

Mary Ann Chance



To Distribution

Date 11/21/80

For your information.

Federal Register: November 12, 1980

1. "Hazardous Waste Management System; Identification & Listing of Hazardous Waste -- Finalizing the Lists of Hazardous Wastes (261.31 & 261.32) and Proposal to Amend 261.32"
2. "Hazardous Waste Management System; Identification & Listing of Hazardous Waste"

Proposed rule:

The amendment would list as hazardous wastes all sludges from primary & secondary oil/solids/water separation in the petroleum refining industry.

Federal Register: November 17, 1980

3. "Hazardous Waste Management System: Suspension of Rules and Proposal of Special Standards for Wastewater Treatment Tanks and Neutralization Tanks"
4. "Hazardous Waste Management System: General & Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program"

Proposed Amendments to rule and request for comments.

Mary Ann

CCR 000040701

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Federal Register

**Wednesday
November 12, 1980**

Part VII

Environmental Protection Agency

**Hazardous Waste Management System;
Identification and Listing of Hazardous
Waste—Finalizing the Lists of Hazardous
Wastes (§§ 261.31 and 261.32) and
Proposal To Amend § 261.32**

CCR 000040703

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 1664-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule and interim final rule.

SUMMARY: Pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Environmental Protection Agency (EPA) today is finalizing the listings of eighty hazardous wastes from nonspecific sources (§ 261.31) and specific sources (§ 261.32). These listings were proposed and promulgated in interim final form in the *Federal Register* on May 19, 1980 (45 FR 33123-33127, 33136-33137). In addition, EPA is deleting four wastes from its interim final hazardous waste list,* and deferring final action on two wastes listed in interim final form on May 19, 1980, and on three wastes proposed for listing on May 19.

EPA also is finalizing Appendices VII and VIII to this Part. These appendices list, respectively, the toxic constituents of concern in each listed waste, and the toxic constituents whose presence in a waste is sufficient cause to list a waste as hazardous unless mitigated by other factors enumerated in § 261.11(a)(3).

Finally, EPA is clarifying § 261.30(d) of the regulations to indicate more clearly that the Agency may in the future establish lower small quantity generator exclusion limits for certain hazardous wastes listed in §§ 261.31 and 261.32.

DATES: Effective Dates: Waste listings promulgated in interim final form on May 19, 1980 which are finalized today become effective on November 19, 1980.

Waste listings which were proposed on May 19 for inclusion in the hazardous waste lists, become effective on May 12, 1981.

See Supplementary Information for further details.

ADDRESSES: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday.

*Seven additional wastes promulgated in interim final form on May 19, 1980 were removed from the list of hazardous wastes on October 30, 1980 (45 FR 72037).

excluding holidays. See Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Office of Solid Waste (WH-585), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-8187.

SUPPLEMENTARY INFORMATION:

Dates

Waste listings promulgated in interim final form on May 19, 1980 which are finalized today become effective on November 19, 1980. Wastes in this category are § 261.31 Hazardous Waste Nos. F001-012, F014-015, F019 and § 261.32 Hazardous Waste Nos. K002-011, K013-034, K036-052, K060-062, and K064-099.

Waste listings which were proposed on May 19 for inclusion in the hazardous waste lists (§ 261.32), become effective on May 12, 1981. Wastes in this category are distillation light ends from the production of phthalic anhydride from ortho-xylene (Hazardous Waste No. K093), distillation bottoms from the production of phthalic anhydride from ortho-xylene (Hazardous Waste No. K094), distillation bottoms from the production of 1,1,1-trichloroethane (Hazardous Waste No. K095), heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane (Hazardous Waste No. K096), vacuum stripper discharge from the chlordene chlorinator in the production of chlordane (Hazardous Waste No. K097), untreated process wastewater from the production of toxaphene (Hazardous Waste No. K098), untreated wastewater from the production of 2,4-D (Hazardous Waste No. K099), and waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting (Hazardous Waste No. K100).

For those waste listings promulgated in interim final form on May 19, which are not being finalized, the effective date is still November 19, 1980. These waste listings take effect as interim final regulations. Wastes in this category are bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol (§ 261.32 Hazardous Waste No. K001), and wastewater treatment sludges generated in the production of creosote (§ 261.32 Hazardous Waste No. K035).

Compliance Dates:

a. Notification

1. Finalized Waste Listings Promulgated in Interim Final Form on May 19, 1980

Persons who generate, transport, treat, store, or dispose of any hazardous

waste listed in interim final form on May 19, 1980, which waste listing is now being finalized in substantively unaltered form are not required to notify as a result of today's action. We do not consider such action to be a "revision" of the Section 3001 regulations within the meaning of Section 3010(b). All such persons of course, should have already notified by or before August 18, 1980.

There is one possible exception. We have altered the listing description of § 261.32 hazardous waste No. K027 ("centrifuge and distillation residues from toluene diisocyanate production") to indicate clearly that wastes from both the centrifuge and distillation columns are included within the scope of the listing. Although we believe that the listing background document clearly reflected our intent to include both types of residues, we recognize that some persons generating only distillation column residues from this process may not have notified based on the May 19, 1980 listing description. We do not intend to penalize any such individual for failure to notify. Therefore, any person generating, transporting, treating, storing, or disposing of distillation column residues from toluene diisocyanate production who has not already notified EPA should now do so. (As explained below, we also do not intend to bar such persons from eligibility for interim status.)

One further clarification. The Agency has added one new listing description in its final list of hazardous wastes from nonspecific sources (§ 261.31), namely "wastewater treatment sludges from the chemical conversion coating of aluminum" (Hazardous Waste No. F019). This waste previously was included within the scope of § 261.31 Hazardous Waste No. F006, which listing was promulgated in interim final form on May 19, 1980. Persons who generate, transport, treat, store, or dispose of waste F019 are not required to notify as a result of today's action. Such persons should already have notified the Agency that they handle waste F006.

2. Finalized Waste Listings Which Were Proposed on May 19, 1980

Persons who generate, transport, treat, store, or dispose of wastes which were proposed for listing on May 19, 1980, which are today being finalized (§ 261.32, wastes K093-100), are not required to notify so long as they previously notified the Agency that they handle a hazardous waste and received

an I.D. number.* Persons who have not previously notified EPA and who now generate or handle these wastes must now notify EPA of their activities under Section 3010 no later than February 10, 1981. Notification instructions are set forth in 45 FR 12746 (February 26, 1980).

3. Waste Listings Taking Effect as Interim Final Regulations

Persons who generate, transport, treat, store, or dispose of wastes which were promulgated in the May interim final list and are taking effect as interim final regulations (namely § 261.32 Hazardous Waste Nos. K001 and K035) are not required to notify again since all such persons should have already notified by or before August 18, 1980.

b. Other Compliance Dates

Beginning on November 19, 1980, persons handling wastes listed in final or interim final form in §§ 261.31 and 261.32 which listings were promulgated in interim final form on May 19, 1980, must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124.

Beginning on May 12, 1981, persons handling wastes listed in final form in §§ 261.31 and 261.32 which were proposed for inclusion on May 19, 1980 must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124.

The owners or operators of all existing hazardous waste management facilities which treat, store or dispose of wastes listed in these regulations which were proposed for inclusion on May 19, 1980, and who wish to qualify for interim status under Section 3005(e) of RCRA, must file a notification by February 10, 1981, unless they have notified previously (as described in a. 2. above), and must file a permit application by May 12, 1981 (see 40 CFR § 122.23(a) (1) and (2)).

Owners or operators of facilities who have qualified for interim status and wish to manage wastes listed in the final regulations which wastes were proposed for listing on May 19, 1980 must submit

*Our authority for this action is the recent amendment to Section 3010(a) of RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (P.L. 96-452, (October 21, 1980)), which amendment leaves the requirement for notification following revision of the Section 3001 regulations to the discretion of the Administrator.

an amended permit application by May 12, 1981 (see 40 CFR § 122.23(c)(1)). Owners or operators of facilities with interim status who do not comply with these requirements are precluded from managing these wastes after May 12, 1981.

Persons handling distillation residues from toluene diisocyanate production (§ 261.32 Hazardous Waste No. K027) who have not notified the Agency of their activities, and (in the case of existing facilities) have not filed a permit application, and who failed to take these actions due to reliance on the listing description of this waste which was promulgated on May 19, 1980, must comply with all applicable standards for hazardous waste generators, transporters, and owners or operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265 and 122 through 124 by May 12, 1981.

The owners or operators of existing facilities which treat, store, or dispose of this waste which have not already qualified for interim status and who wish to qualify for interim status, must file a notification by February 10, 1981, provided that the failure to notify and file a permit application was due to reliance on the listing description of this waste which was promulgated on May 19, 1980.

Address Information Continued

Among other things, the docket will contain background documents which explain, in more detail than the preamble to this regulation, the basis for many of its provisions. These background documents are not available immediately but are expected to become available within the next two weeks. The Agency believes it important to provide notice on the final waste listings to the regulated community as soon as possible before November 19, 1980 and so is publishing this regulation slightly in advance of the availability of revised background documents.

I. Finalization of §§ 261.31 and 261.32 Hazardous Waste Lists

On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes (Subpart D of Part 261) which included 85 wastes from manufacturing processes (§§ 261.31 and 261.32, 45 FR 33123-33124). These lists were published in interim final form to allow the public an opportunity to comment on additional data the Agency had collected on these wastes since the close of the initial public comment period on the proposed Subtitle C

regulations (43 FR 58957-58959, December 18, 1978).

At the same time, the Agency also proposed for comment eleven additional hazardous waste listings (45 FR 33136-33137, May 19, 1980). All of these wastes were identified by the Agency in the course of developing the necessary technical data to support the May 19, 1980, interim final hazardous waste list.

The Agency received a large number of comments on both the interim final and proposed hazardous waste listings. We have evaluated these comments carefully and responded in detail in the respective listing background documents. We are setting forth in this preamble our disposition of the listings published in interim final and proposed form on May 19, 1980 and also summarizing the basis for our actions as to each of these listings.

A. Wastes for Which No Comments Were Received and No Changes Were Made to the Hazardous Waste Listings or Respective Background Documents

No comments were received on thirty-five of the hazardous waste listings published on May 19, 1980. In addition, the Agency is not making any substantive changes to either the hazardous waste listings or to the respective background documents as a result of its evaluation of these listings. Included in this category are wastes from the production of organic chemicals, pesticides, explosives, ferrous and nonferrous metals, and wastes from the petroleum refining industry. We therefore are promulgating all of these listings as final regulations.*

B. Wastes for Which Modifications Were Made to the Respective Listing Background Documents as a Result of Independent Agency Re-Evaluation

For sixteen other hazardous waste listings, the Agency decided to revise

*No comments were received challenging the hazardousness of certain wastes generated during primary copper, lead, and zinc production (Hazardous Waste Nos. K004-006). However, challenges have been raised as to the Agency's authority to regulate these wastes as well as certain wastes from metal recovery operations (Hazardous Waste Nos. F013-015), based upon a recent amendment to RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96-452 (October 21, 1980)) which prohibit EPA from regulating, under Subtitle C of RCRA, solid wastes from the extraction, beneficiation and processing of ores and minerals until certain studies and rulemaking are completed. The Agency is uncertain about whether the scope of the statutory amendment covers the aforementioned listed wastes. Therefore, it is going ahead with the finalization of these listed wastes in this action, but with the understanding that, in a separate rulemaking action, it might void these final listings, in whole or in part, by promulgation of an exclusion under § 261.4(b) to implement the statutory amendment.

the respective listing background documents largely as a result of our own re-evaluation of these documents, rather than because of public comment. The substantive points addressed in the revised background documents are: (1) retention of chromium as a hazardous waste constituent, (2) removal of chemical tars as a hazardous waste constituent, and (3) removal of quinones as a hazardous waste constituent. No wastes were deleted from the hazardous waste list due to these revisions, but chemical tars and quinones have been deleted as constituents of concern from a number of these waste streams.

(1) *Retention of Chromium as a Hazardous Waste Constituent*—In a previous rulemaking action, the Agency has indicated that its principal regulatory concern in regulating chromium-bearing wastes under the hazardous waste management program is hexavalent chromium rather than total chromium (see 45 FR 72029, (October 30, 1980)). In that action, we proposed to amend the characteristic of EP toxicity to apply to hexavalent chromium rather than total chromium, temporarily excluded certain trivalent chromium-containing wastes from Subtitle C regulation, and deleted (from § 261.32) wastes from the leather tanning and finishing industry and from the production of titanium dioxide by the chloride process.

In taking these actions, we also reviewed all of the other interim final and proposed waste listings which listed chromium as a waste constituent of concern, and re-evaluated these wastes to determine if they should continue to be listed due to the presence of chromium. These chromium-containing wastes are generated in electroplating operations (§ 261.31 Hazardous Waste No. F006), in the manufacture of inorganic pigments (§ 261.32 Hazardous Waste Nos. K002-K008), in petroleum refining operations (§ 261.32 Hazardous Waste Nos. K048-K051), in the iron and steel industry (§ 261.32 Hazardous Waste Nos. K061-K063), and in secondary lead smelting (§ 261.32 Hazardous Waste No. K069 and a proposed listing). The Agency has concluded that all of these chromium-bearing wastes should continue to be listed as hazardous due to their chromium content because all derive from processes which use or produce a waste which contains hexavalent chromium, and all are expected to contain significant concentrations of hexavalent chromium. The basis for this conclusion is explained in the preambles to our respective interim final and final actions dealing with chromium (see 45

FR at 72035-72039) (October 30, 1980). We also have revised the respective listing background documents to indicate why we believe these wastes contain hexavalent chromium in significant concentrations.*

(2) *Removal of Chemical Tars as a Toxic Constituent*—The Agency listed chemical tars as hazardous constituents of concern in three waste streams: distillation light ends and distillation bottoms from the production of phthalic anhydride from naphthalene (Hazardous Waste Nos. K023 and K024), and centrifuge and distillation residues from toluene diisocyanate production (Hazardous Waste No. K027). In re-evaluating the toxicity of chemical tars, the Agency believes that insufficient data is currently available to consider chemical tars as suspect carcinogens or otherwise toxic. Therefore, the Agency has removed chemical tars as a constituent of concern for these waste streams. We also have deleted chemical tars as constituents from Appendix VII to Part 261, and from the list of toxic chemical constituents in Appendix VIII to Part 261.

(3) *Removal of Quinones as a Hazardous Waste Constituent*—The Agency listed quinones as a hazardous constituent of concern in waste stream No. K094 (distillation bottoms from the production of phthalic anhydride from ortho-xylene). In re-evaluating the toxicity of these compounds, the Agency believes that insufficient data is currently available regarding the acute and chronic effects of the higher molecular weight quinones and their derivatives to support designating them as toxic constituents of a waste. The Agency would only expect to find the higher molecular weight quinones in Waste K094, based on the process chemistry. Therefore, the Agency has removed quinones as a constituent of concern for this waste stream. We also have deleted quinones as a constituent from Appendices VII to Part 261, and from the list of toxic chemical constituents in Appendix VIII to Part 261.

Existing toxicological data do, however, support the listing of benzoquinone and isomers, and these compounds will therefore be added to Appendix VIII of Part 261. Since the Agency's health effects document on quinones (Appendix A to the hazardous waste listing background documents) described the toxic effects of these

*As explained later in this preamble, however, some of these wastes are being deleted from the hazardous waste list for reasons other than whether they contain trivalent or hexavalent chromium.

compounds, we are not repropounding their inclusion.

C. Wastes for Which Comments Were Received But No Changes Were Made to the Hazardous Waste Listings

The Agency received comments disputing the hazardousness of or challenging aspects of the Agency's rationale for listing certain wastes from iron and steel manufacture (§ 261.32 Hazardous Waste No. K062), and from the production of acrylonitrile (Hazardous Waste Nos. K011, K013, K014), carbon tetrachloride (Hazardous Waste No. K016), epichlorohydrin (Hazardous Waste No. K017), ethyl chloride (Hazardous Waste No. K018), ethylene dichloride and vinyl chloride (Hazardous Waste Nos. K019-K020), fluoromethanes (Hazardous Waste No. K021), phenol/acetone from cumene (Hazardous Waste No. K022), 1,1,1-trichloroethane (Hazardous Waste Nos. K028-K029), 2,4,5-T (Hazardous Waste No. K042), 2,4-D (Hazardous Waste No. K043), explosives (Hazardous Waste Nos. K044-K045 and K047), and certain spent halogenated and non-halogenated solvents and the still bottoms from the recovery of these solvents (Hazardous Waste Nos. F001-F004). In evaluating these comments, the Agency did not agree with the substantive criticisms, and did not modify the listing description or the constituents which form the basis for listing the waste.* The applicable background documents now have been revised to respond to each comment.**

D. Wastes for Which Comments Were Received Which Resulted in Modifications to the Hazardous Waste Listings and to the Applicable Background Documents

Comments also were submitted on § 261.31 hazardous wastes F005, F006, F007-F012 and § 261.32 hazardous wastes K027 and K061. EPA has carefully reviewed these comments and concluded that the listing description or basis for listing (or both) should be changed. These amended hazardous waste listings are discussed below. More detailed discussion of the reasons for amending the listings or the basis for listing is contained in the applicable background documents.

(1) *Spent Non-Halogenated Solvents (Hazardous Waste No. F005)*—In our listing of spent non-halogenated

*The various listing descriptions of spent solvents (Hazardous Wastes Nos. F001-F004) have, however, been amended to correct grammatical errors. The listing description of waste F005 is being amended similarly.

**A summary of our responses are not possible here due to the number and diversity of comments.

solvents and still bottoms from the recovery of those solvents, we listed the solvents methanol and methyl isobutyl ketone as both toxic and ignitable. After reviewing the comments, we now believe that these solvents were erroneously listed as toxic. Methanol has a very low oral toxicity (Sax, N. Irving, *Dangerous Properties of Industrial Materials*, Fifth edition, Van Nostrand Reinhold Co., 1979) and in fact is a government-approved food additive. The principal chronic effects of methyl isobutyl ketone are eye and throat irritation and gastrointestinal upset. The Agency, therefore, will no longer list either solvent as a toxic waste. However, spent methanol and spent methyl isobutyl ketone will continue to be listed as ignitable wastes under Hazardous Waste No. F003 (rather than F005), since both are highly flammable.

(2) *Wastewater Treatment Sludges from Electroplating Operations* (Hazardous Waste No. F006)—A number of commenters argued that the listing "wastewater treatment sludges from electroplating operations" was overbroad, including a number of processes which would not generate a hazardous waste because the hazardous waste constituents of concern—chromium, cadmium, nickel and cyanides—are not used in these processes and thus would not be expected to be present in the sludges.

The Agency agrees with these commenters and has therefore modified this listing to exclude wastes generated by the following electroplating processes: (1) tin plating on carbon steel, (2) zinc plating (segregated basis) on carbon steel, (3) aluminum or zinc-aluminum plating on carbon steel, (4) all cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, (5) sulfuric acid anodizing of aluminum, and (6) chemical etching and milling of aluminum.

The Agency also made one further change to the listing of electroplating wastewater treatment sludges. Certain comments challenged the listing of wastewater treatment sludges from the chemical conversion coating of aluminum. We disagree, largely because this plating process is both cyanide and hexavalent chromium-based. However, we believe that these sludges will not contain cadmium and nickel, two of the constituents of concern in other listed electroplating wastewater treatment sludges. We therefore are adopting in final form a separate listing designation for wastewater treatment sludges from the chemical conversion coating of aluminum (Hazardous Waste No. F019) and indicating in Appendix VII that the

waste constituents of concern are complexed cyanides and hexavalent chromium.

(3) *Spent Waste Cyanide Solutions and Sludges* (Hazardous Waste Nos. F007-F012)—A number of commenters have indicated that the Agency, in listing wastes F007 to F012, inadvertently included wastes generated by processes that do not use cyanide salts or complexes, the sole constituent of concern for these wastes.*

In determining to list these wastes, the Agency intended only to include wastes that may contain cyanide salts or complexes because cyanide compounds are used in the process generating these wastes. Therefore, the hazardous waste listing description has been modified to make it clear that only those processes which use cyanide salts or complexes are covered by the listing.

We also received comments that solutions and sludges from precious metals electroplating and metal heat treating operations presently included within the scope of Hazardous Waste Nos. F007-F012 are not solid wastes because they are not "sometimes discarded" within the meaning of § 261.2 of the regulations. These solutions and sludges are instead always sent to metal recovery operations due to the value of the contained precious metals.

We agree with the commenter that these materials are not "solid wastes" under the current definition. We therefore are revising our listing description of wastes F007 to F012 to exclude solutions and sludges specifically generated by precious metals electroplating and metal heat treating operations.*

(4) *Wastes from the Production of Toluene Diisocyanate* (Hazardous Waste No. K027)—a. *Clarification of Listing*—One commenter indicated that the listing of "Centrifuge residue from toluene diisocyanate production" needed clarification since the listing background document described both centrifuge and distillation residues as hazardous wastes, while the waste

listing description in § 261.32 specified only centrifuge residues.

The Agency agrees that a clarification is needed, and has amended the final listing description to clarify that wastes generated from both centrifuge and distillation units in the production of toluene diisocyanate are included. We believe that the original listing background document clearly reflected our intent to include residues from both centrifuge and distillation columns (since the wastes appear to be virtually identical in composition as explained in the initial listing background document), and therefore are not repositing any aspect of this listing.

b. *Deletion of Certain Bases for Listing*—We are deleting chemical tars (benzimidazapone) as a waste constituent of concern because of insufficient data as to their toxicity.

(6) *Emission Control Dust/Sludge from Electric Furnace Steel Production* (Hazardous Waste No. K061)—One commenter indicated that it is unclear if the listing of "Emission control dust/sludge from the electric furnace production of steel" applied only to primary steel production or to both primary steel producers and to foundries using steel scrap in their electric furnace production.

In listing this waste stream, we intended only to include wastes from primary steel production. This intent is reflected in the listing background document, which refers throughout to primary steel production. We are uncertain whether foundry electric furnace emission control dusts and sludges are sufficiently similar in composition to warrant inclusion in the same listing, so we are evaluating the potential hazardousness of foundry industry wastes in separate actions. (See 44 FR at 48404 (August 22, 1979), and 45 FR 47836 (July 16, 1979) (proposing various waste streams from the foundry industry).)

E. Wastes for Which Comments Were Received Which Resulted in Deletion of the Wastes From the Hazardous Waste List

Certain of the wastes listed in interim final form were deleted from the list as a result of industry comment. Our basis for removing these wastes are discussed below and in the respective listing background documents. It must be emphasized, however, that it is still the responsibility of the generator of these wastes to evaluate the wastes to see if they exhibit any of the characteristics of hazardous waste.

(1) *Flotation Tailings From Selective Flotation From Mineral Metals Recovery Operations* (§ 261.31

*This same comment was also made for Hazardous Waste No. F013, "Flotation tailings from selective flotation from mineral metals recovery operations." In response to other comments, however, this particular listing has been deleted from the hazardous waste list. See Section E for a more detailed discussion.

*We note, however, that we may in the future revise the definition of solid waste (§ 261.2), and that these materials may be included as solid wastes under a revised definition. Should the definition be amended so as to include this type of material, we do not intend to repropose a hazardous waste listing, since this listing has already been proposed and promulgated in interim final form, and the opportunity for public comment has been utilized fully.

Hazardous Waste No. F013—In response to comments, the Agency has removed waste F013 from the hazardous waste list. It appears that the Agency overestimated the amount of complexed cyanides present in the waste. Specifically, reliable analytical data indicate that concentrations of complexed cyanides in this waste stream are very low and are present in a stable form, so that migration of free cyanides from this waste is unlikely to occur, and in any case would be quite unlikely to occur in significant concentrations. We thus do not believe that this waste would pose a substantial hazard to human health and the environment if improperly managed.

(2) Dewatered Air Pollution Control Scrubber Sludges from Coke Ovens and Blast Furnaces (§ 261.31 Hazardous Waste No. F016)—In response to comments, the Agency also has removed waste F016 from the hazardous waste list. As with flotation tailings, the Agency overestimated the amount of complexed cyanides contained in these wastes. Data also indicate that the cyanide present in this waste stream has low migratory potential. Therefore, the Agency does not believe that this waste, if improperly managed, would be capable of presenting a substantial hazard to human health and the environment.

(3) Still Bottoms from the Final Purification of Acrylonitrile in the Production of Acrylonitrile (§ 261.32 Hazardous Waste No. K012)—In reassessing the ultimate disposition of this particular waste, the Agency has learned, after contacting all the producers of acrylonitrile, that this by-product is always used as an intermediate product in the manufacturing process. It therefore is not a solid waste, as that term currently is defined (see § 261.2(c)(3)). Therefore, waste K012 has been removed from the hazardous waste list.*

(4) Sludge from Lime Treatment of Spent Pickle Liquor from Steel Finishing Operations (§ 261.32 Hazardous Waste No. K063)—We have decided to revise our regulatory approach to this waste stream. Several comments indicate that this waste may not be hazardous, particularly if the lime treatment process is conducted effectively. At the same time, however, insufficient data was submitted to warrant a conclusion that these wastes will typically and frequently not be hazardous. Our concern is that these wastes derive from

a hazardous waste (spent pickle liquor from steel finishing (K062)) which may contain high concentrations of lead and chromium. These heavy metals not only will be present in the treated sludge, but will be found there in even more concentrated form. Since the waste is generated in large volumes, the potential for hazard appears substantial if uncontrolled leaching occurs. A number of damage incidents caused by improperly neutralized spent pickle liquor treatment sludges bear out our concern.

Under these circumstances, we have decided that these waste sludges still should be regulated as hazardous, but to delete these wastes from the hazardous waste list, and instead to rely on the provisions of § 261.3 to bring these wastes within the hazardous waste management system. Since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they are considered to be hazardous wastes (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous waste and are delisted (§ 261.3(d)(2)).

The delisting provision (§ 260.22) requires petitioners to consider a range of factors in showing why a waste does not meet the criteria for listing contained in § 261.11(a)(3). Since our chief concern with these lime treatment sludges is whether they will leach significant concentrations of lead and chromium, we will consider delisting petitions for these wastes to be adequate if petitioners show that concentrations of lead and chromium in EP waste extracts are significantly less than the maximum concentration levels for lead and chromium contained in § 261.24, without requiring consideration of the other delisting factors. We also will consider an industry-wide rulemaking petition to exclude these wastes from RCRA Subtitle C jurisdiction if industry presents representative data showing the wastes are not hazardous.*

F. Wastes for Which No Final Action Will Be Taken By November 19, 1980

Five of the wastes listed in interim final and proposed form will not be finalized before the effective date of the regulations (November 19, 1980). Included are wastes generated from the wood preserving industry, wastes from the production of creosote, and wastes from the production of methomyl. Our

reasons for delaying final action on these waste listings are discussed below:

(1) Wastes From the Wood Preserving Industry (§ 261.32 Hazardous Waste No. K001 and a proposed listing)—The American Wood Preservers Institute argued that the listing of wastes generated from the wood preserving industry (bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol (Hazardous Waste No. K001) and wastewater from wood preserving processes that use creosote and/or pentachlorophenol (a proposed listing)), was not adequately supported by the available data and argued further that regulation of these wastes should be deferred pending completion of the Agency's Rebuttable Presumption Against Registration (RPAR) evaluation of creosote and pentachlorophenol.

With respect to the proposed listing of process wastewater, we have decided not to finalize this listing in order to take more time to evaluate data contained in industry comments. With respect to the interim final listing of wastewater treatment bottom sediment sludges, the Agency believes this listing is supported by our present data. EPA also does not believe it should defer regulation of these wastes under RCRA until completion of the RPAR process, since that process is conducted pursuant to a statutory standard different from RCRA's, and moreover does not consider the composition of wood preserving manufacturing process wastes or their potential to cause substantial hazard if mismanaged.

We have decided, however, to allow additional opportunity for comment on the interim final listing of bottom sediment sludges (as well as on the proposed listing of process wastewater). Since the close of the comment period, the Agency has identified additional data which we believe further supports and strengthens our position. We have revised the listing background document to incorporate this information as well as additional information on process wastewater. In order to get the benefit of industry comment, we are re-opening the comment period on this additional data and on the revised listing background document.

The listing of bottom sediment wastewater treatment sludges will still take effect on November 19, 1980 as an interim final regulation. We see no prejudice in this action since the industry has had (and utilized) several opportunities for comment, and we believe that the additional data further supports the listing of waste stream

*As we indicated earlier in this preamble, the Agency is contemplating revising the definition of "solid waste" contained in § 261.2, which may have the effect of making these materials subject to Subtitle C regulation.

*Persons who generate, transport, treat, store or dispose of these lime treatment sludges are not required to notify the Agency of this activity, provided an appropriate notice already was filed with respect to waste No. K063.

K001. As stated above, the proposed listing of process wastewater will not be finalized at this time, and so will not become effective until finalized.

(2) *Wastes from the Production of Creosote (§ 261.32 Hazardous Waste No. K035 and a proposed listing)*—One commentator argued that many of the statements made in the listing background document on creosote production applied to unlisted waste streams or reflected incorrect information regarding the production process. In evaluating these comments, we now believe it more appropriate to speak of an integrated coke oven production process, of which the listed waste stream, wastewater treatment sludge from creosote production, is one of the integrated process wastes. We intend to propose in the near future an expanded listing to include wastes from by-product coke making production. At the same time, however, we believe that the listing background document, as revised to respond to comments, adequately supports the listing of creosote production wastewater treatment sludges, and we therefore are allowing this listing to take effect on November 19, 1980 as an interim final regulation.

We are evaluating more data concerning the proposed listing of creosote production process wastewater, and believe tentatively that this waste stream is more accurately viewed as part of an integrated production process. We therefore will not finalize our proposal at this time.

(3) *Wastewater From the Production of Methomyl (proposed listing)*—The two manufacturers of methomyl objected to the inclusion of this waste stream in the hazardous waste list. Among other things, they argued that methomyl, a principal constituent in the waste and the primary basis for listing, is not persistent in water, and so is unlikely to remain in process wastewater in significant concentrations.* Since the Agency has not had an opportunity to fully evaluate all of the available data on methomyl's persistence, we have decided to delay final action on this particular listing. The Agency expects to make a final decision on wastes from methomyl production within the next several months.

*Pyridine and methylene chloride are also included as a basis for listing this waste. However, as a result of comments, the Agency learned that pyridine is not expected to be present in the waste while methylene chloride is only expected to be present in the wastewater from one of the two plants.

II. Finalization of Appendices VII and VIII to Part 261

A. Appendix VII

Appendix VII to Part 261 sets forth the hazardous constituents for which each of the wastes in §§ 261.31 and 261.32 are listed. This appendix has been revised to reflect changes made in the underlying listings, and is being finalized in this revised form.

B. Appendix VIII

Appendix VIII to Part 261 contains a list of chemical constituents which have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. A solid waste will be listed as a toxic hazardous waste if it contains any of these designated constituents, unless, after consideration of a number of factors, the Administrator concludes that the waste is not capable of posing a substantial present or potential hazard to human health or the environment when improperly managed (§ 261.11(a)(3)).

The Agency has received a number of comments on this Appendix which resulted in modifications to the list of toxic constituents, and also has made a number of changes to the listed constituents as a result of independent reevaluation. These changes are summarized below.*

A. Constituents Which Were Inadvertently Omitted From the List of Toxic Constituents

The Agency identified a number of toxic chemicals which were indicated as being toxic either in the respective listing background documents, or in §§ 261.24, 261.33, or Appendix VII to Part 261, but were omitted inadvertently from Appendix VIII. We are correcting these omissions by adding these toxic constituents to Appendix VIII.

B. Constituents for Which Comments Were Received Which Resulted in the Deletion of the Constituent From the List of Toxic Constituents

As indicated earlier in this preamble, the Agency has re-evaluated the toxicity of the solvent methanol and methyl isobutyl ketone, and has determined that they should not be listed as toxic wastes. We therefore are deleting methanol and methyl isobutyl ketone from Appendix VIII.

*When the Agency finalizes § 261.33 of the regulations, additional compounds also may be removed from Appendix VIII. However, none of the chemicals which may be deleted from § 261.33 are constituents of wastes listed in §§ 261.31 and 261.32, so we believe it appropriate to wait until we act on § 261.33 to make the corresponding changes to Appendix VIII.

C. Constituents for Which No Comments Were Received But Modifications Were Made To The List of Toxic Constituents

Finally, in reviewing the list of toxic constituents, the Agency has made several minor changes to this list to correct typographical errors, to remove duplications, and to clarify the identity of listed chemicals.

III. Technical Amendment to § 261.30(d)

§ 261.30(d) indicates that certain wastes listed in §§ 261.31 and 261.32 are subject to small quantity limitations less than the 1000 kg per month level established in § 261.5(a). The Agency has not, as yet, designated any such wastes.

A number of commenters found this provision confusing. For purposes of clarification, the Agency is therefore modifying the language of § 261.30(d) to indicate that no wastes presently are subject to this provision, but that wastes listed as acutely hazardous in §§ 261.31 and 261.32 in the future may be subject to lower limitation levels.

IV. The Status of Other Listed Wastes and Wastes Which the Agency Intends to List

To better inform the regulated community, the Agency adds a brief summary to its other listing activity (current and prospective) under the Subpart D regulations. Regulations at issue are the list of 361 commercial chemical products and manufacturing chemical intermediates in § 261.33 (promulgated in interim final form on May 19, 1980 (45 FR 33124-33126)); the interim final and proposed list of wastes from nonspecific and specific sources published on July 18, 1980 (45 FR 47832-47836), and the wastes mentioned in Appendix B of the May 19, 1980 preamble to the hazardous waste regulations (45 FR 33118-33119) which the Agency indicated would be promulgated in final form by Fall, 1980.

The Agency expects to promulgate final or interim final listings according to the following time table:

A. List of Commercial Chemical Products (§ 261.33)

The Agency expects to finalize the list of commercial chemical products and manufacturing chemical intermediates before the November 19, 1980 effective date of these regulations. We anticipate removing ethylenediamine (Hazardous Waste No. P053), N-nitrosodiphenylamine (Hazardous Waste No. P063), oleyl alcohol condensed with 2 moles ethylene oxide (Hazardous Waste No. P066), and 1,2-

propanediol (Hazardous Waste No. P100) from the § 261.33(e) and (f) lists. Most questions of interpretation of § 261.33 will be deferred, however, until issuance of a regulatory interpretation memorandum which is expected by the end of the year.

B. List of Additional Hazardous Wastes (July 16, 1980)

The Agency contemplates finalizing these listings in December, 1980. The effective date of these listings is January 16, 1981.

C. Appendix B Listings

Due to other priorities, the Agency will not promulgate these listings by the fall of this year, but does expect to take final action by the Spring of 1981.

V. Economic Environmental and Regulatory Impacts:

In accordance with Executive Order 11821, as amended by Executive Order 11949 and Executive Order 12044, EPA

has prepared an Economic Impact Analysis and a Regulatory Analysis of the hazardous waste program promulgated on May 19, 1980. The effect of today's action reduces the overall cost economic impact and reporting and recording impact of EPA's hazardous waste management regulations, since the scope of Subtitle C jurisdiction is being reduced. Since this action will decrease the regulatory impact of the Subtitle C regulatory program, we have not prepared a new Economic Impact Analysis or Regulatory Analysis. The Agency has also voluntarily prepared an Environmental Impact Statement on the program under the National Environmental Policy Act, 42 U.S.C. 4321 et. seq.

Dated: November 4, 1980.

Douglas M. Costle,
Administrator.

Title 40, Part 261 of the Code of Federal Regulations is finalized as follows:

1. § 261.31 (Hazardous waste from nonspecific sources) is revised to read as follows:

§ 261.31 Hazardous waste from nonspecific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Generic:		
F001	The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; and sludges from the recovery of these solvents in degreasing operations.	(T)
F002	The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, and trichlorofluoromethane; and the still bottoms from the recovery of these solvents.	(T)
F003	The following spent non-halogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; and the still bottoms from the recovery of these solvents.	(I)
F004	The following spent non-halogenated solvents: creosote and cresylic acid, and nitrobenzene; and the still bottoms from the recovery of these solvents.	(T)
F005	The following spent non-halogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, and pyridine; and the still bottoms from the recovery of these solvents.	(I, T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel, and (6) chemical etching and milling of aluminum.	(T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum.	(T)
F007	Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).	(R, T)
F008	Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).	(R, T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).	(R, T)
F010	Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat-treating quenching bath sludges).	(R, T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).	(R, T)
F012	Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).	(T)
F014	Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations	(T)
F015	Spent cyanide bath solutions from mineral metals recovery operations	(R, T)

2. § 262.32 (Hazardous wastes from specific sources) is revised to read as follows:

CCR 000040710

§ 262.32 Hazardous wastes from specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
Wood Preservation		
K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol.	(T) **
Inorganic Pigments:		
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments.	(T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments.	(T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments.	(T)
K005	Wastewater treatment sludge from the production of chrome green pigments.	(T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).	(T)
K007	Wastewater treatment sludge from the production of iron blue pigments.	(T)
K008	Oven residue from the production of chrome oxide green pigments.	(T)
Organic Chemicals:		
K009	Distillation bottoms from the production of acetaldehyde from ethylene.	(T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene.	(T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile.	(R, T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile.	(R, T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile.	(T)
K015	Still bottoms from the distillation of benzyl chloride.	(T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride.	(T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin.	(T)
K018	Heavy ends from the fractionation column in ethyl chloride production.	(T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	(T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	(T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production.	(T)
K022	Distillation bottom tars from the production of phenol/acetone from cumene.	(T)
K023	Distillation light ends from the production of phthalic anhydride from naphthalene.	(T)
K024	Distillation bottoms from the production of phthalic anhydride from naphthalene.	(T)
K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene.	(T) *
K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene.	(T) *
K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene.	(T)
K026	Stripping still tails from the production of methyl ethyl pyridines.	(T)
K027	Centrifuge and distillation residues from toluene diisocyanate production.	(R, T)
K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	(T)
K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	(T)
K095	Distillation bottoms from the production of 1,1,1-trichloroethane.	(T) *
K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	(T) *
K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene.	(T)
Pesticides		
K031	By-product salts generated in the production of MSMA and cacodylic acid.	(T)
K032	Wastewater treatment sludge from the production of chlordane.	(T)
K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane.	(T)
K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane.	(T)
K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane.	(T) *
K035	Wastewater treatment sludges generated in the production of creosote.	(T) **
K036	Still bottoms from toluene reclamation distillation in the production of disulfoton.	(T)
K037	Wastewater treatment sludges from the production of disulfoton.	(T)
K038	Wastewater from the washing and stripping of phorate production.	(T)
K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate.	(T)
K040	Wastewater treatment sludge from the production of phorate.	(T)
K041	Wastewater treatment sludge from the production of toxaphene.	(T)
K098	Untreated process wastewater from the production of toxaphene.	(T) *
K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T.	(T)
K043	2,6-Dichlorophenol waste from the production of 2,4-D.	(T)
K099	Untreated wastewater from the production of 2,4-D.	(T) *
Explosives		
K044	Wastewater treatment sludges from the manufacturing and processing of explosives.	(R)
K045	Spent carbon from the treatment of wastewater containing explosives.	(R)
K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds.	(T)
K047	Pink/red water from TNT operations.	(R)
Petroleum Refining		
K048	Dissolved air flotation (DAF) float from the petroleum refining industry.	(T)
K049	Slip oil emulsion solids from the petroleum refining industry.	(T)
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry.	(T)
K051	API separator sludges from the petroleum refining industry.	(T)
K052	Tank bottoms (loaded) from the petroleum refining industry.	(T)

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code	EPA hazardous waste No.	Hazardous constituents for which listed
Iron and Steel				
K060	Ammonia still lime sludge from coking operations	(T)	K069	2,4-dichlorophenol, 2,4,6-trichlorophenol.
K061	Emission control dust/sludge from the primary production of steel in electric furnaces	(T)	K044	NA
K062	Spent pickle liquor from steel finishing operations	(C, T)	K045	NA
Primary Copper			K046	Lead
K064	Acid plant blowdown slurry/sludge resulting from the thickening of blow-down slurry from primary copper production	(T)	K047	NA
Primary Lead			K048	Hexavalent chromium, lead.
K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities	(T)	K049	Hexavalent chromium, lead.
Primary Zinc			K050	Hexavalent chromium.
K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production	(T)	K051	Hexavalent chromium, lead.
K067	Electrolytic anode slimes/sludges from primary zinc production	(T)	K052	Lead.
K068	Cadmium plant leachate residue (iron oxide) from primary zinc production	(T)	K060	Cyanide, naphthalene, phenolic compounds, arsenic.
Secondary Lead			K061	Hexavalent chromium lead, cadmium.
K069	Emission control dust/sludge from secondary lead smelting	(T)	K062	Hexavalent chromium lead.
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting	(T)*	K064	Lead, cadmium.
			K065	Lead, cadmium.
			K066	Lead, cadmium.
			K067	Lead, cadmium.
			K068	Lead, cadmium.
			K069	Hexavalent chromium, lead, cadmium.
			K100	Hexavalent chromium, lead, cadmium.

*These waste listings take effect on (six months after publication)

**These waste listings take effect on November 19, 1980 as interim final regulations.

3. Appendix VII (Basis of Listing Hazardous Wastes) of Part 261, is revised to read as follows:

EPA hazardous waste No.	Hazardous constituents for which listed	EPA hazardous waste No.	Hazardous constituents for which listed
F001	Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.	K018	1,2-dichloroethane, trichloroethylene, hexachlorobutadiene, hexachlorobenzene.
F002	Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane.	K019	Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
F003	NA	K020	Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
F004	Cresols and cresylic acid, nitrobenzene.	K021	Antimony, carbon tetrachloride, chloroform.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine.	K022	Phenol, tars (polycyclic aromatic hydrocarbons).
F006	Cadmium, hexavalent chromium, nickel, cyanide (complexed).	K023	Phthalic anhydride, maleic anhydride.
F019	Hexavalent chromium, cyanide (complexed)	K024	Phthalic anhydride, 1,4-naphthoquinone.
F007	Cyanide (salts).	K093	Phthalic anhydride, maleic anhydride.
F008	Cyanide (salts).	K094	Phthalic anhydride.
F009	Cyanide (salts).	K025	Meta-dinitrobenzene, 2,4-dinitrotoluene.
F010	Cyanide (salts).	K026	Paraldehyde, pyridines, 2-picoline.
F011	Cyanide (salts).	K027	Toluene diisocyanate, toluene-2,4-diamine.
F012	Cyanide (complexed).	K028	1,1,1-trichloroethane, vinyl chloride.
F014	Cyanide (complexed).	K029	1,2-dichloroethane, 1,1,1-trichloroethane, vinyl chloride, vinylidene chloride, chloroform.
F015	Cyanide (salts).	K095	1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane.
K001	Pentachlorophenol, phenol, 2-chlorophenol, p-chloro-m-cresol, 2,4-dimethylphenyl, 2,4-dinitrophenol, trichlorophenols, tetrachlorophenols, 2,4-dinitrophenol, cresols, chrysene, naphthalene, fluoranthene, benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, benzo(a)anthracene, dibenz(a,h)anthracene, acenaphthene.	K096	1,2-dichloroethane, 1,1,1-trichloroethane, 1,1,2-trichloroethane.
K002	Hexavalent chromium, lead.	K030	Hexachlorobenzene, hexachlorobutadiene, hexachloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, ethylene dichloride.
K003	Hexavalent chromium, lead.	K031	Arsenic.
K004	Hexavalent chromium.	K032	Hexachlorocyclopentadiene.
K005	Hexavalent chromium, lead.	K033	Hexachlorocyclopentadiene.
K006	Hexavalent chromium.	K034	Hexachlorocyclopentadiene.
K007	Cyanide (complexed), hexavalent chromium.	K097	Chlordane, heptachlor.
K008	Hexavalent chromium.	K098	Cresols, chrysene, naphthalene, fluoranthene, benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, benzo(a)anthracene, dibenz(a,h)anthracene, acenaphthene.
K009	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.	K036	Toluene, phosphorodithioic and phosphorothioic acid esters.
K010	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.	K037	Toluene, phosphorodithioic and phosphorothioic acid esters.
K011	Acrylonitrile, acetonitrile, hydrocyanic acid	K038	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K013	Hydrocyanic acid, acrylonitrile, acetonitrile.	K039	Phosphorodithioic and phosphorothioic acid esters.
K014	Acetonitrile, acrylamide.	K040	Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters.
K015	Benzyl chloride, chlorobenzene, toluene, benzotrichloride.	K041	Toxaphene.
K016	Hexachlorobenzene, hexachlorobutadiene, carbon tetrachloride, hexachloroethane, perchloroethylene.	K098	Toxaphene.
K017	Epichlorohydrin, chloroethers [bis(chloromethyl) ether and bis (2-chloroethyl) ethers], trichloropropane, dichloropropanols.	K042	Hexachlorobenzene, ortho-dichlorobenzene.
		K043	2,4-dichlorophenol, 2,6-dichlorophenol, 2,4,6-trichlorophenol.

NA—Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity.

4. In Appendix VIII of Part 261, add the following constituents alphabetically:

—Benzoquinone and isomers
—Coal Tars
—Cresol
—Cresylic acid
—Chlorinated fluorocarbons
—Hydrofluoric acid
—Iron Dextran
—Methoxychlor
—2-Picoline
—Resorcinol

5. In Appendix VIII of Part 261, delete the following compound:

—Methanol
—Methyl Isobutyl Ketone

6. In Appendix VIII of Part 261, the following errors are corrected as follows:

a. delete (Acetato)phenylmercury
b. Change trans-2,3-Dichloroethane to trans-2,3-dichloroethene
c. Change Urethane to Ethyl carbamate (urethan)
d. Change 2,6-Dinitrotoluene Di-n-octyl phthalate to read as two compounds: 2,6-Dinitrotoluene, Di-n-octyl phthalate.

§ 261.30 [Amended]

7. Revised § 261.30(d) to read as follows:

* * * * *

(d) The following hazardous wastes listed in § 261.31 or § 261.32 are subject to the exclusion limits for acutely hazardous wastes established in § 261.5: [Reserved]

[FR Doc. 80-38243 Filed 11-7-80; 11:19 am]

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CCR 000040712

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261**

(SWH-FRL 1664-8)

Hazardous Waste Management System; Identification and Listing of Hazardous Waste**AGENCY:** Environmental Protection Agency.**ACTION:** Proposed Rule.

SUMMARY: Pursuant to Sections 3001 and 7004 of the Resource Conservation and Recovery Act (RCRA), as amended, and in response to a petition for rulemaking filed by Envirex, Inc., the Environmental Protection Agency today is proposing to amend the listings of two of the hazardous wastes generated by the petroleum refining industry which the Agency promulgated in "final-final" form in another section of today's *Federal Register*. The amendment would list as hazardous wastes all sludges from primary and secondary oil/solids/water separation in the petroleum refining industry. If this action becomes effective, the scope of the hazardous waste listing for wastes from petroleum refining operations will be broadened, making additional petroleum refining wastes subject to the management standards issued by EPA under Sections 3002 through 3006 and 3010 of RCRA (40 CFR Parts 262 through 265 and 122 through 124 and 45 FR 12746 (February 26, 1980)).

DATES: EPA will accept public comment on this proposal until January 12, 1981. Any person may request a hearing on this proposal by filing a request by December 3, 1980.

ADDRESSES: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number which is "Petroleum Refining-Section 3001." The public docket for this proposed rulemaking is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Hearings requests should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. The request must contain the information prescribed in 40 CFR § 260.20(d).

FOR FURTHER INFORMATION CONTACT: Mr. Matthew A. Straus, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-8187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its initial regulations implementing Section 3001 of RCRA, EPA published in interim final form a list of hazardous wastes (Subpart D of this Part), which included five wastes generated by the petroleum refining industry (§ 261.32, 45 FR 33123). Among the listed petroleum refining industry wastes were "Dissolved air flotation (DAF) float from the petroleum refining industry (K048)" and "API separator sludge from the petroleum refining industry (K051)". These wastes are generated as a result of treatment of wastewater from petroleum refineries. These particular listings were promulgated in "final-final" form in another section of today's *Federal Register*.

On September 5, 1980, the Agency received a rulemaking petition from Envirex, Inc.* requesting that the Agency amend these two listings (i.e. of wastes K048 and K051) to read "Secondary (emulsified) oil/solids/water separator sludge in the petroleum refining industry" and "Primary oil/solids/water separation sludge in the petroleum refining industry", respectively.

The petitioner does not dispute the listings of DAF and API separator sludges. Quite the opposite. The petitioner argues that the May 19 listing descriptions are in fact under-inclusive. The fault, according to the petitioner, is that the listings are specific to particular types of equipment, namely the DAF and API separator. In fact (again according to the petitioner), any petroleum refinery sludge resulting from primary and secondary oil/solids/water separation will be comparably composed regardless of the type of equipment used in the separation step. For example, the petitioner pointed out that other processes, such as induced air flotation, parallel plate flotation separators, and dual media filters, perform the same function as the DAF and form a similar solids residue. Likewise, the API separator is only one of the many equipment types which function as a primary oil/solids/water separator (other processes producing similar sludges include corrugated plate separators, inclined plate separators, storm equalization lagoons and ballast

waterholding tanks.)[†] The petitioner therefore requests that these two listings be modified to prevent unfair discrimination and possible adverse competitive consequences.

In reviewing and evaluating the petition, the Agency agrees that the listings must be modified to reflect the hazardous character of the wastes themselves, rather than the type of equipment or process generating the waste. More specifically, the Agency is tentatively persuaded that the present listing is too narrow since it specifies API separator sludge and DAF float, thereby omitting other petroleum wastes with similar compositions generated from processes and equipment other than API separators and DAF equipment. To adjust the scope of these listings, therefore, the Agency is proposing to amend the listing to the description recommended by the petitioner. The hazardous constituents of concern in these wastes are chromium and lead.

Economic, Environmental and Regulatory Impacts:

In accordance with Executive Order 11821, as amended by Executive Order 11949 and Executive Order 12044, EPA has prepared an Economic Impact Analysis and a Regulatory Analysis of the hazardous waste program. EPA does not believe that this proposed rule is a major action for the purposes of Executive Order 12044, so that preparation of a revised Economic Impact Analysis is not required. Furthermore, most of the costs to generators for management of these wastes are already covered in the Economic Impact Analysis and Regulatory Analysis cited above and made available for public review. EPA requests, however, that any data commenters have on the generation rates of the wastes listed in the proposal, current management costs and practices for these wastes, and the costs or economic impact of the proposed regulations be sent to the Docket Clerk at the address indicated above. The Agency has also voluntarily prepared an Environmental Impact Statement on the program under the National Environmental Policy Act, 42 U.S.C. 4321 et seq.

Dated: November 4, 1980.
Douglas M. Costle,
Administrator.

* Envirex, Inc. is a manufacturer of sewage, water, waste treatment and water conditioning equipment for many uses, including applications in the petroleum refining industry.

[†] The petitioner cited "Development Document for Effluent Limitations, Guidelines and Standards for the Petroleum Refining Point Source Category" (EPA No. 440/7-79/014-8) in support of the above comments on process waste identification.

**PART 261—IDENTIFICATION AND
LISTING OF HAZARDOUS WASTES****§ 261.32 [Amended]**

It is proposed to amend Title 40 CFR, Part 261, by amending 261.32 as follows:

1. Change the hazardous waste listing (K048), "Dissolved air flotation (DAF) from the petroleum refining industry" to read "Secondary (emulsified) oil/solids/water separator sludge from the petroleum refining industry."

2. Change the hazardous waste listing (K051), "API separator sludge from the petroleum refining industry" to read "Primary oil/solids/water separation sludge from the petroleum refining industry."

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November 17, 1980

Part X

Environmental Protection Agency

Hazardous Waste Management System:
Suspension of Rules and Proposal of
Special Standards for Wastewater
Treatment Tanks and Neutralization
Tanks

CCR 000040715

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264 and 265
[WH-FRL 1670-3]

Hazardous Waste Management System; General and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Final amendments to rule.

SUMMARY: EPA is today promulgating amendments that suspend the applicability of the requirements of the hazardous waste regulations in 40 CFR Parts 122, 264 and 265 to owners and operators of (1) wastewater treatment tanks that receive, store, and treat wastewaters that are hazardous waste or that generate, store or treat a wastewater treatment sludge which is a hazardous waste where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and (2) neutralization tanks, transport vehicles, vessels, or containers which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under 40 CFR § 261.22 or are listed as hazardous wastes in Subpart D of 40 CFR Part 261 only for this reason. Concurrently, under separate action, EPA is proposing amendments to Parts 122, 260, 264, 265 and 266, to establish special standards and permits requirements for these owners and operators. The Agency intends to continue the suspension created by this action until special standards and permit requirements for these owners and operators are promulgated in final form.

This suspension is being enacted in order to relieve owners and operators of wastewater treatment and elementary neutralization units from having to comply with requirements which the proposed amendments are designed to modify.

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Suspension

On May 19, 1980, EPA promulgated Hazardous Waste Management and

Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act. These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain an RCRA permit (see § 122.22) and require existing facilities which have qualified for interim status (see § 122.23), to comply with the interim status standards of Part 265. Under these regulations, owners and operators of wastewater treatment facilities that are subject to regulation under the Clean Water Act are required to comply with these RCRA treatment and storage requirements where they treat an influent wastewater that is a hazardous waste or generate and store or treat a wastewater treatment sludge which is a hazardous waste. In addition, owners and operators of facilities that neutralize waste that is hazardous solely by virtue of its corrosivity are subject to these treatment and storage requirements.

Many persons have questioned the necessity of regulating these wastewater treatment and neutralization facilities under RCRA. In response to these comments, EPA is today proposing, in a separate action, special standards and permit requirements for wastewater treatment and elementary neutralization units. As is more fully detailed in the preamble to this proposal, the proposed amendments will award owners and operators of these wastewater treatment and neutralization units a permit-by-rule if they comply with certain specified special standards, unless the Regional Administrator terminates eligibility for a permit-by-rule. Accordingly, under this proposal, owners and operators of these wastewater treatment and neutralization units will not have to apply for and obtain individual RCRA permits under Part 122 for these units or comply with the interim status standards of Part 265 applicable to these units.

Unfortunately, the amendments being proposed today cannot be finalized and take effect before November 19, 1980, the date on which the interim status standards and permit requirements of the current regulations take effect. Therefore, unless they are granted a temporary exclusion from regulation, owners and operators of the wastewater treatment and elementary neutralization units covered by the proposed amendments will have to comply, beginning on November 19, 1980, with requirements that the proposed amendments are designed to modify. Among other things, they will have to develop and submit Part A, of the RCRA permit applications and comply with the

interim status standards if they have achieved interim status. In addition, owners and operators of new facilities will have to develop and submit Part A and B, of the RCRA permit application and obtain a RCRA permit before constructing such facilities. The Agency believes that little practical value, and certain unnecessary disruption, will be achieved by causing owners and operators of these facilities to comply with the current requirements, pending final action on the proposed amendments. Indeed, requiring compliance with the current requirements could, to some extent, frustrate the purpose of awarding these owners and operators a permit-by-rule. Consequently, the Agency is today suspending the current regulations insofar as they apply to the wastewater treatment and elementary neutralization facilities covered by today's proposed amendments. The Agency does not believe this suspension will significantly reduce protection of human health and the environment. The duration of the suspension is expected to be short and most of the wastewater treatment and elementary neutralization units affected by the action currently are believed to be complying with the special standard proposed for these units.

II. Amendments

To achieve the above described suspension of current regulations the Agency is today promulgating the following final amendments:

(1) Section 122.21(d)(2) is being amended to add owners and operators of wastewater treatment and elementary neutralization units to the list of persons not required to obtain a RCRA permit.

(2) Sections 264.1(g) and 265.1(c) are being amended to add owners or operators of these units to the list of owners or operators to which the requirements of Parts 264 and 265 do not apply.

(3) The definitions of §§ 260.10 and 122.3 are being amended by adding definitions for "wastewater treatment unit" and "elementary neutralization unit." These are the same definitions used in the associated amendments being proposed today.

These amendments are being promulgated with an effective date of November 19, 1980. Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments being promulgated

in this action, the Agency believes that an effective date six months after promulgation would defeat the purposes of these amendments. Consequently, the Agency is making these amendments effective on November 19, 1980.

Dated: November 10, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. Add the following definitions to § 260.10(a).

§ 260.10 Definitions.

(a) * * *
(15a) "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this Chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

(ii) Meets the definition of tank, container, transport vehicle, or vessel in § 260.10 of this Chapter.

(76a) "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(iii) Meets the definition of tank in § 260.10 of this chapter.

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

2. Add the following paragraph to § 264.1(g):

§ 264.1 Purpose, scope and applicability.

(g) * * *
(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. Add the following paragraph to § 265.1(c):

§ 265.1 Purpose, scope and applicability.

(c) * * *
(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in § 260.10 of this chapter.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

4. Add the following definitions to § 122.3.

§ 122.3 Definitions.

"Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this Chapter only for this reason; and,

(b) Meets the definition of tank, container, transport vehicle, or vessel in § 260.10 of this Chapter.

"Waste water treatment unit" means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank in § 260.10 of this chapter.

5. Add the following paragraph to § 122.21(d)(2):

§ 122.21 Purpose and scope of Subpart B.

(d) * * *
(2) * * *
(vi) Owners and operators of elementary neutralization units or

wastewater treatment units as defined in 40 CFR 260.10.

(Secs. 1006, 2002(a), 3004, 3005, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925))

[FR Doc. 80-35915 Filed 11-14-80; 8:46 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264, 265 and 266

[WH-FRL 1670-4]

Hazardous Waste Management System; General and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and Standards for the Management of Specific Wastes and Specific Types of Facilities and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendments to rule and request for comments.

SUMMARY: EPA is today proposing special standards applicable to owners and operators of (1) wastewater treatment tanks that receive, store, or treat wastewaters that are hazardous waste or that generate, store, or treat wastewater treatment sludges that are hazardous wastes where such wastewaters are subject to regulation under Sections 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and (2) neutralization tanks, containers, transport vehicles and vessels which neutralize wastes which are hazardous only because they exhibit the corrosivity characteristic under 40 CFR 261.22 or are listed as hazardous wastes in Subpart D of 40 CFR Part 261 only for this reason. EPA also is proposing amendments to enable owners and operators of the above described units to have a permit-by-rule if they comply with the proposed requirements, unless the Regional Administrator terminates eligibility for such permit-by-rule and requires an individual permit. Finally, the Agency is proposing amendments to add new definitions for "elementary neutralization unit" and "wastewater treatment unit."

EPA is proposing these amendments because it believes that wastewater treatment and elementary neutralization units can be effectively regulated under a permit-by-rule approach and because it believes that such an approach offers benefits for both EPA and the regulated community.

DATES: EPA will accept public comments on the proposed amendments until January 16, 1981. Any person may request a hearing on the proposed amendments by filing a request with John P. Lehman, whose address appears below, by December 8, 1980. The request

must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Comments on the proposed amendments should be sent to the Docket Clerk, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should reference Docket No. 3004.

The public docket for this rulemaking is available at: Room 2711B, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, [WH-565], U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Reason and Basis for Proposed Amendments

On May 19, 1980, EPA promulgated Hazardous Waste Management and Consolidated Permit Regulations (45 FR 33066) under the Resource Conservation and Recovery Act of 1976, as amended (RCRA). These regulations, among other things, require owners and operators of facilities who treat or store hazardous wastes to apply for and obtain a RCRA permit (see § 122.22). They also require existing facilities which have qualified for interim status (see § 122.23) to comply with the interim status standards of Part 265. Owners and operators of wastewater treatment units subject to regulation under the National Pollution Discharge Elimination System (NPDES) or the pretreatment provisions of the Clean Water Act (Sections 402 and 307(b), respectively) are required to comply with these RCRA requirements where they treat an influent wastewater which is a hazardous waste or generate, store or treat a hazardous wastewater treatment sludge. Owners and operators of facilities that neutralize corrosive hazardous wastes are also required to comply with these RCRA requirements.

Many persons have questioned the necessity of regulating these facilities under RCRA. With respect to facilities that treat a hazardous wastewater influent or generate, treat or store a hazardous wastewater treatment sludge, these commenters claim that regulation under the Clean Water Act is sufficient

and need not be duplicated or augmented by regulation under RCRA. They also contend that these facilities are typically designed and operated to prevent unregulated releases of hazardous wastes into the environment and therefore do not warrant RCRA regulation. Finally, they point out that application of RCRA regulation to wastewater pretreatment units will significantly delay implementation of EPA's pretreatment program. They note that most pretreatment facilities will be required to begin operation in the next several years and that many of these facilities will treat a hazardous waste influent or generate, treat or store hazardous waste sludges and therefore will require new RCRA permits. These commenters claim that EPA and the States do not have sufficient resources to issue the 25,000 to 50,000 permits required by owners and operators of these facilities in a timely manner and that this will result in substantial delays in the construction of these facilities.

In the case of neutralization units that treat only corrosive hazardous wastes, other commenters have contended that the applicable RCRA regulatory requirements are more extensive and stringent than necessary to deal with the potential hazards posed by these facilities and the wastes they treat.

EPA has carefully considered these comments and has reexamined its regulations in light of these comments. It has concluded that these facilities pose distinct hazards which require regulation under RCRA. At the same time, it believes that the May 19 regulations can be simplified with respect to these facilities without reducing the human health and environmental protection provided by these regulations.

The Agency believes that wastewater treatment facilities that treat hazardous waste influents or generate, treat or store hazardous waste sludges do pose a potential hazard to human health or the environment. Hazardous wastes or constituents thereof may leak or spill from these facilities unless they are properly designed and constructed and are periodically inspected to prevent such occurrences. Persons or livestock may injure themselves if entry into these facilities is not controlled. These facilities may generate toxic mists, fumes, gases, extreme heat or pressure, or cause a fire, explosion or violent reaction if improperly operated. Additionally, hazardous wastes left in these facilities may cause harm if not removed when the facilities are closed.

The Agency believes that these potential hazards should be regulated under RCRA because they are not and

cannot be fully regulated under the Clean Water Act. The regulatory controls imposed on wastewater treatment facilities under the NPDES and pretreatment programs of the Clean Water Act focus on control of effluent discharges into surface waters or Publically Owned Treatment Works (POTW)—not on potential environmental releases of hazardous waste to the land, groundwater, or atmosphere. Although regulation of spills and non-point source releases of wastes or pollutants from these facilities into the environment is available and, to some extent, applied under Section 304(e) and 311 of the Clean Water Act, these controls are essentially limited to prevention of pollutant discharges into surface water and cannot be used to control pollutant discharges into other parts of the environment.

For these reasons, the Agency has concluded that RCRA regulation of wastewater treatment facilities that treat a hazardous waste influent or generate, treat or store a hazardous wastewater treatment sludge is necessary and justified. At the same time, the Agency is persuaded that RCRA regulation of the potential hazards posed by wastewater treatment units can be accomplished through application of a limited set of special requirements applied through a permit-by-rule. These requirements, which are described below, can be adequately defined in a national regulation and sufficiently understood and implemented by the regulated community so as to avoid the necessity of individually-issued RCRA permits. The Agency is convinced that, without sacrificing environmental protection, this permit-by-rule approach will save the regulated community significant costs in applying for individual RCRA permits and will save EPA (and the States, if they adopt this approach) significant resources in issuing individual RCRA permits. The Agency recognizes that it (and the States) will have limited resources to implement and enforce its RCRA regulations. Consequently, it is anxious to avoid unnecessary resource demands so that its resources can be applied to the highest priority implementation and enforcement activities.

Under the above-described approach, eligible wastewater treatment units would be deemed to have a RCRA permit if they comply with the special requirements established in the regulations. To implement this approach, the Agency is today proposing amendments to the regulations that (1) establish special requirements for

wastewater treatment units in Subpart B of Part 266, a new part under this Chapter, and (2) amend §§ 122.26, 264.1(g) and 265.1(c) to grant owners and operators of these units a permit-by-rule.

The Agency believes that this approach is appropriate for hazardous wastes that are managed or generated in wastewater treatment units (e.g., clarifiers, aeration tanks, and grit chambers). By definition see § 260.10), these units are stationary devices designed to contain waste and constructed primarily of non-earthen materials such as concrete or steel. Because the permit-by-rule approach is confined to such units, the Agency concludes that the special requirements which it proposes to delineate in Part 266 are sufficient to serve the purposes of RCRA regulation. The Agency does not believe that this permit-by-rule approach should be extended to surface impoundments that also may be part of wastewater treatment facilities that treat or store hazardous wastes. The requirements that need to be applied to surface impoundments depend on site-specific and waste-specific factors which cannot be adequately delineated in a national regulation; such requirements are better determined on a case-by-case basis in the development and issuance of individual permits. For example, in determining whether a surface impoundment needs a liner to prevent releases (leaching) of hazardous wastes into groundwater, the Agency must take into account such site-specific factors as the type and character of the geologic materials underlying the site, the character of the groundwater underlying the site and the compatibility of the liner material with the hazardous waste being treated or stored in the impoundment. Because these requirements cannot easily be incorporated into a permit-by-rule, the Agency is not including surface impoundments within the scope of the proposed amendments.

The Agency recognizes that the special requirements it is proposing to apply to wastewater treatment units may not always be sufficient to serve the regulatory purposes of RCRA. For example, the permit-by-rule requirements being proposed today may not provide adequate environmental protection where treatment of the hazardous wastewater tends to result in the escape of hazardous waste constituents into the atmosphere (e.g., the treatment of highly toxic volatile wastes in open tanks). In addition, the permit-by-rule requirements may not provide adequate environmental protection where the hazardous

wastewater is highly toxic. To address such situations, the Agency is including in the proposed amendments to § 122.26 a provision which will enable the Agency to terminate eligibility for a permit-by-rule and require an individual RCRA permit where the requirements of Subpart B of Part 266 are not sufficient to protect human health or the environment. This provision also will enable the Agency to terminate eligibility for a permit-by-rule where the owner or operator fails to comply with the special requirements of Part 266 or is conducting other activities which require him to obtain an individual RCRA permit.

With respect to neutralization tanks, containers, transport vehicles and vessels that treat wastes that are hazardous wastes only because they are corrosive, the Agency is taking the same basic approach. It believes that these units pose the same type of hazards to human health or the environment as discussed above and believes that these potential hazards warrant regulation under RCRA. However, for the reasons cited above, it believes that sufficient RCRA regulation, in most cases, can be achieved through a limited set of requirements applied through a permit-by-rule, as long as the neutralization is carried out in tanks, containers, transport vehicles and vessels as defined in § 260.10 and as long as the containers, transport vehicles and vessels are stationary when neutralization occurs. Consequently, the Agency is including so-called "elementary neutralization units" in the coverage of the amendments being proposed today.

II. Proposed New Definitions

As noted above, the Agency is proposing to add the new definitions for "wastewater treatment unit" and "elementary neutralization unit" to § 260.10 and § 122.3. The proposed definition for wastewater treatment units includes facilities that: Accumulate wastewater treatment sludges that are hazardous wastes; or treat (e.g., dewater, thicken, digest) or store hazardous wastewater treatment sludges; and

(2) Are tanks (e.g., clarifiers, grit chambers, digesters) as defined in § 260.10; and

(3) Are part of a wastewater treatment system, the effluent of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act.

This definition is intended to include all industrial and municipal wastewater and wastewater sludge treatment and storage tanks that are subject to regulation under the NPDES or

pretreatment programs of the Clean Water Act. It covers the clarifiers, aeration tanks, grit chambers and other wastewater treatment tanks of publicly owned treatment works (POTWs) in which hazardous wastewater treatment sludges are generated and stored; the sludge digesters, thickeners, dryers and other sludge processing tanks of POTWs in which hazardous wastewater treatment sludge is treated; and any POTW tanks used for the storage of such sludge. It also covers similar devices in industrial wastewater treatment systems which (1) produce a treated wastewater effluent which is discharged into surface waters or into a POTW sewer system and therefore is subject to the NPDES or pretreatment requirements of the Clean Water Act or (2) produce no treated wastewater effluent as a direct result of such requirements. This definition is not intended to include surface impoundments. Nor is it intended to include wastewater treatment units which are not subject to regulation under the Clean Water Act, including systems that are not required to obtain an NPDES permit because they do not discharge a treated effluent. The Agency solicits comments on whether the proposed definition adequately accomplish these intentions and, if not, how it can be modified to better achieve same.

The proposed definition of an elementary neutralization unit includes facilities that:

- (1) Treat or store wastes that are hazardous wastes only because they exhibit the characteristic of corrosivity defined in § 261.22 or are listed as hazardous wastes in Subpart D of Part 261 solely for this reason; and
- (2) Are tanks, containers, transport vehicles or vessels as defined in § 260.10.

In contrast with the definition for wastewater treatment units, this definition includes transport vehicles, vessels and containers in which corrosive hazardous waste are neutralized in addition to neutralization tanks. Transport vehicles, vessels and containers are being included because comments received by the Agency indicate that corrosive hazardous waste are occasionally neutralized in the vehicle or containers in which they are to be shipped. The Agency recognizes that these devices are efficient ways of managing wastes and believes that the special requirements of Subpart B of Part 266 can adequately guard against the hazards posed by neutralization in such devices. There is one caveat, however. The special requirements of Part 266 are designed for and, in a

practical sense, can only meaningfully be applied to stationary devices. Consequently, rather than expand the Part 266 requirements to accommodate neutralization in non-stationary devices, the Agency is limiting the applicability of the Part 266 requirements (and correspondingly, the entitlement to a permit by rule) to neutralization which occurs in stationary transport vehicles and containers. This is accomplished by § 266.10(a), which grants a permit by rule to transport vehicles, vessels or containers used as neutralization devices only to the extent the neutralization occurs in these devices while they remain stationary and before transport of the waste begins.

The proposed definition of elementary neutralization unit is intended to include devices that are either on or off the site at which the corrosive wastes are generated. It is intended to include devices that are commonly considered to be tanks as well as devices such as flumes, gutters, throughs and pipes which are not commonly considered to be tanks, but which nevertheless meet the expansive definition of tank in § 260.10. It includes both units that are principally designed to neutralize corrosive wastes and units which achieve this and other waste treatment objectives such as precipitation of waste constituents. It is not, however, intended to include surface impoundments which neutralize corrosive hazardous wastes or facilities that treat or store wastes that are hazardous wastes for reasons other than corrosivity. The Agency solicits comments on the scope of this definition.

III. Proposed Special Requirements for Eligible Wastewater Treatment Units and Elementary Neutralization Units

As discussed above, the amendments being proposed today include special requirements for eligible wastewater treatment and elementary neutralization units. These are to be included in Subpart B of a new part of this chapter, Part 266, which will be used in the future to house other special regulatory requirements. These proposed special requirements for wastewater treatment and elementary neutralization units are as follows:

- (1) The owner or operator of eligible facilities must obtain an EPA identification number by applying to the Administrator using EPA Form 8700-12. This requirement is intended to provide the Agency with a registration of the hazardous waste treatment and storage facilities that are covered by the provisions of these proposed amendments. For owners or operators of existing facilities that notified the

Agency during the notification periods that ended on August 18 and October 14, 1980 (notification periods for hazardous wastes identified or listed on May 19 and July 16, 1980, respectively), the Agency has issued or will be issuing EPA identification numbers. Owners or operators of existing facilities that, for one reason or another, did not notify during these notification periods and owners or operators of new facilities must apply for an EPA identification number by completing and submitting EPA Form 8700-12 before they treat, store or generate any hazardous wastes in eligible facilities after November 19, 1980.

- (2) The owner or operator of an eligible facility must complete the manifests for hazardous wastes he receives from off-site sources and investigate and report manifest discrepancies and unmanifested shipments. He must also maintain an operating record and submit an annual report with respect to hazardous wastes received from offsite sources. These provisions ensure that the manifest and reporting system remains intact for hazardous wastes transported to off-site treatment and storage facilities.

- (3) The owner or operator of an eligible facility must prevent the unknowing entry and minimize the possibility of unauthorized entry of persons or livestock onto the eligible facility. This requirement is intended to prevent or minimize the harm to people or livestock that could result from direct contact with the hazardous wastes handled in these units. It is also intended to reduce the possibility of unauthorized persons tampering with the treatment processes and thereby causing spills, process upsets, or damage to the treatment equipment. Where the eligible facility is located outside a building, the Agency expects that this requirement can be met by providing appropriate fencing and warning signs around the facility. Alternatively, it can be met by fencing off and controlling access to the entire facility at which the unit is located. Where the unit is located in a building, appropriate guard rails and warning signs around the tank will satisfy this requirement. The Agency has purposefully refrained in this provision from mandating any specific security requirements in order to provide flexibility and avoid imposing requirements which might be inappropriate for the many varied settings in which eligible units are found. The proposed provision, therefore, is expressed as a performance standard, compliance with which is left

to the reasonable judgment of the owner or operator of an eligible facility.

(4) The owner or operator of an eligible facility must ensure that the unit is constructed of sturdy leakproof materials (e.g., steel, concrete) and is designed and operated so as to contain the hazardous wastes being treated or stored in the facility and to prevent spills or leaks of such hazardous wastes into or on any land or water during the operating life of the facility. Again, the Agency has avoided setting specific requirements as to types of materials, designs and controls for such units and has opted for a performance standard which leaves the means of compliance to the reasonable judgment of the owner or operator. In monitoring and enforcing compliance with this provision, the Agency will expect the owner or operator of an eligible facility to provide such features as may be necessary to comply with the provision, including freeboard on open tanks and waste inflow shut off devices.

(5) The owner or operator of an eligible unit must periodically inspect the unit for malfunctions, deterioration, or any other conditions that are causing or could cause leaks or spills of the hazardous wastes in the unit. He must also develop and maintain a written inspection plan and record those inspections in an inspection log. Finally, he must immediately remedy any equipment malfunctions, equipment and material deterioration or other conditions that are causing or could cause leaks or spills. The intent of this inspection requirement and the previously discussed proposed provision, is obviously to prevent or minimize leaks and spills of hazardous wastes from eligible units. To avoid inflexible requirements, the Agency is again leaving the design of an inspection program to the reasonable judgment of the owner or operator. The Agency expects an inspection plan that is tailored to the type of tank, waste, and situations that can cause leaks or spills.

(6) The owner or operator of an eligible unit must ensure that the treatment or storage of hazardous wastes in the unit is conducted so that it does not cause conditions such as the generation of extreme heat or pressure; fire; explosions; violent reactions; toxic fumes, mists or gases; conditions that damage the structural integrity or equipment of the unit; or conditions that otherwise threaten human health or the environment. The intent of this proposed requirement is to prevent hazards that can result in the management of ignitable, reactive, corrosive and incompatible wastes.

(7) The owner or operator of an eligible facility must remove all hazardous wastes and hazardous waste residuals from the unit at closure. This proposed requirement is meant to ensure that hazardous wastes are not left in units that are no longer being operated and which are, therefore, probably not being safely managed.

(8) The owner or operator of an eligible unit must notify the Agency in writing of any spills or releases of hazardous wastes from the unit within 15 days after such occurrence. The purpose of this requirement is to provide the Agency with knowledge of situations which may cause substantial hazard to human health or the environment so that EPA can take appropriate action. The Agency would like to make this requirement subject to a rule of reason whereby truly *de minimis* spills would not be included. Comments are solicited on how this can be accomplished.

All of the foregoing requirements are requirements similar to those that would apply to eligible units if they were subject to the interim status standards of Part 265 of this Chapter. As such, the underlying support for these requirements is provided in the several background documents that support Part 265. These background documents are identified in the preamble to the Part 264 and 265 regulations promulgated on May 19, 1980 (see 45 FR 33220) and are available for review at both the EPA headquarters library, Room 2404, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460 and the public docket at the address previously given.

The Agency believes that the foregoing requirements are sufficient to protect human health and the environment. Certain requirements that otherwise would apply under the interim status standards of Part 265 or the proposed standards of Part 264 are not included because the Agency has concluded that they are, in most cases, not necessary. The major interim status standards not included in the proposed amendments are those requiring personnel training, development and maintenance of a contingency plan, preparation of an annual report, maintenance of an operating record, development of a closure plan, provision of a closure fund or other guarantee (proposed) and maintenance of liability insurance (proposed). The Agency solicits comments on the adequacy of the proposed special requirements and on the desirability of adding requirements it has omitted from its proposal.

IV. Effect of the Proposed Amendments if Finalized in Their Present Form

If the amendments proposed today were finalized in their present form, owners and operators of eligible units would be deemed to have a RCRA permit, unless their eligibility for a permit-by-rule were terminated by the Agency. Accordingly, these owners and operators would not have to obtain an individual RCRA permit for such facilities or comply with the interim status standards in Part 265 of this chapter.

This relief from the current regulation, however, will not be available until the proposed amendments are finalized—an event which will probably not occur for at least 90 days following today's publication. In the interim, beginning November 19, 1980, owners and operators of eligible units will be technically required to comply with the current regulations, including the requirements that they submit RCRA permit applications and comply with all of the interim status standards. The Agency recognizes that requiring owners and operators of eligible facilities to comply with the current regulations will cause them to incur unnecessary costs and burdens and will to some extent defeat the purpose of granting them a permit by rule. The Agency, therefore, concurrent with this proposal, is suspending the current regulations insofar as they apply to eligible facilities. The Agency intends to continue this suspension until final action is taken on the amendment proposed today.

V. Effect of the Proposed Amendments On State Hazardous Waste Programs

The provisions of the proposed amendments, even if finalized in their present form, may not apply to eligible facilities in States which receive interim or full authorization Part 123 of this Chapter. Similarly, today's suspension of the current regulations with respect to eligible facilities may not apply in such States. To obtain interim authorization to conduct its own hazardous waste program in lieu of the Federal program, a State must show that its program is substantially equivalent to the Federal program. To obtain final authorization, it must show that its program is fully equivalent to and consistent with the Federal program and consistent with the programs in other States. In both cases, a State is free to impose more stringent requirements than those imposed by the Federal program. Consequently, unless States with interim or full authorization independently adopt today's suspension and the reduced set of requirements

proposed today, eligible facilities in those States may have to apply for and obtain individual State issued permits and comply with a more stringent set of requirements.

Furthermore, eligible facilities in States which do not seek or obtain interim or final authorization may have to comply with more stringent requirements if such requirements are imposed by the State. This is because a State is free to implement a hazardous waste program paralleling the Federal program and to impose more stringent requirements than the Federal program. Such requirements are not preempted by the Federal requirements.

VI. Environmental, Economic and Regulatory Impacts

The proposed amendments will reduce the economic, reporting and recordkeeping impacts on owners and operators of eligible units by virtue of eliminating, in most cases, the requirements for applying for an individual RCRA permit and by relaxing the interim status standards that otherwise would apply to owners or operators who have obtained interim status. The proposed amendments will also reduce the resource demands on the Agency by reducing the number of individual RCRA permits that otherwise would have to be issued. The Agency believes that these savings can be achieved without significantly reducing the protection of human health and environment.

VII. Conforming Amendment Respecting Owners and Operators of POTW's

In developing these proposed amendments, the Agency discovered an error in § 265.1(c)(3). That provision provides that the requirements of Part 265 do not apply to owners or operators of POTW's which treat, store or dispose of hazardous waste. This exemption is broader than intended. As written, it exempts from Part 265 requirements all hazardous wastes managed by POTW's. The intent of this provision was to exempt from Part 265 requirements only those hazardous wastes delivered to a POTW by truck or rail or through a pipe carrying only industrial wastes (see discussion in the preamble to Parts 264 and 265 at 45 FR 33171-72 and 33178) and to thereby complement the provisions of § 122.26(c), which award owners and operators of POTW's accepting such hazardous waste a permit-by-rule. It was not intended to exempt from Part 265 requirements hazardous waste sludges generated in the treatment or storage of such incoming hazardous waste or in the treatment or storage of any incoming

domestic sewage mixture (which is not considered a solid waste by virtue of § 261.4 and therefore cannot be a hazardous waste).

To correct this error, the Agency is today proposing to amend § 265.1(c)(3) so that it exempts only hazardous waste delivered to a POTW by a transportation vehicle or vessel or through a pipe. Although the Agency believes this amendment is a technical correction which could be promulgated as a final rule, it is choosing instead, to propose this change. This will allow owners and operators of POTW's, who have read the current regulations literally without referring to the associated preamble language, sufficient time to prepare to implement the Part 265 requirements if and to the extent those requirements apply.

As a consequence of this proposed correction, the other amendments being proposed today, and the provisions of the current regulations, owners and operators of existing POTW's who have obtained interim status will be subject to Part 265 requirements only with respect to hazardous waste sludges which they generate, store, or treat in surface impoundments; treat in drying beds; dispose of in landfills; or otherwise manage in treatment, storage or disposal facilities that are not tanks. Hazardous waste sludges accumulated, treated or stored in wastewater treatment units will be subject to the special permit-by-rule requirements being proposed today. Hazardous waste sludges that are beneficially used or legitimately recycled or reclaimed (e.g., through land farming, composting, or burning for energy recovery) are subject to regulations governing storage and transportation (see § 261.6). Hazardous wastes which are mixed with domestic sewage influent are excluded from regulation by § 261.4(a)(1)(iii). Finally, hazardous wastes delivered to a POTW by truck, rail or vessel or through a pipe conveying only industrial wastes are subject to the special requirements of § 122.26(c) in lieu of part 265 requirements.

The Agency has discovered a similar error in § 264.1(e). That provision states that the requirements of Part 264 apply to an owner or operator of a POTW which treats, stores or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted under Part 122. This provision was intended to exempt from Part 264 requirements only those hazardous wastes delivered to a POTW by truck or rail or through an industrial waste pipe except to the extent that such Part 264 requirements were referenced in

§ 122.26(c). As written, however, this provision goes beyond its intended purpose by exempting from Part 264 requirements all hazardous wastes that might be generated, treated, stored or disposed of by POTW's. To rectify this error, the Agency is today proposing to delete § 264.1(e) and to add a new paragraph (7) to § 264.1(g) to achieve the limited purposes originally intended. Under this proposed correction, the applicable requirements of Part 264 and Part 122 will apply to the hazardous waste sludges that are generated by POTW's to the extent that these sludges are treated, stored or disposed of in surface impoundments, sludge dry beds, landfills and land treatment facilities. For the same reasons stated above, the Agency is proposing these amendments rather than promulgating them as final technical amendments.

Dated: November 10, 1980.

Douglas M. Costle,
Administrator.

It is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. Add the following definitions to § 260.10(a)

§ 260.10 Definitions.

(a) * * *

(15a) "Elementary neutralization unit" means a device which:

(i) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this chapter only for this reason; and

(ii) Meets the definition of tank, container, transport vehicle or vessel in § 260.10 of this Chapter.

(76a) "Wastewater treatment unit" means a device which:

(i) Is part of a wastewater treatment facility which is subject to regulations under either Section 402 or Section 307(b) of the Clean Water Act; and

(ii) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 260.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(iii) Meets the definition of tank in § 260.10 of this chapter.

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

§ 264.1 [Amended]

2. Delete paragraph (c) of § 264.1 and re-number paragraphs (f) and (g) as (e) and (f).

§ 264.1 [Amended]

3. Add the following subparagraphs to § 264.1(g):

(g) * * *

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit who is granted a permit-by-rule under § 122.26(d) except to the extent that requirements of this Part are referred to in § 266.15.

(7) The owner or operator of a POTW with respect to the treatment or storage of hazardous waste which is delivered to the POTW by a transport vehicle or vessel or through a pipe, except to the extent that requirements of this part are included in RCRA permit by rule granted under § 122.26(c).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

§ 265.1 [Amended]

4. Revise § 265.1(c)(3) to read as follows:

(c) * * *

(3) The owner or operator of a POTW with respect to the treatment or storage of hazardous wastes which are delivered to the POTW by a transport vehicle or vessel or through a pipe.

§ 265.1 [Amended]

5. Add the following paragraphs to § 265.1(c):

(c) * * *

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND CONTROL PROGRAM

6. Add the following definitions to § 122.3:

§ 122.3 Definitions.

"Elementary neutralization unit" means a device which:

(a) Is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in § 261.22 of this chapter, or are listed in Subpart D of Part 261 of this chapter only for this reason; and

(b) Meets the definition of tank, container, transport vehicle or vessel in § 260.10 of this chapter.

"Wastewater treatment unit" means a device which:

(a) Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and

(b) Receives and treats or stores an influent wastewater which is a hazardous waste as defined in § 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this Chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in § 261.3 of this chapter; and

(c) Meets the definition of tank in § 260.10 of this chapter.

7. Establish the following Part 266.

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

Subpart A—General

Sec.

266.1 Purpose, scope, and applicability.

266.2-266.9 [Reserved]

Subpart B—Elementary Neutralization and Wastewater Treatment Units

266.10 Applicability.

266.11 Identification number.

266.12 Security.

266.13 Inspections.

266.14 General operating requirements.

266.15 Manifest system, recordkeeping and reporting.

266.16 Closure.

266.17 Reporting.

266.18 266.19 [Reserved]

Authority: Secs. 1006, 2002(a), 3004 and 305 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

Subpart A—General

§ 266.1 Purpose, scope, and applicability.

(a) The purpose of this part is to establish minimum national standards which define the acceptable management of certain hazardous wastes and the acceptable practices for

certain kinds of hazardous waste management facilities.

(b) The standards in this part apply, in lieu of the requirements of Parts 264 and 265 of this chapter, to owners and operators of eligible hazardous waste management facilities.

§§ 266.2-266.9 [Reserved]

Subpart B—Elementary Neutralization Units and Wastewater Treatment Units

§ 266.10 Applicability.

(a) The regulations of this Subpart apply to owners and operators of elementary neutralization units and wastewater treatment units as defined in § 260.10 of this chapter: *Provided*, That in the case of elementary neutralization units which are transport vehicles, vessels or containers used to transport the waste after neutralization, neutralization must occur in these units while they remain stationary and before transport of the neutralized waste begins.

[Comment: The requirements of this part are designed for stationary tanks. The Agency wishes, however, to accommodate tank trucks, movable bins and other devices in which corrosive wastes are occasionally neutralized and subsequently transported to treatment, storage, disposal, reuse or recycle facilities. Accordingly, the regulations of this subpart are made applicable to such transport vehicles, vessels or containers, but only to the extent that neutralization occurs in the transport vehicle or container while it remains stationary and before transportation begins. If the neutralization renders the waste non-hazardous, the subsequent transportation and management of the waste is not subject to regulation under Parts 262 through 264 and Parts 122 through 124 of this chapter. If the neutralization does not render the waste non-hazardous, the subsequent transportation and management of the waste is subject to such regulation.]

(b) The requirements of this part do not apply to:

(1) The owner or operator of an elementary neutralization or wastewater treatment unit located in a State with a RCRA hazardous waste program authorized under Subparts A and B, or Subpart F, of Part 123 of this chapter.

(2) The owner or operator of an elementary neutralization or wastewater treatment unit permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the only hazardous waste the unit treats or stores is subject to the special requirements of § 261.5 of this chapter.

(3) The owner or operator of an elementary neutralization or wastewater treatment unit which treats hazardous

waste, which treatment meets the criteria of § 261.6(a)(2) of this chapter.

(4) The owner or operator of an elementary neutralization or wastewater treatment unit for which the Regional Administrator has terminated eligibility for a permit-by-rule under 40 CFR 122.26(d)(2).

§ 266.11 EPA Identification Number.

(a) The owner or operator must not treat or store a hazardous waste in an elementary neutralization unit or a wastewater treatment unit without having received an EPA identification number.

(b) An owner or operator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12.

§ 266.12 Security.

(a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the elementary neutralization or wastewater treatment unit, unless:

(1) Physical contact with the waste contained in the unit will not injure unknowing or unauthorized persons or livestock which may enter the unit, and

(2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock into or onto the unit will not cause a violation of the requirements of this Subpart.

(b) [Reserved]

§ 266.13 Inspections.

(a) The owner or operator must inspect the elementary neutralization or wastewater treatment unit for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to—(1) unauthorized release of hazardous waste to the environment or (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as tank walls and pumps) that are important to preventing environmental or human health hazards.

(2) He must keep this schedule at the facility.

(3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for

during the inspection (e.g., inoperative pump, leaking fitting, heavy corrosion).

(4) The frequency of inspection may vary for the items on the schedule. It should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if any deterioration or malfunction or operator error goes undetected between inspections.

(5) The owner or operator must remedy any deterioration or malfunction of equipment or structures detected in an inspection. This must be done on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(6) The owner or operator must record inspections in an inspection log. He must keep these records for at least three years from the date of inspection. At the minimum, these records must include the date and time of each inspection, the name of the inspector, a recording of the observations made, and the date and nature of any repairs or other remedial actions taken as a result of inspection observations.

§ 266.14 General operating requirements.

(a) The owner or operator of an elementary neutralization or wastewater treatment unit must ensure that the treatment process conducted in the unit does not:

(1) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(2) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities to threaten human health;

(3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;

(4) Damage the structural integrity of the tank or equipment containing the waste; or

(5) Through like means threaten human health or the environment.

(b) Hazardous wastes or treatment reagents must not be placed in an elementary neutralization or wastewater treatment unit if they could cause the unit or any of its equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life.

(c) An elementary neutralization or wastewater treatment unit must be constructed of sturdy, leakproof material and must be designed, constructed and operated so as to prevent hazardous wastes from being spilled or leaked into or on any land or water during the operating life of the unit.

§ 266.15 Manifest system, recordkeeping and reporting.

The owner or operator must comply with the following requirements with respect to hazardous wastes he receives from off-site sources:

(a) Section 264.71, Use of manifest system;

(b) Section 264.72, Manifest discrepancies;

(c) Section 264.73(a) and (b)(1), Operating record;

(d) Section 264.75, Annual report; and,

(e) Section 264.76, Unmanifested waste report.

§ 266.16 Closure.

At closure, the owner or operator of an elementary neutralization or wastewater treatment unit must remove all hazardous waste and hazardous waste residues from the unit.

§ 266.17 Reporting.

Within 15 days after any spill or leakage or hazardous waste from an elementary neutralization or wastewater treatment unit, the owner or operator of the unit must submit a written report to the Regional Administrator which contains the following information:

(a) Name, address, and telephone number of the owner or operator;

(b) Name, address, and telephone number of the facility;

(c) Date, time, and nature of the incident;

(d) Name and quantity of material(s) involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

§ 266.18-266.19 [Reserved]

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAMS; AND THE UNDERGROUND STORAGE TANK PROGRAM

§ 122.26 [Amended]

5. Add the following paragraphs to § 122.26:

(d) Elementary Neutralization or Wastewater Treatment Units.

(1) The owner and operator of an elementary neutralization unit or a wastewater unit, if he complies with the requirements of 40 CFR Part 266, Subpart B, unless he is required to have

an individual permit under paragraph (d)(2) of this section.

(2) The Regional Administrator, after providing opportunity for a public hearing, may terminate eligibility for a permit-by-rule under this section and require an owner and operator of an elementary neutralization unit or a wastewater treatment unit to apply for and obtain an individual RCRA permit under this part, if:

(i) The owner or operator violates any condition of 40 CFR Part 266, Subpart B;

(ii) The owner or operator is conducting other activities which require him to obtain an individual RCRA permit; or

(iii) The Regional Administrator determines that the requirements of 40 CFR Part 266, Subpart B are not sufficient to protect human health or the environment and that additional requirements under 40 CFR Part 264 are required to provide such protection.

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