pH of a waste steam containing a listed mineral acid is quantified, can the pH data be used to calculate the total mineral acid concentration in the influent waste stream?

ANSWER: In cases where only one acid is present in solution, the total mineral acid concentration can be derived by using the pH value of the solution and the molecular weight and ionization constant of the acid. In order to assist the regulated community in EPCRA §313 reporting, EPA derived a table which lists the total acid concentration for each listed mineral acid at different pH values (Estimating Releases for Mineral Acid Discharges Using pH Measurements, June 1991). The concentrations are expressed in pounds per gallon (lbs/gal) and can be converted to the appropriate units for reporting purposes. The concentration that must be reported is based on the amount or mass of the toxic chemical in the waste stream compared to the total amount or mass of the waste stream.

For example, assume that a facility treats, by neutralization, a waste stream containing hydrochloric acid (HCl) where the pH of the influent stream is 4. A pH of 4 corresponds to a concentration of 0.00003 pounds of HCl per gallon of waste stream (Estimating Releases for Mineral Acid Discharges Using pH Measurements, Table 1). The amount of HCl in the influent waste stream can be converted using the following calculation:



"EPCRA §313 - Estimating Releases of Mineral Acids Using pH Measurements" (cont'd)

Influent Waste Stream

(0.00003 lbs/gal) x (1 gal/3.78 liters) x (453,000 mg/1 lb)

= 3.6 mg/l of HCl in the waste stream

Since mg/l of solutions or dispersions of a chemical in water is equivalent to ppm, 3.6 ppm of HCl is the concentration in the influent waste stream.

The Form R requires a range of influent concentration, thus the facility should select the appropriate range code and enter that value in the "Range of Influent Concentration" column in the On-Site Waste Treatment Methods and Efficiency section of the Form. **(February 1995 Monthly Hotline Report)**

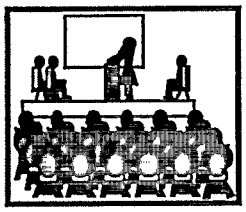
"EPCRA §313 Form R Submission: Completion of Section 8"

Key Words:

Form R; toxics release inventory reporting

QUESTION: Owners or operators of facilities that meet the requirements of 40 CFR §372.22, but that do not qualify for the alternate threshold (40 CFR §372.27), must report on the releases and transfers of toxic chemicals using the Form R. Sections 8.1 through 8.7 of the Form R require chemical-specific release and transfer information from the current reporting year, the previous reporting year, and estimates for the subsequent two reporting years. How should the owner or operator of a facility complete Sections 8.1 through 8.7 for the previous reporting year if she or he were not required to report on a toxic chemical in the past (i.e., the facility did not previously exceed a threshold specified in 40 CFR §372.25, or the chemical is newly listed and release information was not previously collected)?

ANSWER: The owner or operator of a facility filing a Form R for a toxic chemical for the first time, but who managed the toxic chemical in the previous reporting year, should use the best information available to make estimates of the amount of the toxic chemical involved in waste management activities specified in Section 8.1 through 8.7. In reporting year 1991, and beginning again with reporting year 1994, if the owner or operator has no information with which to make an estimate, she or he may put NA in Column A of Sections 8.1 through 8.7. For reporting years 1992 and 1993, facilities were required to estimate prior year quantities. If no waste management activities involving the toxic chemical occurred during the reporting year, facilities were required to enter 0 in column A. **(August 1995 Monthly Hotline Report)**



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

"EPCRA §313: Section 4.1 of Form R (Maximum Amount On Site)"

Key Words:

Form R; toxics release inventory reporting

QUESTION: An EPCRA §313 covered facility, which does not qualify for the alternate threshold discussed at 40 CFR §372.27, must prepare a Form R annually to report activities at the facility associated with toxic chemicals listed at 40 CFR §372.65. Part II, Section 4, of the Form R records the maximum amount of a toxic chemical on site at any time during the calendar year. When determining this amount, the facility must aggregate all non-exempt quantities of the toxic chemical. Does this amount include concentrations of the toxic chemical present in products?

ANSWER: Yes. Facilities must indicate the maximum amount of the toxic chemical on site at any one time during the calendar year. The maximum amount on site includes raw materials, in-process materials, product inventory, and quantities present in wastes. Owners or operators must total all quantities of the non-exempt amounts of the toxic chemical present at the facility when completing Section 4.1 of Part II of the Form R. **(June 1995 Monthly Hotline Report)**

"EPCRA §313 Structural Component Exemption for Chemicals Associated with an Exempt Use"

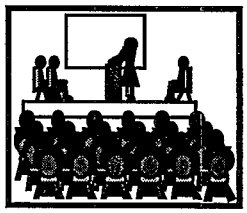
Key Words:

Structural component exemption; threshold; toxics release inventory reporting

QUESTION: An EPCRA §313 covered facility uses a fuel-powered paint sprayer for the sole purpose of painting the facility's structure. The toxic chemicals within the paint used to maintain the facility's appearance are exempt from EPCRA §313 threshold determination and release reporting requirements under the structural component exemption (40 CFR §372.38(c)). The fuel used to power the paint sprayer also contains toxic chemicals reportable under EPCRA §313. Must the toxic chemicals in the fuel be applied toward the 10,000-pound otherwise use threshold?

ANSWER: No. The toxic chemicals are exempt from EPCRA §313 threshold determination and release reporting requirements. Although the structural component exemption most commonly applies to toxic chemicals incorporated into a facility's physical structure, the exemption also extends to toxic chemicals whose sole use derives from or is associated with an exempt use. Examples of toxic chemicals exempt in this manner include solvents used to clean paintbrushes that had been utilized to paint a facility's structure and fumes generated from the welding of pipes during installation at a facility. **(October 1995 Monthly Hotline Report)**

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



"EPCRA §313 Toxic Chemical Expansion"

Key Words:

Toxic chemical list; toxics release inventory reporting

QUESTION: On January 12, 1994, EPA proposed to add 313 chemicals and chemical categories to the list of toxic chemicals reportable under EPCRA §313 (59 FR 1788). EPA finalized the addition of 286 of these chemicals and chemical categories on November 30, 1994 (59 FR 61432). What is the scope of this expansion and when must facilities begin reporting on the newly added chemicals?

ANSWER: On November 30, 1994, EPA used its authority under EPCRA §313(d)(1) to add 286 chemicals and chemical categories to the list of toxic chemicals reportable under EPCRA §313 (40 CFR §372.65). Of these chemicals, 243 are listed individually, 39 are listed as part of two delineated (also known as delimited) chemical categories, and 4 are listed as inclusive chemical categories. A delineated chemical category is one which comprehensively lists the specific chemicals meeting the category definition (e.g., diisocyanates). An inclusive chemical category defines reportable chemicals by a prescriptive molecular formula (e.g., nitrate compounds). An inclusive chemical category may provide a partial list of chemicals reportable under the definition of the category, but in all cases the list is not exhaustive. Covered facilities must comply with EPCRA §313 reporting, including supplier notification requirements, for the newly listed chemicals and chemical categories beginning with the 1995 reporting year, with the first EPCRA §313 reports due by July 1, 1996.

Pending further review of technical and policy issues raised by public comments to the proposed rulemaking, EPA deferred final action on the addition of 40 chemicals and one chemical category contained in the proposed rule. The Agency also determined that three chemicals, clomazone, 5-chloro-2-(2,4-dichlorophenoxy)phenol, and tetrasodium ethylenediaminetetraacetate, that were proposed for listing did not meet the statutory criteria for listing, and thus were not added to the list. **(June 1995 Monthly Hotline Report)**

"Reporting Mineral Acids Contained in Filter Cake under EPCRA §313"

Key Words:

Form R; mineral acids; neutralization; off site

QUESTION: EPCRA §313 requires manufacturing facilities (SIC codes 20 – 39) with 10 or more full-time employees that manufacture, process, or otherwise use toxic chemicals above annual thresholds to report releases, transfers, and source reduction and recycling activities associated with these chemicals. A manufacturing facility generates a waste stream in the form of a filter press cake that contains nitric acid, a listed mineral acid under EPCRA §313. Before the filter cake is sent to an off-site landfill for disposal, the nitric acid in the filter cake is neutralized to pH 7. How should the facility report the disposal of this nitric acid on its Form R (revised December 4, 1993)?

"Reporting Mineral Acids Contained in Filter Cake under EPCRA §313" (cont'd)

ANSWER: Discharges of listed mineral acids (i.e., hydrogen fluoride, hydrogen chloride, nitric acid, and phosphoric acid) to receiving streams, water bodies, or publicly-owned treatment works (POTWs) may be reported as zero on the Form R if the mineral acid is neutralized to pH 6 or above during on-site treatment (Toxic Chemical Release Inventory Reporting Form R and Instructions, Revised 1993 Version, pp. 26, 31). This policy also applies to off-site transfers of neutralized mineral acids. A facility that neutralizes nitric acid in an on-site waste stream before transferring it to an off-site location for disposal should report this transfer as zero in column A of Section 6.2 – Transfers to Other Off-Site Locations. Since the disposal facility does not treat the nitric acid, the reporting facility should enter NA in Section 6.2, column C. All applicable on-site treatment of the acid must be reported in Section 7A – On-Site Waste Treatment Methods and Efficiency. The total amount of the nitric acid that was neutralized should be reported in column B of Section 8.6 – Quantity Treated On-Site. In addition, the manufacturing facility neutralizing the nitric acid in the filter cake needs to determine if they are manufacturing a listed water dissociable nitrate compound as a result of the nitric acid neutralization. **(September 1995 Monthly Hotline Report)**

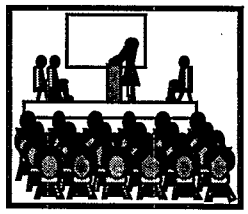
"Reporting Requirements for Natural Gas Purification under EPCRA §313"

Key Words:

Coincidental manufacture; natural gas; toxics release inventory reporting

QUESTION: EPCRA §313 requires manufacturing facilities that manufacture, process, or otherwise use toxic chemicals above annual thresholds to report releases, transfers, and source reduction and recycling activities associated with these chemicals. A covered facility purchases natural gas that contains EPCRA §313 toxic chemicals. The facility uses the gas on-site to heat buildings and power equipment. Before the natural gas is used, the listed toxic chemicals are removed and destroyed in a flare. The definition of manufacturing in 40 CFR §372.3 states that, "Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct..." Are the toxic chemicals that are removed from the natural gas coincidentally manufactured, and hence subject to threshold determination under EPCRA §313?

ANSWER: The removal and destruction of an EPCRA §313 toxic chemical from a fuel before it is used by a facility is not considered an activity that falls under the definition of manufacturing. Facilities that use natural gas in production processes sometimes need to remove impurities from the gas



"Reporting Requirements for Natural Gas Purification under EPCRA §313" (cont'd)

before it is used. Such a facility does not coincidentally produce toxic chemicals as byproducts, but merely separates and removes toxic chemicals already present in the gas. These chemicals would not be subject to threshold determination for reporting under EPCRA §313, and would not be subject to release reporting unless an activity threshold is exceeded elsewhere at the facility. If the facility exceeds an activity threshold elsewhere, all releases from the impurity removal process would be reportable.

Although these chemical impurities are usually destroyed, they could also be captured for further use at the facility or for sale as products, either of which would constitute a reportable activity under EPCRA §313. "Processing" refers to the preparation of a toxic chemical for distribution in commerce (40 CFR §372.3). If the chemicals are collected and sold as products or incorporated into products, they are considered processed and the amount of each chemical is applied toward its processing threshold. "Otherwise use" refers to any use of a toxic chemical that is not covered by the definitions of manufacture or process (40 CFR §372.3). If the chemicals are collected for further use at the facility, the chemicals are considered otherwise used, and the amount of each chemical is applied toward its otherwise use threshold. **(February 1995 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 the Emergency Planning and Community Right-to-Know Act during 1995. Both proposed and final rules with significant impact on these programs are included. This is not a complete list of all applicable Federal Register notices for the year. For a comprehensive review of Federal Register notices, the reader may wish to obtain Federal Register reference materials or a subscription 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 reference.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Proposed Rules

"Land Disposal Restrictions: Decharacterized Wastewaters, Carbamate and Organobromine Wastes, and Spent Potliners"

Citation:

March 2, 1995
(60 FR 11702)

SUMMARY: As part of its land disposal restrictions (LDR) program, EPA is proposing treatment standards for wastes derived from the production of carbamate pesticides, organobromine flame-retardants, and aluminum. In addition, the Agency is also proposing to revise the treatment standards for characteristic hazardous wastes. Currently, these wastes are not regulated, once the characteristic is removed, when managed in Clean Water Act/Clean Water Act-equivalent systems, or when injected into deep wells regulated under the Safe Drinking Water Act. EPA proposes to revise its treatment standards to require treatment to remove the characteristic, as well as to treat any underlying hazardous constituents that are in the waste. EPA is also proposing to codify that filling in holes in the ground with hazardous waste is illegal disposal. Finally, the Agency is proposing to codify its policy prohibiting the combustion of certain metal-bearing wastes under the dilution prohibition.

"Federal Facilities Compliance Act of 1992 Amendments"

Citation:

March 22, 1995
(60 FR 15208)

SUMMARY: The Federal Facility Compliance Act of 1992 (FFCA) clarified that EPA has explicit authority to issue administrative enforcement orders to other federal agencies that are in violation of RCRA. Further, it provides that no administrative enforcement order issued to a department, agency, or instrumentality of the federal government becomes final until the department, agency, or instrumentality has an opportunity to confer with the EPA Administrator. EPA is proposing a technical revision of its administrative rules of practice to provide a federal department, agency, or instrumentality, which is the subject of an administrative enforcement order, with the opportunity to confer with the Administrator as required by the FFCA. Comments on this proposed rule must be received on or before April 21, 1995.

Proposed Rules (cont'd)

"Revisions to the Existing Criteria for Solid Waste Disposal Facilities"

Citation:

June 12, 1995
(60 FR 30964)

SUMMARY: EPA is proposing to establish specific standards for non-municipal solid waste disposal facilities that receive conditionally exempt small quantity generator (CESQG) wastes. Only those non-municipal solid waste disposal facilities which meet the proposed requirements of §§257.5 through 257.30 would be allowed to receive CESQG hazardous waste. EPA is proposing only the minimum standards required by the RCRA statute and is offering maximum flexibility for states and facilities in meeting those standards.

"Hazardous Waste Management System: Testing and Monitoring Activities"

Citation:

July 25, 1995
(60 FR 37974)

SUMMARY: EPA is proposing to revise certain testing methods and to add several new testing methods that may be used to comply with the requirements of Subtitle C of RCRA. The new and revised methods, designated as Update III, are proposed to be added to the Third Edition of Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846). In addition, EPA is proposing to delete several obsolete methods from SW-846 and the RCRA regulations. Comments must be submitted on or before September 25, 1995.

"Small and Arid or Remote Municipal Solid Waste Landfills (MSWLFs): Alternatives To Groundwater Monitoring And Delay Of General Effective Date"

Citation:

August 10, 1995
(60 FR 40799)

SUMMARY: EPA proposed to allow approved States and Tribes the flexibility to consider site-specific alternatives to conventional groundwater monitoring requirements for small MSWLFs located in either dry or remote areas. The Agency is accepting public comment on this proposal for a 90-day period, beginning on August 10, 1995. In addition, EPA solicited comment on delaying the general compliance date for small MSWLFs located in either dry or remote areas. The Agency is also accepting public comment on delaying the general compliance date for a 30-day period, beginning on August 10, 1995.

Proposed Rules (cont'd)

"Land Disposal Restrictions—Phase IV"

Citation:
August 22, 1995
(60 FR 43654)

SUMMARY: In LDR Phase IV, EPA continues to address the LDR implications of characteristic hazardous wastes which are diluted so they no longer exhibit a characteristic(s), and are then managed in centralized wastewater management land disposal units. A D.C. Circuit court decision concluded such management is legal if it can be demonstrated that hazardous constituents are reduced, destroyed, or immobilized to the same extent they would be pursuant to equivalent LDR treatment standards.

In the Phase IV proposal, EPA addressed whether such treatment in surface impoundments results in cross-media releases via leakage, air emissions, or disposal of untreated sludges, that can be so excessive that the impoundment effectively functions as a disposal unit.

EPA proposed treatment standards in the Phase IV rule for wood preserving wastes and for toxicity characteristic metal wastes. These treatment standards, when finalized, must be met prior to land disposal of these hazardous wastes. Comments on this proposed rule must be submitted by November 20, 1995.

"LDR Phase IV: Technical Correction to Proposed Rule"

Citation:
October 25, 1995
(60 FR 54645)

SUMMARY: EPA corrected several errors in the LDR Phase IV Proposed Rule (60 FR 43654; August 22, 1995). Most notably, EPA corrected the flowchart entitled "Figure 2: Option 2 Flowchart," which appeared on page 43664 of the proposal. In addition, EPA resolved an inconsistency between the UTS table which appeared at 60 FR 43682 and the UTS table at 60 FR 43696. The tables were not in agreement concerning the list of constituents proposed for regulations in F032, F034, and F035, as well as the universal treatment standard proposed for several constituents.

"Military Munitions Rule"

Citation:
November 8, 1995
(60 FR 56468)

SUMMARY: EPA proposed to identify when conventional and chemical military munitions become a hazardous waste and provided provisions for the safe storage and transport of such wastes. The Agency also amended existing regulations regarding emergencies involving military munitions and other explosives. In addition, EPA revised the definition of "on-site" applicable to all generators of hazardous waste.

Proposed Rules (cont'd)

"Petroleum Refining Process Wastes"

Citation:

November 20, 1995
(60 FR 57747)

SUMMARY: EPA proposed to list three wastes from the petroleum refining industry as hazardous waste under RCRA. Additionally, EPA proposed to designate the wastes proposed for listing as CERCLA hazardous substances and adjust the one-pound statutory reportable quantities (RQs) for these substances. EPA will accept public comments until February 20, 1996.

"Hazardous Waste Identification Rule (HWIR)"

Citation:

December 21, 1995
(60 FR 66344)

SUMMARY: HWIR proposes to establish constituent-specific exit levels for low-risk solid wastes that are designated as hazardous because they are listed, or have been mixed with, derived from, or contain listed hazardous wastes. Generators of listed hazardous wastes that meet the self-implementing, risked-based exit levels would no longer be subject to the hazardous waste management system under Subtitle C of RCRA as listed hazardous wastes. The Agency is also proposing to replace the technology-based LDR treatment standards in 40 CFR §268.40 with the risk-based exit levels. EPA will accept public comments on the HWIR proposal until February 20, 1996.

Final Rules

"Land Disposal Restrictions Phase II: Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes"

Citation:

January 3, 1995
(60 FR 242)

SUMMARY: On September 19, 1994, EPA promulgated treatment standards under the LDR program for the newly identified organic toxicity characteristic (TC) wastes, except those managed in Clean Water Act systems, CWA-equivalent systems, or Class I Safe Drinking Water Act injection wells. In addition, EPA promulgated treatment standards for all newly listed coke by-product and chlorotoluene production wastes. The Agency also established a single set of consistent treatment standards for each constituent regulated under the LDR program, referred to as universal treatment standards. EPA also published clarifying guidance regarding treatability variances, streamlined the hazardous waste recycling regulations, and reduced paperwork requirements associated with the LDR program. This rule corrects errors and clarifies the language of the September 19, 1994, rule. The rule was effective on December 19, 1994.

Final Rules (cont'd)

"Hazardous Waste Management System: Testing and Monitoring Activities: Final Rule"

Citation:

January 13, 1995
(60 FR 3089)

SUMMARY: EPA is adding new and revised testing and monitoring methods as Update II to the Third Edition of the EPA-approved test methods manual Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (EPA publication SW-846). EPA is also incorporating the updated SW-846 Third Edition into 40 CFR §260.11(a) for use in complying with the requirements of Subtitle C of RCRA. The rule is effective on January 13, 1995.

"Determination of Point of Generation for Municipal Waste Combustion Ash at Waste to Energy Facilities"

Citation:

February 3, 1995
(60 FR 6666)

SUMMARY: The Supreme Court, in City of Chicago v. Environmental Defense Fund, Inc., held on May 2, 1994, that ash generated by municipal waste to energy facilities is subject to regulation under RCRA Subtitle C. Typically, fly ash, the ash that collects in the air pollution control devices, is more likely to exhibit the toxicity characteristic than either bottom ash, or combinations of fly ash and bottom ash. Neither the Supreme Court's decision on ash nor any of EPA's previous policies address the point at which the facility owner must determine whether the ash exhibits the toxicity characteristic. The Agency is therefore clarifying that the point of Subtitle C jurisdiction for this ash is at the exit of the combustion building following the combination and air pollution control processes. This rule is effective February 3, 1995.

"Regulatory Determination on Cement Kiln Dust"

Citation:

February 7, 1995
(60 FR 7366)

SUMMARY: When Congress enacted RCRA, it identified six categories of waste that were believed to pose less risk to human health and the environment. Cement kiln dust (CKD) and the other special wastes were excluded from regulation under RCRA §3001 pending further study. A Report to Congress required by §8002(o) was signed by the Administrator on December 30, 1994. Based on this report, the Agency determined that additional regulation of CKD is warranted. EPA intends to use its various authorities under the Clean Air Act, Clean Water Act, and RCRA to address the relevant pathways of potential contaminant releases from CKD. Under Subtitle C of RCRA, the Agency will develop a set of standards for CKD to control releases to groundwater. Until this set of standards is published by the Agency, however, CKD will retain the Bevill exemption.

Final Rules (cont'd)

"Hazardous Waste Identification and Listing: Carbamate Production"

Citation:

February 9, 1995
(60 FR 7824)

SUMMARY: EPA is finalizing its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals. Further, the Agency is also adding 58 chemicals to the list of commercial chemical products in §261.33. This action also adds these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA is deferring action on 12 specific chemicals and four generic categories and providing an exemption from the definition of hazardous waste under RCRA for certain wastes, if the generator demonstrates that hazardous air pollutants are not being discharged or volatilized during waste treatment. Finally, the Agency is also exempting from the definition of hazardous wastes biological treatment sludges generated from the treatment of certain wastes provided the sludges do not display any of the characteristics of a hazardous waste. This rule is effective on August 9, 1995.

"New Hampshire: Final Determination of Full Program Adequacy of State Municipal Solid Waste Permit Program"

Citation:

February 14, 1995
(60 FR 8384)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA gave notice of a final determination approving the adequacy of New Hampshire's municipal solid waste landfill permit program. The effective date of this rule is February 14, 1995.

"New York: Final Determination of Full Program Adequacy of State Municipal Solid Waste Permit Program"

Citation:

March 14, 1995
(60 FR 13722)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA gave notice of a final determination approving the adequacy of New York's municipal solid waste landfill permit program. The effective date of this determination is March 14, 1995.

Final Rules (cont'd)

"National Priorities List for Uncontrolled Hazardous Waste Sites: Deletion Policy for Resource Conservation and Recovery Act Sites"

Citation:

March 20, 1995
(60 FR 14641)

SUMMARY: EPA is announcing its policy of deleting RCRA facilities from the NPL before a cleanup is complete if the site is being, or will be, adequately addressed by the RCRA corrective action program under an existing permit or order. This deletion policy applies to sites on the NPL that are RCRA-regulated facilities engaged in treatment, storage, or disposal of hazardous waste, but does not apply to federal facility sites. The Agency requested comment on this policy on December 21, 1988 (53 FR 51421). In order to be eligible for deletion from the NPL based on deferral to RCRA corrective action authorities, a site must meet the following criteria: 1) if evaluated under EPA's current RCRA/NPL deferral policy, the site would be eligible for deferral from listing on the NPL; 2) the CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions; 3) response under RCRA is progressing adequately; and 4) deletion would not disrupt an ongoing CERCLA response action. This policy is effective April 19, 1995.

"Hazardous Waste Management System: Testing and Monitoring Activities"

Citation:

April 4, 1995
(60 FR 17001)

SUMMARY: EPA is amending its testing and monitoring regulations under RCRA Subtitle C. This amendment clarifies the temperature requirement for pH measurements of highly alkaline waste and adds Method 9040B and 9040C to Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (EPA Publication SW-846). These test methods will provide a better and more complete analytical technology for purposes of identifying wastes that exhibit the corrosivity characteristic.

"Municipal Solid Waste Landfills: Financial Assurance Effective Dates"

Citation:

April 7, 1995
(60 FR 17649)

SUMMARY: EPA is delaying the effective date of the financial assurance criteria of 40 CFR Part 258, Subpart G until April 9, 1997. The extension applies to all municipal solid waste landfills, including remote, very small landfills. The effective date of this extension is March 31, 1995.

Final Rules (cont'd)

"Hazardous Waste Identification and Listing: Carbamate Production"

Citation:
April 17, 1995
(60 FR 19165)

SUMMARY: EPA finalized its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals on February 9, 1995 (60 FR 7824). In that rule, the Agency added 58 chemicals to the list of commercial chemical products in §261.33 and added these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA is correcting minor typographical and omission errors in the listing of these chemicals as well as in the listing of their reportable quantities. This rule is effective April 17, 1995.

"Wyoming: Final Determination of Full Program Adequacy of State Municipal Solid Waste Permit Program"

Citation:
April 17, 1995
(60 FR 19251)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA gave notice of a final determination approving the adequacy of Wyoming's municipal solid waste landfill permit program. The effective date of this rule is April 19, 1995.

"Campo Band of Mission Indians: Final Determination of Full Program Adequacy of Tribal Municipal Solid Waste Permit Program"

Citation:
May 1, 1995
(60 FR 21191)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA gave notice of a final determination approving the adequacy of the Campo Band of Mission Indians' municipal solid waste landfill permit program. The effective date of this rule is May 1, 1995.

"Comprehensive Guideline for Procurement of Products Containing Recovered Materials"

Citation:
May 1, 1995
(60 FR 21370)

SUMMARY: Section 6002 of RCRA requires EPA to designate items that are or can be produced with recovered materials and to recommend practices for the procurement of designated items by procuring agencies. Once EPA designates an item, any procuring agency, when using appropriated federal funds to procure that item, shall purchase it with the highest percentage of recovered material practicable. EPA is promulgating a final regulation designating 19 new items that are or can be made with recovered materials. The effective date of this rule is May 1, 1995.

Final Rules (cont'd)

"Recovered Materials Advisory Notice"

Citation:

May 1, 1995
(60 FR 21386)

SUMMARY: Section 6002 of RCRA requires EPA to designate items that are or can be made with recovered materials and provide recommendations for the procurement of these items when using federal funds for such purchases. On May 1, 1995 (60 FR 21370), EPA designated 19 new items in its Comprehensive Procurement Guidelines (CPG). EPA is announcing its recommendations to procuring agencies for meeting their §6002 obligations with respect to the new and existing designated items. The effective date of this action is May 1, 1995.

"Hazardous Waste Management System: Universal Waste Rule"

Citation:

May 11, 1995
(60 FR 25492)

SUMMARY: EPA is promulgating streamlined management regulations for certain widely generated wastes identified as universal wastes. Specifically, the rule applies to hazardous waste batteries, hazardous waste pesticides that are recalled or that are sent to a collection program, and certain mercury-containing hazardous waste thermostats. By streamlining the requirements for handlers and transporters of the waste, the Agency hopes to facilitate collection programs and to remove these widely generated wastes from municipal waste streams. At the same time, the regulations assure that wastes subject to this system will go to appropriate treatment, recycling, or disposal facilities which are subject to full Subtitle C controls. The rule also contains a petition process by which other wastes may be added to the system. Because this rule is deemed to be less stringent than the current regulations, states are not required to adopt the provisions of Part 273. However, EPA strongly encourages states to adopt this rule. The effective date of this rule in unauthorized states is May 11, 1995.

Final Rules (cont'd)

"Hazardous Waste Identification and Listing: Carbamate Production"

Citation:

May 12, 1995
(60 FR 25619)

SUMMARY: EPA finalized its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals on February 9, 1995 (60 FR 7824). In that rule, the Agency added 58 chemicals to the list of commercial chemical products in §261.33 and added these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA corrected minor typographical and omission errors in the listing of these chemicals as well as in the listing of their reportable quantities on April 17, 1995 (60 FR 19165). The Agency is correcting a typographical error and an omission in the April 17, 1995, correction notice. The effective date of this rule is August 9, 1995.

"Hazardous Waste TSDFs and Generators: Organic Air Emissions Standards for Tanks, Surface Impoundments, and Containers"

Citation:

May 19, 1995
(60 FR 26828)

SUMMARY: On December 6, 1995 (59 FR 62896), EPA promulgated air standards in order to reduce organic emissions from hazardous waste management activities. Under the standards, air emissions controls must be used for tanks, surface impoundments, and containers. These standards were originally scheduled to be effective on June 5, 1995. Since promulgation, however, EPA has become aware that certain provisions of the final standards may require clarification and plans to publish a subsequent Federal Register notice to address these provisions. To ensure that all facilities have time to make alterations in their compliance plans prior to the effective date of the standards, EPA is postponing the effective date of the rule until December 6, 1995.

Final Rules (cont'd)

"Reportable Quantity Adjustments: Clean Air Act Hazardous Air Pollutants and RCRA Hazardous Wastes"

Citation:

June 12, 1995
(60 FR 30926)

SUMMARY: EPA finalized changes to reportable quantities (RQs) for certain hazardous substances under CERCLA. This final rule revises the table of hazardous substances at 40 CFR §302.4 to add 47 individual Clean Air Act (CAA) hazardous air pollutants and adjust their statutory one-pound RQs; add five other CAA hazardous air pollutants that are categories of substances and assign no RQ to the categories; and adjust RQs for 11 RCRA hazardous wastes. EPA thoroughly evaluated the intrinsic properties of these substances to determine appropriate levels for the adjusted RQs. The adjustments are also consistent with the Agency's Common Sense goals in that the rule will minimize net reporting and recordkeeping burdens. The effective date of this rule is July 12, 1995.

"Massachusetts: Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program"

Citation:

July 5, 1995
(60 FR 34982)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA has concluded that the Commonwealth of Massachusetts' municipal solid waste landfill permitting program meets all of the statutory and regulatory requirements established by RCRA. EPA has therefore granted a final determination of adequacy for all portions of Massachusetts' municipal solid waste permit program. The determination of adequacy for Massachusetts will be effective on July 5, 1995. EPA also noted that the Agency intends to propose a State/Tribal Implementation Rule (STIR). STIR will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs.

"Liquids in Landfills: Addition of Test Method to Demonstrate Sorbent Non-biodegradability"

Citation:

July 11, 1995
(60 FR 35703)

SUMMARY: In 1984, Congress required EPA to promulgate a rule that prohibited the disposal in hazardous waste landfills of containerized liquids that had been absorbed in biodegradable materials. EPA has granted a petition to add a third test method to demonstrated that a sorbent is non-biodegradable. If significant adverse comments are received, this direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule. This final action will become effective on September 11, 1995, unless EPA receives significant adverse comment on the proposal by August 10, 1995.

Final Rules (cont'd)

"Maryland: Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program"

Citation:

August 2, 1995
(60 FR 39385)

SUMMARY: Pursuant to RCRA §4005(c)(1)(C), EPA has concluded that the State of Maryland's municipal solid waste landfill (MSWLF) permitting program satisfies a major portion of the statutory and regulatory MSWLF requirements established by RCRA. EPA has therefore granted a final determination of partial program adequacy for Maryland's municipal solid waste permit program. The determination of partial adequacy for Maryland will be effective on August 2, 1995.

"Reinterpretation of Carbamate Production Waste Listing"

Citation:

August 14, 1995
(60 FR 41817)

SUMMARY: EPA reinterpreted the scope of the K156 and K157 carbamate wastes listings to specifically exclude non-carbamate intermediates that are produced at a site other than the ultimate site of carbamate production. Wastes from the production of such intermediates will no longer be covered by the listings. The effective date for this rule is August 8, 1995.

"North Dakota: Final Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program"

Citation:

September 20, 1995
(60 FR 48711)

SUMMARY: EPA has concluded that the State of North Dakota's municipal solid waste landfill (MSWLF) permitting program is adequate to ensure compliance with the revised MSWLF criteria. EPA therefore issued a final determination that the state/tribe's program is adequate. The determination of adequacy for North Dakota is effective September 18, 1995.

"Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers"

Citation:

September 29, 1995
(60 FR 50426)

SUMMARY: EPA stayed the applicability of the Subpart CC technical requirements for tanks and containers managing certain organic peroxide compounds. These organic peroxides are inherently unstable and therefore cannot be safely confined in closed units or systems. This rule is effective on December 6, 1995.

Final Rules (cont'd)

"Wyoming: Final Authorization of State Hazardous Waste Management Program"

Citation:

October 4, 1995
(60 FR 51925)

SUMMARY: EPA determined that Wyoming's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. To qualify for final authorization, a state's program must (1) be "equivalent" to the federal program, (2) be consistent with the federal program and other state programs, and (3) provide for adequate enforcement. Final authorization will be effective October 18, 1995.

"Delay of General Compliance Date for Small MSWLFs in Either Dry or Remote Areas"

Citation:

October 6, 1995
(60 FR 52337)

SUMMARY: EPA extended the general compliance date of the municipal solid waste landfill (MSWLF) criteria for MSWLFs qualifying in §258.1(f)(1) as small, arid or remote. As a result, qualifying small MSWLFs are therefore not subject to the requirements of 40 CFR Part 258 until October 9, 1997, provided the MSWLF continues to qualify for the small landfill exemption.

"Administrative Stay of the Used Oil Mixture Rule"

Citation:

October 30, 1995
(60 FR 55202)

SUMMARY: EPA announced an administrative stay of the used oil mixture rule regulations in 40 CFR §279.10(b)(2). Section 279.10(b)(2) contains special provisions regulating used oil mixed with either characteristic hazardous waste or waste listed as hazardous because it exhibits a hazardous waste characteristic. After December 29, 1995, the effective date of the stay, these mixtures will be subject to the regulatory requirements for other mixtures of hazardous and solid wastes, including LDRs, until the Agency completes a new rulemaking addressing the used oil mixture rule provisions. (Note: This rule was vacated by the United States Court of Appeals for the D.C. Circuit on January 19, 1996. The court action reinstated §279.10(b)(2).)

Final Rules (cont'd)

"Vermont: Final Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program"

Citation:

November 3, 1995
(60 FR 55843)

SUMMARY: EPA concluded that the State of Vermont's municipal solid waste landfill (MSWLF) permitting program is adequate to assure compliance with the revised federal MSWLF criteria. EPA therefore issued a final determination that the State/Tribe's program is adequate. The determination of adequacy for Vermont is effective November 3, 1995.

"Hazardous Waste Treatment, Storage and Disposal Facilities and Hazardous Waste Generators: Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers"

Citation:

November 13, 1995
(60 FR 56952)

SUMMARY: EPA postponed the effective date of the final Parts 264/265, Subpart CC air emission standards published on December 6, 1994 (60 FR 62896). The new effective date is June 6, 1996. Due to the fact that EPA intends to publish a Federal Register notice clarifying provisions in the final rule and is actively considering amending the rule in ways that would increase compliance flexibility and possibly reduce certain regulatory requirements, EPA considered it appropriate to delay the effective date for an additional six months.

"New Jersey: Final Partial Program Determination of Adequacy of State/Tribal Municipal Solid Waste Permit Program"

Citation:

December 6, 1995
(60 FR 62439)

SUMMARY: EPA granted final partial approval to the following components of New Jersey's municipal solid waste landfill (MSWLF) permitting program: location restrictions, operating criteria, design criteria, closure and post-closure care, and financial assurance criteria. New Jersey's program had been deemed adequate to ensure compliance with the MSWLF criteria. The determination of adequacy for New Jersey's program is effective December 6, 1995.

Final Rules (cont'd)

Citation:

December 11, 1995
(60 FR 63417)

"RCRA Expanded Public Participation"

SUMMARY: EPA issued regulations providing for earlier public involvement and expanded public access to information throughout the hazardous waste treatment, storage, and disposal facility permitting process. EPA required applicants to hold an informal public meeting prior to application submission, the permitting agency to notify the public when it received the application, and combustion facilities to notify the public before a trial burn. In addition, the rule gives the permitting agency the authority to require an information repository at any point during the permitting process or the permit life. This rule is effective on June 11, 1996.

UNDERGROUND STORAGE TANKS (UST)

Proposed Rules

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

Citation:

January 24, 1995
(60 FR 4586)

SUMMARY: EPA has made the tentative decision that Texas' application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. A public hearing will be held, if it is requested. Comments on Texas' final approval and all requests to present oral testimony at the public hearing must be received on or before February 23, 1995.

Final Rules

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

Citation:

February 24, 1995
(60 FR 10331)

SUMMARY: EPA has made the tentative decision that Arkansas' application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program unless public comment shows the need for further review. Final authorization for the program shall be effective at 1:00 p.m. on April 25, 1995, unless EPA publishes a prior Federal Register action withdrawing this final rule. Comments on Arkansas' final authorization must be received on or before March 27, 1995.

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

Citation:

March 7, 1995
(60 FR 12630)

SUMMARY: EPA has made the decision that Iowa's application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. Final approval shall be effective at 1:00 pm eastern time on May 8, 1995.

Final Rules (cont'd)

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

Citation:

March 7, 1995
(60 FR 12631)

SUMMARY: EPA is codifying its approval of the Iowa underground storage tank program in 40 CFR Part 282. Only those provisions of the Iowa program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes. EPA retains the authority under §§9005 and 9006 of Subtitle I to undertake inspections and enforcement actions in Iowa, therefore the approved Iowa enforcement authorities will not be incorporated by reference. This regulation is effective May 8, 1995, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on this codification of Iowa's underground storage tank program must be received on or before April 6, 1995.

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

Citation:

March 8, 1995
(60 FR 12709)

SUMMARY: EPA has made the decision that Utah's application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. Final approval shall be effective at 1:00 pm eastern time on April 7, 1995.

"South Dakota: Final Approval of State Underground Storage Tank Program"

Citation:

March 16, 1995
(60 FR 14334)

SUMMARY: EPA has made the decision that South Dakota's application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. Final approval shall be effective at 1:00 pm eastern time on May 15, 1995.

Final Rules (cont'd)

"South Dakota: Final Approval of State Underground Storage Tank Program"

Citation:

March 16, 1995
(60 FR 14334)

SUMMARY: EPA is codifying its approval of the South Dakota underground storage tank program in 40 CFR Part 282. Only those provisions of the South Dakota program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes. EPA retains the authority under §§9005 and 9006 of Subtitle I to undertake inspections and enforcement actions in South Dakota, therefore the approved South Dakota enforcement authorities will not be incorporated by reference. This regulation is effective May 15, 1995, unless EPA publishes a Federal Register notice withdrawing this immediate final rule. All comments on this codification of South Dakota's underground storage tank program must be received on or before April 17, 1995.

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

Citation:

March 17, 1995
(60 FR 14372)

SUMMARY: EPA has made the decision that Texas' application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program. Final approval shall be effective at 1:00 pm eastern time on April 17, 1995.

"North Dakota: Final Approval of State Underground Storage Tank Program"

Citation:

June 22, 1995
(60 FR 32469)

SUMMARY: EPA has made the decision that North Dakota's application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. Final authorization for the program shall be effective on August 21, 1995, unless EPA publishes a prior Federal Register action withdrawing this final rule. Comments on North Dakota's final authorization must be received on or before July 24, 1995.

Final Rules (cont'd)

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

Citation:
July 5, 1995
(60 FR 34879)

SUMMARY: EPA concluded that Connecticut's application for final approval of its underground storage tank program under Subtitle I of RCRA satisfies all of the requirements necessary to qualify for final approval. As a consequence, EPA intends to grant final approval to the state to operate its program in lieu of the federal program. Final authorization for the program shall be effective on August 4, 1995.

"Underground Storage Tank: Lender Liability"

Citation:
September 7, 1995
(60 FR 46692)

SUMMARY: EPA limited the regulatory obligations of lending institutions and other persons who hold a security interest in a petroleum underground storage tank, or acquire title or deed to a petroleum UST or the facility and/or property on which an UST is located. The rule specifies conditions under which these "security interest holders" may be exempted from the RCRA Subtitle I corrective action technical and financial responsibility regulatory requirements that apply to an UST owner or operator. This rule is effective December 6, 1995.

"Vermont: Incorporation by Reference of Vermont's State Underground Storage Tank Program"

Citation:
September 12, 1995
(60 FR 47300)

SUMMARY: EPA codified in 40 CFR Part 282 the prior approval of Vermont's UST program and incorporated by reference appropriate provisions of state statutes and regulations. This regulation is effective November 13, 1995, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule.

"Utah: Codification of Underground Storage Tank (UST) Program"

Citation:
October 6, 1995
(60 FR 52343)

SUMMARY: EPA codified, in 40 CFR Part 282, the prior approval of Utah's underground storage tank program and incorporated by reference appropriate provisions of Utah's state statutes and regulations. This regulation is effective December 5, 1995, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule.

SUPERFUND (SF)

Proposed Rules

"National Priorities List for Uncontrolled Hazardous Waste Sites"

Citation:

February 13, 1995
(60 FR 8212)

SUMMARY: EPA proposed to add seven new sites to the general section of the National Priorities List (NPL) and two new sites to the federal facilities section. Comments must be submitted on or before April 14, 1995.

"Administrative Reporting Exemptions for Certain Radionuclide Releases"

Citation:

August 4, 1995
(60 FR 40042)

SUMMARY: EPA announced a notice of proposed rulemaking requesting comments on broader administrative exemptions from the release reporting requirements under CERCLA and EPCRA. In particular, the Agency is proposing to grant reporting exemptions for releases of naturally occurring radionuclides associated with land disturbance incidental to extraction activities at certain kinds of mines, and with coal and coal ash piles at all kinds of sites. These reporting exemptions are being proposed in response to comments on a November 30, 1992, proposed rule on administrative reporting exemptions (57 FR 56726). The exemptions would be consistent with the Agency's common sense goals in that they would eliminate unnecessary reporting burdens and allow EPA to focus its resources on the most serious releases. Comments may be submitted on or before October 3, 1995.

"National Priorities List for Uncontrolled Hazardous Waste Sites"

Citation:

October 2, 1995
(60 FR 51390)

SUMMARY: EPA proposed 12 new sites for inclusion in the General Superfund Section of the National Priorities List. Eight of the sites are proposed based on HRS scores of 28.50 or above. One site is proposed based on its designation as the State of Georgia's top priority. Three of the sites are proposed on the basis of ATSDR health advisory criteria. EPA also proposed to withdraw an earlier proposal to list the Broward County 21st Manor Dump site on the NPL.

Proposed Rules (cont'd)

Citation:

November 20, 1995
(60 FR 57747)

"Petroleum Refining Process Wastes"

SUMMARY: EPA proposed to list three wastes from the petroleum refining industry as hazardous waste under RCRA. Additionally, EPA proposed to designate the wastes proposed for listing as CERCLA hazardous substances and adjust the one-pound statutory reportable quantities (RQs) for these substances. EPA will accept public comments until February 20, 1996.

Final Rules

Citation:

January 24, 1995
(60 FR 4568)

"National Priorities List: Suffolk City Landfill"

SUMMARY: EPA announced the deletion of the Suffolk City Landfill in Suffolk, Virginia, from the National Priorities List (NPL). EPA published a notice of its intent to delete the site from the NPL on October 20, 1994 (59 FR 52949). EPA and the Commonwealth of Virginia have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is January 11, 1995.

Citation:

February 9, 1995
(60 FR 7824)

"Hazardous Waste Identification and Listing: Carbamate Production"

SUMMARY: EPA is finalizing its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals. Further, the Agency is also adding 58 chemicals to the list of commercial chemical products in §261.33. This action also adds these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA is deferring action on 12 specific chemicals and four generic categories and providing an exemption from the definition of hazardous waste under RCRA for certain wastes, if the generator demonstrates that hazardous air pollutants are not being discharged or volatilized during waste treatment. Finally, the Agency is also exempting from the definition of hazardous wastes biological treatment sludges generated from the treatment of certain wastes provided the sludges do not display any of the characteristics of a hazardous waste. This rule is effective on August 9, 1995.

Final Rules (cont'd)

"National Priorities List: Boise Cascade/Onan Corp./Medtronics, Inc."

Citation:

February 15, 1995
(60 FR 8570)

SUMMARY: EPA announced the deletion of the Boise Cascade/Onan Corp./Medtronics, Inc. Site in Minnesota, from the National Priorities List. The Agency published a notice of its intent to delete the site on October 26, 1994 (59 FR 53773). EPA and the State of Minnesota determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is February 15, 1995.

"National Priorities List: Olmstead County Sanitary Landfill"

Citation:

February 15, 1995
(60 FR 8570)

SUMMARY: EPA announced the deletion of the Olmstead County Sanitary Landfill Site in Minnesota, from the National Priorities List. The Agency published a notice of its intent to delete the site on October 13, 1994 (59 FR 51933). EPA and the State of Minnesota determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is February 15, 1995.

"National Priorities List for Uncontrolled Hazardous Waste Sites: Deletion Policy for Resource Conservation and Recovery Act Sites"

Citation:

March 20, 1995
(60 FR 14641)

SUMMARY: EPA is announcing its policy of deleting RCRA facilities from the NPL before a cleanup is complete if the site is being, or will be, adequately addressed by the RCRA corrective action program under an existing permit or order. This deletion policy applies to sites on the NPL that are RCRA-regulated facilities engaged in treatment, storage, or disposal of hazardous waste, but does not apply to federal facility sites. The Agency requested comment on this policy on December 21, 1988 (53 FR 51421). In order to be eligible for deletion from the NPL based on deferral to RCRA corrective action authorities, a site must meet the following criteria: 1) if evaluated under EPA's current RCRA/NPL deferral policy, the site would be eligible for deferral from listing on the NPL; 2) the CERCLA site is currently being addressed by RCRA corrective action authorities under an existing enforceable order or permit containing corrective action provisions; 3) response under RCRA is progressing adequately; and 4) deletion would not disrupt an ongoing CERCLA response action. This policy is effective April 19, 1995.

Final Rules (cont'd)

Citation:
March 20, 1995
(60 FR 14645)

"National Priorities List: Kent City Mobile Home Park Site"

SUMMARY: EPA announced the deletion of the Kent City Mobile Home Park Site, located in Kent City, Michigan, from the National Priorities List. The Agency published a notice of its intent to delete the site on November 8, 1994 (59 FR 55606). EPA and the State of Michigan determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is March 20, 1995.

Citation:
March 23, 1995
(60 FR 15247)

"National Priorities List: Crystal City Airport Superfund Site"

SUMMARY: EPA announced the deletion of the Crystal City Airport Superfund Site in Crystal City, Texas, from the National Priorities List. EPA published a notice of intent to delete the site on January 4, 1995 (59 FR 422). EPA and the State of Texas determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is March 23, 1995.

Citation:
March 24, 1995
(60 FR 15489)

"National Priorities List: Radium Chemical Company"

SUMMARY: EPA announced the deletion of the Radium Chemical Company Site in Woodside, New York, from the National Priorities List. The closing date for comments on the Notice of Intent to Delete was December 9, 1994. EPA received no verbal or written comments. EPA and the State of New York determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is March 24, 1995.

Citation:
March 29, 1995
(60 FR 16053)

"National Oil and Hazardous Substances Pollution Contingency Plan: CERCLIS Definition Change"

SUMMARY: EPA is adopting new procedures for maintaining its Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS). The Agency has decided to remove from CERCLIS those sites that do not warrant further evaluation under Superfund. EPA is formally amending the CERCLIS definition in 40 CFR §300.5 to implement this procedural change. The effective date of this rule is March 29, 1995.

Final Rules (cont'd)

"National Priorities List: Independent Nail Superfund Site"

Citation:

April 3, 1995
(60 FR 16808)

SUMMARY: EPA announced the deletion of the Independent Nail Superfund Site, located in Beaufort, South Carolina, from the National Priorities List. The Agency published a notice of its intent to delete the site on January 13, 1995 (60 FR 3189). EPA and the State of South Carolina determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is April 3, 1995.

"National Priorities List: Wilson Concepts Superfund Site"

Citation:

April 4, 1995
(60 FR 17004)

SUMMARY: EPA announced the deletion of the Wilson Concepts Superfund Site, located in Pompano Beach, Florida, from the National Priorities List. The Agency published a notice of its intent to delete the site on February 10, 1995 (60 FR 7934). EPA and the State of Florida determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is April 4, 1995.

"Hazardous Waste Identification and Listing: Carbamate Production"

Citation:

April 17, 1995
(60 FR 19165)

SUMMARY: EPA finalized its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals on February 9, 1995 (60 FR 7824). In that rule, the Agency added 58 chemicals to the list of commercial chemical products in §261.33 and added these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA is correcting minor typographical and omission errors in the listing of these chemicals as well as in the listing of their reportable quantities. This rule is effective April 17, 1995.

"National Priorities List: Cemetery Dump Site"

Citation:

April 19, 1995
(60 FR 19525)

SUMMARY: EPA announced the deletion of the Cemetery Dump Site, located in Rose Township, Michigan, from the National Priorities List. The Agency published a notice of its intent to delete the site on February 15, 1995 (60 FR 8616). EPA and the State of Michigan determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is April 19, 1995.

Final Rules (cont'd)

"National Priorities List (NPL) for Uncontrolled Hazardous Waste Sites"

Citation:
April 25, 1995
(60 FR 20330)

SUMMARY: EPA announced the addition of four new sites to the NPL; three to the General Superfund Section and one to the Federal Facilities Section. This announcement also includes a printing of the entire NPL. The effective date for this rule is May 25, 1995.

"National Priorities List: Kenmark Textile Corporation Site"

Citation:
May 1, 1995
(60 FR 21047)

SUMMARY: EPA announced the deletion of the Kenmark Textile Corporation Site, located in Farmingdale, New York, from the National Priorities List. The Agency published a notice of its intent to delete the site on December 15, 1994 (59 FR 64644). EPA and the State of New York determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is May 31, 1995.

"Hazardous Waste Identification and Listing: Carbamate Production"

Citation:
May 12, 1995
(60 FR 25619)

SUMMARY: EPA finalized its March 1, 1994 (59 FR 9808), proposed rule to list as hazardous six wastes generated during the production of carbamate chemicals on February 9, 1995 (60 FR 7824). In that rule, the Agency added 58 chemicals to the list of commercial chemical products in §261.33 and added these newly listed chemicals to the CERCLA list of hazardous substances in §302.4. EPA has corrected minor typographical and omission errors in the listing of these chemicals as well as in the listing of their reportable quantities on April 17, 1995 (60 FR 19165). The Agency is correcting a typographical error and an omission in the April 17, 1995, correction notice. The effective date of this rule is August 9, 1995.

"National Priorities List: United States Army Fort Lewis Landfill No. 5"

Citation:
May 22, 1995
(60 FR 27041)

SUMMARY: EPA announced the deletion of the United States Army Fort Lewis Landfill No. 5, located in Pierce County, Washington, from the National Priorities List. The Agency published a notice of its intent to delete the site on March 27, 1995 (60 FR 15737). EPA and the State of Washington determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is May 22, 1995.

Final Rules (cont'd)

Citation:

May 25, 1995
(60 FR 27697)

"National Priorities List: Hamilton Island Site"

SUMMARY: EPA announced the deletion of the Hamilton Island Site, located in Skamania County, Washington, from the National Priorities List. The Agency published a notice of its intent to delete the site on April 12, 1995 (60 FR 18565). EPA and the State of Washington determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is May 25, 1995.

Citation:

May 26, 1995
(60 FR 27896)

"National Priorities List: Southern Shipbuilding Site"

SUMMARY: EPA announced the addition of the Southern Shipbuilding Site, located in Slidell, Louisiana, to the National Priorities List (NPL). The Agency proposed to add the site to the NPL on February 13, 1995 (60 FR 8212). The effective date of this action is June 26, 1995.

Citation:

June 12, 1995
(60 FR 30926)

"Reportable Quantity Adjustments: Clean Air Act Hazardous Air Pollutants and RCRA Hazardous Wastes"

SUMMARY: EPA finalized changes to reportable quantities (RQs) for certain hazardous substances under CERCLA. This final rule revises the table of hazardous substances at 40 CFR §302.4 to add 47 individual Clean Air Act (CAA) hazardous air pollutants and adjust their statutory one-pound RQs; add five other CAA hazardous air pollutants that are categories of substances and assign no RQ to the categories; and adjust RQs for 11 RCRA hazardous wastes. EPA thoroughly evaluated the intrinsic properties of these substances to determine appropriate levels for the adjusted RQs. The adjustments are also consistent with the Agency's Common Sense goals in that the rule will minimize net reporting and recordkeeping burdens. The effective date of this rule is July 12, 1995.

Citation:

June 15, 1995
(60 FR 31414)

"National Priorities List: Koch Refining Company Superfund Site"

SUMMARY: EPA announced the deletion of the Koch Refining Company Superfund Site, located in Rosemount, Minnesota, from the National Priorities List. The Agency published a notice of its intent to delete the site on March 3, 1995 (60 FR 15273). EPA and the State of Minnesota have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is June 15, 1995.

Final Rules (cont'd)

"National Priorities List: Alpha Chemical Corporation Superfund Site"

Citation:

June 28, 1995
(60 FR 33362)

SUMMARY: EPA announced the deletion of the Alpha Chemical Corporation Superfund Site, located in Lakeland, Florida, from the National Priorities List. The Agency published a notice of its intent to delete the site on May 3, 1995 (60 FR 21786) EPA and the State of Florida Department of Environmental Protection have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is June 28, 1995.

"Final Policy Toward Owners of Property Containing Contaminated Aquifers"

Citation:

July 3, 1995
(60 FR 34790)

SUMMARY: EPA announced and published a policy stating the Agency's position that, subject to certain conditions, where hazardous substances have come to be located on or in a property solely as the result of subsurface migration in an aquifer from a source or sources outside the property, EPA will not take enforcement actions against the owner of such property.

"Agreements With Prospective Purchasers of Contaminated Property"

Citation:

July 3, 1995
(60 FR 34792)

SUMMARY: EPA announced and published new guidance clarifying when the Agency will provide a covenant not to sue a prospective purchaser of contaminated property under CERCLA. The new guidance, which supersedes previously published Agency policy toward prospective purchasers, essentially expands the criteria by which the Agency will consider entering into prospective purchaser agreements, while also expanding the universe of eligible sites. A model prospective purchaser agreement is included in the new guidance.

Final Rules (cont'd)

"National Priorities List: Dakhue Sanitary Landfill Superfund Site"

Citation:
July 24, 1995
(60 FR 37827)

SUMMARY: EPA announced the deletion of the Dakhue Sanitary Landfill Site, located in Cannon Falls, Minnesota, from the National Priorities List. The Agency published a notice of its intent to delete the site on March 15, 1995 (60 FR 13944). EPA and the State of Minnesota have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is July 24, 1995.

"Revised Model CERCLA RD/RA Consent Decree"

Citation:
July 28, 1995
(60 FR 38817)

SUMMARY: EPA published a revised version of the Model CERCLA RD/RA Consent Decree which supersedes the 1991 interim Model. The substantive changes contained in the revised Model Consent Decree are designed to enhance the fairness and increase the number of settlements in which PRPs agree to implement government-selected remedies at Superfund sites.

"National Priorities List: Northwestern States Portland Cement Company Superfund Site"

Citation:
August 31, 1995
(60 FR 45343)

SUMMARY: EPA announced the deletion of the Northwestern States Portland Cement Company Superfund Site, located in Mason City, Iowa, from the National Priorities List. The Agency published a notice of its intent to delete the site on October 19, 1995 (59 FR 52747). EPA and the State of Iowa have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is August 31, 1995.

"National Priorities List: Jackson Township Landfill Superfund Site"

Citation:
September 13, 1995
(60 FR 47849)

SUMMARY: EPA announced the deletion of the Jackson Township Landfill Superfund Site, located in Ocean County, New Jersey, from the National Priorities List. The Agency published a notice of its intent to delete the site on April 26, 1995. EPA and the State of New Jersey have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is September 13, 1995.

Final Rules (cont'd)

"National Priorities List: NAS Whidbey Seaplane Base Superfund Site"

Citation:
September 21, 1995
(60 FR 48902)

SUMMARY: EPA announced the deletion of the NAS Whidbey Seaplane Base Site, located on Whidbey Island, Washington, from the National Priorities List. EPA and the State of Washington determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. This deletion is effective on September 21, 1995.

"National Priorities List: Brown Wood Preserving Superfund Site"

Citation:
September 22, 1995
(60 FR 49230)

SUMMARY: EPA announced the deletion of the Brown Wood Preserving Site, located in Live Oak, Florida, from the National Priorities List. The Agency published a notice of its intent to delete the site on July 6, 1995. EPA and the State of Florida have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is September 22, 1995.

"National Priorities List: E.I. du Pont de Nemours and Company Superfund Site"

Citation:
September 25, 1995
(60 FR 49347)

SUMMARY: EPA announced the deletion of the E.I. du Pont de Nemours and Company County Road X23 Superfund Site, located in Fort Madison, Iowa, from the National Priorities List. EPA and the State of Iowa determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. This deletion is effective on September 25, 1995.

"National Priorities List: Pesses Chemical Company Superfund Site"

Citation:
September 28, 1995
(60 FR 50114)

SUMMARY: EPA announced the deletion of the Pesses Chemical Company Site in Fort Worth, Texas, from the National Priorities List. The Agency published a notice of its intent to delete the site on April 17, 1995. EPA and the State of Texas have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is September 28, 1995.

Final Rules (cont'd)

"National Priorities List: Witco Chemical Corporation Superfund Site"

Citation:

September 29, 1995
(60 FR 50430)

SUMMARY: EPA announced the deletion of the Witco Chemical Corporation Superfund Site, in Oakland, New Jersey, from the National Priorities List. EPA and the State of New Jersey determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. This deletion is effective on September 29, 1995.

"National Priorities List: Action Anodizing, Plating, and Polishing Site"

Citation:

September 29, 1995
(60 FR 50431)

SUMMARY: EPA announced the deletion of the Action Anodizing, Plating, and Polishing Site, in Oakland, New Jersey, from the National Priorities List. EPA and the State of New York determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. This deletion is effective on October 30, 1995.

"National Priorities List"

Citation:

September 29, 1995
(60 FR 50435)

SUMMARY: EPA added eight new sites to the NPL; six to the General Superfund Section and two to the Federal Facilities Section. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risk associated with the sites and to determine what CERCLA financed remedial actions (if any) may be appropriate. This deletion is effective on October 30, 1995.

"National Priorities List: Stewco, Incorporated Superfund Site"

Citation:

October 4, 1995
(60 FR 51927)

SUMMARY: EPA announced the deletion of the Stewco, Incorporated Superfund Site, located in Waskom, Texas, from the National Priorities List. The Agency published a notice of its intent to delete the site on July 26, 1995 (60 FR 38297). EPA and the State of Texas have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is October 4, 1995.

Final Rules (cont'd)

Citation:

November 1, 1995
(60 FR 55466)

"Partial Deletion of Sites Listed on the National Priorities List"

SUMMARY: EPA announced a change in its policy concerning deletion of sites listed on the National Priorities List. EPA will now delete releases of hazardous substances at portions of sites, if those releases qualify for deletion. The Agency expects that this action will help to promote the economic redevelopment of Superfund sites and to better communicate the completion of successful partial cleanups. This policy change is effective immediately.

Citation:

November 27, 1995
(60 FR 58238)

"National Priorities List: Woodbury Chemical Superfund Site"

SUMMARY: EPA announced the deletion of the Woodbury Chemical Site, located in Princeton, Florida, from the National Priorities List. The Agency published a notice of its intent to delete the site on August 21, 1995 (60 FR 43424). EPA and the State of Florida have determined that no further cleanup under CERCLA is appropriate and that remedial actions at the site have been protective of public health, welfare, and the environment. The effective date of this action is November 27, 1995.

Citation:

December 7, 1995
(60 FR 62849)

"Revised Model De Minimis Contributor Consent Decree and Administrative Order on Consent"

SUMMARY: EPA published the revised "Model CERCLA Section 122(g)(4) De Minimis Contributor Consent Decree" and the revised "Model CERCLA Section 122(g)(4) De Minimis Contributor Administrative Order on Consent." These models, developed by the Agency and DOJ, supersede the "Interim Model CERCLA Section 122(g)(4) De Minimis Waste Contributor Consent Decree and Administrative Order on Consent" issued on October 19, 1987 (52 FR 43393; November 12, 1987). The revised models are designed as guidance for EPA and DOJ staff when negotiating CERCLA §122(g)(1)(A) de minimis contributor settlements. In addition to the models, EPA published a September 29, 1995, joint memorandum from EPA and DOJ announcing issuance of the models.

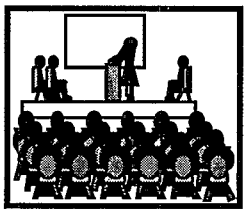
Final Rules (cont'd)

"CERCLA Enforcement Against Lenders and Government Entities that Acquire Property Involuntarily"

Citation:

December 11, 1995
(60 FR 63517)

SUMMARY: EPA published a policy memorandum which sets forth EPA's and DOJ's policy regarding the government's pursuit of CERCLA cost recovery from lenders and against government entities that acquire property involuntarily. Although the "Lender Liability Rule," promulgated in 1992 (April 29, 1992; 57 FR 18344), was vacated by the Circuit Court of appeals for the District of Columbia in 1994, this memorandum states that, as an enforcement policy, EPA and DOJ intend to apply as guidance the provisions of the 1992 Rule, thereby endorsing the interpretations and rationales announced in that Rule.



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

Proposed Rules

"Toxic Chemical Release Reporting: Ammonia, Ammonium Sulfate, Ammonium Nitrate, and Water Dissociable Ammonium Salts"

Citation:

April 3, 1995
(60 FR 16830)

SUMMARY: EPA is amending its March 30, 1990, proposal to grant a petition to delete ammonium sulfate solution from the list of toxic chemicals subject to reporting under §313 of EPCRA. This proposal suggested that releases of ammonium sulfate could be covered under the §313 ammonia listing. Using similar reasoning, EPA is expanding the proposal to include the deletion of ammonium nitrate (solution). Ammonium nitrate solution could be more effectively covered by the listings for ammonia and the recently added water dissociable nitrate compounds category. In addition, EPA is clarifying that aqueous ammonia from all water dissociable ammonium salts is reportable under the ammonia listing. Finally, EPA is proposing that 10 percent of total aqueous ammonia be reported under the ammonia listing. Comments on this proposal must be received on or before May 3, 1995.

"Toxic Chemical Release Reporting: Di-(2-ethylhexyl) Adipate"

Citation:

August 1, 1995
(60 FR 39132)

SUMMARY: EPA is proposing to grant a petition to delist di-(2-ethylhexyl) adipate (DEHA), also known as bis-(2-ethylhexyl) adipate (CAS #103-23-1), from the reporting requirements under §313 of EPCRA. This action is based on EPA's preliminary conclusion that DEHA meets the deletion criteria of EPCRA §313(d)(3) based upon its potential effects on human health and the environment. Comments on this proposed deletion must be received by October 2, 1995.

Proposed Rules (cont'd)

"Administrative Reporting Exemptions for Certain Radionuclide Releases"

Citation:

August 4, 1995
(60 FR 40042)

SUMMARY: EPA announced a notice of proposed rulemaking requesting comments on broader administrative exemptions from the release reporting requirements under CERCLA and EPCRA. In particular, the Agency is proposing to grant reporting exemptions for releases of naturally occurring radionuclides associated with land disturbance incidental to extraction activities at certain kinds of mines, and with coal and coal ash piles at all kinds of sites. These reporting exemptions are being proposed in response to comments on a November 30, 1992, proposed rule on administrative reporting exemptions (57 FR 56726). The exemptions would be consistent with the Agency's common sense goals in that they would eliminate unnecessary reporting burdens and allow EPA to focus its resources on the most serious releases. Comments may be submitted on or before October 3, 1995.

"Toxic Chemical Release Reporting: Diethyl Phthalate"

Citation:

September 5, 1995
(60 FR 46076)

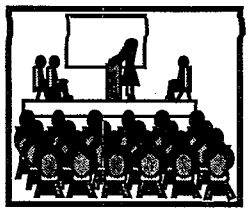
SUMMARY: EPA has proposed to delete diethyl phthalate (DEP) from the list of toxic chemicals subject to reporting requirements under §313 of EPCRA, because the Agency has preliminarily concluded that DEP meets the deletion criteria of EPCRA §313(d)(3). Written comments on this proposed rule must be received on or before November 6, 1995.

"Toxic Chemical Release Reporting: Hydrochloric Acid"

Citation:

November 15, 1995
(60 FR 57382)

SUMMARY: EPA proposed modification of the listing for hydrochloric acid on the list of toxic chemicals subject to EPCRA §313. Specifically, EPA proposed to delete non-aerosol forms of hydrochloric acid from the list of toxic chemicals, based on the Agency's conclusion that releases of non-aerosol forms of hydrochloric acid do not cause adverse effects to human health or the environment under ordinary exposure scenarios and, therefore, do not meet the §313(d)(2) listing criteria. Written comments must be received by January 16, 1996.



Final Rules

"Toxic Chemical Release Reporting: Butyl Benzyl Phthalate"

Citation:

February 17, 1995
(60 FR 9299)

SUMMARY: EPA granted a petition to delete butyl benzyl phthalate (BBP) from the list of toxic chemicals under EPCRA §313. The rule is effective on February 17, 1995, and relieves facilities of their obligation to report releases of BBP beginning with the 1994 reporting year.

"Toxic Chemical Release Reporting: Copper Phthalocyanine Compounds"

Citation:

April 11, 1995
(60 FR 18361)

SUMMARY: EPA deleted copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine from the copper compounds category on the list of toxic chemicals subject to reporting under EPCRA §313. EPA proposed to delete copper monochlorophthalocyanine on June 6, 1994 (59 FR 29252). EPA has found, however, that all copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine meet the deletion criteria outlined in §313(d)(3), and therefore is relieving facilities of their obligation to report releases of these compounds starting with the 1994 reporting year. This rule is effective April 11, 1995.

"Toxic Chemical Release Reporting: Monosodium Methanearsonate and Disodium Methanearsonate"

Citation:

April 20, 1995
(60 FR 19702)

SUMMARY: EPA is denying a petition to delist monosodium methanearsonate and disodium methanearsonate from the reporting requirements under EPCRA §313. The petition was submitted on October 18, 1994, by ISK Biosciences Corporation. EPA determined, however, that neither of the chemicals meet the deletion criteria in §313(d)(3). EPA is denying this petition because these chemicals are known to cause toxic effects in experimental animals as a result of chronic exposure and can reasonably be expected to cause cancer in humans.

"Toxic Chemical Release Reporting: Acetone"

Citation:

June 16, 1995
(60 FR 31643)

SUMMARY: EPA deleted acetone from the list of toxic chemicals under §313 of EPCRA. This deletion is based on EPA's determination that acetone meets the delisting criteria of EPCRA §313(d)(3). By promulgating this rule, EPA is relieving facilities of reporting requirements under §313 for acetone beginning with the 1994 reporting year.

Final Rules (cont'd)

"Toxic Chemical Release Reporting: Ammonia, Ammonium Sulfate, Ammonium Nitrate, and Water Dissociable Ammonium Salts"

Citation:

June 30, 1995
(60 FR 34172)

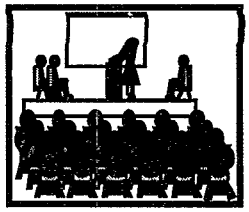
SUMMARY: In response to a petition to delete ammonium sulfate (solution) from the list of toxic chemicals subject to reporting under §313 of EPCRA, EPA is taking the following four actions: deleting ammonium sulfate (solution) from the toxic chemical list; requiring that threshold and release determinations for aqueous ammonia be limited to 10 percent of the total ammonia present in aqueous solutions; modifying the ammonia listing by adding a qualifier; and deleting ammonium nitrate (solution) as a separately listed toxic chemical. EPA has concluded that the aqueous ammonia present in ammonium sulfate (solution) is more appropriately reported under the EPCRA §313 ammonia listing, and that reporting 10 percent of total aqueous ammonia under the ammonia listing is appropriate and provides sufficient information for the public to assess the impacts of releases of aqueous ammonia. EPA has also concluded that releases of ammonium nitrate (solution) are more appropriately reported under the EPCRA §313 listings for ammonia and the water dissociable nitrate compounds category. All provisions of this rule are final as of June 30, 1995. The deletion of ammonium sulfate (solution) is effective for the 1994 reporting year and beyond, as is the requirement that 10 percent of total aqueous ammonia be reported under the ammonia listing. The deletion of ammonium nitrate (solution) is effective beginning with the 1995 reporting year.

"Toxic Chemical Release Reporting: Sulfuric Acid"

Citation:

June 30, 1995
(60 FR 34182)

SUMMARY: EPA modified the listing for sulfuric acid on the list of toxic chemicals subject to §313 of EPCRA. Specifically, EPA deleted non-aerosol forms of sulfuric acid from the toxic chemical list. This deletion is based on EPA's review of available data on the health and environmental effects of sulfuric acid. EPA has concluded that non-aerosol forms of sulfuric acid meet the EPCRA §313(d)(3) deletion criteria because these forms cannot reasonably be anticipated to cause adverse effects on human health or the environment under normal exposure scenarios. By promulgating this rule, EPA has relieved facilities of their obligation to report releases on non-aerosol forms of sulfuric acid that occurred during the 1994 reporting year, as well as releases that will occur in the future.



Final Rules (cont'd)

"Federal Acquisition and Community Right-To-Know"

Citation:

August 10, 1995
(60 FR 40989)

SUMMARY: President Clinton Issued Executive Order 12969 requiring all federal agencies, to the maximum extent practicable, to contract with companies that report in a public manner on toxic chemicals released to the environment. Under the Executive Order, Federal agencies are to include in contract solicitations as an eligibility criterion for the award of competitive acquisition contracts expected to equal or exceed $100,000 with Federal contractors who are currently subject to EPCRA §313, the requirement that such contractors must file (and continue to file for the life of the contract) a Form R for each toxic chemical manufactured, processed, or otherwise used in excess of the applicable annual threshold level by the contractor at a facility. For the purposes of this Executive Order, the list of toxic chemicals includes all substances on the list described in EPCRA §313(c) as the list exists on the effective date of this order. The Executive Order indicates that EPA will publish guidance for compliance with the Order, including applicability with respect to subcontractors, no later than September 30, 1995. This Order is effective immediately.

"Guidance on Implementing Executive Order 12969"

Citation:

September 29, 1995
(60 FR 50738)

SUMMARY: EPA published guidance to assist federal agencies in compliance with Executive Order 12969, which mandates that federal agencies include in contract solicitations the requirement that federal contractors ensure that Toxic Chemical Release Inventory Forms are filed by their covered facilities for the life of the federal contract.

"Toxic Chemical Release Reporting: Administrative Stay and Request for Comment on Petition to Delist: DBNPA"

Citation:

October 27, 1995
(60 FR 54949)

SUMMARY: EPA granted a request for an administrative stay of the reporting requirements under §313 of EPCRA for 2,2-dibromo-3-nitrilopropionamide (DBNPA). The effect of the stay is to suspend reporting on DBNPA while the Agency completes a reassessment of the data supporting the listing of this chemical. The Agency also requests comment on whether DBNPA should be removed from the list of EPCRA §313 toxic chemicals. The administrative stay is effective October 27, 1995. Written comments on the petition to delist DBNPA must be received on or before November 27, 1995.

Final Rules (cont'd)

Citation:

December 15, 1995
(60 FR 64407)

"Toxic Chemical Release Reporting: Reopening of Comment Period on Petition to Delist DBNPA"

SUMMARY: EPA granted a request to extend the comment period for a petition to delete 2,2-dibromo-3-nitrilopropionamide (DBNPA) from the EPCRA §313 list of toxic chemicals. The administrative stay of reporting requirements for DBNPA under §313 of EPCRA and §6607 of the Pollution Prevention Act remains in place (60 FR 54949; October 27, 1995). EPA also corrected an error printed in the October 27, 1995 notice. Written comments on the petition to delist DBNPA will be accepted by EPA on or before January 29, 1996.

CROSS-PROGRAM

"Voluntary Environmental Self-Policing and Self-Disclosure"

Citation:

April 3, 1995
(60 FR 16875)

SUMMARY: EPA is announcing and requesting comment on its interim policy concerning incentives for regulated entities to disclose and correct violations discovered during environmental auditing. This interim policy is intended to promote environmental compliance by providing greater certainty as to EPA's enforcement response to voluntary self-evaluations, disclosure of violations, and prompt correction of such violations. The incentives for regulated facilities to voluntarily disclose information concerning violations include the elimination or reduction of civil penalties for self-reporting facilities. Further, facilities that voluntarily report violations, correct those violations, and meet certain other specific criteria, will generally not be recommended for criminal prosecution. Finally, this policy states that EPA will not request voluntary audit reports to trigger enforcement actions. This policy is not a final Agency action and cannot be relied upon to create any rights enforceable in any litigation with the United States. This policy is effective as guidance 15 days after publication. Comments on the policy must be received on or before June 2, 1995.

"Supplemental Environmental Projects: Interim Revised Policy"

Citation:

May 10, 1995
(60 FR 24856)

SUMMARY: The Office of Enforcement and Compliance Assurance of EPA is issuing an interim Supplemental Environmental Projects (SEPs) Policy to supersede its February 12, 1991, policy. In certain instances environmentally beneficial projects, or SEPs, may be included in settlements with alleged violators. This policy gives EPA greater flexibility in exercising its enforcement discretion in establishing appropriate settlement penalties. Specifically, it outlines the types of projects that are permissible as SEPs, the penalty mitigation appropriate for a particular SEP, and the terms and conditions under which they may become part of a settlement. EPA intends to implement this policy on an interim basis effective May 8, 1995. Comments must be received on or before August 6, 1995.

Cross-Program (cont'd)

"Compliance Incentives for Small Businesses: Interim Policy"

Citation:

June 23, 1995
(60 FR 32675)

SUMMARY: The Office of Enforcement and Compliance Assurance (EPA) issued the Interim Policy on Compliance Incentives for Small Businesses. This interim policy provides incentives for participation in compliance assistance programs and encourages prompt correction of violations. Specifically, the policy sets forth guidelines for the Agency to waive or reduce penalties for small businesses that make good faith efforts to correct violations, and it provides guidance for states and local governments to offer these incentives. Comments must be received on or before July 31, 1995.

"Removal of Legally Obsolete Rules"

Citation:

June 29, 1995
(60 FR 33912)

SUMMARY: EPA conducted a review of the regulations it administers and removed several sections from the Code of Federal Regulations pertaining to solid waste, hazardous waste, oil discharges, and Superfund which are no longer legally in effect. The removal of these rules is not intended to affect the status of civil or criminal actions initiated prior to June 29, 1995, or actions which may be initiated in the future to redress violations of these rules when they were legally in effect.

"Federal Facilities Cleanup Principles"

Citation:

October 2, 1995
(60 FR 51475)

SUMMARY: EPA announced the availability of "Principles for Environmental Cleanup of Federal Facilities," dated August 2, 1995. The "Principles," developed by the Federal Facilities Environmental Restoration Dialogue Committee, are policy recommendations aimed at improving the process by which federal facility environmental cleanup decisions are made.

Cross-Program (cont'd)

"Regulatory Reinvention (XL) Pilot Projects: XL Community Pilot Program"

Citation:

November 1, 1995
(60 FR 55569)

SUMMARY: EPA announced the XL Community Pilot Program, which provides an opportunity for states, local governments, communities, tribal governments, and other local entities to test flexible and innovative implementation strategies for environmental regulatory requirements. The Agency solicited comments and invited proposals from public and private entities interested in initiating XL community pilot projects. There is no deadline for submissions; EPA will take proposals on a rolling basis for selection of a limited number of pilots.

"Incentives for Self Policing: Discovery, Disclosure, Correction, and Prevention of Violations"

Citation:

December 22, 1995
(60 FR 66706)

SUMMARY: EPA issued a final policy to encourage regulated entities to voluntarily discover, disclose, and correct violations of environmental requirements. Incentives include eliminating or substantially reducing the gravity component of civil penalties (the portion of a penalty over and above the economic benefit received from non-compliance) and not recommending the cases for criminal prosecution. The policy also requires companies to act to prevent recurrence of the violation and to remedy any environmental harm which has occurred.

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 key word. For example, to find information dealing with release notification, you would look in the key word index for that phrase and find a question entitled "CERCLA §103(a) and EPCRA §304 Reporting Requirements for Aqueous Film Forming Foam" and a Federal Register notice from November 13, 1995, regarding Toxic Chemical Release Reporting. 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 Federal Register summaries by regulatory citation, beginning with 40 CFR Part 22. This index is useful for identifying questions affecting specific portions of the regulations. For example, under the heading "40 CFR Part 261 - Identification and Listing of Hazardous Waste" is a question entitled "Definition of Formerly Bevill Exempt Wastes."

Similarly, the third index organizes the questions by statutory citation. For example, the question entitled "Aboveground Storage Tanks with Underground Piping" is referenced under "Section 9001 - Definitions and Exemptions."

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

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LEGEND:
(E) = EPCRA (S) = SUPERFUND
(R) = RCRA (U) = UST

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LEGEND:
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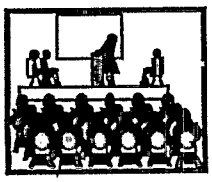

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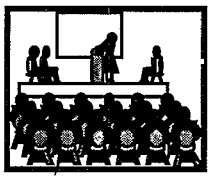

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