

a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 8, 1997.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Ryan Bahr at (312) 353-4366 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ryan Bahr, at (312) 353-4366.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 19, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97-8897 Filed 4-7-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-5807-5]

RIN 2050-AD88

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; and Land Disposal Restrictions for Newly Hazardous Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available for public comment data and information relating to its Notice published in the **Federal Register** on November 20, 1995 (60 FR 57747). That Notice proposed to amend EPA regulations under the Resource Conservation and Recovery Act (RCRA) by designating as hazardous wastes certain petroleum refining waste streams and proposed not to list other petroleum waste streams. The Notice

also proposed to broaden existing RCRA exemptions for recycling of oil-bearing residuals and proposed to apply universal treatment standards under the Land Disposal Restrictions program to the wastes proposed for listing.

Comments submitted by interested members of the public on the proposal have convinced EPA that the rulemaking record could be considerably improved by adding data and subjecting analysis of that data to public comments. Today's document, therefore, presents for public comment modeling analyses using different assumptions than used for the proposal, additional analyses of waste characteristics and disposal practices, and other evaluations of the potential impact of different modeling assumptions on the risk assessment results. This document also corrects a number of technical errors that were contained in the original proposal.

Pursuant to a consent decree in *Environmental Defense Fund (EDF) v. Browner* (Civ. No. 89-0598 D.D.C.), EPA has committed to issuing this Notice of data availability before making the final regulatory determination on whether the subject petroleum refining residuals should be listed as hazardous wastes. The consent decree requires the final rule to be issued by April 30, 1998. The Agency solicits comments on all aspects of the new information sources described in this Notice. All comments on the new information received by the close of the comment period will be considered by the Agency when making a final regulatory determination. Comments will be accepted and considered only on the new data mentioned in today's Notice and specifically identified under the docket number given in this document.

DATES: The Agency is reopening the comment period only for the limited purpose of obtaining information and views on the new data and analyses described in this Notice. Comments on the additional data will be accepted through June 9, 1997. Due to the short deadline for the final rule, EPA does not plan to grant any extensions of the comment period.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-97-PRA-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted

electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-97-PRA-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. For information on accessing paper and/or electronic copies of the document, see the **SUPPLEMENTARY INFORMATION** section.

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 report, contact Maximo Diaz, Jr. or Robert Kayser, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

[E-mail addresses and telephone numbers: Diaz.max@epamail.epa.gov, (703) 308-0439; Kayser.robert@epamail.epa.gov, (703) 308-7304].

SUPPLEMENTARY INFORMATION:

Supporting documents in the docket for this Notice are also available in electronic format on the Internet. Follow these instructions to access these documents.

WWW: <http://www.epa.gov/epaoswer/hazwaste/id>

FTP: <ftp.epa.gov>

Login: anonymous

Password: your Internet address

Files are located in /pub/gopher/OSWRCRA.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

Background

RCRA section 3001(e), 42 U.S.C. 6921(e) requires EPA to make a determination whether to list certain specified wastes under RCRA section 3001(b)(1), 42 U.S.C. 6921(b)(1). These include petroleum refining wastes. The effect of such a listing would be to subject the wastes to regulation as hazardous waste under Subtitle C of RCRA. Pursuant to a consent decree between EPA and the Environmental Defense Fund (EDF), EPA has agreed to a schedule for promulgating a listing determination for fourteen petroleum residuals that the Agency had not previously considered listing.

EPA issued its proposed determination regarding the petroleum residuals on November 20, 1995 (60 FR 57747). EDF and EPA have negotiated a modification to the Consent Decree, in which the Agency has agreed to promulgate the final listing determination on or before April 30, 1998. EPA also agreed to issue today's Notice of data availability.

In the proposal, EPA considered whether the petroleum refining residuals met the criteria for listing a waste as hazardous as set out in 40 C.F.R. 261.11. EPA evaluated the potential toxicity of the constituents present in the wastes, the fate and mobility of the constituents, likely exposure routes, and the current waste management practices. EPA conducted a quantitative risk assessment where such an assessment was appropriate. The Agency proposed to list three of the wastes based on a determination that the wastes may pose a substantial present or potential hazard to human health or the environment when improperly managed. These wastes are: Clarified Slurry Oil Tank Sediment and/or In-line Filter/Separation Solids, Spent Catalyst from Hydrotreating, and Spent Catalyst from Hydrotreating. EPA proposed not to list the remaining 11 wastes.

EPA received approximately 2000 pages of comments from 52 parties, many raising a variety of complex technical issues. After reviewing the comments, EPA decided it was appropriate to undertake a variety of analyses not previously available to the public to assess the impact of using alternative assumptions in the Agency's risk assessment. Although these additional analyses are a logical outgrowth of the comments received and additional Notice and public comment is, therefore, not required, EPA has nevertheless decided that this Notice of data availability is a useful exercise and will help to strengthen the record for the Agency's decisions.

The remainder of this Notice is divided into two general parts. The first deals with new data and analyses prompted by public comments claiming EPA's analysis was either incorrect or incomplete; the second deals with portions of the record that public comments indicated were not clear and require better explanation.

Additional Information

As a result of reviewing the public comments, EPA reexamined the modeling approaches used for both groundwater and nongroundwater exposure risks in making the listing determinations in the November 1995 Notice, completed a variety of additional modeling analyses, examined a number of alternative modeling assumptions, and gathered and evaluated additional relevant data. EPA also obtained additional data and performed additional analyses in response to comments for some of the other decisions described in the November 1995 Notice. A complete list

of all new materials placed in the docket is available from the RCRA Docket at the address and telephone number listed above. A summary of the new data and analyses follows.

- *Supplemental Background Document; Groundwater Pathway Risk Analysis; Petroleum Refining Process Waste Listing Determination*—EPA has prepared a new document, with this title, that presents alternative approaches to the groundwater modeling used to evaluate risks from landfills. The alternative approaches are: A revised "high-end" analysis; a probabilistic Monte Carlo analysis; an analysis of potential risks presented by codisposal of petroleum wastes in the same landfill; an analysis of potential risks arising from a contingent management listing; consideration of noningestion risks related to groundwater use; and the potential for the RCRA Toxicity Characteristic (TC), promulgated under 40 CFR 262.24, to reduce risks for some wastes.

- *Supplemental Background Document; Nongroundwater Pathway Risk Assessment; Petroleum Refining Process Waste Listing Determination*—EPA prepared a new document, with this title, that presents modeling analyses for pathways other than groundwater for land treatment disposal. These analyses incorporate several modifications to the assumptions used for the proposal including: Limiting unit characteristics of the onsite units used in risk modeling to units that are not permitted hazardous waste units; removing from modeling consideration the volumes of hazardous wastes that could not be sent to a nonhazardous land treatment unit; changes to the models used to estimate release and transport of contaminated soil to offsite receptors; and incorporating the soil biodegradation of constituents after they travel offsite. The document also presents results from an analysis of potential risks due to codisposal of multiple petroleum wastes in the same land treatment unit. In addition, this document contains a detailed description of the model selected to estimate risks from noningestion exposures (inhalation and dermal absorption) arising from residential use of groundwater (see also the Background Document for groundwater pathway risk analysis for results of this modeling).

- *Supplemental Background Document; Listing Support Analyses; Petroleum Refining Process Waste Listing Determination*—EPA prepared a document, with this title, that presents a variety of additional data and analyses in the following areas:

- Analyses Regarding Leaching of Oily Waste*—Comments questioned whether the method used by EPA (Toxicity Characteristic Leaching Procedure or TCLP) substantially underestimates the mobility of constituents in oily wastes sent to landfills because of problems with the method (e.g., filters clog), and because constituents may be released in an oily phase, as well as dissolved in aqueous leachate. EPA presents several analyses related to the potential for oil in the petroleum residuals to affect chemical analysis and risk assessment. The data presented consist of: compiled field and laboratory data on the appearance and oily nature of the residuals; the oil and grease content reported by petroleum refineries in wastes that were sent to landfills for disposal; additional analysis of archived samples for metal constituents using an alternative leaching method mentioned by a commenter, the Oily Waste Extraction Procedure (OWEP); and the calculation of leaching efficiency for organic constituents in the wastes EPA sampled.
- Potential for Additive Risks From Multiple Sources*—Comments suggested that the groundwater and nongroundwater risks should be added together to reflect the total potential risks for the wastes evaluated. In this notice, EPA is summarizing data in the record to assess the proximity of onsite nonhazardous landfills and land treatment units at each facility surveyed to examine the potential for combined exposures to releases from both types of units.
- The Potential Impact of Oil-Bearing Residuals Exclusion on Coke Product*—EPA proposed to exclude from the definition of solid waste oil-bearing residuals from certain petroleum industry sources that are inserted back into the refining process (including the petroleum coker unit), provided certain conditions are met. EPA cited industry data showing that such oil-bearing residuals (e.g., listed sludges) are similar to normal feedstock material. Some public comments disagreed with excluding these residuals from the definition of solid waste and argued that this action would allow the unregulated disposal of “toxics along for the ride” due to the transfer of constituents in the wastes to products, such as coke. In evaluating comments on the proposed rule, EPA realized it had omitted from the original docket an analysis concerning the potential impacts that recycling petroleum wastewater treatment sludge into coke production might have on metals loading in the coke product. The purpose of this document is to provide the analysis conducted in support of the proposed rule, revised to reflect more current data.
- Comparison of Product Coke to Off-Spec Product and Fines From Thermal Processes*—Comments questioned why EPA did not assess risks from coke fines placed on piles of coke product, arguing that the waste does not become a product simply because it is placed on the pile and combined with another material. In this Notice, EPA has clarified the existing record, as noted below, but has also added additional information comparing the characteristics of coke fines and coke product.
- Active Lives of Landfills Used for Disposal of Petroleum Refining Wastes*—Comments suggested that the active life for a landfill used by EPA in its modeling (20 years) was too short. In this Notice, EPA presents relevant data compiled from the industry survey, and calculations for the active lives of onsite landfills.
- Characterization of On-site Land Treatment Units*—Some comments claimed that EPA had modeled land treatment units that were already regulated as hazardous waste units under RCRA, and as such, the release scenarios modeled were unlikely. In this Notice, EPA examines the regulatory status of on-site land treatment units and has compiled statistics on unit areas for nonhazardous units that managed the petroleum wastes under evaluation. These statistics are used in the revised nongroundwater analysis (see *Supplemental Background Document: Nongroundwater Pathway Risk Assessment*).
- Potential Impact of the Headworks Exemption*—EPA proposed to modify the definition of hazardous waste to exempt wastewaters containing one of the wastes proposed for listing (clarified slurry oil storage tank sediment and/or in-line filter/separation solids), if the discharge of the wastewaters are regulated under the Clean Water Act. This is the so-called “headworks exemption”. EPA took this action because some refineries manage residuals derived from this waste in their wastewater treatment facility during process vessel cleaning or tank washing. If this waste is listed as hazardous waste, this would cause all downstream wastewaters and treatment sludges to be derived from this waste and thus, carry the same waste code as the original waste (see 261.3(a)(2)(iv)). Little to no risk reduction benefit would be achieved from regulating this material as a hazardous waste.
- Comments on this headworks exemption for CSO Sediment noted that it should also include wastewater from the other two wastes EPA proposed for listing (Spent Catalyst from Hydrotreating and Spent Catalyst from Hydrorefining). The comments pointed out that some petroleum refineries use water to cool and wash out the spent catalyst when the materials are removed from the catalytic units. Highly pressurized water is sometimes used to drill out catalyst that cannot be easily removed. EPA did not consider this practice when proposing the headworks exemption for the CSO sediment, and believes that the same rationale for proposing the exemption for wastewaters containing CSO sediment applies to wastewater containing the two spent catalyst wastes.
- If the listing of the spent catalyst wastes are made final, these drill and drainage waters would be derived from hazardous wastes. Thus, facilities that engage in this practice would risk having all down stream wastewater treatment solids considered derived from hazardous wastes, if these wastewaters are discharged to the treatment system. This was not EPA’s intent. Therefore, EPA is clarifying that the exemption proposed for 261.3(a)(2)(iv)(C) will also include wastewater containing the two spent catalyst wastes (K171 and K172), as well as the CSO sediment (K170). The Agency evaluated the potential impact of including wastewater from these two wastes in the headworks exemption, and believes that including them would not result in any significant risks in the downstream wastes. In the docket to this Notice, EPA presents additional analysis to evaluate the impact of such an exemption for wastewaters containing the three wastes proposed for listing.
- Comments also claimed that, as written, the headworks exemption for CSO Sediment (K170) would allow the discharge of more than merely wastewaters, and that refineries could also manage their original tank sludges in wastewater treatment systems. It was not EPA’s intent to foster the discharge of all CSO sediments to wastewater treatment systems. The Agency envisions that after the tanks had been cleaned, facilities would wash the tanks out to remove the last residues and make the tanks suitable for inspection. Therefore, EPA is soliciting comments on clarifying the headworks exemption

for wastewaters containing the three petroleum wastes proposed for listing (K170, K171, and K172) so as to limit the exemption to dilute wastewaters. EPA is considering adding language to the proposed exemption clarifying that the exemption applies to wash waters from the clean out of units that contained CSO sediments (K170), Spent Hydrotreating Catalyst (K171), or Spent Hydrotreating Catalyst (K172).

- **Data Impacting Proposed Universal Treatment Standards**—EPA is including additional waste stabilization data in the docket to this Notice submitted to EPA for the calculation of treatment standards for antimony, nickel and vanadium as applied to two petroleum refining wastes that were proposed for listing (K171—Spent Catalysts from Hydrotreating, and K172—Spent Catalysts from Hydrotreating). See two documents in the docket entitled: Final Revised Calculation of Treatment Standards for Stabilization Using Data Obtained from Rollins Environmental's Highway 36 Commercial Waste Treatment Facility and GNB's Frisco, Texas Waste Treatment Facility; Memorandum from Howard Finkel, ICF Inc., to Anita Cummings, USEPA, March 1997; and High Temperature Metals Recovery (HTMR) Treatment Standards for Metals in Nonwastewater.

Clarifications and Corrections

The Agency is also taking this opportunity to clarify several points in the proposed rule.

Headworks Exemption

Comments on the headworks exemption stated that the proposal did not adequately justify this action. In this Notice, EPA shows that the proposed rule does, in fact, provide justification for this exemption in the Risk Assessment section III.F.2.(c). Specifically, in section III.F.2.(c)(2) entitled "Disposal in Wastewater Treatment Plants," EPA discusses reasons why such disposal was not considered to warrant risk modeling, primarily due to existing regulatory coverage and the treatment and dilution that occurs in wastewater treatment plants (see 60 FR 57759). Furthermore, the Agency is including in this Notice additional analysis it has undertaken to further describe the dilution and treatment that is expected to occur for this practice. This analysis is presented in the docket for this Notice (see Potential Impact of the Headworks Exemption, in the Supplemental Background Document; Listing Support Analyses; Petroleum Refining Process Listing Determination).

Jurisdictional Explanation of Off-Specification Product and Fines From Thermal Processes Used as Product

EPA proposed not to list as hazardous Off-Specification Product and Fines from Thermal Processes. EPA's rationale for this is that the majority of off-specification product and fines are managed as coke product and thus are either not within the jurisdiction of RCRA or are exempt from RCRA regulation. Comments on this action stated that the proposal did not adequately explain the statutory or regulatory basis for the purported lack of jurisdiction over coke fines managed on a pile. EPA notes that the proposed rule does provide justification. However, further clarification is provided below.

In responding to the commenter, the Agency must first clarify that only particle size distinguishes coke fines from other coke product. The majority of coke is removed from the coker by hydraulic drilling. Coke fines are the smaller pieces of coke generated during this process.

Second, a jurisdictional distinction exists between coke fines that are produced from non-hazardous materials and coke fines produced from hazardous wastes (waste-derived fines). Fines generated from non-hazardous materials are simply coke product, as would be expected since they are produced from the same coking drum. These fines are combined with other coke in a product pile where the material is stored prior to sales. Thus, EPA's belief that coke fines not derived from hazardous waste are beyond RCRA jurisdiction is based on the coke fines being coke product.

In the case of waste-derived fines, so long as the fines are legitimate coke product, they are exempt from RCRA regulation unless the material exhibits a characteristic, 40 CFR 261.6(a)(3)(v). (See also RCRA section 3004(q)(2)(A)). EPA does not believe coke fails any hazardous waste characteristic, but invites comment if anyone has data to the contrary. Since the fines used as product are exempt, this material is outside the jurisdiction of the RCRA regulations. Therefore, EPA did not evaluate risks posed by such product uses of coke fines. In any event, EPA has data which indicate that the use of hazardous waste as feed material to the coker would result in little, if any, change to the qualities and the properties of the coke and fines produced. These coke fines would have essentially the same composition as fines generated from non-hazardous feed materials. The waste-derived fines

are combined with other coke in a product pile for storage prior to sales and are coke product.

As noted in the Additional Information section of this Notice, the docket contains additional analyses related to the similarity of coke fines to existing coke product, and the potential impact of recycling hazardous waste to the coker. EPA invites comments on these analyses.

Corrections to Proposal

EPA inadvertently inserted some risk estimates in the preamble to the proposed rule that did not accurately reflect the risk calculations given in the background documents to the rule. To correct the record, EPA is including in today's Notice a comparison of the groundwater risks from landfill disposal that were published in the preamble to the proposed rule (see 60 FR 57747; November 20, 1995) with the correct (at that time) risk estimates given in the docket ("Background Document for Groundwater Pathway Analysis", August 1995); this comparison is given in Table I. EPA also omitted from the preamble a risk estimate for one waste (Off-Specifications Product and Fines from Thermal Processes) that exceeded the 10^{-6} level. Table I also includes the risk estimates for this waste that were given in the background document to the proposal (See Appendix C in "Background Document for Groundwater Pathway Analysis").

Revised Risk Estimates

Table II summarizes the revised risk estimates for the groundwater pathway for onsite and offsite landfill disposal, and contains the results for the revised high-end analyses, the Monte Carlo analyses, and the risks that would occur if constituents (benzene and arsenic) in the wastes were capped at the level specified in the TC. Note that all revised analyses for benzene represent the combined groundwater risk from ingestion and noningestion pathways (i.e., showering).

Revised risk estimates for nongroundwater pathways for onsite and offsite land treatment are given in Table III, and reflect the modifications noted earlier in this Notice and described in detail in the docket ("Supplemental Background Document; Nongroundwater Pathway Risk Assessment"). The total carcinogenic risks are shown for various exposed populations and the methodologies used are fully explained in the supplemental background document.

The revised risk analyses for the groundwater and nongroundwater pathways complement and confirm the

original analyses given in the proposed rule. EPA believes that the additional analyses completed for these wastes support the listing determinations contained in the proposed rule, and is not proposing any new listing decisions based on the new analyses.

Off-Specification Product and Fines From Thermal Processes

While the preamble to the proposed rule did not contain a risk level for Off-Specification Product and Fines, the background document showed the risk results relied on by the Agency in the proposal as 1×10^{-5} . As shown in Table II, the revised high-end analysis for this waste yields risks that vary from 5×10^{-6} to 2×10^{-5} , depending on the approach used. The varying approaches used by EPA to calculate the risks in Table II are described in more detail in the docket ("Supplemental Groundwater Pathway Analyses"). The high-end risks for this waste are within the Agency's initial risk level of concern (see the proposed rule and the listing policy described in an earlier rulemaking for the Dyes and Pigments industry, 66 FR 66072, December 22, 1994, and the proposed rule for petroleum, 60 FR 57747).

However, the estimated groundwater risk for this waste was based on entirely one chemical (benz(a)anthracene) that was detected in only one out of six aqueous leachate (TCLP) samples at a level 8-fold below the quantitation limit. (The quantitation limit is the lowest concentration that can be reliably achieved for specific samples within acceptable limits of precision and accuracy during routine laboratory operations.) The higher risk (2×10^{-5}) arises when the value below the quantitation limit is used along with two other high-end parameters. The lower risk estimate (5×10^{-6}) results if the one measured TCLP concentration is assumed to be one of the two high-end parameters. The highest risk from the Monte Carlo analysis is 5×10^{-6} at the

95th percentile. This means that in the numerous simulation runs (10,000), the risks were found to be below this level 95% of the time.

After evaluating the additional analyses for Off-Specification Product and Fines, EPA does not consider the risk significant for a number of reasons. EPA believes that the higher risk is an overestimate because it is based on the detection in one out of six samples well below the quantitation limit. Thus, EPA has low confidence in this TCLP value and the subsequent modeling based on this number. Further analysis using the detected concentration as one of the two high-end parameters shows that the risk level drops to 5×10^{-6} . The water solubility of this chemical is also very low, indicating that its aqueous concentration is likely to be very low. In addition, this chemical is tightly adsorbed to organic material in soils and sediment, indicating that the constituent is relatively immobile in groundwater. Therefore, it is highly unlikely that this waste would present a significant risk in a groundwater scenario. For all of these reasons, EPA continues to believe that this waste should not be listed.

Land Disposal Restrictions—Revised Treatment Standards for Spent Catalysts From Hydrotreating (K171) and Hydrorefining (K171)

In the November 20, 1995 proposed rule, EPA proposed to apply the universal treatment standards (UTS) to the Petroleum Refining wastes proposed for listing (60 FR 57783). Commenters to that proposal have stated their inability to stabilize K171 and K171 nonwastewaters to the proposed 0.23 mg/L TCLP standard for vanadium. However, the commenters failed to provide data adequate for the calculation of an alternative treatment standard. Rather, the commenters provided data for the attempted stabilization of a catalyst that had not undergone extraction consistent with normal vanadium recovery. Data on

stabilization alone does not reflect proper treatment for this waste; therefore, EPA does not consider these data adequate to modify the treatment standards. Subsequently, the Agency has obtained additional data suitable for the calculation of treatment standards. The Agency has used this new stabilization data, as well as data from high temperature metal recovery (HTMR), to recalculate treatment standards for these wastes. (See the docket for the two documents identified in the Additional Information section earlier in this Notice.) Based on these calculations, the proposed UTS standards as applied to K171 and K172 for antimony, nickel, and vanadium would be revised to reflect the higher of the standards calculated for stabilized wastes and HTMR residues. The antimony standard would be decreased from 2.1 mg/L TCLP to 0.07 mg/L TCLP, the nickel standard would be increased from 5.0 mg/L TCLP to 13.6 mg/L TCLP, and the vanadium standard would be increased from 0.23 mg/L TCLP to 1.6 mg/L TCLP. The Agency is today noticing the data used to calculate these proposed revisions to the UTS standards as applied to the petroleum refinery wastes. The Agency requests any additional treatment data to re-evaluate or re-calculate the treatment standards based on EPA's BDAT Protocol (see USEPA, "Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology", Office of Solid Waste, October 23, 1991). In the upcoming Land Disposal Restrictions Phase IV rulemaking, the Agency will discuss in detail the proposed use of the available data for developing Universal Treatment Standards on a national basis.

Dated: March 28, 1997.

Elizabeth A. Cotsworth,
Acting Director, Office of Solid Waste.

TABLE I.—COMPARISON OF ORIGINAL FEDERAL REGISTER GROUNDWATER RISK ASSESSMENT VALUES WITH BACKGROUND DOCUMENT

Constituent	Federal Register ¹		Background document ²	
	On-site landfill	Off-site landfill	On-site landfill	Off-site landfill
Spent Catalyst From Hydrotreating				
Benzene	9E-06	1E-05	3E-05	4E-05
Arsenic	8E-06	1E-05	2E-05	3E-05
Spent Catalyst From Hydrorefining				
Benzene	1E-05	2E-05	2E-05	3E-05

TABLE I.—COMPARISON OF ORIGINAL FEDERAL REGISTER GROUNDWATER RISK ASSESSMENT VALUES WITH BACKGROUND DOCUMENT—Continued

Constituent	Federal Register ¹		Background document ²	
	On-site landfill	Off-site landfill	On-site landfill	Off-site landfill
Arsenic	4E-05	6E-05	7E-05	1E-04
Crude Oil Storage Tank Sediment				
Benzene	NA ³	3E-05	NA	5E-07
Unleaded Gasoline Storage Tank Sediment				
Benzene	<1 E-06	2E-06	6E-7	4E-06
HF Alkylation Sludge				
Benzene	6E-07	3E-06	8E-07	3E-06
Off-Specification Product and Fines				
Benzo(a)anthracene	NR ⁴	NR	3E-07	1E-05

¹ See 60 FR 57747, November 20, 1995.² See "Petroleum Refining Waste Listing Determination, Background Document for Groundwater Pathway Analysis," Docket Document Identification No. F-95-PRLP-S0007.³ Not applicable.⁴ None reported in Federal Register.TABLE II.—COMPARISON OF GROUNDWATER RISKS FOR PETROLEUM RESIDUALS IN LANDFILLS ¹

Constituent	Revised risks ²				TC-capped risks ³			
	High-end risk ⁴		Monte Carlo risk ⁵ (95th%)		High-end risk		Monte Carlo risk (95th%)	
	Off-site	On-site	Off-site	On-site	Off-site	On-site	Off-site	On-site
Clarified Slurry Oil Tank Sediment								
benzene	3E-06	3E-06	1E-06	3E-07	NA	NA	NA	NA
Hydrotreating Catalyst								
benzene	5E-05	8E-05	1E-05	8E-06	1E-05	2E-05	4E-06	4E-06
arsenic	7E-05	6E-05	1E-05	7E-06	NA	NA	NA	NA
Hydrefining Catalyst								
benzene	4E-05	4E-05	8E-06	8E-06	2E-05	2E-05	6E-06	6E-06
arsenic	7E-04	4E-04	1E-04	1E-04	4E-04	4E-04	1E-04	1E-04
Crude Oil Storage Tank Sediment								
benzene	3E-05	NA	5E-06	NA	2E-05	NA	3E-06	NA
Unleaded Gasoline Storage Tank Sediment								
benzene	5E-06	2E-06	2E-06	6E-07	3E-06	1E-06	1E-06	6E-07
HF Alkylation Sludge								
benzene	6E-06	6E-06	2E-06	2E-07	NA	NA	2E-06	2E-07
Off-Specification Product and Fines From Thermal Processes								
Benzo(a)-anthracene	5E-06 ⁶ 2E-05	3E-06 ⁶ 2E-05	4E-06 ⁷ 5E-06	1E-07	NA	NA	NA	NA

¹ Risk presented as carcinogenic risk.² The revised risk includes an indirect risk from showering (6.05×10^{-5} risk per 1 mg/L benzene).³ Input leaching rates were capped at TC regulatory levels for maximum allowable TCLP values for disposal in Subtitle D landfills (0.5 mg/L for benzene and 5.0 mg/L for arsenic). "NA" means either the TC level was not exceeded, or no TC level exists for a chemical.⁴ Risks were estimated using high-end values for two most sensitive parameters, while the remaining parameters are kept at median values.

⁵Risks were estimated using Monte Carlo simulation runs; at the 95th percentile level, calculated risks were found to be below this level 95% of the time.

⁶The lower risk was obtained by using the one detected value (a "J-value" below the quantitation limit) as one of the two high-end parameters.

⁷The lower risk was obtained by using only the J-value in the Monte Carlo simulation runs.

TABLE III.—NON-GROUNDWATER RISKS FOR PETROLEUM RESIDUALS IN LAND TREATMENT UNITS

Individual waste streams	On-site land treatment unit high-end total carcinogen risk				Off-site land treatment unit high-end total carcinogen risk			
	Home gardener	Adult resident	Subsistence farmer	Subsistence fisher	Home gardener	Adult resident	Subsistence farmer	Subsistence fisher
Clarified Slurry Oil Tank Sediment	1E-04	2E-05	2E-04	4E-05	3E-05	1E-05	2E-05	3E-05
Crude Oil Tank Sediment	3E-07	1E-07	4E-07	2E-07	2E-07	8E-08	2E-07	1E-07
Unleaded Gasoline Tank Sediment ..	4E-07	9E-08	2E-07	1E-07	3E-07	9E-08	4E-07	1E-07
Sulfur Complex Sludge	1E-07	3E-08	6E-08	3E-08	5E-08	1E-08	4E-08	1E-08
HF Alkylation Sludge	3E-08	7E-09	1E-08	8E-09	3E-08	7E-09	4E-08	9E-09
Sulfuric Acid Alkylation Sludge	2E-09	1E-09	3E-10	2E-09	5E-10	3E-10	3E-10	7E-10
Off-Spec Product & Fines	6E-08	3E-08	7E-08	4E-08	6E-08	2E-08	9E-08	4E-08

[FR Doc. 97-8816 Filed 4-7-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[EPA-F-97-PH3A-FFFFF; FRL-5808-4]

RIN 2050 AE05

Land Disposal Restrictions—Phase IV: Treatment Standards for Characteristic Metal Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of the comment period.

SUMMARY: EPA has received requests to extend the comment period on the notice of data availability (NODA) published in the **Federal Register** on March 5, 1997 (62 FR 10004). The NODA solicited public comments on studies, and the results of a Peer Review of those studies, pertaining to whether the addition of iron filings (and iron dust) to lead-contaminated spent foundry sand is a means of diluting the waste impermissibly rather than treating it to conform with the requirements of the LDR rules. The NODA addressed whether this practice stabilizes (or otherwise treats) lead, the chief hazardous constituent found in the spent sand, so that the lead will not migrate through the environment when the spent sand is land disposed. This document extends the comment period for the NODA for 30 days.

DATES: Comments are due by May 8, 1997.

ADDRESSES: To submit comments, the public must send an original and two

copies to Docket Number F-97-PH3A-FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305W), 401 M. Street, SW, Washington, DC 20460. RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 a.m. to 4:00 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this **Federal Register** document, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers may call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For information on this notice, contact Mary Cunningham at (703) 308-8453, John Austin at (703) 308-0436 or Rhonda Craig at (703) 308-8771, Office of Solid Waste, 401 M Street, SW, Washington, DC 20460.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: April 3, 1997.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97-9093 Filed 4-7-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 970318057-7057-01; I.D. 022097C]

RIN 0648-AJ42

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1997 Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS issues this proposed rule to amend the regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP). This rule proposes a possession limit of 10 fish per person and a minimum fish size of 14.5 inches (36.8 cm) for the 1997 summer flounder recreational fishery. The intent of this rule is to comply with implementing regulations for the fishery that require NMFS to publish measures for the current fishing year that will prevent overfishing of the resource.