

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 148, 261 and 268**

[FRL-6711-4]

Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments**AGENCY:** Environmental Protection Agency.**ACTION:** Final rule; correcting amendments.

SUMMARY: The Environmental Protection Agency (EPA) is correcting errors that appeared in the March 17, 2000 final rule (65 FR 14472) that announced the vacature of regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under the Resource Conservation and Recovery Act (RCRA). EPA also is correcting a typographical error that appeared in the August 6, 1998 final rule (63 FR 42110) listing four wastes from the petroleum refining industry as hazardous.

This final rule creates no new regulatory requirements. Rather, it corrects errors associated with the March 17, 2000 **Federal Register** document. The rule also corrects a typographical error that appeared in the August 6, 1998 **Federal Register** document.

EFFECTIVE DATE: This rule is effective June 8, 2000.

ADDRESSES: EPA does not seek comment on this document. EPA will keep the official records for today's action in paper form. The official record for the Listing Determination for Organobromine Production Wastes is identified by Docket Number F-98-OBLF-FFFFF. The official record for the Listing Determination for Petroleum Refining Wastes is Docket Number F-98-PRLF-FFFFF. The public may view supporting materials in the RCRA Information Center (RIC), located at EPA, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603-9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. Supporting materials are available for viewing in the RCRA Information Center

(RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters, US EPA Ariel Rios (5101), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For information on specific aspects of the rule, contact Patricia Overmeyer of the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, US EPA Ariel Rios, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. (E-mail address and telephone numbers: *Overmeyer.Patricia@epa.gov*, (703) 605-0708.)

SUPPLEMENTARY INFORMATION: The rule, "Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities," was issued in the **Federal Register** at 63 FR 24596 (May 4, 1998). The rule vacating the listing determination for organobromine production wastes was issued in the **Federal Register** at 65 FR 14472 (March 17, 2000). The rule, "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities," was issued the **Federal Register** at 63 FR 42110 (August 6, 1998). EPA will keep the official records for these actions in paper form. The official records are the paper records maintained at the address in the **ADDRESSES** section.

Contents of this Final Rule

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I. Background

On March 17, 2000 EPA published a final rule announcing the vacature of regulatory provisions governing the identification of certain wastes listed as hazardous. In that final rule, EPA amended its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir.) in *Great Lakes Chemical Corporation v. EPA* (No. 98-1312). That court order vacated Agency regulations listing certain organobromine wastes as hazardous wastes under the Resource Conservation

and Recovery Act (RCRA). The hazardous waste listing determinations that were vacated by the court and deleted from the regulations in the March 17, 2000 final rule included the wastes listed as K140 and U408. The effect of vacating the hazardous waste listing determination for these wastes was to clarify that these two wastestreams are not subject to the hazardous waste management and treatment standards under RCRA, as well as not subject to emergency notification requirements for releases of hazardous substances to the environment.

On August 6, 1998, EPA amended the regulations for hazardous waste management under RCRA to list as hazardous four wastes generated by the petroleum refining industry. The effect of the final rule was to subject the four wastes to stringent management and treatment standards under RCRA and to emergency notification requirements for releases of hazardous substances to the environment. As part of this final regulation, the Agency also amended the existing listing description for hazardous waste code F037 in 40 CFR 261.31. The intent of the amendment was to clarify that residuals generated from processing or recycling oil-bearing hazardous secondary materials (which are excluded from the definition of solid waste due to the newly promulgated exclusion at 40 CFR 261.4(a)(12)(i)) that are not returned to refinery operations and would otherwise meet a listing under subpart D of 40 CFR part 261, were to be designated as F037 listed wastes when disposed of or intended for disposal. However, the amending language included in the August 6, 1998 FR document included a typographical error that made the intent of the amendment unclear.

II. Amended Regulations

In the March 17, 2000 final rule vacating the hazardous waste listings for K140 and U408, EPA inadvertently removed and reserved paragraph (f) of 40 CFR 148.18. The Agency should have removed and reserved paragraph (h) of 40 CFR 148.18. Paragraph (h) of 40 CFR 148.18 is the provision prohibiting the underground injection of K140 and U408. Today, EPA is correcting this error by reinstating paragraph (f) and removing and reserving paragraph (h) of 40 CFR 148.18.

In addition, in the March 17, 2000 final rule, EPA neglected to delete the reference to U408 in appendix VII of 40 CFR part 268. Today, EPA is deleting the reference to U408 in appendix VII to 40 CFR part 268.

In the August 6, 1998 final rule, a typographical error appeared in the amended listing description for hazardous waste code F037. Today, EPA is revising the listing description for hazardous waste code F037 in 40 CFR 261.31(a) to reflect the Agency's original intent of the amendment, as described in the preamble to the August 6, 1998 final rule.

III. Good Cause Exemption from Notice-and-Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule (5 U.S.C. 553(b)). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and comment are unnecessary (5 U.S.C. 553(b)(3)(B)).

EPA has determined that providing prior notice and opportunity for comment on today's notice that corrects regulations amending the RCRA hazardous waste management requirements to comply with the court decision vacating the hazardous waste listing determinations for waste codes K140 and U408, is not necessary. The regulations are no longer legally in effect by order of the federal court of appeals. Thus, amending the hazardous waste regulations has no legal impact and only states the current legal status of the rules.

For the same reasons stated above, EPA believes there is good cause for making the amending regulations immediately effective. (See 5 U.S.C. 553(d))

IV. Administrative Assessments

Today's amendments to the RCRA hazardous waste management regulations only correct errors in **Federal Register** documents issued on March 17, 2000 and August 6, 1998. These corrections have no regulatory impact, and do not impose annual costs of \$100 million or more. Therefore, this action is not a "significant" regulatory action, as defined by Executive Order 12866, and is not subject to review by the Office of Management and Budget. In addition, the amending regulations promulgated today will have no effect on small entities. This is evidenced by the fact that today's rule only corrects errors in the CFR. There is no impact on public or private entities, or on state, local, and tribal governments. Because the rule will not have a "significant" economic impact on small entities, a regulatory flexibility analysis is not required. Also, this final rule is not subject to the Executive Order 13045,

"Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Today's rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3510 *et seq.*).

Today's action will have no impact upon state, local, and tribal governments, or on the private sector. The amending regulations promulgated today reflect current law, there will be no legal impact on public or private entities. Therefore, today's rule is not subject to the provisions of sections 202, 204 or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

For the same reasons stated above, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule does not involve technical standards; thus, the requirements of section 12(c) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

Today's final rule will have no effect upon minority and/or low-income populations. Therefore, today's rule is not subject to Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations."

List of Subjects

40 CFR Part 148

Environmental Protection
Administrative practice and procedure,
Hazardous waste, Reporting and
recordkeeping requirements, Water
supply.

40 CFR Part 261

Environmental protection, Hazardous
materials, Recycling, Waste treatment
and disposal.

40 CFR Part 268

Environmental protection, Hazardous
materials, Land disposal restrictions,
Reporting and recordkeeping
requirements, Treatment standards,
Waste management.

Dated: May 30, 2000.

Timothy R. Fields, Jr.,

*Assistant Administrator, Office of Solid Waste
and Emergency Response.*

For the reasons set forth in the preamble, title 40, chapter 1 of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.18 is amended by removing and reserving paragraph (h) and adding paragraph (f), to read as follows:

§ 148.18 Waste specific prohibitions-newly listed and identified wastes.

* * * * *

(f) On January 8, 1997, the wastes specified in 40 CFR 261.32 as EPA Hazardous waste number K088 is prohibited from underground injection.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: Sec. 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

4. In § 261.31(a), the table is amended by revising the entry for F037, to read as follows:

§ 261.31 Hazardous wastes from non-specific sources.

(a) * * *

Industry and EPA
hazardous waste
No.

Hazardous waste

Hazard
code

F037 Petroleum refinery primary oil/water/solids separation sludge—Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oil cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in § 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under § 261.4(a)(12)(i), if those residuals are to be disposed of. (T)

PART 268—LAND DISPOSAL RESTRICTIONS

5. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Appendix VII to Part 268 [Amended]

6. In appendix VII to part 268 Table 1 is amended by removing the entry for U048.

[FR Doc. 00–14321 Filed 6–7–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301004; FRL–6558–4]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent in or on stone fruit (Crop Group 12). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on stone fruit. This regulation establishes maximum permissible levels for residues of imidacloprid on these food commodities. The tolerances will expire and are revoked on December 31, 2001.

DATES: This regulation is effective June 8, 2000. Objections and requests for hearings, identified by docket control number OPP–301004, must be received by EPA on or before August 7, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the “SUPPLEMENTARY INFORMATION.” To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301004 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9367; e-mail address: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Cat-egories | NAICS codes | Examples of poten-tially affected entities |
|-------------|----------------------------|----------------------------------------------------------------------------------------|
| Industry | 111 112 311 32532 | Crop production Animal production Food manufacturing Pesticide manufac-turing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be

affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under “FOR FURTHER INFORMATION CONTACT.”

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select “Laws and Regulations” and then look up the entry for this document under the “Federal Register—Environmental Documents.” You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301004. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an