

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 260, 261, 266, and 268**

[FRL-5337-9]

RIN 2050-AE07

**Hazardous Waste Management System: Identification and Listing of Hazardous Waste: Hazardous Waste Identification Rule (HWIR)****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule, tentative response to Chemical Manufacturers Association petition and the Hazardous Waste Identification Dialogue Committee recommendations, and request for comments.

**SUMMARY:** The Environmental Protection Agency (EPA) today is proposing to amend its regulations under the Resource Conservation and Recovery Act (RCRA) by establishing constituent-specific exit levels for low-risk solid wastes that are designated as hazardous because they are listed, or have been mixed with, derived from, or contain listed hazardous wastes. Under this proposal, generators of listed hazardous wastes that meet the self-implementing exit levels would no longer be subject to the hazardous waste management system under Subtitle C of RCRA as listed hazardous wastes. Today's Notice, commonly referred to as the Hazardous Waste Identification Rule (HWIR), establishes a risk-based "floor" to hazardous waste listings that will encourage pollution prevention, waste minimization, and the development of innovative waste treatment technologies.

Many of the exit levels are established using an innovative risk assessment which evaluates potential exposure pathways, both direct and indirect, from a variety of sources, such as waste piles and surface impoundments. This assessment focuses on both human and environmental receptors and is presented for comment in today's Notice. The remaining exit levels are based on an alternative risk analysis.

The Agency is also proposing to modify some of the land disposal restriction (LDR) numerical treatment standards listed in subpart D of 40 CFR part 268. This notice proposes to cap technology-based treatment standards with the risk-based exit levels which minimize threats to human health and the environment. This notice also takes comment on several general approaches and one specific approach for conditional exemptions from subtitle C

management. Today's notice also contains the Agency's tentative response to a petition for rulemaking submitted by the Chemical Manufacturers Association and the Agency's tentative response to the recommendations made by the Dialogue Committee on Hazardous Waste Identification. This committee was formally chartered in July 1993 in accordance with the Federal Advisory Committee Act (FACA).

**DATES:** EPA will accept public comments on this proposed rule until February 20, 1996. Comments postmarked after this date may not be considered. However, the Agency recognizes that, because of the complexity of this proposed rulemaking, some commenters may want to request additional time for comment submittal. In anticipation of these requests, EPA will be communicating with the litigants and the court regarding the implications on our rulemaking schedule of a possible extension of the comment period for this proposal. If the comment period is extended, the Agency will provide notice of such in the Federal Register.

Any person may request a public hearing on this amendment by filing a request with Mr. David Bussard, whose address appears below, by January 5, 1996.

**ADDRESSES:** The public must send an original, two copies, and whenever possible, a 3.5 inch computer disk containing the comments in a common word processing format such as WordPerfect version 5.1<sup>1</sup>, to: EPA RCRA Docket (5305W), 401 M Street, SW., Washington, DC 20460.

Place "Docket number F-95-WHWP-FFFFF" on your comments. The RCRA docket is located at: EPA's Crystal Gateway Office, 1235 Jefferson Davis Highway, Arlington, Virginia, and is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy material from any regulatory docket at a cost of \$0.15 per page. Copies of the background documents, Integrated Risk Information System (IRIS) chemical files, and other references (which are not readily available) are available for *viewing and copying only* in the RCRA docket.

Requests for a public hearing should be addressed to Mr. David Bussard, Director, Characterization and

Assessment Division, Office of Solid Waste (OS-330), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** The RCRA/Superfund Hotline at (800) 424-9346 or at (703) 412-9810. For technical information contact Mr. William A. Collins, Jr., Mr. Greg Helms, or Ms. Pamela McMains, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, (202) 260-4770.

**Preamble Outline**

- I. Authority
- II. Background
  - A. Overview of Hazardous Waste Identification Program
  - B. The Mixture and Derived-From Rules and the Contained-In Policy
  - C. Overview of Expected Impacts of the Exit Rule
- III. Scope of Revisions to the Mixture and Derived-From Rules
  - A. Rationale for Retention of the Mixture and Derived-From Rules
  - B. Revision to Derived-from Rule for Wastes Listed Because They Exhibit the Characteristics of Ignitability, Corrosivity, or Reactivity
- IV. Development of Exit Levels and Minimize Threat Levels
  - A. Need for an Exit
  - B. Overview of the Exit
  - C. Selection of Constituents of Concern
    1. Development of the Master List
    2. Development of the Exit Constituent List
    3. Constituents of Ecological Concern
  - D. Risk-Based Information
    1. Human Health Benchmarks
      - a. Non-carcinogens
      - b. Carcinogens
      - c. Consideration of MCLs
    2. Ecological Benchmarks
    3. Sources of Data
      - a. Human
      - b. Ecological
  - E. Risk Assessment
    1. The Risk Analysis
      - a. Introduction
      - b. How the Analysis was Structured
      - c. How Uncertainty is Addressed
      - d. Linkage of the Risk Analysis to the Groundwater Fate and Transport
      - e. Risk Targets Used
    2. Detailed Overview of the Non-Groundwater Risk Analysis
      - a. Waste Management Units
        1. Use of Subtitle D Survey
        2. Fate and Transport
        3. Ash Monofill
          - i. Particle Size Distribution for Air Dispersion Modeling
          - ii. Monofill Characterization
          - iii. Vehicle Traffic
          - iv. Emission Equations for Ash Blown from Trucks and Spreading and Compacting
      4. Land Application Unit
        - i. Particle Size Distribution for Air Dispersion Modeling
        - ii. Area of Land Application Unit Relative to Agricultural Field
        - iii. Application Rate
        - iv. Waste Characteristics

<sup>1</sup> This will greatly facilitate EPA's preparation of the comment responses and will significantly reduce the cost associated with responding to the comments.