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November 14, 1980, "Hazardous Waste Management System:
Identification and Listing of Hazardous Waste"
Proposed rule.

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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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

~~[FRL]~~

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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 122.124 and 45 FR 12746 (February 26, 1980)).

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IN THE OFFICE OF THE
FEDERAL REGISTER

CCR 000041030

DATES: EPA will accept public comment on this proposal until [60 days after publication]. Any person may request a hearing on this proposal by filing a request by [21 days after publication]. 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, S.W., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

RL Hearing 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, S.W., Washington, D.C. 20460, (202) 755-9187.

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.¹ 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

¹/Envirex, Inc. is a manufacturer of sewage, water, waste treatment and water conditioning equipment for many uses, including applications in the petroleum refining industry.

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.)² The petitioner therefore requests that these two listings be modified to prevent unfair discrimination and possible adverse competitive consequences.

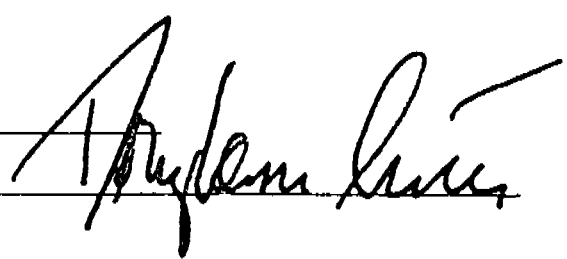
In reviewing and evaluating the petition, the Agency agrees that the listings must be modified to reflect the hazardous character of the wastes themselves, rather than the type of equipment or process generating the waste. More specifically, the Agency is tentatively persuaded that the present listing 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.

²/The petitioner cited "Development Document for Effluent Limitations, Guidelines and Standards for the Petroleum Refining Point Source Category" (EPA No. 440/1-79/014-6) in support of the above comments on process waste identification.

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: NOV 4 1980

Douglas M. Costle
Administrator



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It is proposed to amend Title 40 CFR, Part 261, by ^{amending} ~~revising~~ 40 CFR, Part 261.32 ~~to read~~ 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."