

time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Sulfur dioxide.

Dated: March 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7402–7671q.

Subpart O—Illinois

2. Section 52.724 is amended by adding paragraph (h) to read as follows:

§ 52.724 Control strategy: Sulfur dioxide.

* * * * *

(h) Approval—On November 10, 1994, the Illinois Environmental Protection Agency submitted a sulfur dioxide redesignation request and maintenance plan for Peoria and Hollis Townships in Peoria County and Groveland Township in Tazewell County to redesignate the townships to attainment for sulfur dioxide. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(d) of

the Clean Air Act (Act) as amended in 1990.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7871q.

2. In § 81.314 the Illinois SO₂ table is amended by revising the entries for Peoria County and Tazewell County to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—SO₂

Designated area	Does not meet pri- mary stand- ards	Does not meet sec- ondary standard	Cannot be classified	Better than national standards
* * * * *				
Peoria County	X
Tazewell County	X
* * * * *				

* * * * *

[FR Doc. 95–8213 Filed 4–3–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 260

[FRL–5183–5]

Hazardous Waste Management System; Testing and Monitoring Activities

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is amending its hazardous waste regulations under subtitle C of the Resource Conservation and Recovery Act (RCRA) for testing and monitoring activities. This amendment clarifies the temperature requirement for pH measurements of highly alkaline wastes and adds Method 9040B (pH Electrometric Measurement) and Method 9045C (Soil and Waste pH) to “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW–846. This amendment will provide a better and more complete analytical technology for

RCRA testing in support of hazardous waste identification under the corrosivity characteristic (40 CFR 261.22).

EFFECTIVE DATE: April 4, 1995. The incorporation by reference of the publication listed in the regulations is approved by the Director of the Federal Register as of April 4, 1995.

ADDRESSES: The official record for this rulemaking (Docket No. F–95–W2TF–FFFFF) is located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (room M–2616), and is available for viewing 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 (202) 260–9327. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost \$0.15 per page.

Copies of the Third Edition of SW–846 as amended by Updates I, II, IIA, and IIB are part of the official docket for this rulemaking, and also are available from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402, (202) 512–1800. The GPO document number is 955–001–

00000–1. New subscriptions to SW–846 may be ordered from GPO at a cost of \$319.00 (subject to change). There is a 25% surcharge for foreign subscriptions and renewals.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or call (703) 920–9810; or, for hearing impaired, call TDD (800) 553–7672 or (703) 486–3323. For technical information, contact Oliver Fordham, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–4761.

SUPPLEMENTARY INFORMATION:

I. Authority

These regulations are being promulgated under the authority of sections 1006, 2002(a), 3001–3007, 3010, 3013, 3014, 3016 through 3018, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974].

II. Background and Regulatory Framework Summary

EPA Publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" contains the analytical and test methods that EPA has evaluated and found to be among those acceptable for testing under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. Use of some of these methods is required by some of the hazardous waste regulations under subtitle C or RCRA. In other situations, SW-846 functions as a guidance document setting forth acceptable, although not required, methods to be implemented by the user, as appropriate, in satisfying RCRA-related sampling and analysis requirements. All of these methods are intended to promote accuracy, sensitivity, specificity, precision, and comparability of analyses and test results.

SW-846 is a document that changes over time as new information and data are developed. Advances in analytical instrumentation and techniques are continually reviewed by the Agency's Office of Solid Waste (OSW) and periodically incorporated into SW-846 to support changes in the regulatory program and to improve method performance. Update IIB (Methods 9040B and 9045C) represents such an incorporation.

III. Overview of Proposal

On August 31, 1993 (58 FR 46052), the Agency proposed to amend its hazardous waste testing and monitoring regulations under subtitle C of RCRA by adding Update II to SW-846 and incorporating the Third Edition as amended by Updates I and II, in 40 CFR 260.11(a) for use in complying with the requirements of subtitle C of RCRA. In section III.D of the proposed rule, the Agency also proposed the addition of language to SW-846 Methods 9040A and 9045B to clarify regulatory requirements as to the temperature for pH measurements of highly alkaline wastes during corrosivity characteristic testing.

On January 13, 1995 (60 FR 3089), the Agency published a final rule which added Update II to SW-846. As noted in that final rule, the Agency was still responding to public comments regarding the pH temperature clarification issue and, therefore, took no action on that topic in the January 13, 1995 Final Rule. The Agency did not want to delay promulgation of Update II as a result of its ongoing deliberations on the temperature clarification. Therefore, Methods 9040A and 9045B

were finalized as part of Update II without the technical clarification regarding temperature control during the pH measurement of highly alkaline materials.

IV. Public Comments Regarding Section III.D of the Proposed Rule

The majority of the commenters were in favor of specifying a temperature of 25 ± 1 °C in Method 9040A instead of specifying that the pH test be performed at a temperature relevant to the waste management site temperature. Only one commenter supported a requirement that the testing temperature be relevant to the waste management site. A few commenters were against the addition of any temperature clarification at this time.

This section summarizes several of the most significant comments on the proposal, and EPA's responses. Detailed Agency responses to all significant comments are provided in the background document, entitled "Responses to Public Comments Submitted in Response to Section III.D, pH Testing, 58 FR 46054, August 31, 1993", which is located in the official record for this rulemaking (Docket No. F-95-W2TF-FFFFF).

One commenter argued that a scientific basis does not exist for a temperature clarification only for alkalinity determinations. The Agency believes that a valid scientific basis does exist to include a temperature clarification which applies only when pH approaches the upper corrosivity characteristic limit. An inverse, non-linear, relationship exists between temperature and pH whereby pH readings at the basic end significantly increase as temperature levels decrease. At high pH levels, a physical difference exists in relation to ion dissociation which cannot be compensated by pH meters, and which requires additional temperature control if the objective is to obtain an accurate, and comparable, pH measurement at that end of the scale.

The Agency did not propose a temperature clarification for acidic wastes because the temperature effect on pH is not sufficiently significant at the acidic end of the scale to warrant such a clarification. It is highly unlikely that a pH change at the low end of the scale due to temperature variation will affect the regulatory status of the waste. Therefore, a specification that wastes with pH levels at the acidic end of the scale must be analyzed at a standard temperature is unnecessary.

One commenter stated that, if a standard must be set, it should be 24 °C because that is the closest practical temperature which will yield a 0 to 14

pH scale (and a pK_w of 14.0). Another commenter claimed that 25 °C, and not 24 °C, is the closest practical temperature for a pH scale of 0 to 14 with a pK_w of 14.0. Both commenters referenced scientific literature in support of their position. [Note: Water must be present to measure pH, and water affects the pH measurement by ionizing into hydrogen (H+) and hydroxyl (OH-) ions. The " pK_w " is the negative log of the ionization constant (K_w) for this reaction: $pK_w = pH + pOH$. Neutral water has a pH of 7 and a pOH of 7, and thus a pK_w of 14.]

The Agency recognizes that some inconsistencies exist between some literature regarding whether 24 °C or 25 °C is the closest practical temperature for a pH scale of 0 to 14 with a pK_w of 14.0. However, based on public comment, it appears that 25 °C is the most accepted standard temperature for the pH scale of 0 to 14. Also, as explained in the background document¹ to this rule, based on certain calculations and a work published in 1981 on pH theory,² 25 °C and not 24 °C appears to be the closest practical temperature for a pK_w of 14.0.

One commenter claimed that the Agency always contemplated that pH be taken at environmental or field temperatures because Method 9040A employs language which refers to "field pH measurements". The commenter also claimed that Method 9040A endorses the common approach of pH testing at site temperatures because it requires that the temperature be noted at measurement.

The Agency agrees that pH testing in the field is common, but disagrees with any finding that EPA intended that all pH measurements in support of the corrosivity characteristic be taken at site temperatures just because Method 9040A refers to field measurements and the recording of temperature. By use of the phrase "field pH measurements", the Agency simply recognizes that pH measurements are often taken in the field, and that in most cases (e.g., all except those limited cases where the waste is both being tested for corrosivity and its pH is above 12.0), field test results are adequate. The field measurement reference in no way precludes laboratory pH measurements at a specific temperature, nor does it

¹ "Responses to Public Comments Submitted in Response to Section III.D, pH Testing, 58 FR 46054, August 31, 1993", located in the official record for this rulemaking (Docket No. F-95-W2TF-FFFFF).

² Marshall and Franck, "Ion Product of Water Substance, 0–1000 °C, 1–10,000 Bars: New International Formulation and its Background", *Journal of Physical and Chemical Reference Data*, 10(2), pp. 295–304, 1981.

implicitly or otherwise mean that all measurements by the method must be done at site temperatures.

The Agency believes that a standard temperature of 25 °C offers a consistent way to measure pH and thus assures consistent environmental protection. Without a standard temperature for testing the pH of at least highly alkaline wastes, test data may not be directly comparable, because, as explained above, the effect of temperature on pH is particularly pronounced at the alkaline end of the scale.

V. Overview of Final Rule

Based on the public comments and the reasons summarized below, the Agency is adding the following language to section 7.1.2 of Method 9040A (now revised Method 9040B of Update IIB):

(* * * also, for corrosivity characterization, the sample must be measured at 25±1 °C if the pH of the waste is above 12.0)

The Agency believes that the addition of this language to Method 9040A is appropriate based on:

(1) A demonstrated need to clarify the analytical procedures for pH determinations of highly alkaline materials in order: To facilitate consistent application of the procedures during corrosivity characteristic determinations; and to remove any confusion on the part of the regulated community when making such determinations;

(2) Scientific facts regarding the effect of temperature on pH, including the effect of temperature on pH readings at the alkaline end of the pH scale;

(3) Agency actions during promulgation of the corrosivity characteristic, particularly with respect to the exclusion of otherwise nonhazardous lime wastes, and the public's interpretation of those actions based on the majority of the public comments; and

(4) Historical practices by the Agency during enforcement of the characteristic.

The Agency notes that the technical change in Method 9040B only applies to pH determinations for wastes with pH levels above 12.0 (which is explicit in the added language). To avoid imposing an unnecessary analytical burden, pH determinations for the corrosivity characteristic (when analysis is chosen by the generator) can be performed at a temperature other than 25±1 °C for wastes with pH levels less than 12.

Although Method 9045B (Soil and Waste pH) is not used for corrosivity characteristic determinations, it involves a pH measurement procedure similar to that found in Method 9040A.

Therefore, the Agency is adding similar, although not identical, language to Method 9045B. Specifically, the Agency is adding the following language to section 7.1.2 of Method 9045B (now revised Method 9045C of Update IIB):

If an accurate pH reading based on the conventional pH scale [0 to 14 at 25 °C] is required, the analyst should control sample temperature at 25±1 °C when sample pH approaches the alkaline end of the scale (e.g., a pH of 11 or above).

This rule makes final the addition of Methods 9040B and 9045C as Update IIB to SW-846, and incorporates the Third Edition of SW-846 as amended by Updates I, II, IIA, and IIB into 40 CFR § 260.11(a) for use in complying with the requirements of subtitle C of RCRA.

VI. State Authority

Today's rule promulgates standards that are not effective in authorized States since the requirements are being imposed pursuant to pre-HSWA authority. See RCRA Section 3006. Therefore, this rule is not immediately effective in authorized States. The requirements will be applicable only in those States that do not have interim or final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State law. Procedures and deadlines for State program revisions are set forth in 40 CFR 271.21. 40 CFR 271.3 sets forth the requirements a State must meet when submitting its final authorization application.

VII. Effective Date

Section 3010 of RCRA provides that regulations promulgated pursuant to subtitle C of RCRA shall take effect six months after the date of promulgation. However, HSWA amended section 3010 of RCRA to allow rules to become effective in less than six months when, among other things, the Agency finds that the regulated community does not need six months to come into compliance. Since today's rule provides a clarification for the regulated community regarding the testing and monitoring of solid waste, the Agency believes the regulated community does not need six months to come into compliance. For that same reason, the Agency believes that good cause exists under the Administrative Procedure Act, 5 U.S.C. 553(d), for not delaying the effective date of this rule. Therefore, this rule is effective April 4, 1995.

VIII. Regulatory Analyses

A. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], EPA must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This regulation will not have an adverse economic impact on industry since its effect will be to provide clarification to all of the regulated community. This rule does not require the purchase of new instruments or equipment and does not require new reports beyond those presently required. Thus, this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be \$100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. sections 601-612, Public

Law 96-354, September 19, 1980), whenever an agency publishes a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis (RFA) that describes the impact of the 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 impact on a substantial number of small entities.

This rule will not require the purchase of new instruments or equipment. The regulation requires no new reports beyond those now required. This rule will not have an adverse economic impact on small entities since its effect will be to provide clarification to all of the regulated community, including small entities. Therefore, in accordance with 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities (as defined by the Regulatory Flexibility Act). Thus, the regulation does not require an RFA.

D. Paperwork Reduction Act

There are no additional reporting, notification, or recordkeeping provisions in this rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference.

Dated: March 29, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, Chapter I, of the Code of Federal Regulations is amended as set forth below:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

2. Section 260.11 (a) is amended by revising the "Test Methods for Evaluating Solid Waste, Physical/

Chemical Methods" reference to read as follows:

§ 260.11 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November, 1986), as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), and IIB (January, 1995)]. The Third Edition of SW-846 and Updates I, II, IIA, and IIB (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

* * * * *

[FR Doc. 95-8207 Filed 4-3-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 300

[FRL-5182-2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Wilson Concepts Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Wilson Concepts Superfund Site (the Site) in Pompano Beach, Florida, from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Florida have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Florida have determined that remedial actions conducted at the Site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: April 4, 1995.

FOR FURTHER INFORMATION CONTACT: Olga Perry, Remedial Project Manager, South Superfund Remedial Branch, Waste Management Division, U.S. Environmental Protection Agency,

Region IV, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347-2643, or Rose Jackson, Community Relations Coordinator, at the same address and phone number as noted above.

ADDRESSES: Comprehensive information on this Site is available at the following addresses:

EPA Region IV Public Docket, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, and
Broward County Main Library, 100 South Andrews Ave., NE., Fort Lauderdale, Florida 33301.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Wilson Concepts Superfund Site, Pompano Beach, Florida.

A Notice of Intent to Delete for this Site was published February 10, 1995 (60 FR 7934). The closing date for comments on the Notice of Intent to Delete was March 13, 1995. EPA received no substantive letters or comments during the comment period which opposed the deletion of this Site from the NPL. A letter of support for the deletion was received and has been included in the EPA, Region IV, Deletion Docket for the Site.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3). Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Hazardous waste.

Dated: March 15, 1995.

Joe R. Franzmathes,

Acting Regional Administrator, USEPA Region 4.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351.