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EPA Proposes Hazardous Waste Listing Determination for Dyes and Pigments Production Wastes

The Environmental Protection Agency (EPA) is proposing to list nonwastewaters from the production of certain dyes, pigments and FD&C colorants as hazardous waste under the Resource Conservation and Recovery Act (RCRA).

Action

EPA is proposing to list nonwastewaters from the dyes and pigments industries based on a risk assessment that identified eight specific constituents of concern in these wastes. EPA is proposing for the first time to include in the listing only those wastes with constituents equal to or exceeding specified annual mass loading limits. These wastes would be hazardous only if they contain any of the constituents of concern at levels that meet or exceed the proposed regulatory levels. Under the proposed approach, all wastes which contain constituents of concern up to the regulatory levels are excluded from the listing and may be managed as nonhazardous. In addition, EPA is proposing an alternative loading level for one constituent. EPA is proposing to exclude from the listing wastes which do not meet or exceed this alternative level so long as they are disposed of in a Subtitle D landfill cell subject to the design criteria in §258.40 or a Subtitle C landfill cell subject to either §264.301 or §265.301.

This proposal would also add five of the eight constituents of concern associated with these wastes to the list of constituents that serves as the basis for classifying wastes as hazardous (40 CFR 261, Appendix VIII). In addition, this proposal would establish treatment standards for disposal of these wastes.

EPA is requesting comment for 90 days following publication of this proposal in the *Federal Register*.

Background

The 1984 Hazardous and Solid Waste Amendments (HSWA) to RCRA require EPA to make hazardous waste listing determinations for several specified categories of wastes, including "dye and pigment wastes." In 1989, Environmental Defense (ED; formerly the Environmental Defense Fund) filed a lawsuit to enforce the statutory deadlines for listing decisions in RCRA Section 3001(e)(2). (*Environmental Defense v. Whitman*, D.D.C. Civ No. 89-0598). To resolve most of the issues in the case, ED and EPA entered into a consent decree, which has been amended several times to revise deadlines for EPA action.

We previously proposed listings for the dyes and pigments wastes in 1994 and 1999, but have been unable to take final action on these prior proposals due to an injunction barring us from releasing data claimed to be confidential business information that we used to develop these proposals. We have subsequently developed a new approach to making listing determinations for these wastes that does not depend on the data covered by the injunction.

This proposed rule satisfies EPA's duty under paragraph 1.g. (as amended) of the consent decree to propose determinations for dyes and pigments production wastes.

For More Information

The Federal Register Notice is available in electronic format on the internet at <http://www.epa.gov/fedrgstr>. This fact sheet and other information related to this rule are available in electronic format on the Internet at <http://www.epa.gov/epaoswer/hazwaste/id/dyes/index.htm>. For additional information, or to order paper copies of any documents, call the RCRA Call Center. Callers within the Washington Metropolitan Area please dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers please call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Call Center operates weekdays, 9:00 a.m. to 5:00 p.m. Address written requests to: RCRA-Docket@epa.gov or RCRA Information Center (5305T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0001.