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purpose is to provide independent advice and counsel to the Agency on policy and technical issues associated with development and implementation of any acid rain regulatory program required by Amendments to the Clean Air Act. The Advisory Committee shall be asked to advise the Agency on economic, environmental, scientific, technical, and enforcement policy issues.

At this time, EPA also requests nominations of candidates for membership on the Advisory Committee. The membership of the committee will represent a balance of perspectives and professional qualifications and experience to contribute to the functions of the Advisory Committee. Members will be drawn from: industry and business; academic and educational institutions; Federal, State and local government agencies; and non-government and environmental groups.

**DATES:** Submit nominations of candidates no later than September 7, 1990. Any interested person or organization may submit the names of qualified persons. Suggestions for the list of candidates should be identified by name, occupation, organization, position, address, and telephone number. Candidates will be asked to submit a resume of their background, experience, qualifications and other relevant information as a part of the review process.

**ADDRESSES:** Submit suggestions for the list of candidates to: Paul Horwitz, Advisory Committee Nominations, Acid Rain Division (ANR-445), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Paul Horwitz at the above address, or call (202) 475-9400. The Agency will not formally acknowledge or respond to nominations.

**SUPPLEMENTARY INFORMATION:** The Acid Rain Advisory Committee will become operational when EPA files copies of the Advisory Committee charter with appropriate committees of Congress and the Library of Congress. Copies of the charter are available upon request.

The purpose of the Acid Rain Advisory Committee is to provide informed advice and counsel to the Assistant Administrator, Office of Air and Radiation, on issues affecting the development and implementation of an acid rain regulatory program including the innovative market based components which are likely to be included in the legislation. Specific issues for review will include: The regulatory impact on industry,

consumers, public health, and the environment; the structure and operations of the allowance trading and tracking systems and the permit program; integrating the acid rain control program with EPA's ambient air program; and various conservation and innovative technology transfer options that can be used to comply with the regulatory requirements.

The Advisory Committee is a necessary part of EPA's efforts to serve the public interest and to design a market-based approach to reducing sulfur dioxide and nitrogen oxide. The Advisory Committee will assist the Agency in considering specific technical, economic, environmental, scientific, and enforcement policy issues.

**Participants**

The committee shall have about 25 participants; however, meetings will be open to all interested parties. Committee members shall serve two-year terms.

The Advisory Committee shall meet at least four times a year, or as necessary. Subcommittees shall meet when the committee deems necessary. EPA will not compensate committee members for their service, though compensation for travel and nominal daily expense while attending meetings may be provided.

The Agency intends to hold the initial meeting of the Advisory Committee in early fall of 1990. Suggestions for the list of candidates should be submitted no later than September 7, 1990.

Dated: July 30, 1990.  
 William G. Rosenberg,  
 Assistant Administrator for Air and Radiation.  
 [FR Doc. 90-18453 Filed 8-6-90; 8:45 am]  
 BILLING CODE 6560-50-M

**IFRL-3818-1]**

**Availability of Report to Congress on Special Wastes from Mineral Processing**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the Agency's *Report to Congress on Special Wastes from Mineral Processing* which is required by § 8002(p) of the Resource Conservation and Recovery Act (RCRA). The Report to Congress contains detailed studies of 20 special wastes from mineral processing operations that the Agency previously determined are within the scope of the exemption from hazardous waste regulations provided by section 3001(b)(3)(A)(ii) of RCRA; this

exemption is often referred to as the Mining Waste Exclusion. The report also presents two alternative decision-making approaches and tentative findings under each approach with respect to whether subtitle C regulation of these wastes is warranted. The Report to Congress is comprised of three volumes:

Volume I—Summary and Findings;  
 Volume II—Methods and Analyses; and  
 Volume III—Appendices.

The Agency solicits public comment on the Report, the alternative decision-making approaches and the tentative findings presented therein, and the specific types of requirements that might be appropriate for wastes that EPA determines should be regulated under section D or other regulatory approaches, especially under the flexibility provided by RCRA section 3004(x). Information submitted in public comments will be used in conjunction with the Report to Congress to make the final regulatory determination on these wastes.

**DATES:** EPA will accept public comments on the *Report to Congress on Special Wastes from Mineral Processing* until September 28, 1990. The Agency will also hold a public hearing on the Report on September 25, 1990.

**ADDRESSES:** Requests to speak at the public hearing should be submitted in writing to the Public Hearing Officer, Office of Solid Waste, (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. The public hearing will be at the Holiday Inn Crowne Plaza Hotel at Metro Center, 1325 G Street NW., Washington, DC 20005. The hearing will begin at 9 a.m. with registration beginning at 8:30 a.m. The hearing will end at 5 p.m. unless concluded earlier. Oral and written statements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict them to 15 minutes, and are requested to provide written comments for inclusion in the official record.

Copies of the full Report are available for inspection and copying at the EPA Headquarters library and at the RCRA Docket in Washington, DC, and at all EPA Regional Office libraries. Copies of the full report can be purchased from the National Technical Information Service (call (202) 487-6540 or (800) 336-4700). Copies of the Summary and Findings (Volume I) can be obtained by calling the RCRA/Superfund Hotline at (800) 424-9346 or (202) 382-3000.

Those wishing to submit public comments for the record must send an original and two copies of their

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comments to the following address: RCRA Docket Information Center (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Place the docket number F-90-RMPA-FFFFF on your comments.

The OSW docket is located in room M2427 at EPA headquarters. The docket is open from 9 to 4 Monday through Friday, except for Federal holidays. Members of the public must make an appointment to review the docket materials. Call (202) 475-9327 for appointments. Copies cost \$0.15/page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRC/Superfund Hotline at (800) 424-9346 or (202) 382-3000; for technical information contact Bob Hall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 475-8814.

**SUPPLEMENTAL INFORMATION:** Section 3001(b)(3)(A)(ii) of the Resource Conservation and Recovery Act (RCRA), sometimes referred to as the Bevill Amendment, temporarily excluded "solid waste from the extraction, beneficiation, and processing of ores and minerals" from regulation as hazardous waste under subtitle C of RCRA pending completion of a Report to Congress on the wastes (as required by subtitle 8002(p)), and a determination by the EPA Administrator (as required by section 3001(b)(3)(C)) either to promulgate regulations under subtitle C or that such regulations are unwarranted. The Bevill Amendment was added to RCRA on October 12, 1980, as part of the Solid Waste Disposal Act Amendments of 1980.

In response to the 1980 RCRA amendments, EPA published an interim final amendment to its hazardous waste regulations on November 19, 1980, to reflect the provisions of the Bevill Amendment (45 FR 76618). The regulatory language incorporating the exclusion was identical to the statutory language, except that EPA added the phrase "including coal." In the preamble to the amended regulation, however, EPA interpreted the exclusion to include "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals."

In December 1985, EPA published the required Report to Congress on solid wastes from mineral extraction and beneficiation, and on July 3, 1986, (51 FR 24496), published a determination that regulation of such wastes under subtitle C of RCRA was not warranted. Also in 1985, EPA proposed to narrow the scope of the exclusion as it applied to mineral processing wastes (50 FR 40292, October 2, 1985). The effect of this proposal was

generally to remove most smelting and refining wastes from the Bevill exclusion. However, EPA subsequently withdrew this proposal (51 FR 3633, October 9, 1986). The Agency's decision to withdraw its 1985 proposal to narrow the scope of the exclusion as applied to mineral processing waste was challenged in court (*Environmental Defense Fund v. EPA*, 852 F.2d 1316 (D.C. Cir. 1988), cert. denied 109 S. Ct. 1120 (1989) (*EDF v. EPA*)). In this case, the petitioners contended, and the Court of Appeals agreed, that EPA's interpretation of the scope of the Mining Waste Exclusion as it applies to mineral processing wastes was "impermissibly over-broad," and that Congress intended to include only those ores or minerals that meet the "special waste" concept—that is "high volume, low hazard" wastes.

In response to the Court's decision, EPA proposed criteria on October 20, 1988, (53 FR 41288), by which mineral processing wastes would be evaluated for continued exclusion from hazardous waste regulation until the required studies (Report to Congress) and subsequent regulatory determinations were made. The Agency proposed revisions to the criteria on April 17, 1989, (54 FR 15316), and provided the final Mining Waste Exclusion criteria, among other things, on September 1, 1989 (54 FR 36592). The final criteria consist of a definition of mineral processing, a volume criterion, and a low hazard criterion.

The September 1, 1989, rule also finalized the status of most mineral processing waste streams. That rule temporarily retained five wastes, conditionally retained 20 wastes, and permanently removed all other mineral processing wastes from the Mining Waste Exclusion. The 20 conditionally retained wastes were addressed in a proposed rule on September 25, 1989 (54 FR 39298).

The September 25, 1989, proposed rule was finalized on January 23, 1990, (55 FR 2322), and established which wastes would be subject to the temporary exemption from subtitle C requirements established by the Bevill Amendment for mineral processing wastes and, therefore, the *Report to Congress on Special Wastes from Mineral Processing*. In the final rule, 15 of the 20 conditional wastes were retained within the exclusion (in addition to the five wastes retained in the September 1 rule, for a total of 20 wastes), pending the preparation of the Report to Congress. All other solid wastes from the processing of ores and minerals were removed from the Mining Waste Exclusion as of the effective date of the

September 1, 1989, or January 23, 1990, final rules (March 1, 1990, or July 23, 1990, in non-authorized states), and are subject to regulation as hazardous wastes if they exhibit one or more characteristics of hazardous waste or are otherwise listed as hazardous waste.<sup>1</sup>

The 20 mineral processing special wastes temporarily retained in the exclusion by the September 1, 1989, and January 23, 1990, final rules and studied in the Report to Congress are:

1. Red and brown muds from bauxite refining;
2. Treated residue from roasting/leaching of chrome ore;
3. Gasifier ash from coal gasification;
4. Process wastewater from coal gasification;
5. Slag from primary copper processing;
6. Calcium sulfate wastewater treatment plant sludge from primary copper processing;
7. Slag tailings from primary copper processing;
8. Slag from primary production of elemental phosphorus;
9. Iron blast furnace air pollution control dust/sludge;
10. Iron blast furnace slag;
11. Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
12. Basic oxygen furnace and open hearth furnace slag from carbon steel production;
13. Fluorogypsum from hydrofluoric acid production;
14. Process wastewater from hydrofluoric acid production;
15. Slag from primary lead processing;
16. Process wastewater from primary magnesium processing by the anhydrous process;
17. Phosphogypsum from phosphoric acid production;
18. Process wastewater from phosphoric acid production;
19. Chloride process waste solids from titanium tetrachloride production; and
20. Slag from primary zinc processing.

<sup>1</sup> Because the requirements of the September 1, 1989, and January 23, 1990, final rules were not imposed pursuant to the Hazardous and Solid Waste Amendments of 1984, they will not be effective in RCRA authorized states until the state program amendments are effective. Thus, the rules are effective on March 1, 1990, and July 23, 1990 (for the September 1, 1989, and January 23, 1990, rules respectively) only in those states that do not have final authorization to operate their own hazardous waste programs in lieu of the Federal program. In authorized states, the rules are not applicable until the state revises its program to adopt equivalent requirements under state law and receives authorization for these new requirements. (Of course, the requirements will be applicable as state law if the state law is effective prior to authorization.) States that have final authorization must revise their programs to adopt equivalent standards regulating non-exempt mineral processing wastes that exhibit hazardous characteristics as hazardous by July 1, 1991, if regulatory changes only are necessary, or by July 1, 1992, if statutory changes are necessary. The state requirements become RCRA subtitle C requirements after EPA approval.

These 20 special wastes are generated by 91 facilities located in 29 states, and represent 12 commodity sectors. For each of the 20 special wastes, the report addresses the following eight study factors as required by section 8002(p) of RCRA:

1. The source and volumes of such materials generated per year;
2. Present disposal and utilization practices;
3. Potential danger to human health and the environment from the disposal and reuse of such materials;
4. Documented cases in which danger to human health or the environment has been proven;
5. Alternatives to current disposal methods;
6. The costs of such alternatives;
7. The impacts of these alternatives on the use of phosphate rock, uranium ore, and other natural resources; and
8. The current and potential utilization of such materials.

In addition, section 8002(p) suggests that the Agency review other federal and state "studies and actions" (e.g., regulations) to avoid duplication of effort.

The Agency's approach in preparing the Report to Congress was to combine certain study factors for purposes of analysis and exposition. The resulting discussions of each of the mineral commodity sectors are organized in seven sections in Volume II of the Report. The first section provides a brief overview of the industry, including the types of production processes used and the number and location of operating facilities that generate one or more of the mineral processing special wastes. The second section summarizes information on special waste characteristics, generation, and current management practices (study factors 1 and 2), while the third section provides a discussion of potential for and documented cases of danger to human health or the environment (study factors 3 and 4). The fourth section summarizes applicable federal and state regulatory controls. The fifth section discussed alternative waste management practices and potential utilization of the wastes (study factors 5 and 8), while the sixth section discusses costs and impacts of alternative practices (study factors 6 and 7). The seventh and final section summarizes and analyzes the findings of EPA's evaluation of the above study factors.

After studying each special waste in detail and to facilitate comment on the Report to Congress, the Agency developed two approaches for tentatively determining whether regulation under RCRA subtitle C is warranted for any of the wastes. One approach is based on the analysis of the

RCRA section 8002(p) study factors and consists of two sub-options: One utilizing a full subtitle C scenario (Approach 1A) while the other utilizes the flexibility provided by § 3004(x) of RCRA (referred to as the Subtitle C-Minus scenario or Approach 1B). The other approach (Approach 2) is based on both consideration of the section 8002(p) study factors and additional considerations, such as broader Agency goals and objectives (e.g., developing strong state mining waste programs and facilitating implementation of federal programs). Under Approach 1A, EPA might find that regulation under subtitle D may be appropriate for 19 of the 20 special wastes and that regulation under subtitle C may be warranted for one mineral processing special waste, process wastewater from hydrofluoric acid production. Alternatively, if the cost analysis is based on the subtitle C-Minus scenario, then EPA might find that three additional wastes may warrant regulation under subtitle C rather than subtitle D (Approach 1B):

- (1) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- (2) Slag from primary lead processing; and
- (3) Chloride process waste solids from titanium tetrachloride production.

Under Approach 2, which is based on consideration of both the section 8002(p) study factors and additional considerations (i.e., developing and maintaining strong state mining and mineral processing waste regulatory programs and facilitating the implementation of Federal programs), the Agency might find that regulation under Subtitle C may not be warranted for any of the 20 mineral processing wastes.

It should be noted that the costing scenarios used for (1) The subtitle C scenario that uses the flexibility provided by § 3004(x) of RCRA and (2) the subtitle D scenario are based on the Agency's preliminary assessment of how the regulatory requirements might be tailored for mineral processing wastes. Because of this, the Agency is unsure whether the costs-impacts we have determined are fully appropriate and specifically request comments on them.

The Agency solicits public comments on the data, analyses, and findings contained in the Report to Congress and on the types of specific requirements that might be necessary under RCRA subtitles C or D for each of the 20 wastes covered by the report.

The Agency encourages all interested parties to obtain a copy of the Report to

Congress and provide comments to the Agency. After evaluating and responding to public comments, the Agency will make a regulatory determination by January 31, 1991.

Date: July 31, 1990.

William K. Reilly,

Administrator.

[FR Doc. 90-18454 Filed 8-6-90; 8:45 am]

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[FRL-3817-7]

### Sole Source Aquifer Designation for the Plymouth-Carver Aquifer, Massachusetts

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In response to a petition from the Massachusetts Department of Environmental Protection (DEP), Division of Water Supply (DWS), the Town of Kingston, and the Plymouth County Coalition for a Better Environment, notice is hereby given that the Regional Administrator, Region I, of the U.S. Environmental Protection Agency (EPA) has determined that the Plymouth-Carver Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to section 1424(e) of the Safe Drinking Water Act. The designation criteria include the following: Plymouth-Carver Aquifer is the principal source of drinking water for the residents of that area; there are no reasonably available alternative sources of sufficient supply; the boundaries of the designated area and project review area have been reviewed and approved by EPA; and if contamination were to occur, it would pose a significant public health hazard and a serious financial burden to the area's residents. As a result of this action, all federal financially assisted projects proposed for construction or modification within the Plymouth-Carver Aquifer will be subject to EPA review to reduce the risk of ground water contamination from these projects which may pose a threat to the health of persons in the aquifer's service area.

**DATES:** This determination shall be promulgated for purposes of judicial review two weeks after publication in the *Federal Register*.

**ADDRESSES:** The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region I, J.F. Kennedy Building, Water Management Division, GWP-2113,