

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1167

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 6-4-85
DATE FOR REVIEW 6-13-85
DATE DUE 6-18-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 6/18/85 (LDS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 6-19-85 Revisor approved 6/4/85
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.30.85 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 1.14.85. + comment

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency minor deviation from 14.22 – no statements as to noncontroversiality, encouragement of comment.

✓ Affidavit of Mailing Notice or rulemaking
4.9.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
4.15.85 At least 30 ~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules labelled "authorizing" but resolution adopts Rules.

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Affidavit of no comment
Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General No Requests

N/A Notice of Submission to the Attorney General

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

June 4, 1985

RECEIVED
JUN 04 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

Re: Proposed Amendment of Rules Governing the Classification of Wastes as Hazardous, Minn. Rules Parts 7045.0135, and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities, Minn. Rules Part 7001.0650

Dear Mr. Miles:

On April 23, 1985, the Minnesota Pollution Control Agency adopted amendments to Minn. Rules Parts 7045.0135, 7045.0214, and 7001.0650, rules governing the classification of wastes as hazardous and rules regarding the denial of interim status for hazardous waste facilities. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Order Adopting Rule Amendments (two copies).

3. Certificate of Agency's resolution adopting rules.

4. Notice of intent to solicit outside opinion (9 S.R. 1621, January 14, 1985).

5. A copy of the written comment received pursuant to notice of intent to solicit outside opinion.

6. Order for Notice of Intent to Amend Rules Without a Public Hearing.

7. Certificate of Agency's Authorizing Resolution.

8. Notice of Intent to Amend Rules Without A Public Hearing and rule amendments as proposed (9 S.R. 2333, April 15, 1985).

9. Affidavit Regarding Comments Received Pursuant to Notice of Intent to Adopt Rule Without a Public Hearing.

10. Notice of Intent to Amend Rules Without a Public Hearing, as mailed.

11. Affidavit of Mailing, mailing list, and Certificate concerning mailing list.

12. Rule amendments as proposed.

13. Findings of Fact and Conclusions.

14. Statement of Need and Reasonableness.

15. Statement of Compliance with Rulemaking Procedures.

16. Affidavit Regarding Requests for Notification as to Submission of Rules to the Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: THOMAS J. KALITOWSKI, Executive Director
Minnesota Pollution Control Agency

DATE: 6-19-85

ATTN: JOCELYN F. OLSON
Special Assistant Attorney General

FROM: LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities, Minn. Rules Part 7001.0650.

The above-referenced rule has been approved as to its legality by the Attorney General on June 18, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

LDS:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG copy

Pollution Control Agency

Adopted Rules Relating to Hazardous Waste

Rules as Adopted

7001.0650 INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Notification of failure to qualify for interim status.** If the director determines that an owner or operator of an existing hazardous waste facility does not qualify for interim status under subpart 1, the director shall notify the owner or operator in writing of the failure to qualify for interim status and the reason for the failure. The notification must also include a statement that the owner or operator is subject to agency remedies for violation of agency rules, including the requirement of part 7001.0520 to obtain a permit. The owner or operator has 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in the Part A application. If after such notification and opportunity for response, the director determines that the application is deficient, appropriate enforcement action may be taken.

Subp. 4. to 7. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Discarded commercial chemical products, off-specification species, containers, and spill residues.** The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

A. to D. [Unchanged.]

E. the commercial chemical products or manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in items A to D and listed in the following table, are identified as acute hazardous wastes (H) and are subject to the small

quantity exclusion defined in part 7045.0219, subpart 1, items B and C. The primary hazardous properties of these materials have been indicated by the letters T (toxicity), and R (reactivity). Absence of a letter indicates that the compound is listed only for acute toxicity. These wastes and their corresponding hazardous waste numbers are listed as follows:

Hazardous Wastes from Commercial Chemical Products

Hazardous Waste No.	Substance	Hazard Code
P023	Acetaldehyde, chloro-	
to		[Unchanged.]
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy] thio-, methyl ester	
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations greater than 0.3 percent	
P002	1-Acetyl-2-thiourea	
to		[Unchanged.]
P120	Vanadium(V) oxide	
P001	Warfarin when present at concentrations greater than 0.3 percent	
P121	Zinc cyanide	
P122	Zinc phosphide when present at concentrations greater than 10 percent	(R,T)

F. The commercial chemical products or manufacturing chemical intermediates, or off-specification commercial chemical products referred to in items A, B, and D, and listed in the following table are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in part 7045.0219, subpart 1, item A. The primary hazardous properties of these materials have been indicated by the letters T (toxicity), R (reactivity), I (ignitability), and C (corrosivity). Absence of a letter indicates that the compound is listed only for toxicity. These wastes and their corresponding hazardous waste numbers are listed as follows:

Hazardous Wastes from Commercial Chemical Products

Hazardous Waste No.	Substance	Hazard Code
U001	Acetaldehyde	(I)
to		[Unchanged.]
U003	Acetonitrile	(I,T)
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations of 0.3 percent or less	
U004	Acetophenone	
to		[Unchanged.]
U043	Vinyl chloride	
U248	Warfarin when present at concentrations	

		of 0.3 percent or less	
	U239	Xylene	(I)
	U200	Yohimban-16-carboxylic acid, 11, 17-di-methoxy-18-[(3,4,5-trimethoxy-benzoyl)oxy]-, methyl ester,	
	U249	Zinc phosphide when present at concentrations of 10 percent or less	

Subp. 5. [Unchanged.]

7045.0214 EVALUATION OF WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Wastes generated by treatment, storage, or disposal.** Wastes generated by treatment, storage, or disposal of hazardous waste are as follows:

A. Except as provided in item B, any waste generated from the treatment, storage, or disposal of hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, but not including precipitation run-off, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived from a waste that is listed in part 7045.0135.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

RECEIVED
APR 16 1985
MINN. POLLUTION CONTROL AGENCY

APPROVED AS TO LEGALITY

June 18, 1985

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Larry D. Pams
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUN 19 1985

Joan Anderson Growe
Secretary of State

10:20 A.M.

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

ORDER ADOPTING RULE AMENDMENTS

Notice of the Minnesota Pollution Control Agency's intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on April 15, 1985, (9 S.R. 2333) and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §14.14 (1984) on April 9, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, and after determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minnesota Rules Parts 7045.0135, 7045.0214, and 7001.0650, rules governing the classification of waste as hazardous and rules governing the denial of interim status for hazardous waste facilities, are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. 116.07, subd. 4 (1984).

Dated this 30th day of May, 1985.

Duane A. Dahlberg

DUANE DAHLBERG
Chairperson

Michael Roberts

for THOMAS J. KALITOWSKI
Executive Director

waste having a pH greater than 12.5 which is recycled or reused. Rules being considered for possible amendment include Minn. Rules parts 7045.0120, 7045.0125 and 7001.0520.

Consideration is being given to either exempting waste having a high pH which is recycled or reused from regulation under the hazardous waste rules provided specific conditions are met, or including specific requirements for the reuse/recycle of high pH waste meeting specific conditions. Conditions could include pH level, irritative properties, and reporting and other management requirements.

The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until February 4, 1985. Written statements should be addressed to: Karen A. Ryss, Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, 1935 West County Road B2, Roseville, Minnesota 55113. Oral statements will be received during regular business hours at 612/297-1793.

January 7, 1985

Michael Robertson
for
Thomas J. Kalitowski
Executive Director

Pollution Control Agency
Solid and Hazardous Waste Division

Outside Opinion Sought Regarding Amendments to Minnesota Rules Parts 7001.0650, 7045.0135 and 7045.0214 Governing the Management of Hazardous Waste

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is seeking information and opinions from sources outside the MPCA regarding the amendment of the above captioned rules to incorporate recent amendments to the United States Environmental Protection Agency's hazardous waste regulations. The MPCA is considering the following amendments:

—Minn. Rules part 7045.0135, subpart 4, items E and F would be amended to change the hazard class under which warfarin and zinc phosphide are listed. Waste products containing either warfarin at concentrations of 0.3 percent or less, or zinc phosphide at concentrations of 10 percent or less would be listed as hazardous wastes instead of the present listing as acutely hazardous wastes.

—Minn. Rules part 7045.0214, subpart 3 would be amended to exclude waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry from regulation as a hazardous waste providing the material does not exhibit any characteristics of a hazardous waste.

—Minn. Rules part 7001.0650, subpart 3 would be amended to include a provision to allow the owner or operator of a hazardous waste facility 30 days to respond to a notice that part A of the permit application is deficient and cure or explain the alleged part A deficiency.

—The MPCA requests information and comments concerning the subject matter of the proposed amendments. Written or oral information or comments will be accepted until January 28, 1985. Written statements should be addressed to: Karen A. Ryss, Minnesota Pollution Control Agency, Solid and Hazardous Waste Division, 1935 West County Road B2, Roseville, Minnesota 55113. Oral statements will be received during regular business hours at 612/297-1793.

January 7, 1985

Michael Robertson
for
Thomas J. Kalitowski
Executive Director

Department of Public Safety
Driver and Vehicle Services Division

Outside Opinion Sought Regarding Proposed Revision of Rules of the State Department of Public Safety Governing Deputy Registrars

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Wastes as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

ORDER FOR NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

It is hereby ordered this 27th day of March, 1985, that Notice of Intent to Amend Rules Without a Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

THOMAS J. KALITOWSKI
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Duane Dahlberg, do hereby certify that I am a member and the Chairperson of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 26th day of March, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that Thomas J. Kalitowski, the Executive Director of the Minnesota Pollution Control Agency (MPCA) is hereby granted the authority and directed to sign an order of the MPCA directing that notice be given of the MPCA's intent to adopt, without a public hearing, the attached amendments to the MPCA's rules relating to the classification of wastes as hazardous, Minnesota Rules, parts 7045.0135 and 7045.0214 (1984 Supp.) and the denial of interim status for hazardous waste facilities, Minnesota Rules, part 7045.0125 (1984 Supp.), to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the Revisor's certification as required in Minn. Stat. §14.07, subdivision 2 (1984).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any acts incidental thereto, including but not limited to signing an Order for Hearing and Notice for Hearing, as well as acting as the MPCA's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of March, 1985.

DUANE DAHLBERG
Chairperson

Attest by one other Agency member

Jocelyn Olson

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Wastes as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

NOTICE OF INTENT TO AMEND RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to adopt amendments to the rules governing the classification of waste as hazardous, Minn. Rules parts 7045.0135 and 7045.0214, and the denial of interim status for hazardous waste facilities, Minn. Rules part 7001.0650. The Agency will follow the procedures set forth in Minn. Stat. §§ 14.22 - 14.28 (1984).

The proposed amendments change the status of warfarin, its chemical form of 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide from their current listing as acute hazardous wastes to being listed as toxic hazardous wastes. However, warfarin and its chemical form and zinc phosphide will continue to be listed as acute hazardous wastes if the concentration exceeds certain limits. The proposed amendments would also exclude lime stabilized pickle liquor sludge from the iron and steel industry from regulation as a hazardous waste. The final amendment would provide a 30 day response period to owners and operators who have been denied interim status for a hazardous waste treatment, storage or disposal facility. One free copy of the proposed amendments may be obtained by contacting Carol Rogers at the address listed below.

Persons interested in these amendments have until 4:30 p.m. on May 17, 1985, to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Agency and the modifications do not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. §§ 14.14 - 14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to,

the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Persons who wish to submit oral or written comments or a written request for a public hearing should submit such comments or request to:

Carol Rogers
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7247

Authority for adoption of these rules is contained in Minn. Stat. § 116.07, subd. 4 (1984). Additionally, the Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the Statement of Need and Reasonableness and of the proposed amendments are available for review in the Agency's office in Roseville and in each of the Agency's Regional Offices:

Brainerd Regional Office
304 East River Road, Suite 3
Telephone: (218) 828-2492

Detroit Lakes Regional Office
116 East Front Street
Telephone: (218) 847-1519

Marshall Regional Office
1104 East College Drive
Telephone: (507) 537-7146

Duluth Regional Office
Duluth Government Services Center
Room 704
320 West 2nd Street
Telephone: (218) 723-4660

Rochester Regional Office
1200 South Broadway
Suite 140
Telephone: (507) 285-7343

Upon adoption of the amendments by the Agency, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or of the final adoption of the amendments, should submit a written statement of such request to Carol Rogers at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small Business Considerations in Rulemaking," that the proposed amendments will have no significant impact on small businesses in Minnesota. The proposed amendments reduce the requirements which are applicable to the management of hazardous

waste containing warfarin, its chemical form, 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, or zinc phosphide, delist certain lime stabilized waste pickle liquor sludge, and provide a response period for facilities denied interim status. These reduced requirements may make it easier for all generators of such wastes, including small businesses, to manage such wastes.

Dated: April 10, 1985

Thomas J. Kalitowski

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Wastes as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Penny Nickles being first duly sworn, deposes and says:

That on the 9 day of April, 1985, at the City of Roseville, County of Ramsey, State of Minnesota, She served the attached Notice of Intent to Amend Rules Without a Public Hearing by depositing in the United States Postal Service for first class mailing a copy thereof, properly enveloped, with postage prepaid, on all those persons and associations who have requested that their names be placed on file with the Minnesota Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency and on all other persons and associations listed in the attached mailing list.

Penny Nickles

Subscribed and sworn to before me this 16th day of April, 1985.

Margaret Frank
Notary Public

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Exp. Sept 28, 19[illegible]

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed
Amendment of Rules Governing
the Classification of Wastes
as Hazardous, Minn. Rules
Parts 7045.0135 and 7045.0214
and the Denial of Interim Status
for Hazardous Waste Facilities
Minn. Rules Part 7001.0650

CERTIFICATE

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1a, that their names be placed on file with and maintained by the Minnesota Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency is accurate and complete as of 11:20 o'clock A.M. this 8th day of April, 1985.

Paul W. Hoff

ATTN GARY BRAUN
00 W.PLATO BLVD
ST PAUL MN 55107

BRD OF ARCH ENG LAND SURV
AND LANDSCAPE ARCHITECTURE
ATTN LOWELL E TORSETH
500 METRO SQUARE
ST PAUL MN 55101

ATTORNEY GENERAL'S OFFICE
ANTITRUST DIVISION
2ND FLOOR FORD BLDG
117 UNIVERSITY AVE

MN DEPT ECONOMIC SECURITY
ATTN F JAMES RYBAK PHD
590 AM CE 150 E KELLOGG
ST PAUL MN 55101

DEPT OF EDUCATION
ATTN FREDRICK M CHRISTIANSEN
RM 911 CAPITOL SQ BLDG
ST PAUL MN 55101

DEPT OF ENERGY & ECONOMIC
DVLPMT
ATTN MARK DAYTON
480 CEDAR ST
ST PAUL MN 55101

DEPT OF ENERGY & ECONOMIC
DVLPMT
ATTN CHARLES SCHAFFER
480 CEDAR ST
ST PAUL MN 55101

MN DEPT OF HEALTH
ATTN JAMES WITKOWSKI
717 DELAWARE ST SE
MPLS MN 55440

LEGISLATIVE COMM ON
WASTE MANAGEMENT
ATTN SUE ROBERTSON
B-46
STATE CAPITOL

LEGISLATIVE COMM TO
REVIEW ADMIN RULES
ATTN KATHLEEN BUREK
ROOM B-46
CAPITOL

X 5 CENTENNIAL BLDG
ST PAUL MN

METROPOLITAN COUNCIL
ATTN JOHN T HOEFT
300 METRO SQ BLDG
7TH ST & ROBERT ST
ST PAUL MN 55101

MN DOT DIRECTOR, ENV SERV
704 TRANSPORTATION BLDG
JOHN IRELAND BLVD
ST PAUL MN 55155

STATE PLANNING AGENCY
ATTN JACK DITMORE
ENV DIV 100 CAPITOL SQ BLDG
550 CEDAR ST
ST PAUL MN 55101

PRESS/MN GOVT REPORT
ATTN JEAN DAWSON
RM B12 CAPITOL BLDG
ST PAUL MN 55155

SENATE COUNCIL OFFICE
ATTN MARK J. HANSON
RM 480
STATE OFFICE BLDG
ST PAUL MN 55155

WATER RESOURCES BOARD
555 WABASHA RM 206
ST PAUL MN 55102

MPCA HEARING NOTIFICATION MAILING LIST INTER OFFICE

600 N WILSON BLVD ARLINGTON VA 22209	SHW	30 UNIV AVE SE MINNEAPOLIS MN 55414	SHW	SUITE 305 2780 SNELLING AVE NO ST PAUL MN 55113	SHW
MARY AYEDE 1201 N BIRCHLAKE BLVD WHITE BEAR LK MN 55110	SHW	CHAIRMAN OF FAIRMONT AREA CHAMBER OF COMMERCE 99 DOWNTOWN PLAZA FAIRMONT MN 56031	SHW	DAVID E HANSING P E BRUCE A LIESCH ASSOC 3131 FERNBROOK LANE MINNEAPOLIS MN 55441	SHW
AL BALDUS CENEX BOX 43089 ST PAUL MN 55164	SHW	E C MILTON MGR GNB BATTERIES INC FAC ENGRNG METALS DIV 803 BERRY STREET ST PAUL MN 55114	SHW	ROBERT LOCKYEAR PLANNING COORDINATOR 14900 61ST ST N STILLWATER MN 55082	SHW
EDITOR BUREAU OF LABELS 38 NORTH BROADWAY STREET DES PLAINES IL 60016	SHW	BETSY KIMBALL LEGAL ASSISTANT GOODWIN, PROCTER & HOAR 28 STATE STREET BOSTON MA 02109	SHW	BARBARA LUKERMAN 2211 FOLWELL ST ST PAUL MN 55103	SHW
CHEMFIX INC ATTN H HUDSON BUZBEE 675 AIRLINE HWY P O BOX 1572 KENNER LA 70063	SHW	EDITOR HAZARDOUS MATERIALS P O BOX 535 CAMBRIDGE MA 02238	SHW	DAVID MARQUETTE MARSH & McLENNAN 1500 NORTHSTAR CENTER MINNEAPOLIS MN 55402	SHW
BILL CLAUSEN 4511 PILLSBURY AVE MINNEAPOLIS MN 55400	SHW	JIM JASKA HONEYWELL INC-DEFENSE SYS DIV MN 11-1734 600 2ND ST NE HOPKINS MN 55343	SHW	McCOY & ASSOCIATES ATTN JANET MacNEIL 13131 W CEDAR DR LAKEWOOD CO 80228	SHW
JAMES CORBETT 303 S 10TH ST MINNEAPOLIS MN 55404	SHW	ERIKA SITZ IZAAK WALTON LEAGUE 6521 154TH LANE N W RAMSEY MN 55303	SHW	MIDWESTERN GAS TRANS CO ATTN MICHAEL CATT P O BOX 2511 HOUSTON TX 77001	SHW
RICHARD O'HARA WNR P O BOX 7921 MADISON WI 53707	SHW	RUTH JOHNSON 129 RIVERVIEW BLVD INT'L FALLS MN 56649	SHW	KEVIN PROESHOLDT MN AUDUBON COUNCIL SUITE O BOYD PLACE 2929 4TH AVE S MINNEAPOLIS MN 55404	SHW
RCRDC 219 SOUTH LAKE STREET MORA MN 55051	SHW	DR BOB KOOB 1219 4TH AVE S MOORHEAD MN 56560	SHW	VIRGINIA GREENMAN MN HOSPITAL ASSOC 2221 UNIVERSITY AVE SE MINNEAPOLIS MN 55414	SHW
RNV HYDROLOGY & ENG 416 UNIVERSITY AVE S E MINNEAPOLIS MN 55414	SHW	DR WARREN LAWSON 5133 MIRROR LAKES DR EDINA MN 55436	SHW	DON PATERICK MN TAXPAYERS ASSOC 480 CEDAR AVE ST PAUL MN 55101	SHW

MINNEAPOLIS MN 55414 SHW

JOHN KEARNEY
N AMER WATER OFFICE
1519 A EAST FRANKLIN AVE
MINNEAPOLIS MN 55404 SHW

PORTAGE SANITARY LANDFILL
AUTHORITY
CRANE LAKE MN 55725 SHW

DOUG PROEHL
R F D 2
WINTHROP MN 55396 SHW

PHIL DUFF
RED WING REP EAGLE
P O BOX 15
RED WING MN 55066 SHW

TOM REES
12300 PENN AVENUE
LAKEVILLE MN 55044 SHW

. B SCHAEFER JR
CHAIRMAN WASHINGTON CO
BOARD OF COMMISSIONERS
4900 61ST ST NO
STILLWATER MN 55082 SHW

PHIL KLEIN
TWIN CITIES ASSN OF
METAL FINISHERS
222 PILLSBURY AVE SO
MINNEAPOLIS MN 55404 SHW&WQ

UNIVERSITY OF MN
ATTN LASZLO FULOP
DIR OF PHYSICAL PLANNING
203 MORRILL HALL
MINNEAPOLIS MN 55455 SHW

GREGORY WERSAL
3841 WAYZATA BLVD
MINNEAPOLIS MN 55426 SHW

WINONA MN 55987 SHW

WRIGHT CHEMICAL CO
ATTN PATRICK REILLY
10740 RIVERVIEW PLACE
COON RAPIDS MN 55433 SHW

CHICAGO IL 60606 1

AM LUNG ASSN RAMSEY COUNTY
BARBARA L HUGHES MNG DIR
514 PORTLAND AVE
ST PAUL MN 55102 1

AMERICAN CRYSTAL SUGAR
ATTN W W BARR MGR ENV CONTR
P O BOX 1227
MOORHEAD MN 56560 1

AMOCO PIPELINE CO
C W BERGSTROM DIV CHIEF ENG
2200 S MAIN ST
LOMBARD IL 60148 1

ANOKA CO COMM HEALTH & SOC
SERV DEPT
ATTN GERTRUDE M JAMES
COURTHOUSE 4TH FL
ANOKA MN 55303 1

API INC
ATTN TERRY WOLD
2366 ROSE PLACE
ST PAUL MN 55113 1

ASHLAND PETROLEUM COMPANY
ATTN RICHARD HETLAND
P O BOX 9
ST PAUL PARK MN 55071 1

ASSN OF MN COUNTIES
SUITE 300
555 PARK STREET
ST PAUL MN 55103 1

BADGER SAFE ENERGY ALLI
BOX 68
DURAND WI 54736 1

BARR ENGINEERING CO
ATTN FRANCINE CREME
5800 FRANCE AVE SO
MINNEAPOLIS MN 55435 1

LEWISBURG W VA 24901 1

BRUCE E BENSON
ZONING OFFICER
COURTHOUSE
CARLTON MN 55718 1

BLACK & VEATCH/MICHIGAN
ATTN ENVIRONMENTAL SPECIAL
200 RENAISSANCE CE #1220
DETROIT MI 48243 1

BLANDIN PAPER COMPANY
ATTN W J LICKE
115 FIRST STREET S W
GRAND RAPIDS MN 55744 1

BLANDIN WOOD PRODUCTS CO
ATTN CURT R FIRMAN
WAFERBOARD PLANT SITE BOX N
GRAND RAPIDS MN 55744 1

BOISE CASCADE CORPORATION
ATTN MR RUSS SUMMER
ENVIRONMENTAL ENGINEER
INT'L FALLS MN 56649 1

BOLTON & MENK INC
ATTN THOMAS A ROUSHAR
515 N FRONT ST
MANKATO MN 56001 1

BROEKER HARTFELDT HEDGES &
GRANT ATTORNEY AT LAW
ATTN JOHN M BROEKER
2850 METRO DRIVE SUITE 800
MINNEAPOLIS MN 55420 1

CITY OF BROOKLYN CENTER
ATTN PATTY PAGE
6301 SHINGLE CREEK PKWY
BROOKLYN CE MN 55430 1

BILL BUDD
4270 JEFFERSON STREET
EXCELSIOR MN 55331 1

BURLINGTON NORTHERN INC
ATTN J D GIALLOMBARDO
176 EAST FIFTH ST RM 1280
ST PAUL MN 55101 1

BURLINGTON NORTHERN
LAW DEPARTMENT
176 EAST FIFTH STREET
ST PAUL MN 55101 1

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12600 PARKWOOD DR APT 218
BURNSVILLE MN 55337 1

CALC
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122 W FRANKLIN AVE RM 302
MINNEAPOLIS MN 55404 1

CENEX
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BOX 43089
ST PAUL MN 55164 1

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ST LOUIS PARK MN 55426 1

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ONE CHAMPION PLAZA
STAMFORD CN 06921 1

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MARK W BELICZKY E P
MGR REG & LEG AFFAIRS
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COLUMBUS OH 43085 1

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ATTN CAROLE BARTH
127 7TH ST N
SUITE 204
MINNEAPOLIS MN 55403 1

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3600 ALABAMA AVE
MINNEAPOLIS MN 55146 2

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ATTN BRUCE T ROWE
325 LAKE AVENUE S SUITE 604
DULUTH MN 55802 2

CONSULTING ENGINEERS DIV INC
ROBERT E ISAKSON
P O BOX J
OSSEO MN 55369 2

CONWED CORP PATENT COR
CYNTHIA L WEBER
444 CEDAR ST
P O BOX 64237
ST PAUL MN 55164 2

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ATTN WILLIAM KAUL
14615 LONE OAK ROAD
EDEN PRAIRIE MN 55344 2

COOPERATIVE POWER ASSOC
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14615 LONE OAK ROAD
EDEN PRAIRIE MN 55344 2

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JERRY DIRKS
CORNELIUS PLACE
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ANOKA MN 55303 2

DONALD B CRASSWELLER
LAW OFFICES
1000 ALWORTH BUILDING
DULUTH MN 55802 2

F H G & G ATTORNEYS AT LAW
ATTN JOHN HERMAN
TEN SOUTH FIFTH ST
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MINNEAPOLIS MN 55401 2

FARK DAHL
600 MISSION RD
BLOOMINGTON MN 55420 2

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1615 EAST AVENUE S
LA CROSSE WI 54601 2

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HASTINGS MN 55033 2

DAMES & MOORE
ATTN LARRY ANNEN
1550 NW HWY
PARK RIDGE IL 60068 2

DAMES & MOORE
ATTN GEORGE NICHOLAS
1550 NW HWY
PARK RIDGE IL 60068 2

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MINNEAPOLIS MN 55414 2

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SUITE #388
HALL OF THE STATES
444 NORTH CAPITOL STREET
WASHINGTON D C 20001 2

DELANEY THOMPSON & SOLUM
ATTN ERIC W INGVALDSON
700 GALAXY BLDG
330 SECOND AVE SO
MINNEAPOLIS MN 55401 2

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JOHN AULBACH II 2 LT MSC
U S ARMY ENV HYGIENE AGENCY
FITZSIMONS ARMY MED CENTER
AURORA CO 80045 2

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2200 FIRST BANK PLACE E
MINNEAPOLIS MN 55402 2

DORSEY & WHITNEY
ATTN BECKY A COMSTOCK
2200 FIRST BANK PLACE EAST
MINNEAPOLIS MN 55402 2

ATTN MARK KASTOR
2200 FIRST BANK PLACE E
MINNEAPOLIS MN 55402 2

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RANGE RAILWAY CO
210 MISSABE BLDG
DULUTH MN 55802 2

E I DU PONT DE NEMOURS CO
ATTN MARILYN MOONEY
LEGAL DEPT (D7082)
1007 MARKET STREET
WILMINGTON DE 19898 2

ENVIR ENG & POLLUTION
CONTROL/3M 21-2W-06
DAVID M BENFORADO P E
P O BOX 33331
ST PAUL MN 55133 2

ENVIR RESEARCH GROUP
ATTN SALES & MARKETING
P O BOX 70006
135 STATE ST
ST PAUL MN 55107 2

ENVIRONMENTAL ENGINEERING
& POLLUTION CONTROL/3M
ATTN THOMAS ZOSEL
P O BOX 33331
ST PAUL MN 55133 2

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P O BOX 526
BLOOMINGTON MN 55420 2

ENVIRONMENTAL HEALTH
RON SPONG
DAKOTA CNTY GOV CENTER
1560 HWY 55
HASTINGS MN 55033 2

ENVIRONMENTAL TASK FORCE
1346 CONNECTICUT AVE N W
SUITE 730
WASHINGTON D C 20036 2

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OFFICE OF PUBLIC AFFAIRS
230 S DEARBORN ST
CHICAGO IL 60604 2

30 S DEARBORN ST
HICAGO IL 60604 3

I NEAL ERDAHL
4900 61ST ST N
TILLWATER MN 55082 3

RN-NORTH CENTRAL INC
TTN SUSAN HOGLUND
UITE 200 835 STERLING AVE
ALATINE IL 60067 3

IACQUELYNE FARM
85 W CO RD B2
OSEVILLE MN 55113 3

EDERAL-STATE REPORTS INC
TTN LOU O'BOYLE
203 LEESBURG PIKE #1201
AILEYS CROSSROADS
ALLS CHURCH VA 22041 3

EDERAL STATE REPORTS INC
TTN STATE REG DIV
203 LEESBURG PIKE
UITE 1201
ALLS CHURCH VA 22041 3

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HE DAILY BUSINESS NEWS
15 SOUTH 7TH STREET
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MC CORP
ORTHERN ORDINANCE DIV
OUGLAS HILDRE
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INNEAPOLIS MN 55421 3

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00 ATWATER STREET
T PAUL MN 55117 3

ONRAD M FREDIN
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11 FIRST NAT BANK BLDG
ULUTH MN 55802 3

'LUE EARTH MN 56013 3

STEVE GADLER P E
2120 CARTER AVENUE
ST PAUL MN 55108 3

GENERAL MILLS INC
ATTN J W HAUN
P O BOX 1113
MINNEAPOLIS MN 55440 3

GEO A HORMEL & CO
ATTN KEVIN C JONES
BOX 800
AUSTIN MN 55912 3

GNB INC
EVERETT MILTON
P O BOX 64100
ST PAUL MN 55164-0100 3

GOULD INC
PORTABLE BATTERY DIVISION
ATTN DOUGLAS ROBAHM
931 VANDALIA ST
ST PAUL MN 55114 3

D E GRAMMER
4410 E 4TH AVE
HIBBING MN 55746 3

HAMLINE U LAW SCHOOL
PUBLIC INTEREST CLINIC
ATTN BARBARA JOHNSON
ST PAUL MN 55104 3

HAMLINE U SCHOOL OF LAW
PUBLIC INTEREST AD
ADVOCACY CLINIC
ST PAUL MN 55104 3

ELLSWORTH HARPOLE
727 15TH AVE S E #41
MINNEAPOLIS MN 55414 3

OURTHOUSE 4TH FLOOR
ANOKA MN 55303 3

THE HEALTH CENTRAL SYSTEM
ATTN DONALD G ROBIDA
601 BROOKDALE TOWERS
2810 FIFTY SEVENTH AVE N
MINNEAPOLIS MN 55430 3

MICHAEL HENNEN
4608 ALDRICH AVE S
MINNEAPOLIS MN 55409 3

HENNINGSON DURHAM & RICH
ATTN DALE MCMICHAEL
300 PARKDALE 1 BLDG
5401 GAMBLE DRIVE
MINNEAPOLIS MN 55416 3

HESSIAN MCKASY & SODERBERG
ATTN MR JOHN A KNAPP
1500 MIDWEST PLAZA BLDG
MINNEAPOLIS MN 55402 3

HOLMES & GRAVEN
ATTN LARRY M WERTHEIM
470 PILLSBURY CENTER
MINNEAPOLIS MN 55402 3

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1821 UNIVERSITY AVE
ST PAUL MN 55104 3

IBM CORPORATION
ATTN J P HARMON
DEPT 713/BLDG 658-D
ROCHESTER MN 55901 3

INDUST HEALTH ENG ASSOC INC
ATTN KNOWLTON J CAPLAN
P O BOX 9342
MINNEAPOLIS MN 55440 3

INDUSTRIAL FABRICATORS CO
P O BOX 1561
JACKSON TN 38301 3

ST PAUL MN 55114 4

INTERSTATE POWER CO
PRESIDENT
000 MAIN ST
DUBUQUE IA 52001 4

IOWA DEPT ENVIRON QUALITY
ATTN STEVEN N WILLIAMS
HENRY A WALLACE BLDG
DES MOINES IA 50319 4

ISAAK WALTON LEAGUE
ERICA SITZ
521 154TH LANE N W
ANOKA MN 55303 4

ISAAK WALTON LEAGUE
RUTH SAARI
412 FRANCE AVE SO APT H
EDINA MN 55410 4

THE IZAAK WALTON LEAGUE
OF AMERICA
255 HENNEPIN AVE S #109
MINNEAPOLIS MN 55408 4

JONES HAUGH & SMITH INC
15 SOUTH WASHINGTON
ALBERT LEA MN 56007 4

KFIL RADIO
ATTN ERNIE HAIN
PO BOX 377
KESTON MN 55965 4

KIMBERLY-CLARK CORP
ELEEN McDONALD
01 N LAKE STREET
LENAH WI 54956 4

KOPPERS COMPANY INC
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301 KOPPERS BLDG
ITTSBURGH PA 15219 4

AL KURKI
2904 W 3RD ST
DULUTH MN 55806 4

L L P O D LAW OFFICES
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1100 FIRST NAT BANK BLDG
MINNEAPOLIS MN 55402 4

LAKE MINNETONKA CONS DIST
402 E LAKE ST
WAYZATA MN 55391 4

LAKE SUPERIOR
INDUSTRIAL BUREAU
828 FIRST NATIONAL BANK
DULUTH MN 55802 4

LAND O LAKES
ATTN JAMES A BOSCH
4001 LEXINGTON AVE N
ARDEN HILLS MN 55112 4

LEAGUE OF MINNESOTA CITIES
ATTN DON SLATER
183 UNIVERSITY AVE EAST
ST PAUL MN 55101 4

STEVEN LEBEAU
623 S 9TH ST APT 6
MINNEAPOLIS MN 55404 4

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PARLIAMENT BLDG
VICTORIA BRITISH CO
V8V1X4 CANADA 4

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ATTN NATALIE GAULL
P O BOX 9461
MINNEAPOLIS MN 55420 4

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1500 NORTH STAR CENTER
MINNEAPOLIS MN 55402 4

MAC ARTHUR CO
2400 WYCLIFF STREET
ST PAUL MN 55114 4

MAYO CLINIC FOUNDATION
DAVID N FASS
HEMATOLOGY RESEARCH
ROCHESTER MN 55901 4

MIDLAND GLASS COMPANY
DONALD F HENNEN
PLANT MANAGER
P O BOX 69
SHAKOPEE MN 55379 4

CITY OF MILTONA
ATTN KEVIN LEE CLERK
MILTONA MN 56354 4

MINNEAPOLIS TRIBUNE
ATTN BOB FRANKLIN
425 PORTLAND AVE
MINNEAPOLIS MN 55488 4

MINNEGASCO
PAUL DENEKA
DR LAB & ENVIRON PRGMS
6161 GOLDEN VALLEY RD
MINNEAPOLIS MN 55422 4

MINNEGASCO
GEORGE MASTOR
LEGAL DIVISION
201 SOUTH 7TH STREET
MINNEAPOLIS MN 55402 4

MINNESOTA FARMERS UNION
ATTN MARK McAFEE
1717 UNIVERSITY
ST PAUL MN 55104 4

:222 ELM STREET S E
1INNEAPOLIS MN 55414 5

'NNEAPOLIS MN 55402 5

?50 EAST DEVON AVE
ES PLAINES IL 60018

1INNKOTA POWER COOP INC
\TTN LOREN L JOHNSON
:OX 1318
;RAND FORKS ND 58201 5

MN PETROLEUM COUNCIL
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300 NORTHERN FEDERAL BLDG
ST PAUL MN 55102 5

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ATTN REID MINER
CENTRAL LAKE ST REG CE
WESTERN MICHIGAN UNIV
KALAMAZOO MI 49008

1N AGRI-GROWTH COUNCIL
3030 CEDAR AVE S
;UITE 213
3LOOMINGTON MN 55420 5

MN RAILROADS ASSOC
ATTN GORDON FORBES
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480 CEDAR ST
ST PAUL MN 55101 5

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1N ASSOC HEALTH CARE FAC
\TTN RICK CARTER
:850 METRO DRIVE SUITE 429
1INNEAPOLIS MN 55420 5

MN RETAIL MERCHANTS ASSOC
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180 METRO SQUARE BLDG
ST PAUL MN 55101 5

NORTH STAR STEEL CO
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P O BOX 43189
ST PAUL MN 55164

1N CHAPTER OF ABC
\TTN DONALD E MONTGOMERY
;300 WALKER ST SUITE 109
1INNEAPOLIS MN 55416 5

MOBIL OIL
ATTN PETE GATES
P O BOX 66568
AMF O'HARE IL 60666 5

N S P LAW DEPT
ATTN JOSEPH D BIZZANO JR
414 NICOLLET MALL
MINNEAPOLIS MN 55401

1N CONSERVATION FED
)IANE KELLY
1354 HARRIET AVE S
1INNEAPOLIS MN 55409 5

MOSS FLAHERTY CLARKSON &
FLETCHER LAW OFFICES
1200 PILLSBURY CTR
200 S 6TH ST
MINNEAPOLIS MN 55402 5

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ATTN G V WELK MGR
REG COMPL & SERV
414 NICOLLET MALL
MINNEAPOLIS MN 55401

1N COUN TROUT UNLIMITED
)AVE KOLBERT CHAIRMAN
:675 E RIVER ROAD
:OCHESTER MN 55901 5

MOTORCYCLE INDUSTRY COUNCIL
1235 JEFFERSON DAVIS HWY
SUITE 1410
ARLINGTON VA 22202 5

OFFICE OF ADMIN HEARINGS
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400 SUMMIT BANK BLDG
310 S FOURTH AVE
MINNEAPOLIS MN 55415

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;REG LARSON
;50 CEDAR STREET
;T PAUL MN 55101 5

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ATTN JAMES MILLER
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HENRY CHISHOLM
P O BOX 6508
CLEVELAND OHIO 44101

1N MOTOR TRANSPORT ASSOC
\TTN JAMES N DENN
:821 UNIVERSITY RM 134N
;T PAUL MN 55104 5

MPIRG
ATTN KENNETH PETERSON
2412 UNIVERSITY AVE S E
MINNEAPOLIS MN 55414 5

OLSON GUNN & SERAN LTD
ATTN WAYNE H OLSON
315 PEAVEY BLDG
730 SECOND AVE S
MINNEAPOLIS MN 55402

1N MULTI HOUSING ASSOC
\TTN JOHN G HORNER
;100 W LAKE ST
1INNEAPOLIS MN 55416 5

NAT'L SOLID WASTE MGMT ASSN
MARY AYDE
4649 BLOOMINGTON AVE S
MINNEAPOLIS MN 55407 5

PAUL WEIR CO
ATTN MARY VACULA
20 NORTH WACKER DR
CHICAGO IL 60606

71 HARDING ST N E
INNEAPOLIS MN 55413 6

X 510
LLOQUET MN 55720 6

'NNEAPOLIS MN 55406 6

ETERSEN KNUTSON FLYNN
& HETLAND
45 CEDAR BLDG
UITE 800
T PAUL MN 55101 6

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SACRAMENTO CA 95814 6

ROBT J PUGLEASA CO INC
ATTN GENE A BROWN
61 BEDFORD ST S E
MINNEAPOLIS MN 55414 6

HILLIPS LEGIS SERVICES
59 RICE ST
T PAUL MN 55103 6

PULP & PAPER
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500 HOWARD ST
SAN FRANCISCO CA 94105 6

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ICKANDS MATHER & CO
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TTN MAHLON SCHNEIDER
S 3726
HE PILLSBURY CENTER
PLS MN 55402 6

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ATTN LYNNETTE RENNEKE WIEST
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14900 61ST ST N
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ROBTSON RESEARCH & DVLP CE
4730 CRITTENDEN DR
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OPHAM HAIK LAW FIRM
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1101 15TH ST N W
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N HWY 3
NORTHFIELD MN 55057 7

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COLUMBIA MO 65205 7

THE SHERWIN-WILLIAMS CO
ATTN D A COHAGAN
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CLEVELAND OH 44115 7

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2149 GOODRICH AVE
ST PAUL MN 55105 7

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RUSS POLANSKY
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EDWIN E STERLING
3920 39TH AVE S
MINNEAPOLIS MN 55406 7

ATTN GARY GANDRUD
00 N CENTRAL TOWER
445 MINNESOTA ST
ST PAUL MN 55101 7

TECH SALES CO
ATTN DON REGER
311 WEST 44TH STREET
MINNEAPOLIS MN 55409 7

TENNECO INC
ATTN B J WHITLEY CEP
1100 MILAM BLDG
HOUSTON TX 77001 7

THERMO-KING
R SCHOENBORN CORP LIB
314 W 90TH ST
MINNEAPOLIS MN 55420 7

U OF M
CINDY A McCOMAS
ROOM W-163 BOYNTON
410 CHURCH ST S E
MINNEAPOLIS MN 55455 7

U OF M PHYSICAL PLANT DEPT
ATTN ROBERT SILVAGNI
200 SHOPS BLDG
319 15TH AVE S E
MINNEAPOLIS MN 55455 7

U OF M
ATTN ROBERT SNYDER
248 CLASSROOM OFFICE BLDG
1994 BUFORD AVE
ST PAUL MN 55108 7

UNION CARBIDE CORP
ATTN C E VAN DYK
OLD RIDGEBURY RD
DANBURY CT 06810 7

UNITED POWER ASSOC
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PROJECTS COORD DIV
ELK RIVER MN 55330 7

UNITED POWER ASSOC
ATTN MICHAEL V OBRIEN
ENV & LAND DIV
ELK RIVER MN 55330 7

ATTN ED VAN HOVEN JR
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ATTN PROF MARCIA GELPE
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CITY OF WINONA
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Court House A102
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Attn: Peter Schmitt

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Anoka, MN 55303

The Honorable Joseph F. Neaton
Carver County Commissioner
14715 - 22nd Street
Watertown, MN 55388

The Honorable John S. Voss
Chairman, Dakota County Board
of Commissioners
1600 West Highway 55
Hastings, Minnesota 55033

Bureau of Public Service
A-2307 Government Center
Minneapolis, MN 55487
Attn: A. J. Lee

The Honorable Jeff Spartz
Chairman, Hennepin Cty. Bd. of Comm.
Room A-2400, Government Cent.
300 S. 6th Steet
Mpls., MN 55487

The Honorable Sally Evert
Chairperson, Washington County
Board of Commissioners
Washington County Courthouse
Stillwater, MN 55082

The Honorable Richard Mertz
Chairman, Scott County Board
of Commissioners
428 South Holmes
Shakopee, MN 55379

The Honorable Warren Schaber
Chairman, Ramsey Cty. Bd. of Comm.
Room 316, Ramsey County Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102

Land O'Lakes, Inc.
P.O. Box 116
Minneapolis, MN 55440
Attn: James Bosch, P.E.

Dupl. of
#10

Land O' Lakes
Post Office Box 116
Minneapolis, MN 55440
Attn: Mark Johnson

Dept. of Transportation
Transportation Bldg.
John Ireland Blvd.
St. Paul, MN 55155

Gary Christiansen/Jack Pirkl
MN Dept. of Transportation
District 9, Oakdale
3485 Hadley Avenue North
North St. Paul, MN 55109

Mr. Kermit McRay
MN Dept. of Transportation, Dist. 9
3485 Hadley Avenue North
Box 250
North St. Paul, MN 55109

Department of Transportation
Transportation Building
St. Paul, MN 55155
Attn: Richard Braun, Commissioner

Department of Transportation
Transportation Building
St. Paul, MN 55155
Attn: Betsy Parker

Shirley Brantingham
MACI
300 Hanover Bldg.
400 Cedar
St. Paul, MN 55101

Bill Bond
St. Paul Chamber of Commerce
701 N. Central Tower
445 Minnesota Street
St. Paul, MN 55101

Mr. Ray O'Connell
MACI
300 Hanover Building
480 Cedar Street
St. Paul, MN 55101

Georjean Adams
3M
Box 33331
Building 212W
St. Paul, MN 55133

Russ Susag
3M
3M Center, 225-15
St. Paul, MN 55144

Waste Management of Minnesota
Post Office Box 67
Anoka, MN 55303

Ed Morsefelt
1200 National City Bank
510 Marquette
Minneapolis, Mn 55402

A. G. Drury
Federal Cartridge
9th and Tyler
Anoka, MN 55303

Ms. Sharon Decker
Waste Management Board
7323 58th Avenue North
Crystal, MN 55428

NCR Comten
1752 Terrace Drive
St. Paul, MN 55113
Attn: David Moline

Tom Segar
Koch Refining
P.O. Box 43596
St. Paul, MN 55164

Jim Payne
Popham, Haik, Schnobrich,
Kaufman and Doty
4344 IDS Center
Minneapolis, MN 55402

John Tapper
Gopher Smelting
3385 Highway 149 South
Eagan, MN 55121

Mr. Ray Roemmisch
Ultra Manufacturing, Inc.
6077 Lake Elmo Avenue North
Grant Township, MN

G. Robert Johnson
Popham, Haik, Schnobrich,
Kaufman and Doty
4344 IDS Center
Mpls., MN 55402

Dup of p10

Presson
Post Office Box 366
Stillwater, MN 55082

Burlington Northern Railroad
176 East 5th Street
St. Paul, MN 55101
Attn: Barry McGrath

DeAnn Croatt
27466 Delmar Ave.
New Prague, MN 56071

Mel Davis D/B/A
Chemical Consulting Formulators
7465 Harold Avenue North
Minneapolis, MN 55427

Economics Laboratory
Osborn Building
St. Paul, MN 55102
Attn: John Keenan, Ph.D.

Department of Environmental Energy
320 Washington Avenue South
Hopkins, MN 55343
Attn: Michael Brandt

Thomas Fait
113 Federal Building
515 West First Street
Duluth, MN 55802

H. B. Fuller Company
3530 Lexington Avenue North
St. Paul, MN 55112
Attn: Chong-Hue Brian Lim

Hanft, Fride, O'Brien and Harries
1200 Altworth Building
Duluth, MN 55802
Attn: G. W. Harries

David W. Hanson
1030 Angelo Drive
Golden Valley, MN 55422

P.O. Box 429
West Sixth Avenue
Shenandoah, IA 51601
Attn: Gene Currie

Richard R. Koehn
20556 Jansen Avenue
Prior Lake, MN 55372

MADA
277 University Avenue
St. Paul, MN 55103
Attn: Louis W. Claeson

William Masberg
300 5th Avenue Northwest
New Prague, MN 56071

McLaughlin Gormley King Company
8810 Tenth Avenue North
Minneapolis, MN 55427
Attn: David Carlson

Metalcasters of Minnesota
600 St. Paul Bldg., 6 W. 5th Street
St. Paul, MN 55102
Attn: Barbara Battiste Kelley

Minnesota Hospital Association
2221 University Ave. S.E. #425
Minneapolis, MN 55414
Attn: Dave Feinwachs, Vice President

Minnesota Petroleum Council
1025 Northern Federal Building
St. Paul, MN 55102
Rosemary Wilson

MN Plant Food and Chemicals Assoc.
1821 University Ave., Room 253
St. Paul, Mn 55104
Attn: Craig Sallstrom, Exec. Director

NARI
330 Madison Ave.
New York, NY 10017
Attn: Paul Parker

Route 3, Box 97
New Prague, MN 56071

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401
Attn: Pamela Graika

Outdoors Committee
Capital Plaza Building
485 Rice Street
St. Paul, MN 55103
Attn: James T. Shields

Minn. Solvents and Chemical Corp.
2340 Rose Place
Roseville, MN 55113
Attn: Claude Duothitt

Env. Engineering and Mgmt.
7400 Metro Blvd.
Bloomington, MN 55435
Attn: Cary Perket

Aitkin County Project Review Comm.
Route 2
McGrath, MN 56350
Attn: Richard Anderson

Minnesota Service Station
2700 Rice Street
Little Canada, MN 55113
Attn: Brian Ettesvold

MN Chapter of Nat'l Solid
Waste Management Assoc.
4649 Bloomington Ave. S.
Mpls., MN 55487
Attn: Mary Ayde

Carol Ann Barth
1224 Newton North, #2 West
Minneapolis, MN 55411

STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Rogers, being duly sworn on oath deposes and says:

1. That she is the person named in the Notice of Intent to Amend Rules Without a Public Hearing (9 S.R. 2333, April 15, 1985) as the person to receive comments on the Agency's intent to amend rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on May 17, 1985.

3. That during the public comment period no comments were received by the Agency.

Carol M. Rogers

Subscribed and sworn to before me this 3rd day of June, 1985.

Mary Ann Hammer

Notary Public

MARY ANN HAMMER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 11, 1985

Subp. 12. Notice to physician. If not previously notified, the resident's attending physician shall be informed of the new location of the resident within 24 hours after the actual relocation.

Subp. 13. Status reports. Commencing the week following the relocation notice to the Department of Health required in part 4655.6820, subpart 1, the facility shall provide weekly written status reports to the Department of Health as to the progress being made in arranging for the relocation. The initial status report must include the relocation plan developed by the facility, the identity of the interdisciplinary team members, and a schedule for the completion of the various elements of the plan. Subsequent status reports must note the progress being made, any modifications to the relocation plan, any change of interdisciplinary team members, and must include the names of residents who have been relocated during the time period covered by the report. Once relocation has been completed, a listing of the residents who have been relocated and the identity of the facilities or other locations to which the residents were moved must be provided to the Department of Health.

Pollution Control Agency

Proposed Rules Relating to Hazardous Waste

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends, without a public hearing, to adopt amendments to the rules governing the classification of waste as hazardous, Minn. Rules Parts 7045.0135 and 7045.0214, and the denial of interim status for hazardous waste facilities, Minn. Rules Part 7001.0650. The Agency will follow the procedures set forth in Minn. Stat. §§ 14.22-14.28 (1984).

The proposed amendments change the status of warfarin, its chemical form of 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide from their current listing as acute hazardous wastes to being listed as toxic hazardous wastes. However, warfarin and its chemical form and zinc phosphide will continue to be listed as acute hazardous wastes if the concentration exceeds certain limits. The proposed amendments would also exclude lime stabilized pickle liquor sludge from the iron and steel industry from regulation as a hazardous waste. The final amendment would provide a 30 day response period to owners and operators who have been denied interim status for a hazardous waste treatment, storage or disposal facility. The proposed amendments are set forth below.

Persons interested in these amendments have until 4:30 p.m. on May 17, 1985, to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Agency and the modifications do not result in a substantial change in the proposed amendments.

Unless twenty-five or more persons submit written requests for a public hearing on the proposed amendments within the comment period, a public hearing will not be held. In the event that a public hearing is required, the Agency will proceed according to the provisions of Minn. Stat. § 14.14-14.20 (1984). If a person desires to request a public hearing, the Agency requests that the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

Persons who wish to submit oral or written comments or a written request for a public hearing should submit such comments or request to:

Carol Rogers
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7247

Authority for adoption of these rules is contained in Minn. Stat. § 116.07, subd. 4 (1984). Additionally, the Agency has prepared a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon by the Agency to support the proposed amendments. Copies of the

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Statement of Need and Reasonableness and of the proposed amendments are available for review in the Agency's office in Roseville and in each of the Agency's Regional Offices:

Brainerd Regional Office
304 East River Road, Suite 3
Telephone: (218) 828-2492

Detroit Lakes Regional Office
116 East Front Street
Telephone: (218) 847-1519

Marshall Regional Office
1104 East College Drive
Telephone: (507) 537-7146

Duluth Regional Office
Duluth Government Services Center
Room 704
320 West 2nd Street
Telephone: (218) 723-4660

Rochester Regional Office
1200 South Broadway
Suite 140
Telephone: (507) 285-7343

Upon adoption of the amendments by the Agency, the rules as proposed, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be sent to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or of the final adoption of the amendments, should submit a written statement of such request to Carol Rogers at the address previously stated.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1984), "Small Business Considerations in Rulemaking," that the proposed amendments will have no significant impact on small businesses in Minnesota. The proposed amendments reduce the requirements which are applicable to the management of hazardous waste containing warfarin, its chemical form 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, or zinc phosphide, delist certain lime stabilized waste pickle liquor sludge, and provide a response period for facilities denied interim status. These reduced requirements may make it easier for all generators of such wastes, including small businesses, to manage such wastes.

Thomas J. Kalitowski
Executive Director

Rules as Proposed

7001.0650 INTERIM STATUS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Notification of failure to qualify for interim status. If the director determines that an owner or operator of an existing hazardous waste facility does not qualify for interim status under subpart 1, the director shall notify the owner or operator in writing of the failure to qualify for interim status and the reason for the failure. The notification must also include a statement that the owner or operator is subject to agency remedies for violation of agency rules, including the requirement of part 7001.0520 to obtain a permit. The owner or operator has 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in the Part A application. If after such notification and opportunity for response, the director determines that the application is deficient, appropriate enforcement action may be taken.

Subp. 4. to 7. [Unchanged.]

7045.0135 LISTS OF HAZARDOUS WASTES.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Discarded commercial chemical products, off-specification species, containers, and spill residues. The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

A. to D. [Unchanged.]

E. the commercial chemical products or manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in items A to D and listed in the following table, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in part 7045.0219, subpart 1, items B and C. The primary hazardous properties of these materials have been indicated by the letters T (toxicity), and R (reactivity). Absence of a letter indicates that the compound is listed only for acute toxicity. These wastes and their corresponding hazardous waste numbers are listed as follows:

Hazardous Waste No.	Substance	Hazard Code
P023 to	Acetaldehyde, chloro-	[Unchanged.]

P066	Acetimidic acid, N-[(methylcarbamoyl)oxy] thio-, methyl ester	
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations greater than 0.3 percent	
P002 to P120	1-Acetyl-2-thiourea Vanadium(V) oxide	[Unchanged.]
P001	Warfarin when present at concentrations greater than 0.3 percent	
P121	Zinc cyanide	
P122	Zinc phosphide when present at concentrations greater than 10 percent	(R,T)

F. The commercial chemical products or manufacturing chemical intermediates, or off-specification commercial chemical products referred to in items A, B, and D, and listed in the following table are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in part 7045.0219, subpart 1, item A. The primary hazardous properties of these materials have been indicated by the letters T (toxicity), R (reactivity), I (ignitability), and C (corrosivity). Absence of a letter indicates that the compound is listed only for toxicity. These wastes and their corresponding hazardous waste numbers are listed as follows:

Hazardous Wastes from Commerical Chemical Products

Hazardous Waste No.	Substance	Hazard Code
U001 to U003	Acetaldehyde Acetonitrile	(I) [Unchanged.] (I, T)
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts when present at concentrations of 0.3 percent or less	
U004 to U043	Acetophenone Vinyl chloride	[Unchanged.]
U248	Warfarin when present at concentrations of 0.3 percent or less	
U239	Xylene	(I)
U200	Yohimban-16-carboxylic acid, 11, 17-di-methoxy-18-[(3,4,5-trimethoxy-benzoyl)oxy]-, methyl ester,	
U249	Zinc phosphide when present at concentrations of 10 percent or less	

Subp. 5. [Unchanged.]

7045.0214 EVALUATION OF WASTES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Wastes generated by treatment, storage, or disposal. Wastes generated by treatment, storage, or disposal of hazardous waste are as follows:

A. Except as provided in item B, any waste generated from the treatment, storage, or disposal of hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, but not including precipitation run-off, is a hazardous waste if it meets the criteria of subpart 2 or if it is derived from a waste that is listed in part 7045.0135.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

B. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry, standard industrial classification codes 331 and 332, is not a hazardous waste unless it exhibits one or more characteristics of hazardous waste under part 7045.0131.

Department of Revenue
Property Equalization Division

Proposed Emergency Rules Governing The Valuation of Railroads

Notice of Intent to Modify Emergency Rules

Notice is hereby given that the Minnesota Department of Revenue, Property Equalization Division, proposes to modify emergency Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." Acting under authority given to him by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposed and adopted an emergency rule governing the valuation and assessment of railroads. The notice of adoption of these emergency rules was published at *State Register*, Monday, September 10, 1984 (9 S.R. 555). Subsequently the rules were extended for 180 days as provided for in Minn. Stat. Section 14.35. Notice of this intention was published at *State Register*, Monday, February 4, 1985 (9 S.R. 1754); therefore, the emergency valuation rules are currently in effect.

The agency now proposes to modify these extended emergency rules. The intent of the proposal is that the term of the modified rules will expire with the termination of the 180 day extension period obtained for the original emergency rules. The agency bases its proposal on Laws of 1984, Chapter 502, Article 9, Section 2, which states,

"The commissioner shall give a report to the legislature in February, 1985 and in February, 1986 on the formula which he has used to determine the value of railroad operating property pursuant to this article. This report shall also contain the valuation for payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary."

This report has been given to the Legislature as required. A portion of the report reads as follows:

"For the 1985 assessment of railroad operating property used in determining property tax amounts in 1986, the department will be focusing on:

revising the capitalization rate that is applied to the earnings of the railroad companies as a method for determining the values of their properties to take into account reduced interest rates in the last couple of years;

expanding from one to three the number of factors used to determine the amount of economic obsolescence of railroad operating property; and

eliminating allowances for the obsolescence of personal property.

"The purpose of the changes is to update as well as improve the factors used by the department in determining the values of railroads. This will result in estimates of values that are more defensible and accurate."

The Legislature has accepted this report, and has suggested no further modifications from those listed above. Therefore, in order to comply with the intent of the Laws of 1984 the agency proposes to modify the existing extended emergency valuation rules by incorporating the revisions articulated in our report to the legislature into the body of the emergency rule.

This notice of intent to modify these emergency rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the modifications. Additionally the notice of intent to adopt the modified rule together with the modified rule itself is being published in the *State Register*.

All interested persons shall have 25 days to submit, in writing, data and comments on the proposed modification to the rule. Persons who wish to submit such comments should direct them to:

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
P.O. Box 64446
St. Paul, MN 55164
(612) 296-5144

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 30th day of May, 1985. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency published its notice of intent to adopt the above-captioned rule amendments, together with the proposed rule amendments, in the State Register on April 15, 1985 (9 S.R. 2333).

2. On April 9, 1985, the Agency gave the same notice by United States mail to all persons who have registered their names with the Agency pursuant to Minn. Stat. §14.14 (1984).

3. The notice of the Agency's intent to amend the rules

afforded all interested persons 30 days to submit data and views on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. §14.22 (1984).

4. The Agency prepared a Statement of Need and Reasonableness and made it available to the public upon the date of mailing of the notice of intent to adopt the rules.

5. The 30 day comment period, as set out in the notice, expired on May 17, 1985.

6. During the comment period, the Agency received no written comments.

7. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the amendments to the rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the intent to adopt amendments to the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

Dated: May 30, 1985

MINNESOTA POLLUTION CONTROL AGENCY

Duane Dahlberg
Chairperson

for Thomas J. Kalitowski
Executive Director

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Thomas J. Kalitowski, do hereby certify that I am the Executive Director of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 30th day of May, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Minnesota Pollution Control Agency (MPCA) hereby approves and adopts the amendments to the MPCA's hazardous waste rules governing the classification of wastes as hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the denial of interim status for hazardous waste facilities, Minn. Rules Part 7001.0650, pursuant to the authority vested in the MPCA by Minnesota Statutes, Section 116.07, subdivision 4 (1984).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Director is authorized to make any form changes in the rules that the Revisor of Statues requires the MPCA to make in order to obtain the Revisor's Certificate as required by Minnesota Statutes, Section 14.28 (1984).

BE IT FURTHER RESOLVED, that the MPCA adopts the attached Findings of Fact and Conclusions and attached Order Adopting Rule Amendments and that the chairperson and Executive Director are hereby authorized to execute the above-mentioned documents on behalf of the MPCA.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of May, 1985.

for Barbara Lindsay Sims
THOMAS J. KALITOWSKI
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this proceeding is the revision of rules of the Minnesota Pollution Control Agency ("Agency") governing the classification of wastes as hazardous, Minn. Rules pts. 7045.0135 and 7045.0214, and governing the administration of hazardous waste facility permits, Minn. Rules pt. 7001.0650. These rules are proposed for amendment pursuant to the Agency's authority under Minn. Stat. § 116.07, subd. 4 (1984).

The proposed amendments change the status of warfarin, its chemical form and salts, and zinc phosphide from being listed as acute hazardous wastes to being listed as toxic hazardous wastes unless the concentration exceeds certain limits and exclude lime stablized pickle liquor sludge from the iron and steel industry from regulation as a hazardous waste. The amendments also provided a 30 day response period to owners and operators of hazardous waste treatment, storage or disposal facilities to correct or explain any deficiencies which caused the Agency to reject an application for interim status for the facility.

This Statement of Need and Reasonableness is divided into several parts. Part II contains the Agency's explanation of the need for the proposed amendments. Part III contains the Agency's explanation of the reasonableness of the proposed amendments. Pursuant to the requirements of Minn. Stat. § 14.115 (1984), Part IV documents how the Agency has considered the methods of reducing the impact of the proposed amendments on small businesses. Part VI contains a list of the exhibits relied on by the Agency to support the proposed amendments. The exhibits are available for review at the Agency's offices at 1935 West County Road B-2, Roseville, Minnesota 55113.

II. NEED FOR THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

Minn. Stat. ch. 14 requires an agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules or amendments proposed. In general terms this means that an agency must set forth the reasons for its proposal and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention and reasonableness means that the solution proposed by the agency is appropriate.

Need is a broad test that does not easily lend itself to an evaluation of each proposed revision. In this broad sense the need for amendments to the Agency's rules governing the classification of waste as hazardous and the rule governing the admin-

istration of facility permits has two bases, the need for consistency with the federal hazardous waste regulations and the need for the rules to accurately reflect the most current information available on the management of hazardous waste.

In 1976, Congress adopted the Resource Conservation and Recovery Act ("RCRA") to regulate the management of hazardous waste, 42 U.S.C. §§ 6901 et seq. In adopting RCRA, Congress provided for eventual state control of the hazardous waste program and set up the mechanism for the United States Environmental Protection Agency ("EPA") to grant authority to states to operate the program. In states that receive authorization, the state program operates in lieu of the federal program. To receive and maintain authorization the state program must be "equivalent" to the federal program and consistent with federal or state programs applicable in other states. EPA has defined equivalent to mean that the state requirements are at least as stringent as federal requirements. In terms of consistency, EPA's goal is to achieve an integrated national program which requires that final state programs do not conflict with each other or with the federal program.

Minnesota received final authorization for its hazardous waste program from EPA effective February 11, 1985. See 50 F.R. 3756 (Jan. 28, 1985). A state with final authorization administers its hazardous waste program entirely in lieu of the EPA. When new more stringent federal requirements are promulgated by EPA,

the State is required to enact equivalent authority within specified time frames. However, until they are adopted as state requirements, the federal requirements do not take effect in an authorized state. 1/ States are not required to adopt new federal requirements which are less stringent than state requirements, however they are urged to consider adopting those amendments to maintain consistency among the state and federal programs.

Although a state program may be more stringent than the federal program and authorized states are not required to adopt less stringent federal standards, the Agency believes that it is important to maintain as much consistency as possible. Much of the hazardous waste generated in Minnesota must be sent to other states for treatment or disposal because Minnesota has no commercial disposal facilities and only very limited commercial treatment facilities. This means that even though Minnesota has received authorization for its hazardous waste program, many Minnesota generators must be knowledgeable about the requirements of both the state and federal hazardous waste programs. The need to comply with two or more different sets of standards makes compliance with any set of standards more difficult. This is particularly true when the differences affect the classification

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1/ The Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) make some changes in the federal-state relationship in authorized states with respect to EPA regulatory changes adopted pursuant to that act. None of the proposed amendments fall into that category. Therefore, the procedures outlined are the applicable requirements.

of what wastes are hazardous. Therefore, the Agency has determined that to the extent that it can be accomplished without harming human health or welfare or the environment, it is preferrable to incorporate amendments to EPA's hazardous waste regulation into the Agency's hazardous waste rules.

The three proposed amendments reflect recent changes to federal hazardous waste requirements. These amendments would impose new requirements which are somewhat less stringent than existing Agency rules. However, as discussed below, the amendments made by EPA are reasonable. In order to avoid confusion, it is necessary to amend the Agency's rules to be consistent with the federal regulations. In addition, the proposed amendments are needed to provide more accurate regulation consistent with the current state of knowledge regarding hazardous wastes. The two proposed amendments which address the classification of waste as hazardous are proposed in response to new information which was not available at the time the currect rules were adopted. The amendment of the permitting standards merely incorporates into the rules a longstanding federal administrative practice.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE HAZARDOUS WASTE RULES

The Agency is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the rules or amendments proposed. Reasonableness is the opposite of arbitrariness and capriciousness. It means that there is

a rational basis for the Agency's action.

As discussed above, the amendments proposed in this proceeding are proposed in response to revisions to the EPA hazardous waste regulations. In proposing these amendments, the Agency is relying on EPA's rationale for adopting the amendments to its regulations. EPA's rationale is discussed in the documents listed in Part VI of this Statement of Need and Reasonableness. Those documents are hereby incorporated into this document by reference.

A. Minn. Rule Part 7045.0135, Subpart 4.

The Agency is proposing to amend Minn. Rule pt. 7045.0135, subp. 4, to change the status of three listed wastes. Minn. Rule pt. 7045.0135, subp. 4, lists commercial chemical products or manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if and when they are discarded or intended to be discarded. Item E of Subpart 4 lists those commercial chemical products and manufacturing chemical intermediates which are acute hazardous wastes. Item F of Subpart 4 lists those commercial chemical products and manufacturing intermediates which are toxic hazardous wastes.

Warfarin, its chemical form of 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide are currently listed as acute hazardous wastes under Minn. Rule pt. 7045.0135, subp. 4, item E. In the May 10, 1984 Federal Register, EPA published

final rules which changed the status of these wastes under the federal regulations. Prior to that amendment, these wastes were also listed as acute hazardous wastes under the federal regulations.

As a result of the original listing, EPA was petitioned to exclude commercial chemical products containing warfarin and its chemical form and zinc phosphide from the list of acute hazardous wastes. Acute hazardous wastes are those wastes which meet the criteria for lethal dosage as specified under Minn. Rules pt. 7045.0129, subp. 1, item B. Acute hazardous wastes must have an acute oral LD_{50} (rat) value of less than 50 mg/kg. Acutely hazardous wastes are lethal at lower dosages than toxic wastes and thus are considered more of a threat to human health and the environment. Toxic wastes are those those which meet the criteria in Minn. Rules pt. 7045.0129, subp. 1, item C.

The petitioners submitted data to EPA showing that below certain concentrations, warfarin and its chemical form, and zinc phosphide do not have an acute oral LD_{50} value of less than 50 mg/kg. In light of the data submitted by the petitioners to support their claim, EPA tentatively concluded that warfarin and its chemical form at concentrations of 0.3 percent or less and zinc phosphide at concentrations of 10 percent or less do not meet the criteria for listing as an acute hazardous waste. The EPA proposed a rule amendment stating that concentrations of warfarin and its chemical form, and zinc phosphide below these limits

would be listed as a toxic waste and that higher concentrations would be listed as acute hazardous wastes. See 48 F.R. 7714 (Feb. 23, 1983) and 48 F.R. 21098 (May 10, 1983). This proposed amendment and the data to support it were not contested and the amendments were adopted as proposed. See 49 F.R. 19922 (May 10, 1984).

The Agency proposes to adopt the federal amendment and retain warfarin and its chemical form 3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide on the list of acute hazardous wastes only if they are present at the concentrations discussed above. If these materials are present in a less concentrated form, they will be listed as toxic wastes under Minn. Rules pt. 7045.0135, subp. 4, item F. This is reasonable because the evidence submitted to EPA demonstrates that unless warfarin or its chemical form is present at concentrations above 0.3 percent and unless zinc phosphide is present at concentrations above 10 percent, commercial chemical products or manufacturing chemical intermediates containing these materials do not meet the criteria of Minn. Rule pt. 7045.0129, subp. 1, item B, for acute hazardous wastes.

B. Minn. Rules Part 7045.0218, subpart 3.

The second amendment being proposed will exempt lime stabilized waste pickle liquor sludge from the iron and steel industry ("LSWPLS") from regulation as a hazardous waste. In the June 5, 1984 Federal Register, EPA published a final rule which

exempted LSWPLS from the definition of hazardous waste. LSWPLS is generated from the treatment of spent pickle liquor from steel finishing operations which is a listed hazardous waste. Prior to this amendment LSWPLS was a hazardous waste because the federal hazardous waste regulations provided that any waste generated from the treatment, storage or disposal of a listed hazardous waste is also a hazardous waste.

EPA received a petition from the American Iron and Steel Institute requesting that its regulations be amended to provide an industry-wide exclusion of LSWPLS. The petitions were accompanied by data to support the petitioners' claim that toxic constituents are present in LSWPLS only at levels well below the EP toxicity limits contained in the regulations. Therefore, the presumption in the regulations that all wastes generated by the treatment of listed hazardous wastes are hazardous wastes was in this case erroneous.

EPA reviewed the data provided, investigated additional data, and made a detailed review of the site specific delisting petitions submitted for LSWPLS. In all cases, EPA found that the maximum leachate values for the metals of concern, hexavalent chromium and lead, were well below the maximum permissible EP toxicity limits. Based on this review, EPA promulgated a rule excluding LSWPLS generated from the iron and steel industry from the "derived-from" rule. See 49 F.R. 427 (Jan. 4, 1984) and 49 F.R. 23284 (June 5, 1984). However, LSWPLS will still be a

hazardous waste if it exhibits any characteristic of a hazardous waste.

The Agency is proposing to make the same amendment to the State rules. Under the revised federal regulations, LSWPLS is exempted from the definition of hazardous waste. Because the Agency rules define hazardous waste in a different manner than the federal regulations, the Agency believes it is more appropriate to provide this exclusion under the generator standards of the Agency's rules. Minn. Rules part 7045.0214 addresses the generator's responsibility to evaluate all wastes. Subpart 3 of this rule provides that any waste generated from the treatment, storage, or disposal of hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate, is a hazardous waste if it is derived from a waste that is listed in Minn. Rules part 7045.0135. Spent pickle liquor from steel finishing operations is listed as a hazardous waste in Subpart 3, Hazardous Wastes from Specific Sources, of Minn. Rule part 7045.0135, because of its corrosive and toxic properties.

The Agency is proposing to amend Minn. Rules part 7045.0214, subpart 3, to specifically exclude LSWPLS from the presumption that any waste generated from the treatment, storage or disposal of a listed hazardous waste is a hazardous waste. This amendment is reasonable because the data provided by EPA demonstrates that LSWPLS does not contain hazardous levels of hexavalent chromium or lead and that the low levels of these metals that are present

are in an essentially immobile form. This amendment would not affect the classification of other wastes as hazardous or alter the regulation of any other spent pickle liquor as a hazardous waste.

C. Minn. Rule part 7001.0650.

The Agency is proposing to amend Minn. Rules pt. 7001.0650 to provide for a response period for applicants who have been denied interim status for a hazardous waste facility. EPA has revised its permit regulations to give an applicant 30 days to correct or explain any deficiencies which caused an application for interim status to be rejected. EPA has stated that this change merely makes specific in its regulations what is already standard operating procedure with respect to deficient interim status permit applications. See 49 F.R. 17716 (April 24, 1984). The Agency agrees with EPA that it is reasonable to give applicants for interim status an opportunity to cure deficient applications before interim status is denied.

As discussed above, in February 1985, the Agency received final authorization from the EPA for the hazardous waste program in Minnesota. As a result of this authorization the Agency reviews applications for hazardous waste facility permits in lieu of the EPA. The Agency's permitting rules are equivalent to the federal permit regulations and the Agency has attempted to provide consistency between the two programs whenever possible. It is reasonable to extend this consistency to the addition of the

30 day response period, especially since such a response period already exists in practice under both programs. It is also reasonable to provide for the response period in the rules so that all parts of the regulated community are aware that it is available and therefore able to make use of it to provide the information necessary to make correct decisions regarding the granting of interim status.

IV. CONSIDERATION OF SMALL BUSINESS

Minn. Stat. § 14.115 (1984) requires Minnesota agencies, when proposing amendments to existing rules which may affect small businesses, to consider reducing the impact of the rule on small businesses. The objective of Minn. Stat. ch. 116 is to protect the public health and welfare and the environment from the adverse effects which will result when hazardous waste is mismanaged. In most instances, the application of less stringent requirements to the hazardous waste generated by small businesses would be contrary to the Agency's mandate.

Although the amendments proposed in this proceeding do not impose requirements on small business which are different than those imposed on other businesses, these amendments will have a beneficial impact on many small businesses. The amendment regarding the re-classification of warfarin and zinc phosphide will have a beneficial impact on small businesses which are also small quantity generators of those wastes. Under the current rules, small quantity generators

are those generators who generate less than 1,000 kilograms per month of toxic hazardous waste or 1 kilogram per month of acutely hazardous waste. As a result of the amendment, small quantity generators of zinc phosphide and warfarin below the acutely hazardous concentration limits will be able to generate up to 1,000 kilograms of the waste per month without being considered full scale generators.

The exclusion of LSWPLS from regulation as a hazardous waste will represent a significant benefit to those small businesses which are regulated as hazardous waste generators because they generate LSWPLS. As a result of the amendment these generators may be entirely exempted from the program if LSWPLS is the only hazardous waste which they generate or else they will have significantly reduced management costs as a result of the exclusion of the LSWPLS portion of their waste stream.

The addition of the thirty day response period will provide small businesses the opportunity to respond to a notification of denial of interim status, which should better enable them to give a fair and accurate presentation of the facts relating to their interim status application.

V. CONCLUSION

The Agency has, in this document and its exhibits, made its presentation of facts establishing the need for and reasonableness of the proposed amendments to Minnesota's hazardous waste and permit rules. This document constitutes the Agency's

Statement of Need and Reasonableness for the proposed amendments to the hazardous waste and permit rules.

VI. LIST OF EXHIBITS

In drafting the proposed amendments, the Agency relied on documents prepared by EPA to explain the rationale for each of the amendments and present the supporting technical data. The Agency is relying on the following documents to support these amendments.

MPCA Ex. No.	Title
1	Federal Register, Volume 48, Number 37, pages 7714 - 7716, February 23, 1983
2	Federal Register, Volume 48, Number 91, pages 21098 - 21101, May 10, 1983
3	Federal Register, Volume 49, Number 2, pages 427-430, January 4, 1984
4	Federal Register, Volume 49, Number 80, pages 17716 - 17719, April 24, 1984
5	Federal Register, Volume 49, Number 92, pages 19922 - 19923, May 10, 1984
6	Federal Register, Volume 49, Number 109, pages 23284 June 4, 1984

Dated:

Thomas J. Kalitowski
Executive Director

Bonnie Tinn
Legal

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2249-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend its regulations under the Resource Conservation and Recovery Act to change the hazard class under which commercial chemical products containing low concentrations of warfarin and zinc phosphide are listed. Products containing warfarin at concentrations of 0.3% or less will be listed under 40 CFR 261.33(f). Products containing zinc phosphide at concentrations of 10% or less will henceforth be listed under 40 CFR 261.33(f). This change specifically delineates the categorization of waste warfarin and zinc phosphide.

DATES: EPA will accept public comments on this proposed rule until April 25, 1983. Any person may request a hearing on this amendment by filing a request with John P. Lehman, whose address appears below, by March 25, 1983. This change is being made because these lower concentration formulations of warfarin and zinc phosphides do not meet the criteria for actively hazardous waste.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460. Comments should identify the regulatory docket number "Section 3001, 40 CFR 261.33." 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, 401 M Street, SW., Washington, D.C., 20460.

The public docket for this proposed rule is located in Room S-269C, 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.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 382-4798.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated as 40 CFR 261.33 of the regulations a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product of manufacturing chemical intermediate" refers to a chemical substance which is manufactured or foumulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. This does not pertain to dilutions or other adulterations of the commercial product. 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers that have held those chemicals listed in § 261.33(e), if they are discarded or intended to be discarded, unless the containers have been decontaminated in an equivalent manner.

A chemical substance is listed in 40 CFR 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it acutely hazardous because it has been shown in animal studies to have an oral LD_{50} (rat) toxicity value of less than 50 milligrams per kilogram, a dermal LD_{50} (rabbit) toxicity value of less than 200 milligrams per kilogram, an inhalation LC_{50} (rat) toxicity value of less than 2 mg/l, or is otherwise capable of causing or otherwise significantly contributing to serious illness.

Chemical substances are listed in § 261.33(f), and are subject to the small quantity generator exclusion limit of 1,000 kilograms per month,[1] if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic, *i.e.*, they have been shown in scientific studies to be toxic, mutagenic, teratogenic, or carcinogenic to humans, other mammals or aquatic animals, or to be phytotoxic.

In listing wastes in either § 261.33(e) or (f), the Agency intended to encompass those hazardous chemical products which for various reasons are sometimes thrown away in pure or diluted form. The regulation was intended to dedsignate chemicals themselves as hazardous wastes, if discarded. The reasons for discarding these materials might be that the materials did not meet required specifications, that inventories were being changed or that the product line had changed.

The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22,[2] to exclude warfarin and zinc phosphide containing commercial chemical products used for pest control from the list of acute hazardous waste (those chemicals listed in § 261.33(e)). Petitions have also been received from Sterling Drug Company, New York, NY and the Ralston Purina Company, St. Louis, MO, requesting that certain warfarin containing products be excluded.

II. Basis for Original Listing

A. *Warfarin.* The Agency listed warfarin in 40 CFR 261.33(e) based on its oral LD_{50} (rat) toxicity value of 3 mg/kg for the technical grade form (99 percent pure). The Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

B. *Zinc Phosphide.* The agency listed zinc phosphide in 40 CFR 261.33(e) based on its published oral LD_{50} (rat) toxicity value of 27 mg/kg for the technical grade form (94 percent pure). As previously stated, the Agency includes in the acute hazardous waste category any wastes that have been shown to have an oral LD_{50} (rat) value of less than 50 mg/kg.

[1] EPA publicly committed to reexamine the small quantity generator exclusion limit, and these products may be subject to a revised small quantity generator exclusion limit at a later date. In fact, there is an act in the Congress at this time (H.R. 6307) which, if passed, will decrease the small quantity generator exclusion limit to 100 kilograms per month.

[2] Section 260.22 only allows an individual facility to delist their waste if they can show that the waste is fundamentally different from the waste the Agency has listed. Since NPCA requests that zinc phosphide be removed from the acute hazardous waste category and thus seeks relief on a generally applicable basis, their petition is being processed under § 260.20 of the hazardous waste regulations.

III. Reason and Basis for Today's Amendment

A. *Warfarin.* The National Pest Control Association (NPCA), Vienna, VA has petitioned the Agency, pursuant to the provisions in § 260.22, to exclude warfarin from the list of acute hazardous wastes. The NPCA stated in its petition that technical grade warfarin is not readily available to pest control formulators and operators. They further stated that the most commonly used formulations for grain-based rodenticidal baits contain warfarin in concentrations of 0.025–0.05%. They also stated that the low solubility of warfarin precludes the potential for migration through solids to groundwater. The NPCA expressed concern that pest control operators who must discard baits are subject to increased economic burdens and reporting requirements as a result of RCRA regulation. In addition, the Agency has received comments from several pest control operators who requested that warfarin be removed from the acute hazardous waste listing in § 261.33(e), citing the NPCA petition as a basis for their request.

Sterling Drug, Incorporated, New York, NY and the Ralston Purina Company, St. Louis, MO have also petitioned to exclude specific rodenticidal baits containing 0.025%, 0.054% and 0.3% warfarin as the sole active ingredient. Sterling Drug, Inc. submitted oral LD_{50} (rat) toxicity data showing that formulations containing 0.025%, 0.054%, and 0.3% warfarin exhibit acute oral LD_{50} (rat) values of >5000 mg/kg, 2,100 mg/kg, and 2,140 mg/kg respectively.

Ralston Purina, based on calculations, but not actual laboratory data, claimed an acute oral LD_{50} (rat) value of 360,000 mg/kg for their rat and mouse control products. Ralston Purina cited Chemical Week, April 26, 1969 as stating that the acute oral LD_{50} (rat) value for 100 percent warfarin is 90 mg/kg. Ralston used this value to extrapolate acute LD_{50} toxicity for its products. Although there is no scientific basis for the values used in their claim, their products contain concentrations of warfarin within the range of the products described in Sterling Drug's petition, and so can be evaluated on the basis of Sterling's data.

The toxicological data submitted by Sterling indicates that products, manufacturing chemical intermediates, and off-specification chemical products containing warfarin at concentrations of 0.3% or less exhibit acute oral LD_{50} (rat) values of >50 mg/kg, and consequently do not meet the criteria for acute hazardous wastes. In fact, as shown by Sterling's data, the acute toxicity of such formulations is well in excess of 50 mg/kg. However, the Agency has no information to conclude that commercial formulations containing warfarin in concentrations greater than 0.3% are not acutely toxic and, because both the 0.054% formulation and the 0.3% formulation have oral (rat) LD_{50} values of about 2100 mg/kg, the Agency does not believe that linear extrapolations can be used to conclude that such formulations are not acutely toxic.

Based on the foregoing, EPA has concluded that warfarin formulations containing concentrations of 0.3% or less are not acutely hazardous and should not be listed in § 261.33(e). However, the Agency cannot conclude that these formulations present no toxicity potential and should be removed completely from listing under § 261.33. Rather, the Agency believes that these formulations should be listed under § 261.33(f) because of their chronic toxicity.

Warfarin poses a toxicity hazard upon chronic low level exposure and it appears to be a weak teratogen. Warfarin exhibits toxic effects in humans and animals by inhibition of prothrombin (a clotting factor) formation and dilation or engorgement of blood vessels with subsequent fatal internal hemorrhaging. In addition to its anticoagulant action, direct capillary damage has also been attributed to warfarin (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology,* 2nd ed., Macmillan Publishing Co., Inc., New York, 1980). These effects which are the basis of warfarin's effectiveness as a rodenticide, do not contribute to acute toxicity because multiple doses of warfarin are required to maintain prothrombin inhibition until all of the body's prothrombin reseves are depleted. However, they do indicate a potential threat from chronic exposure.

Additionally, an excerpt from the *Warfarin and its Sodium Salt Pesticide Registration Standard* (U.S. EPA, Office of Pesticides and Toxic Substances, Washington, D.C., 1981) indicates that warfarin poses a chronic hazard as well:

> Data also indicate that warfarin is a weak teratogen (1. Sherman, S. and B. D. Hall. Warfarin and fetal abnormality. Lancet. 1:692. 2. Shaul, W. L., H. Emery and J. G. Hall. 1975. Chondrodysplasia punctata and maternal warfarin use during pregnancy. Am. J. Dis. Child. 129:360–362. 3. Holzgreve, W., J. C. Carey and B. D. Hall. 1976. Warfarin induced fetal abnormalities. Lancet. 2:914. 4. Warkany, J. 1976. Warfarin embryopathy. Teratology. 14:205.), and the FDA, therefore, requires the following label warning on products used during pregnancy:
>
> "Pregnancy—COUMADIN passes through the placental barrier, and the danger of hemorrhage to the fetus exists even to the point of fatal hemorrhage in utero even in the accepted therapeutic range of maternal prothrombin level. Close observation and laboratory control are essential. The newborn may be particularly sensitive to sodium warfarin. There have been reports of birth malformations in children born to mothers who have been treated with warfarin during the first trimester of pregnancy. Whether warfarin was in fact the responsible agent has not been established. Therefore, women of childbearing potential who are candidates for anticoagulant therapy should be carefully evaluated and the indications critically reviewed. If COUMADIN must be used during pregnancy, or if the patient becomes pregnant while taking this drug, the patient should be apprised of the potential risks to the fetus, and the possibility of termination of the pregancy should be discussed in light of those risks."
>
> The Agency finds this statement to be a reasonable summary of the scientific data on warfarin's teratogenic potential in humans.

In view of this information, and the Agency's lack of comprehensive toxicity data for the commercial products containing warfarin, EPA cannot at the present time justify removing such materials from regulation under § 261.33. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for warfarin to include only those products which contain more than 0.3% warfarin, and is also proposing to amend § 261.33(f) to add warfarin when present at concentrations of 0.3% or less (as EPA Hazardous Waste No. U248).

B. *Zinc Phosphide.* The NPCA states in its petition that technical grade zinc phosphide is not readily available to pest control formulators and operators. They state further that zinc phosphide used by pest control operators in vector control is most commonly formulated as a bait of 2% or a tracking powder of 10% zinc phosphide (high value), and it is this product which is disposed of by pest control operators. The NPCA submitted the following toxicity values in their petition and in subsequent data:

- acute oral LD_{50} (rat) = 27 mg/kg (94% active Zn_3P_2),
- acute oral LD_{50} (rat) = 160–300 mg/kg (10% Zn_3P_2),
- acute dermal LD_{50} (rabbit) = 2000–5000 mg/kg (94% Zn_3P_2) and
- acute inhalation LC_{50} (rat) $<$ 19.6 mg/1 (10% Zn_3P_2).

The NPCA expressed concern that pest control operators who must dispose of spoiled baits and tracking powders are subject to increased economic burdens and reporting requirements as a result of RCRA regulation.

In the presence of moisture, zinc phosphide evolves phosphine gas (PH_3) which, when inhaled in sufficient quantities, can cause fatal pulmonary

edema, the probable mode of action of Zn_3P_2. In addition, severe gastrointestinal irritation results from the reaction of Zn_3P_2 with water and HCl in the stomach producing phosphine gas (Lisella *et al.*, 1971, cited in Doull *et al., Casarett and Doull's Toxicology*, 2nd ed., MacMillan Publishing Co., Inc., New York, 1980). It has been reported by Lisella *et al.* (1971) and Marshall (1981) that Zn_3P_2 causes vomiting in dogs and cats, thus reducing the extent of toxic effects through a shorter retention time in the animals' stomachs. However, the emetic qualities of Zn_3P_2 are not sufficient to prevent the possibility of significant harm.

In light of the data submitted by the National Pest Control Association, EPA has concluded that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing zinc phosphide at concentrations of 10% or less are not acutely hazardous since the acute oral LD_{50} (rat) value exceeds 50 mg/kg, and therefore should not be listed in § 261.33(e). However, the same data show that formulations containing concentrations over 10% are quite toxic, and should not be completely removed from regulation under § 261.33. Rather, the Agency believes that formulations containing zinc phosphide at concentrations of 10% or less should be listed under § 261.33(f) because of their toxicity. Therefore, the Agency is proposing to amend § 261.33(e) to revise the listing for zinc phosphide to include only those products which contain more than 10% of the active substance and is also proposing to amend § 261.33(f) to add commercial chemical products, manufacturing chemical intermediates or spill residues containing zinc phosphide at concentrations of 10% or less (as EPA Hazardous Waste No. U240).

IV. Request for Comments

The Agency invites comments on all aspects of this proposed rule and on the issues. In particular, we request information concerning the toxicity of warfarin and zinc phosphide, as well as of formulations where these compounds are the sole active ingredient. Comments will be accepted until April 25, 1983.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of U.S. based-enterprises to compete with the foreign-based enterprises in domestic or exports markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments form OMB to EPA and any EPA response to those comments are available for public inspection in Room S-269C at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a signficant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities. Rather, since many small pesticide applicators will not have to dispose of small quantities of certain waste zinc phosphide or warfarin pesticides as hazardous wastes, today's action will result in a savings to small business. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: February 9, 1983.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 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), 6921 and 6922).

§ 261.33 [Amended]

2. It is proposed to amend § 261.33(e) by revising the listings for warfarin, 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and zinc phosphide to read as follows:

Hazardous waste No.	Substance
P001	Warfarin, when present at concentrations greater than 0.3%.
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations greater than 0.3%.
P122	Zinc phosphide, when present at concentrations greater than 10%.

3. It is proposed to amend § 261.33(f) by adding the following waste streams:

Hazardous waste No.	Substance
U248	Warfarin, when present at concentrations of 0.3% or less.
U248	3(alpha-Acetonylbenzyl)-4-hydroxycoumarin, when present at concentrations of 0.3% or less.
U249	Zinc phosphide, when present at concentrations of 10% or less.

[FR Doc. 83-4478 Filed 2-22-83; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124 and 270

[SWH-FRL 2251-6]

Hazardous Waste Management System: The Hazardous Waste Permit Program; Procedures for Decisionmaking

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency is proposing to amend its hazardous waste permit regulations today. These regulations were promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act (RCRA), and were included in the Consolidated Permit Regulations. The Agency is proposing to allow owners and operators of existing hazardous waste management facilities who submit an incomplete Part A of the RCRA permit application to receive a notice of the deficiency and an opportunity to explain or cure the deficiency before the owner or operator is subject to EPA enforcement for operation without a permit. The Agency also is proposing to amend the regulations to require that if the Administrator denies a request for a panel hearing on an initial permit for an existing hazardous waste management facility, he must give his reasons for the denial.

Today's actions are prompted by a settlement stipulation concerning these issues in the lawsuit on the Consolidated Permit Regulations. These proposed amendments will not have an economic impact on the regulated community, nor will they have any impact on public health or the environment.

DATE: EPA will accept comments on these proposed amendments until July 11, 1983.

ADDRESS: Comments on these amendments should should be addressed to the Docket Clerk (Docket 3005—Hearings), Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or in Washington, D.C. at 382-3000. For specific information on this proposed amendment, contact Deborah Wolpe, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 382-4754.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980, and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations establish the first phase of a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260–265, 45 FR 33066–33289). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations, governing five permit programs.[1] On January , 1983, the Consolidated Permit Regulations were deconsolidated. Each permit program now appears in a separate Part of the Code of Federal Regulations. The changes proposed today concern only the RCRA portion of the Consolidated Permit Regulations, now codified at 40 CFR Part 270.

The Subtitle C RCRA regulations, among other things, require hazardous waste management (HWM) facilities which treat, store, or dispose of hazardous waste to obtain a permit from EPA or an authorized state [2] and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed of only in these permitted facilities.

Recognizing the EPA would not be able to issue permits to all HWM facilities before the Subtitle C program became effective, Section 3005(e) of RCRA provides that a facility that meets certain requirements will be treated as having been issued a permit until such time as final administrative action is taken on its permit application. This statutory authorization to operate a HWM facility between the effective date of the Subtitle C program (November 19, 1980) and the issuance or denial of a final permit, is known as "interim status."

Interim status is conferred on any person who:

(1) Owns and operates a facility required to have a permit, which is in existence on November 19, 1980;

(2) has complied with the requirements of Section 3010(a) of RCRA (notification of hazardous waste activity); and

(3) has made an application for a permit under Section 3005 of RCRA.

EPA has defined the term "application for a permit" under section 3005(e) to mean only Part A of the permit application [See 40 CFR 270.70]. The application for a RCRA hazardous waste management permit is in two parts—A and B. Part A includes some very basic information about a facility such as its location, owner, the wastes it handles and the processes it employs [see 40 CFR 270.13]. Part B consists of more technical information reflecting the facility standards in 40 CFR Part 264. To qualify for interm status, however, only Part A of the permit application must be submitted.

This preamble and today's proposed amendments relate to the procedural aspects of failure to qualify for interim status, and denial of a permit.

II. Failure to Qualify for Interim Status

An owner or operator of a HWM facility may fail to qualify for interim status for any of the reasons listed in the statute as prerequisites to interim status: (a) The facility was not in existence on or before November 19, 1980; (b) the owner or operator failed to comply with Section 3010 of RCRA (*i.e.*, failed to notify, if required); or (c) the owner or operator failed to submit Part A of his permit application on time.[3] In addition, an owner or operator may fail to qualify for interim status if he fails to submit a complete Part A permit application. Section 270.70 of the regulations currently states that if, upon examination or reexamination of a Part A application, EPA determines that it fails to meet the standards of the regulations, EPA may notify the owner or operator that the application is deficient. Section 270.70 provides that the result of such a determination is that the owner or operator is not entitled to

[1] The five permit programs which were covered by the Consolidated Permit Regulation are: the hazardous waste management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under section 402 of the Clean Water Act, the "Dredge and Fill" program under section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing section 165 of the Clean Air Act [45 FR 33290–33588 (May 19, 1980), previously codified at 40 CFR Parts 122–124].

[2] Pursuant to Section 3006 of RCRA, a state may obtain authorization to run the hazardous waste program in lieu of the Federal program. For a discussion of state authorization of the RCRA program, see the preamble to 40 CFR Part 123 (now Part 271) in the May 19, 1980 Federal Register, 45 FR 33366, and the preamble discussion accompanying the January 29, 1981 amendments to those regulations, 46 FR 8298; and subsequent amendments on July 26, 1982, 47 FR 32373.

[3] Failure to file a Part A on time may not always result in a failure to qualify for interim status. The Agency may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing HWM facility may submit Part A of its permit application, as there is no statutory deadline for submitting the permit application. [See 40 CFR 270.10(e)(3)].

interim status, and is subject to EPA enforcement for operating without a permit.

Petitioners in the litigation on the Consolidated Permit Regulations, *NRDC v. EPA*, No. 80-1607, and consolidated cases (D.C. Cir., filed June 2, 1980),[4] argued that a determination that an owner or operator never acquired interim status cannot be made without some procedural safeguards. They argued that notice and opportunity for comment are necessary before the Agency can require a facility to cease operations because it failed to qualify for interim status.

The Agency believes that, as a practical matter, there are procedural safeguards already in place. It is standard operating procedure to allow a facility to correct, explain, or resubmit Part A of the permit application if it is found deficient, although such a procedure is not included in the regulations. To assuage petitioners' concerns, however, the Agency is today proposing to amend § 270.70 to expressly provide that before EPA determines that Part A of a permit application is deficient, it will notify the owner or operator in writing of the apparent deficiency. The notice will specify the grounds for EPA's belief that the application is deficient, and will give the owner or operator 30 days from the date of receipt to respond to the notification and to explain or cure the deficiency. If, after such notice and opportunity for response, EPA still finds that the application is deficient, it then can take appropriate enforcement action.

Some petitioners asserted that, in addition to notice and opportunity for comment on EPA's decision that a Part A application is deficient, the permit applicant should be granted a hearing on request. In EPA's view, a hearing is unnecessary. The statute does not require a hearing and issues in controversy should be simple and straight-forward enough to be resolved without resort to a hearing.

This proposal would put in regulatory form what is already standard Agency procedure. EPA believes that it is reasonable to give permit applicants an opportunity to cure deficient applications. Today's proposal would guarantee applicants that opportunity.

III. Opportunity for a Hearing Prior to Denial of an Initial Permit

As stated earlier, Section 3005(e) of RCRA states that any person who owns or operates an existing facility meeting the criteria listed in that section, shall be treated as having been issued a RCRA permit until such time as final administrative disposition of the permit application is made. Final administrative disposition occurs when EPA either issues or denies the permit.

The petitioners in the NRDC lawsuit raised several issues concerning the issuance or denial of an initial RCRA permit. They argued that due process requires the opportunity for a hearing before a permit is denied for a facility operating under interim status. In addition, they argued that the imposition of extensive, expensive, conditions in a permit might be tantamount to a denial of a permit, therefore a hearing should be available in such situations as well. The petitioners admitted that a full evidentiary hearing would not be necessary in every case, but some type of hearing ought to be available.[5]

EPA's position with respect to formal adjudicatory hearings was stated in the preamble to the May 19, 1980 regulations. It is EPA's position that such hearings are not required for the issuance of RCRA permits. The Agency stated that the requirements of due process are flexible, and that other procedures may be used which can be adapted to the nature of the problem being addressed (See 45 FR 33409-33411).

EPA believes that the current regulations meet the applicable due process tests. The regulations provide for notice of what the Agency proposes to do, an opportunity to challenge that proposal both through written comments and an informal public hearing, and a response to comments and a decision based on the administrative record.

Petitioners believed that the May 19, 1980 regulations only gave a right to this public hearing in situation were EPA proposed to issue a permit, and not when the Agency proposed to deny a permit. As promulgated on May 19, 1980, section 124.12(a) stated that the Director shall hold a public hearing whenever there is a " * * * significant degree of public interest in a draft permit." EPA's intention when promulgating this regulation was to provide a public hearing in situations where EPA issues either a tentative decision to issue or to deny a permit. In fact, a notice of intent to deny a permit is considered a draft permit.[6] This was clarified in amendments promulgated on July 15, 1981 (46 FR 36704) in response to an amendment to Section 7006(b) of RCRA.

As stated in the preamble to those amendments, the Agency intends that the requirement to hold an informal hearing (when one is requested) apply to cases where the Agency has tentatively decided to deny a permit as well as when the Agency has tentatively decided to issue a permit. All that RCRA and due process require is the opportunity for an informal hearing. That opportunity exists both for the issuance and denial of a RCRA permit.

The petitioners also were concerned that in some instances, there would be complicated factual issues that could be addressed better through a formal, rather than an informal, hearing. As the regulations are currently written, the Regional Administrator always has the discretion to hold a formal panel hearing. However, the petitioners objected to a lack of assurance in the regulations that they would receive a written response to a request for such a hearing, should the Regional Administrator deny the request. They were concerned that there would be situations were EPA and the permit applicant would disagree about changes necessary to bring the facility into compliance with the regulations. In situations where the Regional Administrator proposes to issue a permit, but the applicant disagrees as to major permit conditions, the petitioners want the opportunity for a panel hearing.

As a matter of policy, EPA has determined that permit applicants should have an opportunity for a panel hearing when there is a tentative decision to deny the initial permit for an

[4] For further discussion of the *NRDC v. EPA* case and the settlement agreement filed on the RCRA-related issues, see the preamble to the proposed amendments on owner signature and certification, 47 FR 32038 (July 23, 1982).

[5] There are three types of hearings available under Part 124. These are: (1) Public hearings. Public, or informal, hearing must be held whenever the Director receives written notice of opposition to a RCRA draft permit and a request for a hearing within 45 days of public notice of the draft permit [See 40 CFR 124.12(c)]. (2) Evidentiary hearings. Evidentiary hearings under Subpart E of Part 124 are formal adversarial hearings conducted by a judicial officer pursuant to formal rules of practice. Evidentiary hearings are available under Section 3008 of RCRA in connection with the termination of a RCRA permit. They are not available upon the issuance or denial of a RCRA permit. See 40 CFR 124.12 and 124.71(a) and the preamble discussion at 45 FR 33409-11; and (3) Panel hearings. Panel hearings under Subpart F of Part 124 are nonadversarial hearings before a panel consisting of three or more EPA employees having special expertise or responsibility in areas related to the issues to be decided. A panel hearing is available whenever the Regional Administrator determines that as a matter of discretion, it would be an appropriate way to process a draft permit. Evidentiary hearings and Panel hearings are both considered formal adjudicatory hearings, as they conform to the formal hearing requirements of the Administrative Procedure Act.

[6] If the Director tentatively decides to deny the permit, he issues a "notice of intent to deny" the permit. A notice of intent to deny is a type of draft permit, which is processed under the same procedures as any draft permit [See 40 CFR 124.6(b)].

existing facility, and where the applicant and EPA disagree on major conditions in the initial draft permit for an existing facility. Today's proposed amendment to § 124.12(e)(2) provides assurance that such a hearing will not be arbitrarily denied.

Under today's proposal, the permit applicant may request a panel hearing pursuant to §124.114. Such a request must be made before the end of the 45-day public comment period. The applicant must explain in his request why he believes that the issues for which he requests a hearing are genuine issues of material fact, and are issues which are determinative with respect to one or more contested permit conditions. If the Regional Administrator denies the request for a panel hearing, he must send a brief written statement to the applicant explaining his reasons for concluding that no determinative issues have been presented for resolution in a panel hearing.

This proposal would give the petitioners the assurance they want that a panel hearing will not be unreasonably denied.

It should be noted that in circumstances where the Administrator remands an appeal to the Regional Administrator, the Administrator may direct the Regional Administrator to hold a non-adversary panel hearing, if none has been held before.

VI. Economic Impact

These proposed amendments will not have any economic impact on the regulated community. as stated in the background information, it is standard operating procedure for the Agency to allow an applicant the opportunity to correct, explain or cure an incomplete Part A of the RCRA permit. This proposal, therefore does not change anything but the regulatory language.

The second regulatory change requires the Regional Administrator to provide a written reason for denying an applicant's request for a formal hearing. This proposed change increases the paperwork of the Regional Administrator, but does not affect the regulated community.

VII. Request for Comments

The Agency invites comments on all aspects of these proposed regulations. EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of the *NRDC* v. *EPA* litigation affecting the RCRA portion of the Consolidated Permit Regulations. However, EPA will carefully consider all public comments on this proposal before making its final decision.

VIII. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations, and revisions thereto take effect six months after their promulgation. In addition, Section 553(d) of the Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date. The purpose of these requirements is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today, however, the Agency believes that an effective date 30 days or six months after promulgation would cause unnecessary disruption in the implementation of the regulations and might deny the public certain safeguards in the permitting process. These amendments, if promulgated in final form, would not impose substative requirements on the regulated community, but rather would guarantee certain procedural safeguards. The Agency believes that this is not the type of regulation that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, EPA believes that it will have good cause to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or would otherwise be inappropriate.

IX. Executive Order 12291

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

—An annual effect on the economy of $100 million or more;
—A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
—Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more. It merely provides some procedural safeguards upon the failure to qualify for interim status and the issuance or denial of a RCRA permit. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This amendment is not a major regulation, therefore no Regulatory Impact Analysis is being prepared.

This amendment was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

X. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the reporting or recordkeeping provisions that are included in this proposed rule have been submitted to the Office of Management and Budget (OMB) for approval under Section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB or the public.

XI. President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122–124) for review by EPA. This proposal supports the goals of the Task Force by reducing the burden of the RCRA portion of the Consolidated Permit Regulations (now deconsolidated) on the regulated community. This proposal also fulfills one of EPA's obligations in the settlement of industry litigation on the RCRA portion of the Consolidated Permit Regulations. In addition to issuing proposals aimed at settling the litigation, the Agency has deconsolidated the regulations to make them more easily usable by the public. As a result of deconsolidation, there was some reorganization of the regulations. Thus, this proposed amendment is in somewhat different format and location than it appeared in the settlement agreement.

XII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of proposed rulemaking for any rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility

analysis is required, however, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment imposes no substantive requirements on the regulated community. Accordingly, I hereby certify that this proposed regulation, if issued in final form, will not have a significant economic impact on a substantial number of small entities.

Dated: April 26, 1983.

Lee L. Verstandig,

Acting Administrator.

List of Subjects

40 CFR Part 270

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Waste pollution control, Water supply, Indians—lands.

PART 270—[AMENDED]

It is proposed that 40 CFR Parts 270 and 124 be amended as follows:

1. The authority citation for Part 270 reads as follows:

Authority: Sections 1006, 2002(a), 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6901, 6912(a), 6925, 6927 and 6974).

2. In Part 270, it is proposed to amend § 270.70 by revising paragraph (b) to read as follows:

§ 270.70 Qualifying for interim status.

* * * * *

(b) *Failure to qualify for interim status.* If EPA has reason to believe upon examination of a Part A application that it fails to meet the requirements of § 270.13, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for EPA's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, EPA determines that the application is deficient it may take appropriate enforcement action.

PART 124—[AMENDED]

3. The authority citation for Part 124 reads as follows:

Authority: The Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; the Clean Water Act, 33 U.S.C. 1251 *et seq.*; the Clean Air Act, 42 U.S.C. 1857 *et seq.*

4. In Part 124, it is proposed to amend § 124.12 by revising paragraph (e) to read as follows:

§ 124.12 Public hearings.

* * * * *

(e)(1) At his or her discretion, the Regional Administrator may specify that RCRA or UIC permits be processed under the procedures in Subpart F.

(2) For initial RCRA permits for existing HWM facilities, the Regional Administrator shall have the discretion to provide a hearing under the procedures in Subpart F. The permit applicant may request such a hearing pursuant to § 124.114 on one or more issues, if the applicant explains in his request why he or she believes those issues: (1) Are genuine issues of material fact and; (2) are determinative with respect to one or more contested permit conditions, identified as such in the applicant's request, that would require extensive changes to the facility ("contested major permit conditions"). If the Regional Administrator decides to deny the request, he or she shall send to the applicant a brief written statement of his or her reasons for concluding that no such determinative issues have been presented for resolution in such a hearing.

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40 CFR Parts 264 and 270

[SW FRL 2251-7]

Hazardous Waste Management System: Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; and the Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend the hazardous waste permit regulations. The regulations require, among other things, that a permittee under the Resource Conservation and Recovery Act maintain records of all ground-water monitoring data for the active life of the hazardous waste mangement facility. Today's proposal would change this requirement to allow the permittee to retain records of ground-water monitoring data for ten consecutive years only. This proposal eliminates a burdensom recordkeeping requirement without compromising protection of human health and the environment.

This amendent, if promulgated in the same form as proposed here, would result in an estimated savings to the regulated community of approximately $45,000 a year by reducing the burden of retaining ground-water monitoring records.

DATE: EPA will accept comments on this proposal until July 11, 1983.

ADDRESS: 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 docket as "Docket 3004—Ground-water Monitoring Data."

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline toll-free at (800) 424-9346 or in Washington, D.C. at 382-3000; or Deborah Wolpe, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 382-4754.

SUPPLEMENTARY INFORMATION: On February 26, 1980, and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations established the first phase of a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260-265, 45 FR 33066-33289). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations governing five permit programs.[1] On January ——, 1983, the Consolidated Permit Regulations were deconsolidated. Each of the five permit programs now appears in a separate Part of the Code of Federal Regulations. The changes proposed today affect only

[1] The five permit programs which were covered by the Consolidated Permit Regulations are: The Hazardous Waste Management (HWM) program under Subtitle C of RCRA, the Underground Injection Control (UIC) program under Part C of the Safe Drinking Water Act, the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Clean Water Act, the State "Dredge or fill" program under Section 404 of the Clean Water Act, and the Prevention of Significant Deterioration (PSD) program under regulations implementing Section 165 of the Clean Air Act. [Previously codified in 40 CFR Parts 122-124, 45 FR 33290-33588].

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity raspberries. The proposed regulation to establish a maximum permissible level for residues of the nematocide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before February 3, 1984.

ADDRESS: Written comments by mail to: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2605 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl) phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl) phosphoramidate in or on the raw agricultural commodity raspberries at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year dog feeding study with a no-observed effect level (NOEL) of 0.025 mg/kg/day (1.0 ppm); an 18-month mouse oncogenicity study with a NOEL of 7.5 mg/kg/day (50 ppm) and no observed oncogenic effects at all levels tested (2, 10, and 50 ppm); a 2-year rat feeding study with a NOEL for ChE inhibition of 0.15 mg/kg/day (3 ppm); a 3-generation rat reproduction study with a NOEL of 1.5 mg/kg/day (30 ppm); and teratology studies using rats and rabbits with NOEL's of 0.5 mg/kg and 0.3 mg/kg, respectively. An oncogenicity study in a second species (rat) is currently being conducted and is expected to be completed in 1986.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 0.025 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg: daily diet is calculated to be 0.0045 mg/day; the current action will increase the TMRC by 0.00005 mg/day (1.1 percent). Published tolerances utilize 3.01 percent of the ADI; the current action will utilize an additional 0.03 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Raspberries are not considered an animal feed item and, therefore, there is no expectation of secondary residues in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.349 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2605/P320]. All written comments filed in response to this petition will be available in the Program Management and Support Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 16, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.349(a) be amended by adding and alphabetically inserting the raw agricultural commodity raspberries to read as follows:

§180.349 Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * *	*
Raspberries	0.1
* * * *	*

[FR Doc. 84–7 Filed 1–3–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[FRL–2501–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and request for comment.

SUMMARY: On March 16, 1981, the American Iron and Steel Institute following up on its comments on interim final Agency regulations, submitted a rulemaking petition pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) requesting an exclusion from the presumption of hazardousness presently contained in the regulations for lime neutralized

waste pickle liquor sludge from all steel finishing operations (formerly EPA Hazardous Waste No. K063). In response to that petition, the Agency has obtained data which will become part of the administrative record for Agency action. EPA is now making this data available for public inspection and comment.

DATE: EPA will accept comments until February 21, 1984.

ADDRESSES: Comments should be sent to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the docket number "Section 3001—Spent pickle liquor listings." The supporting information is available for inspection and copying in Room S-212, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. Comments will be made available as they are received.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at 1-800-424-9346 or at (202) 382-3000. For technical information contact Jacqueline W. Sales, Office of Solid Waste (WH-565B), 401 M St., SW., Washington, D.C. 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, when EPA promulgated the first phase of the RCRA Subtitle C hazardous waste regulations, the Agency included in its list of hazardous wastes spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K062) and sludge from lime treatment of spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K063). The sludge is generated by a well known technique involving lime neutralization, flocculation, clarification, and, in most cases, dewatering of the resultant sludge.

On November 12, 1980, in response to public comment, the Agency removed EPA Hazardous Waste No. K063 from the list and relied on the provisions of 40 CFR 261.3(c)(2) to retain regulatory control over these wastes. This provision states that wastes derived from treating hazardous wastes are presumptively hazardous. In addition, the Agency indicated that it would consider a rulemaking petition to exclude these wastes from RCRA control it the steel finishing industry submitted data which demonstrated that these wastes are non-hazardous.

On March 16, 1981, the American Iron and Steel Institute (AISI), following up on its earlier comments, submitted a rulemaking petition requesting an exclusion of lime neutralized waste pickle liquor sludge (LNWPLS). AISI submitted data showing that lead and hexavalent chromium, the constituents of concern for which the waste is listed, are present in the LNWPLS in essentially an immobile form. EPA has since obtained considerable additional data, both from AISI members and from other sources, which bears on the original waste listing and on AISI's rulemaking petition. We are now seeking comment on this information. This information and comments we receive will form the record for subsequent Agency rulemaking.

II. Availability of Information

The following information is available for public inspection in the EPA RCRA docket:

A. American Iron and Steel Institute Rulemaking Petition

AISI submitted Extraction Procedure (EP) extract data from fourteen steel finishing operations to support their claim that lead is present in lime neutralized waste pickle liquor sludge (LNWPLS) in concentrations well below the maximum EP toxicity limits and hexavalent chromium is well below the proposed EP toxicity limits (see 45 FR 72029-72041, October 30, 1983) demonstrating that they are present in essentially an immobile form (see Table 1).

TABLE 1.—LIME NEUTRALIZED WASTE PICKLE LIQUOR SLUDGE

[EP Extract Values (ppm) [1]]

Facility	Lead	Total chromium	Hexavalent chromium
1 [2]	<0.030	0.19	0.089
2 [2]	0.039	0.018	0.008
3	0.0027	0.037	
4 [2]	0.04	0.82	0.16
5 [2]	<0.02	2.07	
6	0.37	0.35	
7	0.15	1.00	
8	0.60	<0.03	
9	0.12	0.024	0.025
10	0.09	<0.02	
11 [2]	<0.10	0.05	
12 [2]	0.055	0.076	
13	0.10	<0.02	
14 [2]	0.18	5.10	0.127

[1] These values represent an *average* of all samples analyzed from each facility.
[2] Stainless steel facilities.
Source: AISI rulemaking petition.

B. Data from Site-specific Delisting Petitions

Agency records indicate that approximately 360 steel finishing facilities handle or generate LNWPLS; therefore, the Agency does not view the data submitted in the AISI rulemaking petition (*i.e.*, EP extract data from fourteen facilities) as fully representative of steel finishing industry wastes. The Agency, therefore, reviewed additional data available from site-specific delisting petitions (see Table 2 for data; petitioners names are listed at the end of today's notice). These data appear to support AISI's contention that lead and hexavalent chromium are present in low levels and are substantially immobilized in properly neutralized LNWPLS. (Virtually all of the chromium present in the lime neutralized waste will be in the trivalent state because total chromium is reduced by ferrous ion, a reducing agent present in all spent pickle liquors.)

TABLE 2—IRON AND STEEL INDUSTRY, LIME NEUTRALIZED WASTE PICKLE LIQUOR SLUDGE

[EP Extract values (ppm [1])]

Facility [2]	Lead	Total chromium	Hexavalent chromium
1	0.50	0.10	0.10
2	0.29	0.05	0.05
3	0.80		0.10
4	0.08	0.05	
5	0.45	0.26	
6	0.04		0.07
7	0.30	0.06	0.01
8	0.02	4.73	
9	1.20	0.03	0.02
10	1.00	3.80	0.01
11	0.05		0.22
12	0.17	0.03	0.02
13	0.25	0.02	
14	0.57	15.0	0.03
15	1.00	0.38	0
16	1.36		0.01
17	0.50	0.50	
18	0.147	0.04	
19	0.50	0.10	0.005
20	0.06	0.223	0.022
21	1.70		0.053
22	0.058	0.062	
23	0.19	0.17	
24	0.10	0.03	0.03
25	0.08	0.10	
26	1.00		1.00
27	0.06	0.10	0.50
28	0.02	0.68	0.02
29	0.15		0.45
30	0.01	2.20	0.02
31	0.649		0.058
32	0.12	0.10	
33	0.04	0.40	
34	0.60	0.02	
35	0.42	0.11	
36	0.32	0.11	
37	0.21	0.10	
38	<0.50	0.38	
39	0.10	0.23	
40	0.11	2.70	0.18
41	2.60	0.05	
42	0.17	1.03	<0.02
43	0.03	0.04	

[1] These values represent the *maximum* EP values for all samples analyzed from each facility.
[2] The facility names are listed at the end of today's notice.

C. EPA Studies to Determine Whether Commingling of Spent Pickle Liquor With Non-hazardous Waste May Affect the Treatment Process And Whether Hazardous Constituents Other Than Those For Which Spent Pickle Liquor Was Listed Are Present in the Waste at Levels of Regulatory Concern

In considering the AISI petition, the Agency is concerned that in making such a decision (such as to exclude LNWPLS), a diverse group of persons who treat spent pickle liquor but whose wastes may still be hazardous may be excluded. Our basis for this concern is two-fold: first, we are concerned that if the spent pickle liquor is commingled with non-hazardous waste (such as organic waste streams), commingling could adversely affect the treatment process and increase the leachability of the toxic heavy metals. Steel finishing is practiced by a large diverse group of manufacturers. For example, plants in such standard industrial classes (SIC) as Paints, Varnishes, Lacquers, Enamels (SIC 285), Industrial Organic Chemicals (SIC 286) and Adhesives, Sealants, Printing Ink, Other (SIC 289) treat spent pickle liquor and generate LNWPLS. If the spent pickle liquor were commingled with other wates that are generated by these industries, the Agency believes that the metal leachability could be directly affected. The Agency has data from delisting petitions which indicate that organic-containing wastes may interfere with effective lime neutralization.[1]

Therefore, because commingling of spent pickle liquor with other materials could likewise affect treatability, we are contemplating a rule to exclude only those wastes where we have assurances that the treatment process is controlled to prevent significant interferences. Although the steel industry may mix other waste streams with spent pickle liquor before treatment, there do not appear to be interfering agents, such as organics, in these other waste streams (see EPA Phase I Report for the Spent Pickle Liquor Listing). For example, cold rolling process wastes (oily waste containing organics) are frequently mixed with spent pickle liquor prior to treatment. However, the oily organic containing phase is typically skimmed off prior to lime treatment. Thus, organics are not expected to be present in significant concentrations to interfere with waste treatment, or to be present in LNWPLS. Findings from delisting petitions for LNWPLS from the iron and steel industry appear to indicate that treatment is effective.

Secondly, the Agency is concerned that when spent pickle liquor is commingled with other wastes before treatment there may be hazardous constituents, other than lead and hexavalent chromium, in the LNWPLS at levels of regulatory concern. The Agency has completed the first phase of this study which addresses hazardous constituents present in LNWPLS from the iron and steel industry. We have evaluated raw waste pickle liquor influent typically lime treated by the iron and steel industry. Organic toxicants do not appear to be present in the effluent in significant concentrations (see Development Document for Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. V). Data indicate, however, that nickel is present in LNWPLS from stainless steel finishing operations. Since nickel is a constituent in the manufacture of stainless steel, the Agency can reasonably expect nickel to be present in the wastes. The Agency is evaluating whether the levels present in these wastes are of regulatory concern. No other toxic metals are present in significant concentrations in the EP extract from LNWPLS (see EPA Stainless Steel Finishing Waste Characterization, May 1982 and Development Document for Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. VI).

Copies of the following information and studies discussed in this Notice are available for public inspection in the RCRA docket:

1. AISI Rulemaking Petition.
2. EPA, *Stainless Steel Finishing Waste Characterization*, Contract No. 68-01-6467, May 1982.
3. Witmer, Charlotte, *Toxicity of Orally Ingested Nickel Compounds*, September 1982 (report submitted to EPA by the Specialty Steel Industry).
4. EPA, Phase I Report for the Spent Pickle Liquor Listing, Contract No. 68-01-6804, December, 1983.
5. Delisting Verification, Sampling Mission No. 1: Environmental Waste Removal, Inc. Contract No. 68-01-6467, October, 1982.
6. Delisting Verification, Sampling Mission No. 2: Al-Chem Tron, Inc., Contract No. 68-01-6467, October, 1983.
7. EPA, Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. V, EPA 440/1-82/024, May 1982.
8. EPA, Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. VI, EPA 440/1-82/024, May 1982.
9. Letter to Earle Young (AISI) from John Lehman (EPA), July 16, 1981.
10. Letter from Matthew Straus (EPA) to Stephen Schwartz (AISI), October 5, 1981.
11. Letter from John Lehman (EPA) to Stephen Schwartz (AISI), October 27, 1981.
12. Letter from Rita Lavelle (EPA) to Earle Young (AISI), December 27, 1982.
13. Letter to Lee Thomas (EPA) from R. Sarah Compton (Counsel for Specialty Steel Institute), April 21, 1983.
14. Letter to R. Sarah Compton (Counsel for Specialty Steel Institute) from John H. Skinner (EPA), November 9, 1983.
15. Site-Specific Petitions to Delist EPA Hazardous Waste Nos. K062 and K063:

IRON AND STEEL INDUSTRY

Petition No.	Facility
0506	U.S. Steel Corp.
0120	Copperweld Steel Co.
0271	Union Carbide.
0027	Bekaert Steel Wire.
0228	Carpenter Technology.
0014	Johnson Steel & Wire.
0475	Olin Corp.
0097	Allegheny Ludlum.
0099	Keystone Group.
0348	Bethlehem Steel Corp.
0106	Jones & Laughlin Steel.
0115	Timken Co.
0423	Quanex Corp.
0117	Trent Tube.
0214	Ohio Steel Tube Co.
0455	Inland Steel/Indiana Harbor Works.
0482	Mid-West Fabricating Co.
0105	Great Lakes Steel.
0298	Ingersoll Johnson Steel Co.
0158	Al Tech Specialty Steel Corp.
0066	Crucible, Inc.
0029	Firestone Steel Products.
0055	ARMCO, Inc.
0063	Keystone Group.
0075	Ohio Steel Tube Co.
0080	Gulf & Western.
0085	ARMCO, Inc.
0094	Allegheny Ludlum.
0108	Allegheny Ludlum.
0110	Allegheny Ludlum.
0134	Empire Detroit Steel Division.
0159	General Cable.
0160	Al Tech Specialty Steel Corp.
0266	General Cable.
0179	Lehigh Lancaster.
0203	Vulcan Rivet & Bolt Corp.
0132	Peerless Chain Co.
0389	Sandvik.
0144	Bekaert Steel Wire Corp.
0273	Bethlehem Steel Corp.
0193	Bethlehem Steel Corp.
0243	Plymouth Tube Co.
0089	Triangle PWC.

Other Industries

0191	Leggett & Platt, Inc.
0192	Chemline Corp.
0193	American Nickeloid Co.
0303	Robertson, Inc.
0310	Calvin Ind.
0323	Liquid Dynamics.
0324	National Standard.
0347	General Electric.
0397	Beech Aircraft Corp.
0404	Conversion Systems, Inc.
0424	GMC Harrison Radiator.
0379	Special Metals.
0433	Cleaners Hanger Co.
0451	True Temper Sport, Inc.
0460	Steel Warehouse Co.

[1] For example, as part of its spot check verification program for delisting, the Agency has visited several facilities that treat electroplating wastes and commingle them with other nonhazardous wastes (such as organic waste streams). In reviewing these results, we find that, in most instances, the treated wastes continue to leach high concentrations of toxic metals or actually exhibit the EP toxicity characteristic. The type of treatment used at these facilities is virtually the same as that used in treatment of spent pickle liquor. (See Delisting Verification, Sampling Mission #1 and Sampling Mission #2, October, 1982.)

IRON AND STEEL INDUSTRY—Continued

Petition No.	Facility
0460	MOOG Automotive.
0471	H. H. Robertson Co.
0491	CWM.
0507	Teledyne Monarch Rubber.
0523	All-Brite.
0524	International Galvanizing Co.
0005	Fosbrink.
0024	Dresser Industries.
0028	Florida Wire & Cable.
0044	Wiremill Inc.
0048	American Recovery Co.
0051	Maytag.
0059	Chem Met Services.
0068	Carborundum.
0060	Al Chem-Tron, Inc.
0139	Resource Recycle Tech/Industrial.

The Agency requests that all comments be submitted to the RCRA Docket Clerk on or before February 21, 1984.

Dated: December 21, 1983.

Jack McGraw,

Acting Assistant Administrator for Solid Waste.

[FR Doc. 84-16 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42028A; FRL 2742-3]

Propylene Oxide; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In the First Report of the Interagency Testing Committee (ITC), the ITC designated the category of alkyl epoxides for priority consideration for epidemiological studies and testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental fate. This notice addresses one member of the alkyl epoxides category, propylene oxide. Other members of the category will be addressed in other Federal Register notices.

Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA today is proposing that manufacturers and processors of propylene oxide test this chemical for teratogenicity. EPA is not proposing epidemiological studies or testing for carcinogenicity, mutagenicity, other chronic effects, or environmental fate at this time.

DATES: Submit written comments on or before March 5, 1984. Make requests to submit oral comments by February 21, 1984. If requests are made to submit oral comments, EPA will hold a public meeting on March 19, 1984 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit X of this preamble.

ADDRESS: Submit written comments in triplicate identified by the document control number (OPTS-42028A) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

I. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established in Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated the alkyl expoxides category for priority consideration in its First Report, submitted to EPA in October 1977, and published in the Federal Register of October 12, 1977 (42 FR 55026). The category, as defined by the ITC, includes all non-cyclic aliphatic hydrocarbons with one or more epoxide functional groups. The ITC recommended that the alkyl epoxides category be considered for the following testing: carcinogenicity, mutagenicity, teratogenicity, other chronic effects and environmental fate; it also recommended epidemiological studies. This notice serves as EPA's response to the recommendations of the ITC for one member of the alkyl epoxide category, propylene oxide.

Under section 4(a) of TSCA, the Administrator shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Agency finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture.

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

In making section 4(a)(1)(A) findings, EPA considers both exposure and toxicity information to make the finding that the chemical may present an unreasonable risk. For the first finding under section 4(a)(1)(B), EPA considers only production, exposure and release information to determine if there is substantial production and significant or substantial exposure or substantial release. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to or environmental release of the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's approach to determining when these findings are appropriately made is described in detail in EPA's first and second proposed test rules as published in the Federal Register of July 18, 1980 (45 Fr 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528 and the section 4(a)(1)(B) finding is discussed in 46 FR 30300.

In evaluating the ITC's testing recommendations for propylene oxide, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of propylene oxide under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies submitted by manufacturers and processors of propylene oxide under the TSCA section

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124 and 270

[SW-FRL 2536-6]

Hazardous Waste Management System—The Hazardous Waste Permit Program; Procedures for Decisionmaking

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today amending its hazardous waste permit regulations. These regulations were promulgated pursuant to Subtitle C of the Resource Conservation and Recovery Act (RCRA) and were included in the Consolidated Permit Regulations (which have since been deconsolidated). These amendments will allow an owner or operator of an existing hazardous waste management facility who submits an incomplete Part A of the RCRA permit application to receive a notice of the deficiency and an opportunity to cure it before being subject to EPA enforcement for operating without a permit. The Agency is also amending the regulations to require that if the Administrator denies a request for a panel hearing on an initial permit for an existing hazardous waste management facility, he must give his reasons for the denial.

Today's actions are prompted by a settlement stipulation concerning these issues in the *NRDC v. EPA* lawsuit on the Consolidated Permit Regulations. These amendments will not have any economic impact on the regulated community, nor will they have any impact on public health or the environment.

DATE: These amendments are effective October 24, 1984.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll-free at (800) 424-9346 or in Washington, D.C. at 382-3000. For specific information on these amendments, contact Deborah Wolpe, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2222.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980 and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. 6901 *et seq.* These regulations established the first phase of a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260–265, 45 FR 33063–33239). In addition, on May 19, 1980, EPA promulgated the Consolidated Permit Regulations governing five permit programs. On April 1, 1983, the Consolidated Permit Regulations were deconsolidated. Each permit program now appears in a separate part of the Code of Federal Regulations. The changes proposed today concern only the RCRA portion of the Consolidated Permit Regulations, now codified at 40 CFR Part 270.

On May 10, 1983, EPA proposed amendments to the hazardous waste permit regulations, 40 CFR Parts 270 and 124 (48 FR 21098). These proposed amendments: (1) Ensure that owners and operators of hazardous waste management facilities are notified of defects in Part A of their permit applications and given an opportunity to correct these defects; and (2) set forth conditions when a permit applicant may request a hearing under Subpart F and ensure that if the Administrator denies a request for a panel hearing on an initial permit, he must give his reasons for the denial.

EPA has received a number of comments on these amendments. Almost all of the commenters strongly support the amendments as they were proposed. Therefore, today we are promulgating these amendments in final form and responding to questions and comments raised on these issues during the public comment period.

II. Failure To Qualify for Interim Status Because of an Incomplete Part A

An owner or operator of a hazardous waste management (HWM) facility may fail to qualify for interim status for any of the following reasons which are listed in RCRA as prerequisites to qualifying for interim status:

(a) The facility was not in existence on or before November 19, 1980;

(b) The owner or operator failed to comply with Section 3010 of RCRA (*i.e.*, failed to notify, if required); or

(c) The owner or operator failed to submit Part A of his permit application on time.[1]

In addition, an owner or operator may fail to qualify for interim status if he fails to submit a complete part A permit application. Section 270.70 of the regulations states that if, upon examination or reexamination of a Part A application, EPA determines that it failed to meet the standards of the regulations, EPA may notify the owner or operator that the application is deficient. Section 270.70 provides that the result of such a determination is that the owner or operator is not entitled to interim status, and is subject to EPA enforcement for operating without a permit.

On May 10, 1983, the Agency proposed amending 40 CFR 270.70 to provide that before EPA determines that Part A of a permit application is deficient, it will notify the owner or operator in writing of the apparent deficiency. The notice will specify the grounds for EPA's belief that the application is deficient and will give the owner or operator 30 days from the date of receipt to respond to the notification and to explain or cure the deficiency. If, after such notice and opportunity for response, EPA still finds that the application is deficient, it may then take appropriate enforcement action.

The proposed amendments were prompted by a settlement stipulation concerning this issue in the litigation on the Consolidated Permit Regulations, *NRDC v. EPA*, No. 80-1607, and Consolidated Cases (D.C. Cir., filed June 2, 1980).[2]

This proposal, however, merely put in regulatory form what the Agency believes is already standard operating procedure with respect to deficient Part A applications. EPA believes it is reasonable to give permit applicants an opportunity to cure deficient applications before interim status is denied; and, in practice, does allow an applicant to correct, explain or resubmit a Part A, if it is found deficient. This amendment merely includes these procedures in the regulations. All but two of the comments EPA received on this amendment strongly supported adopting it.

One commenter suggested that the time limit of 30 days to correct deficiencies in Part A applications be extended to 45 days. This, the commenter claimed, would allow complex facilities adequate opportunity for further contact with the Agency to resolve uncertainties and submit a complete application. We do not agree that the additional 15 days is necessary. Thirty days should be a more than adequate time period to contact the agency and correct or cure a Part A. Part

[1] Failure to file a Part A on time may not always result in a failure to qualify for interim status. The agency may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing HWM facility may submit Part A of its permit application, as there is no statutory deadline for submitting the permit application (see 40 CFR 270.10(e)(3)).

[2] For further discussion of the *NRDC v. EPA* suit and the settlement agreement filed on the RCRA-related issues, see the preamble to the proposed amendments on owner signature and certification, 47 FR 32038 (July 23, 1982).

A's consist of straight-forward requests for information which the applicant should already have on hand, such as a description of the processes to be used for treating, storing, or disposing of waste at the facility; the design capacity of these processes; the location of the facility, etc. An extra fifteen days is not necessary for such information needs.

One commenter opposed any change to 40 CFR § 270.70(b). The commenter stated that such a change raises the question of whether there are still owners and/or operators who have not filled out a proper Part A application. The commenter was concerned that the Agency is still looking through delinquent Part A's to determine deficiencies, rather than calling in Part B's.

The Agency will always be receiving Part A applications when we change the regulations to regulate facilities that may have originally been exempted (e.g., small quantity generators, new wastes). Under these circumstances a facility may still submit a Part A application and may then qualify for interim status if it was in existence on November 19, 1980.

The promulgation of this amendment does not affect the Agency's current priority in permitting hazardous waste facilities. Our priorities are still focused on calling Part B's and issuing permits to facilities as quickly as possible rather than reviewing delinquent Part A applications. However, since we may always receive new or revised Part A's, we believe today's change to § 270.70 is reasonable both to put in regulatory form what is already standard procedure and to assuage the litigants' concerns in this area.

III. Opportunity for a Hearing Prior to Denial of an Initial Permit

On May 10, 1983, EPA also proposed amending 40 CFR 124.12 to provide that during the 45 day public comment period a permit applicant may request a panel hearing pursuant to § 124.114 for initial RCRA permits. The applicant must explain in his request why he believes that the issues for which he requests a hearing are genuine issues of material fact. He must also explain why these are determinative issues, *i.e.*, which are likely to influence the outcome of one or more contested permit conditions, and which would require extensive changes to the facility. If the regional Administrator denies the request, he would have to send a brief written statement to the applicant explaining his reasons for concluding that no determinative issues have been presented for resolution in a panel hearing. The basic reason for this amendment is to provide some assurance that a panel hearing will not be arbitrarily denied.

The petitioners in the NRDC lawsuit raised several issues concerning a hearing on the issuance or denial of an initial RCRA permit. They argued that due process requires the opportunity for a hearing in all cases before a permit is denied for a facility operating under interim status. In addition, they argued that the imposition of extensive, expensive conditions in a permit might be tantamount to denial of a permit, therefore, a hearing should be available in such situations as well. They believed that the existing regulations did not provide for a hearing in all instances.[3]

It is EPA's position that formal adjudicatory hearings are not required for the issuance or denial of RCRA permits; that an informal public hearing plus the notice requirements currently in the regulations are sufficient to satisfy due process requirements.[4] The current regulations provide for notice of what the Agency proposes to do, an opportunity to challenge that proposal both through written comments and informal public hearing, a response to comments, and a decision based on administrative record. Section 7004(b) of RCRA provides for an informal public hearing upon receipt by the Director of a written notice of opposition to the Agency's intent to issue a RCRA permit and of a request for such a hearing.

Petitioners also believed that the May 19, 1980 regulations only gave a right to a public hearing in situations where EPA proposed to issue a permit. This was not EPA's intent. As clarified in amendments promulgated on July 15, 1981 (46 FR 36704), the Agency intends that the requirement to hold an informal hearing (when one is requested) apply to cases where the Agency has tentatively decided to issue a permit. The term "draft permit" applies to both.

Finally, the petitioners were also concerned that in some instances, there would be complicated factual issues that could be addressed better through a formal, rather than an informal hearing. As the regulations are currently written, the Regional Administrator always has the discretion to hold a formal panel hearing. However, the petitioners objected to a lack of assurance in the regulations that they would receive a written response to a request for such a hearing, should the Regional Administrator deny the request. They were concerned that there would be situations where EPA and the permit applicant would disagree about changes necessary to bring the facility into compliance with the regulations. In situations where the Regional Administrator proposes to issue a permit, but the applicant disagrees as to major permit conditions, the petitioners want the opportunity for a panel hearing.

As a matter of policy, EPA has determined that permit applicants should have an opportunity for a panel hearing where there is a tentative decision to deny the initial permit for an existing facility, and where the applicant and EPA disagree on major conditions in the initial draft permit for an existing facility. Today's final amendment to § 124.12(e)(2) provides the assurance that a panel hearing will not be arbitrarily denied.

All of the comments the Agency received on this amendment urged that the amendment be adopted as proposed. One commenter requested clarification on an apparent contradiction as to whether a panel hearing is considered a formal or an informal hearing. The commenter claimed that footnote 5 of the preamble in the proposed rule (45 FR 21099) states that panel hearings are considered formal adjudicatory hearings as they conform to the formal hearing requirements of the Administrative Procedure Act, while the preamble seems to indicate that the panel hearing is considered an informal hearing. They quote the following passages of the preamble:

> * * * the Agency intends that the requirement to hold an *informal hearing* (when one is requested) apply to cases where the Agency has tentatively decided to deny a permit as well as when the Agency has tentatively decided to issue a permit (48 FR at 21099, emphasis added).

and later:

> As a matter of policy, EPA has determined that permit applicants should have the opportunity for a *panel hearing* when there is tentative decision to deny the initial permit * * * (48 FR 21099, emphasis added).

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[3] There are three types of hearings available under Part 124. These are: (1) *Public Hearings.* Public hearings must be held whenever the Director receives written notice of opposition to a RCRA draft permit and a request for a hearing within 45 days of public notice of the draft permit. The Director may also hold such a hearing at his discretion. (See 40 CFR 124.12(1); (2) *Evidentiary hearings.* Evidentiary hearings under Subpart E of Part 124 are formal adversarial hearings conducted by a judicial officer pursuant to formal rules of practice; and (3) *Panel hearings.* Panel hearings under Subpart F of Part 124 are nonadversial hearings before a presiding officer and a panel consisting of three or more EPA employees having special expertise or responsibility in areas related to the issues being decided. Evidentiary hearings and panel hearings are both considered formal adjudicatory hearings, as they conform to the formal hearing requirements of the Administrative Procedure Act. Public hearings are considered informal hearings.

[4] See 45 FR 33409–33411 (May 19, 1980).

This is not a contradiction. In the first quote, we are simply explaining that an informal hearing, *i.e.*, a public hearing, is all that is required to satisfy due process requirements. In the second quote, we are stating that over and above due process requirements, EPA's policy will be to allow permit applicants an opportunity for a panel hearing when there are factual issues which may be addressed better through a formal, *i.e.*, a panel hearing.

Another commenter has requested that the Agency state clearly what the proper procedure would be if a hearing was requested and then denied. They suggest that there should be administrative recourse to the Regional Administrator's decision.

If a hearing has been properly requested under § 124.114, and the Regional Administrator denies the request, the applicant will receive a brief written statement of the Regional Administrator's reasons for concluding that no determinative issues have been presented for resolution in a panel hearing (see today's amendment to § 124.12). The Regional Administrator shall then prepare a recommended decision under § 124.124. Any person whose hearing request has been denied may then appeal that recommended decision to the Administrator as provided in § 124.91.

It should be noted, as it was in the proposal (see 48 FR 21260), that in circumstances where a permit has been appealed, and no formal hearing was held, the Administrator may remand the appeal to the Regional Administrator, and direct the Regional Administrator to hold a non-adversary panel hearing.

IV. Economic Impact

These amendments will not have any economical impact on the regulated community. As stated in the background information, it is standard operating procedure for the Agency to allow an applicant the opportunity to correct, explain or cure an incomplete Part A of the RCRA permit. The amendment to § 270.70 therefore, does not change anything but the regulatory language.

The amendment to § 124.12(e) requires the Regional Administrator to provide a written reason for denying an applicant's request for a formal hearing. This change increases the paperwork of the Regional Administrator, but does not effect the regulated community.

V. Executive Order 12291

Under Executive Order 12291 (46 FR 12193, February 19, 1981), EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. A major rule is defined as a regulation which is likely to result in:

An annual effect on the economy of $100 million or more;

A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or

Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises in domestic or expert markets.

This regulation is not major because it will not result in an effect on the economy of $100 million or more. It merely provides some procedural safeguards upon the failure to qualify for interim status and the issuance or denial of a RCRA permit. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. These amendments are not major regulations. Therefore, no Regulatory Impact Analysis is being prepared.

These amendments were submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, EPA must prepare a regulatory flexibility analysis for all final rules to assess their impact on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This regulation will not have any economic impact on owners and operators of hazardous waste management facilities (including those which are small entities). Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this final rule will not have a significant economic impact on a substantial number of small entities.

Dated: April 18, 1984.

William D. Ruckelshaus,

Administrator.

List of Subjects

40 CFR Part 270

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and record-keeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous materials, Waste treatment and disposal, Waste pollution control, Water supply, Indians-lands.

40 CFR Parts 270 and 124 are amended as follows:

PART 270—[AMENDED]

1. The authority citation for Part 270 reads as follows:

Authority: Sections 1006, 2002(a), 3005, 3007 and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) (42 U.S.C. 6901, 6912(a), 6925, 6927 and 6974).

2. In Part 270, § 270.70 is amended by revising paragraph (b) to read as follows:

§ 270.70 Qualifying for interim status.

* * * * *

(b) Failure to qualify for interim status. If EPA has reason to believe upon examination of a Part A application that it fails to meet the requirements of § 270.13, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for EPA's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, EPA determines that the application is deficient it may take appropriate enforcement action.

PART 124—[AMENDED]

3. The authority citation for part 124 reads as follows:

Authority: The Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; the Clean Water Act, 33 U.S.C. 1251 et seq.; the Clean Air Act, 42 U.S.C. 1857 et seq.

4. In Part 124, § 124.12 is amended by revising paragraph (e) to read as follows:

§ 124.12 Public hearings.

* * * * *

(e)(1) At his or her discretion, the Regional Administrator may specify that RCRA or UIC permits be processed under the procedures in Subpart F.

(2) For initial RCRA permits for existing HWM facilities, the Regional Administrator shall have the discretion to provide a hearing under the procedures in Subpart F. The permit applicant may request such a hearing pursuant to § 124.114 (b) one or more

on

issues, if the applicant explains in his request why he or she believes those issues: (1) Are genuine issues to material fact; and (2) determine the outcome of one or more contested permit conditions identified as such in the applicant's request, that would require extensive changes to the facility ("contested major permit conditions"). If the Regional Administrator decides to deny the request, he or she shall send to the applicant a brief written statement of his or her reasons for concluding that no such determinative issues have been presented for resolution in such a hearing.

[FR Doc. 84-10745 Filed 4-23-84; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2488-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today amending its regulations under the Resource Conservation and Recovery Act to change the hazard class under which commercial chemical products containing low concentrations of warfarin and zinc phosphide are listed. Waste products containing either warfarin at concentrations of 0.3% or less, or zinc phosphide at concentrations of 10% or less, are now listed as hazardous wastes when discarded, instead of acutely hazardous wastes. This change has been made because these lower concentration formulations of warfarin and zinc phosphide do not meet the criteria for classification as acutely hazardous waste.

EFFECTIVE DATE: November 12, 1984.

ADDRESSES: The public docket for this regulation is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 am to 4:00 pm Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of Section 3001 of the Resources Conservation and Recovery Act of 1976, as amended (RCRA), the Agency promulgated, as 40 CFR 261.33 of the regulations, a list of commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, and which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. 40 CFR 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers, or the residues remaining in the containers, or the inner liners removed from the containers that have held those chemicals listed in § 261.33(e), if discarded or intended to be discarded, unless the containers or inner liners have been triple-rinsed with an appropriate solvent, or have been decontaminated in an equivalent manner, or the inner liners have been removed. A chemical substance is listed in 40 CFR 261.33(e), and is subject to a small quantity generator exclusion limit of 1 kilogram per month, if it meets the criteria of § 261.11(a)(2); that is, it is acutely hazardous because it has been shown in animal studies to have an oral LD_{50} (rat) toxicity value of less than 50 milligrams per kilogram, a dermal LD_{50} (rabbit) toxicity value of less than 200 milligrams per kilogram, an inhalation LD_{50} (rat) toxicity value of less than 2 mg/l, or is otherwise capable of causing or otherwise significantly contributing to serious illness.

Chemical substances are listed in § 261.33(f), and are subject to the small quantity generator exclusion limit of 1000 kilograms per month,[1] if they satisfy § 261.11(a)(1), exhibiting identified characteristics of EP toxicity, reactivity, corrosivity, or ignitability; or § 261.11(a)(3), satisfying the criteria for listing as toxic, *i.e.*, they have been shown in scientific studies to be toxic, mutagenic, teratogenic, or carcinogenic to humans, other mammals or aquatic animals, or to be phytotoxic.

The National Pest Control Association (NPCA), Vienna, VA had petitioned the Agency to exclude warfarin- and zinc phosphide-containing commercial chemical products used for pest control from the list of acutely hazardous wastes. Petitions had also been received from Sterling Drug Company, New York, NY and the Ralston Purina Company, St. Louis, MO, requesting that certain warfarin-containing products be excluded.

[1] EPA publicly committed to reexamine the small quantity generator exclusion limit, and these products may be subject to a revised small quantity generator exclusion limit at a later date. In fact, there are bills in the Congress at this time which, if passed, will decrease the small quantity generator exclusion limit to less than 1000 kilograms per month.

II. Petitions for Rulemaking and Proposed Rule

In light of the data submitted by the Sterling Drug Company in their petition, EPA tentatively concluded that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing warfarin at concentrations of 0.3% or less, or containing zinc phosphide at concentrations of 10% or less do not meet the criteria for listing as an acutely hazardous waste since the acute oral LD_{50} (rat) value exceeds 50 mg/kg. EPA therefore proposed on February 23, 1983, that commercial chemical products or manufacturing chemical intermediates or any off-specification chemical product containing warfarin at concentrations of 0.3% or less, or zinc phosphide at concentrations of 10% or less, are not acutely hazardous and should not be listed in § 261.33(e).

However, the Agency further proposed that formulations containing 0.3% or less warfarin should be listed under § 261.33(f) because of their chronic toxicity. In addition, the petitioner's data showed that formulations containing zinc phosphide at concentrations of 10% or less are somewhat toxic, and should not be completely removed from regulation under § 261.33. Rather, the Agency therefore proposed that formulations containing zinc phosphide at concentrations of 10% or less should be listed under § 261.33(f) because of their toxicity (48 FR 7714–7716).

III. Comments Received and Final Rule

The Agency received only two comments on the proposed rule: one from the State of New Jersey Department of Environmental Protection, and one from the State of Texas Department of Health. Both comments supported the Agency's proposal. Both commenters agreed with the Agency's proposed action.

Accordingly, EPA is today amending 40 CFR 261.33(e) to revise the listing for warfarin to include only those products which contain more than 0.3% warfarin, and is also amending § 261.33(f) to add warfarin when present at concentrations of 0.3% or less as EPA Hazardous Waste No. U248. EPA is also amending both § 261.33(e) to revise the listing for zinc phosphide to include only those products which contain more than 10% of the active substance, and § 261.33(f) to add commercial chemical products, manufacturing chemical intermediates or spill residues containing zinc

phosphide at concentrations of 10% or less as EPA Hazardous Waste No. U249.

As a result of today's action, the concentration of warfarin or zinc phosphide in a discarded commercial chemical product becomes critical in determining whether the waste is regulated under § 261.33 (e) or (f). In interpreting today's regulation, EPA intends that the generator shall measure the concentration in the waste resulting from the intended use (*e.g.*, application strength pesticide solutions remaining in the application tank) rather than the initial concentration in the purchased product (unless, of course, the product itself is discarded). Any dilution or other adulteration of discarded products for the purpose of reducing the concentration of warfarin or zinc phosphide, however, is hazardous waste treatment (it is "designed to change the * * * chemical character * * * of * * * the hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous * * * (see RCRA Section 1004(34))) and is subject to the permit requirements of Subtitle C.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions to the regulations take effect six months after promulgation. Therefore, this amendment will take effect November 12, 1984.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of United States-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room S-212A at EPA.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities (as defined in the Regulatory Flexibility Act). Rather, since small pesticide applicators will now not have to dispose of small quantities of certain waste zinc phosphide or warfarin pesticides as hazardous wastes, today's action will result in a savings to small business. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VIII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: May 3, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 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), 6921 and 6922).

2. Section 261.33(e) is amended by revising the listings for warfarin, 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin and salts, and zinc phosphide to read as follows:

Hazardous waste No.	Substance
*	* * * * *
P001	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3%.
*	* * * * *
P001	Warfarin, when present at concentrations greater than 0.3%.
P122	Zinc phosphide, when present at concentrations greater than 10%.

3. Section 261.33(f) is amended by adding the following substances:

Hazardous waste No.	Substance
*	* * * * *
U248	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3% or less.
*	* * * * *
U248	Warfarin, when present at concentrations of 0.3% or less.
U249	Zinc phosphide, when present at concentrations of 10% or less.

[FR Doc. 84-12507 Filed 5-9-84; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2564-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today amending the regulations for hazardous waste management under the Resource Conservation and Recovery Act by exempting lime stabilized waste pickle liquor sludge generated from the iron and steel industry (Standard Industrial Classification Codes 331 and 332) from the presumption of hazardousness presently contained in the regulations. These wastes may still be hazardous, however, if they exhibit any of the characteristics of hazardous waste. EPA is taking this action in response to comments to an interim final rule and to a rulemaking petition submitted by the American Iron and Steel Institute (AISI). The effect of this amendment is to reduce or eliminate the regulatory requirements applicable to those individuals who generate and manage these wastes and now comply with the requirements of the hazardous waste management regulations.

DATES: Final rule effective December 5, 1984.

ADDRESSES: The public docket for this final rule is located in Room S-212, 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 legal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346 or (202) 382-3000. For technical information contact Jacqueline Sales, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

The regulations implementing the hazardous waste management system under Subtitle C of the Resource Conservation and Recovery Act (RCRA) are published in Title 40 of the Code of Federal Regulations (CFR) in Parts 260 to 266, 124, and 270 and 271. These regulations include lists of hazardous wastes (40 CFR 261.31 to 261.33) and, as originally promulgated, included two wastes from steel finishing operations: (1) Spent pickle liquor from steel finishing operations (K062) and (2) sludge from lime treatment of spent pickle liquor from steel finishing operations (K063). (See 45 FR 33123, May 19, 1980.)

Spent pickle liquor (K062) is a strongly acidic solution generated from a process that removes oxide scale from steel surfaces. These wastes commonly contain high levels of hexavalent chromium and lead. The sludge from treatment of spent pickle liquor (K063) is generated by a well known technique involving lime neutralization, flocculation, clarification, and, in most cases, dewatering of the resultant sludge. Sludge generated from this treatment process is generally landfilled; thus, the Agency was concerned that high levels of lead and hexavalent chromium could migrate from these wastes, persist in the environment, and result in contamination of drinking water sources. EPA's compendium of damage incidents contains several cases of environmental damage resulting from land disposal of inadequately neutralized spent pickle liquor sludge. (See Background Document to wastes K062 and K063, May 2, 1980.)

During the comment period on the May 1980 rules, the Agency received a number of comments requesting that lime stabilized waste pickle liquor sludge (LSWPLS) [1] be removed from the list of hazardous wastes. In particular, the American Iron and Steel Institute (AISI) presented limited data to the Agency which indicated that the toxic constituents of concern, hexavalent chromium [2] and lead, are present in the Extraction Procedure (EP) extracts at levels well below the maximum EP toxicity limits.

On November 12, 1980, in response to these comments, the Agency deleted LSWPLS (K063) from the hazardous waste list. However, at that time, the Agency felt that insufficient data was submitted by the regulated community to justify a conclusion that LSWPLS typically and frequently will not be hazardous. Therefore, the Agency relied on the provisions of 40 CFR 261.3 (c)(2) to retain regulatory control. These sludges are considered to be hazardous under that provision because they are derived from the treatment of a listed hazardous waste (K062). (See 40 CFR 261.3(c)(2).) In addition, they remain hazardous wastes until they no longer exhibit any of the characteristics of hazardous waste and until they are excluded from Subtitle C regulation by the Agency on a site-specific basis under 40 CFR 260.20 and 260.22. (See 40 CFR 261.3(d).)

Of major concern to the Agency was whether these sludges would leach significant concentrations of lead and hexavalent chromium. Thus, in evaluating exclusion petitions, we indicated that we would consider petitions for individual facilities for these wastes to be adequate if petitioners demonstrate that the concentrations of lead and hexavalent chromium in the EP extracts are significantly below the maximum and proposed maximum concentration levels contained in 40 CFR 261.24 (See 45 FR 74883, November 12, 1980). In addition, EPA indicated that the Agency would consider an industry-wide rulemaking petition to exclude these wastes from RCRA Subtitle C jurisdiction if the steel finishing industry submitted representative data which demonstrated that these wastes, on an industry-wide basis, are non-hazardous. (See 45 FR 74888, November 12, 1980.)

II. Reason and Basis for Today's Amendment

On March 16, 1981, AISI submitted a rulemaking petition requesting an industry-wide exclusion of LSWPLS. AISI submitted EP extract data from 14 steel finishing operations to support their claim that hexavalent chromium and lead are present in the LSWPLS at low levels and in essentially an immobile form.

All analyses were performed using the EPA Extraction Procedure (40 CFR Part 261, Appendix II). AISI claims that the data submitted were representative of sludges generated from both carbon steel and stainless steel finishing operations. The wastes included in the survey were collected from several stages in the treatment process. For example, several samples were obtained from treatment plant clarifiers after neutralization, and from sludge holding impoundments. Additional samples included vacuum filter sludges. Of the 59 samples analyzed, average hexavalent chromium and lead concentrations from carbon steel manufacturing were 0.025 and 0.10 ppm, respectively, with a maximum single value of 0.030 ppm for hexavalent chromium and 0.60 ppm for lead; for stainless steel manufacturing,

[1] Lime stabilized waste pickle liquor sludge was originally referred to as lime neutralized waste pickle liquor sludge; however, we believe that the term "lime stabilized . . ." better characterizes the waste.

[2] On October 30, 1980, the Agency amended the basis for listing these wastes to indicate that they are listed due to the presence of hexavalent chromium rather than total chromium. See 45 FR 72029.

the results were an average hexavalent chromuim and lead concentration of 0.10 and 0.07 ppm, respectively with a maximum single value of 0.22 ppm for hexavalent chromium and 1.04 ppm for lead (see Table 1).[3] Therefore, AISI argued that both hexavalent chromium and lead are present in the waste in essentially an immobile form, and should not automatically be deemed hazardous.

TABLE 1—LIME STABILIZED WASTE PICKLE LIQUOR SLUDGE

(EP extract values (ppm)) *

Facility	Lead	Hexavalent chromium
1+	<0.030	0.089
2+	0.039	0.008
3	0.0027	
4+	0.04	0.16
5+	<0.02	
6	0.37	
7	0.15	
8	0.60	
9	0.12	0.025
10	0.09	
11+	<0.10	
12+	0.055	
13	0.10	
14+	0.18	0.127

* These values represent an average of all samples analyzed from each facility.
+ Stainless steel facilities.
Source: AISI rulemaking petition.

However, the Agency did not view the data submitted in AISI's petition (EP data on LSWPLS from 14 plants) as a representative sampling of the steel finishing industry.[4] The Agency, therefore, investigated additional available data. This investigation included a detailed review of site-specific delisting petitions submitted by the iron and steel industry to exclude spent pickle liquor (K062) or sludge from lime treatment of spent pickle liquor (formerly K063). The particular focus of our review was the level of hexavalent chromium and lead in the EP extracts. Maximum EP extract levels of 2.6 and 1.0 ppm for lead and hexavalent chromium, respectively, were noted (see Table 2). In all cases, the maximum leachate values for hexavalent chromium and lead are well below the maximum permissible EP toxicity limits. For example, 94 percent of all samples (185) analyzed for lead from EPA's database are less than 10 times the National Interim Primary Drinking Water Standard (NIPDWS) while greater than 97 percent of all samples (72) analyzed for hexavalent chromium are less than 10 times the NIPDWS for total chromium. These data support AISI's contention that lead and hexavalent chromium are substantially immobilized in properly stabilized LSWPLS. Furthermore, since lime stabilization of spent pickle liquor within the iron and steel industry is conducted using a well known uniform treatment process, the Agency has concluded that data from both the AISI petition (14 facilities) and delisting petitions (43 facilities) are representative of the steel finishing industry.

TABLE 2.—IRON AND STEEL INDUSTRY, LIME NEUTRALIZED WASTE PICKLE LIQUOR SLUDGE

(EP extract values ppm)[1]

Facility	Lead	Hexavalent chromium
1	0.50	0.10
2	0.29	0.05
3	0.60	0.10
4	0.08	
5	0.45	
6	0.04	0.07
7	0.30	0.01
8	0.02	
9	1.20	0.02
10	1.00	0.01
11	0.05	0.22
12	0.17	0.02
13	0.25	
14	0.57	0.03
15	1.00	0
16	1.36	0.01
17	0.50	
18	0.147	
19	0.52	.005
20	0.06	0.022
21	1.70	0.053
22	0.056	
23	0.19	
24	0.10	0.03
25	0.08	
26	1.00	1.00
27	0.06	0.50
28	0.02	0.02
29	0.15	0.45
30	0.01	0.02
31	0.649	0.058
32	0.12	
33	0.04	
34	0.60	
35	0.42	
36	0.32	
37	0.21	
38	<0.50	
39	0.10	
40	0.11	0.18
41	2.60	
42	0.17	<0.02
43	0.03	

[1] These values represent the maximum EP values for all samples analyzed from each facility.

The Agency also evaluated the iron and steel pickle liquor process to determine whether interfering agents could be present that adversely affect the treatability of these wastes. (See EPA Phase I Report for the Spent Pickle Liquor Listing, Contract No. 68-01-6804, December 1983.) In evaluating this data, it appears that spent pickle liquor from steel finishing operations may be mixed with other process wastes (such as cold rolling waste) before treatment. (See EPA Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. VI, EPA 440/1-82/024, May 1982.) However, there do not appear to be interfering agents in these other waste streams. These other wastes typically do contain organics, which are contained in an oily layer. However, when these wastes are commingled with spent pickle liquor, the oily layer is emulsified and skimmed off prior to lime treatment. After skimming, the effluent typically contains 10–25 mg/l of oil. However, the amount of oil remaining in the effluent after treatment is usually very low. For example, data from two facilities show oil concentrations of 4 and 6 mg/l in the treated effluent. (See EPA Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Volumes I and VI; EPA 440/1-82/024, May 1982.) This process, therefore, effectively removes organics before the sludge is generated. Thus, organics are not expected to be present in significant concentrations in LSWPLS nor are they expected to interfere with waste treatment. Data from delisting petitions for LSWPLS from the iron and steel industry, as evidenced by EP extract data, indicate that treatment of spent pickle liquor by this industry is, in fact, effective.

The Agency recently noticed all of this data for public comment. (See Notice of Availability of Data and Request for Comment, 49 *FR* 427, January 4, 1984.) Commenters did not challenge that the data indicated that iron and steel LSWPLS is typically and frequently effectively treated and non-hazardous. (Our response to comments is included as Section VI. of this preamble.)

We therefore have decided to promulgate a final rule excluding LSWPLS generated by plants in the iron and steel industry (Standard Industrial Classification (SIC) Codes 331 and 332) from the "derived-from" rule in 40 CFR 261.3. However, the waste will be considered hazardous if it exhibits a hazardous waste characteristic, and generators are required to make this determination periodically (see 40 CFR 262.11).

III. Regulatory Status of LSWPLS From Industry Categories Other Than Iron and Steel

As stated earlier, LSWPLS is also generated by industries other than the iron and steel industry (*e.g.*, engraving, fabricated metal products, household appliances, commercial treatment facilities, and others). Although the

[3] The levels of total chromium in the EP extracts were also analyzed and in general are quite low. However, since the EP toxicity characteristic addresses total chromium, LSWPLS which fails the EP for total chromium remains hazardous waste.

[4] From the Section 3010 notification database and data collected by the Effluent Guidelines Division, the Agency estimates that approximately 424 facilities from many industry categories either generate or manage LSWPLS.

Agency has determined that treatment of spent pickle liquor from the iron and steel industry is typically effective, this may not be the case for LSWPLS generated from other industry categories.

The Agency lacks comprehensive, industry-wide data on these other sludges and also does not have data on whether wastes with interfering properties might be commingled with these sludges. The iron and steel industry likewise has clarified that its petition has no applicability for LSWPLS generated by plants outside the iron and steel industry. Thus, the Agency will continue to process delisting petitions for LSWPLS that is generated in industries other than iron and steel on an individual basis. (See 40 CFR 260.20 and 260.22.)[*] It should be noted that no commenters to the Agency's January 4 notice argued that LSWPLS from other industry categories should be excluded from § 261.3.

IV. EPA's Concern With the Presence of Additional Toxic Constituents in LSWPLS

As discussed earlier, LSWPLS is listed as hazardous because of the presence of significant concentrations of hexavalent chromium and lead. However, the Agency was also concerned that the waste may contain toxic constituents other than hexavalent chromium and lead at levels of regulatory concern. Therefore, we did investigate whether other toxicants could be present in these wastes at significant levels to determine whether we should amend the existing listing for spent pickle liquor (*i.e.*, to modify the listing of LSWPLS to add other toxic constituents to Appendix VII). As we noted in the January 4 notice, the toxic metal nickel is present in LSWPLS from stainless steel operations (it is an essential constituent in the process), and is present in the EP extract from stainless steel LSWPLS. The Agency is continuing to evaluate whether the nickel levels in the extract are of regulatory concern. The Agency did not receive any comments to its January 4 notice regarding nickel. Other toxicants (organic and inorganic) do not appear to be present in the LSWPLS generated by the iron and steel industry in significant concentrations. (See EPA Phase I Report for Spent Pickle Liquor Listing, Contract No. 68-01-6804, December 1983.) Commenters to the January 4 notice likewise did not contend that other hazardous constituents might be present at significant levels. Therefore, the Agency is not proposing to modify the listing to add additional toxic constituents.

V. Response to Comments

As noted above, on January 4, 1984, the Agency made available for public inspection and comments data pertaining to Agency action on the AISI rulemaking petition (see 49 *FR* 427). Few comments were received. Most of the commenters generally agreed that EPA should grant the industry-wide exclusion for LSWPLS generated from the iron and steel industry.

One commenter did express concern, however, that a generic (industry-wide) delisting could result in improper management of spent pickle liquor and LSWPLS (*i.e.*, some generators may mix other hazardous wastes with spent pickle liquors or lime slurry); therefore, they argued that the Agency should impose management standards to assure that LSWPLS is managed properly.

First, it should be remembered that spent pickle liquor mixed with other hazardous waste remains a hazardous waste under § 261.3(a) (2) (iii) and (iv). In addition, today's action applies only to iron and steel industry LSWPLS arising from normal waste treatment operations. Only these wastes were the subject of AISI's petition, and only these wastes were considered by the Agency. Addition of hazardous wastes to the treatment process is not part of the lime precipitation and stabilization process for treating spent pickle liquor. Today's action does not apply to treatment sludges resulting from any other type of treatment.

As to the commenter's reference to management standards, the EP toxicity test is used to simulate the release of the hazardous constituents, hexavalent chromium and lead, in the absence of management standards. The available data indicate that these wastes would not present a substantial hazard to human health and the environment in the absence of management standards. Therefore, the Agency does not believe it necessary to impose such standards for LSWPLS generated from the iron and steel industry.

Another commenter operates a multiple waste treatment facility which treats several hundred different wastes (*e.g.*, paint wastes, industrial process wastes, metal-bearing sludges, etc.) which result in a "stabilized" waste treatment residue. In granting a temporary exclusion for several of the commenter's proposed facilities, the Agency required a waste management strategy to assure the stability of the treated wastes. The management plan involves testing each batch of stabilized waste for a number of specific parameters (*i.e.*, metals, total organic carbon, etc.). The stabilized wastes are also required to be placed in demonstration cells (for two years) surrounded by monitoring wells to verify long-term stability. The commenter believes that the Agency should treat all generators equally by applying the same management requirements to assure that neutralization/stabilization of the LSWPLS is also conducted in an environmentally sound manner.

The Agency believes that there is no unequal regulatory treatment of multiple waste treatment facilities. The Agency requires all wastes from multiple waste treatment processes that are "delisted" from regulation to be handled in the same manner. (See temporary exclusions granted to Tricil Environmental Services (formerly Systech) in Hilliard, Ohio, Nashville, Tennessee, and Muskegon Heights, Michigan, 46 *FR* 17197, March 18, 1981; Chem-Clear, Cleveland, Ohio, 46 *FR* 40165, August 6, 1981; and Envirite (formerly Liqwacon) in York, Pennsylvania, Thomaston, Connecticut, Canton, Ohio, and Harvey, Illinois, 46 *FR* 61281, December 16, 1981.) The Agency does not require generators treating a single waste stream by well-understood treatment processes to demonstrate treatment efficacy by these same means. The reasons for requiring batch testing of the commenter's treated wastes—a wide variety of hazardous wastes treated by a new process not in widespread use—thus are not present here, and would be inappropriate for LSWPLS.

VI. Effect of Today's Action

Today's amendment, therefore, excludes LSWPLS generated by the iron and steel industry from being defined as a hazardous waste by 40 CFR 261.3. Persons generating this waste must still determine whether this solid waste exhibits any of the characteristics of hazardous waste identified in Subpart C

[*] The Agency is now evaluating the following delisting petitions for LSWPLS from plants outside of the iron and steel industry: Leggett & Platt, Inc. (=0191); Chemline Corp. (=0192); American Nickeloid Co. (=0193); Robertson, Inc. (=0303); Calvin Ind. (=0310); Liquid Dynamics (=0323); National Standard (=0324); General Electric (=0347); Beech Aircraft Corp. (=0397); Conversion Systems, Inc. (=0404); GMC Harrison Radiator (=0424); Special Metals (=0375); Cleaners Hanver Co. (=0433); True Temper Sport, Inc. (=0451); Steel Warehouse Co. (=0460); Mack Automobile (=0464); H. H. Robertson Co. (=0471); CWM (=0491); Teledyne Monarch Rubber (=0507); All-Brite (=0523); International Galvanizing Co. (=0524); Fosbrink (=0005); Dresser Industries (=0024); Florida Wire & Cable (=0026); Wiremill Inc. (=0034); American Recovery Co. (=0056); Mayfag (=0051); Chem Met Services (=0059); Carborundum (=0068); AL Chem-Tron, Inc. (=0060); Resource Recycle Tech-Industrial (=0139).

of Part 261. The Agency is amending § 261.3(c)(2) of the regulations to indicate this change. The following site-specific delisting petitions submitted to the Agency to exclude LSWPLS from the iron and steel industry will therefore become moot by today's final rule:

IRON AND STEEL INDUSTRY

Petition No.	Facility
0506	U.S. Steel Corp.
0120	Copperweld Steel Co.
0271	Union Carbide.
0027	Bekaert Steel Wire.
0226	Carpenter Technology.
0014	Johnson Steel & Wire.
0475	Olin Corp.
0097	Allegheny Ludlum.
0099	Keystone Group.
0348	Bethlehem Steel Corp.
0106	Jones & Laughlin Steel.
0115	Timken Co.
0423	Quanex Corp.
0117	Trent Tube.
0314	Ohio Steel Tube Co.
0455	Inland Steel/Indiana Harbor Works.
0482	Mid West Fabricating Co.
0105	Great Lakes Steel.
0258	Ingersoll Johnson Steel Co.
0158	Al Tech Specialty Steel Corp.
0085	Crucible, Inc.
0029	Firestone Steel Products.
0055	ARMCO, Inc.
0063	Keystone Group.
0075	Ohio Steel Tube Co.
0080	Gulf & Western.
0065	ARMCO, Inc.
0094	Allegheny Ludlum.
0108	Do.
0110	Do.
0134	Empire Detroit Steel Division.
0159	General Cable.
0160	Al Tech Specialty Steel Corp.
0266	General Cable.
0179	Lehigh Lancaster.
0203	Vulcan Rivet & Bolt Corp.
0132	Peerless Chain Co.
0389	Sandvik Inc. Specialty Steel.
0144	Bekaert Steel Wire Corp.
0273	Bethlehem Steel Corp.
0193	Do.
0243	Plymouth Tube Co.
0069	Triangle PWC.

VII. Procedural Issues

EPA is issuing this regulation as a final rule. The action is taken in response to comments on the May 19, 1980 interim final rule listing LSWPLS as a hazardous waste. The Agency also noticed AISI's responsive rulemaking petition for public comment, and took public comment on the information it gathered between 1981 and the present. Under these circumstances, the Agency believes there has been ample notice and comment on this action.

VIII. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final regulation is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of U.S.-based enterprises to compete with foreign based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room S-212 at EPA Headquarters.

IX. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*, whenever an agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will generally have no adverse economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, and Recycling.

Dated: May 30, 1984.

William D. Ruckelshaus,

Administrator.

PART 261—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 261 is revised as follows:

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 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), 6921, and 6922].

2. 40 CFR 261.3 is amended by revising paragraph (c)(2) to read as follows:

§ 261.3 Definition of hazardous waste.

* * * * *

(c) * * *

(2)(i) Except as otherwise provided in paragraph (c)(2)(ii) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate (but not including precipitation run-off) is a hazardous waste.

(ii) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste: (A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332).

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BILLING CODE 6560-50-M

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed
Amendment of Rules Governing
the Classification of Waste
as Hazardous, Minn. Rules
Parts 7045.0135 and 7045.0214
and the Denial of Interim Status
for Hazardous Waste Facilities
Minn. Rules Part 7001.0650

STATEMENT OF COMPLIANCE WITH
RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jocelyn F. Olson, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act and the rules of the Attorney General have been followed.

Jocelyn F. Olson

JOCELYN F. OLSON
Special Assistant
Attorney General

Dated: May 30, 1985

STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of Rules Governing the Classification of Waste as Hazardous, Minn. Rules Parts 7045.0135 and 7045.0214 and the Denial of Interim Status for Hazardous Waste Facilities Minn. Rules Part 7001.0650

AFFIDAVIT REGARDING REQUESTS RECEIVED FOR NOTIFICATION AS TO SUBMISSION OF RULES TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Rogers, being duly sworn on oath deposes and says:

1. That she is the person named in the Notice of Intent to Amend Rules Without a Public Hearing (9 S.R. 2333, Arpil 15, 1985) as the person to receive requests for notification of the date that the Agency submits the above-captioned rules to the Attorney General.

2. That no person has requested notification of the date on which the Agency submitted to the Attorney General.

Carol M Rogers

Subscribed and sworn to before me this 3rd day of June, 1985.

Mary Ann Hammer

Notary Public

MARY ANN HAMMER
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 11, 1985