

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Parts 795, 796, and 799

[OPTS-42088C; FRL-3215-4]

**Office of Solid Waste Chemicals;
Proposed Test Rule; Reopening of
Comment Period**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule; reopening of
comment period.

SUMMARY: EPA is reopening the
comment period on its proposed rule
under section 4 of the Toxic Substances
Control Act (TSCA), 15 U.S.C. 2603, to
require testing on 73 chemicals which
are constituents of hazardous waste
streams (52 FR 20336; May 29, 1987).
These chemicals are referred to as the
Office of Solid Waste chemicals. This
additional period will permit comment
on updated information incorporated
into the exposure analysis and the
economic analysis.

DATE: This document reopens the
comment period until February 16, 1988.

ADDRESS: Address written comments in
triplicate identified by the document
control number (OPTS-42088C) to:
TSCA Public Information Office (TS-
793), Office of Pesticides and Toxic
Substances, Environmental Protection
Agency, Room NE-G004, 401 M Street
SW., Washington, DC 20460.

The public record supporting these
actions is available for inspection at the
above address from 8 a.m. to 4 p.m.,
Monday through Friday, except legal
holidays.

FOR FURTHER INFORMATION CONTACT:

Edward A. Klein, Director, TSCA
Assistance Office (TS-799), Office of
Toxic Substances; Room E-543, 401 M
Street SW., Washington, DC 20460 (202)
544-1404.

SUPPLEMENTARY INFORMATION: In the
Federal Register of May 29, 1987 (52 FR
20336), EPA issued a proposed rule for
73 Office of Solid Waste chemicals
which included testing for chemical fate
and human health effects. EPA
previously extended the comment period

in a document published in the Federal
Register of August 7, 1987 (52 FR 29386).
EPA is reopening the comment period to
permit comment on: (1) Data
documenting potential for exposure to
certain chemicals; (2) toxicity data on
one chemical; and (3) an updated
economic assessment for chemicals for
which there previously was insufficient
or no available economic information.
The non-confidential exposure,
economic, and toxicity information is
now available for review in the public
docket.

I. Background

The proposed rule required testing for
human health effects (90-day subchronic
toxicity) and/or chemical fate
(anaerobic biodegradation, hydrolysis,
and soil sorption), depending on
identified data gaps for each chemical.
EPA's Office of Solid Waste needs these
data to support its effort under section
3001 of the Resource Conservation and
Recovery Act (RCRA) to identify those
wastes which may pose a substantial
hazard to human health and the
environment if improperly managed.

The proposed human health effects
and chemical fate testing is based on the
authority of section 4(a)(1)(A) of TSCA.
EPA finds that the disposal of these
chemicals may present an unreasonable
risk of injury to health or the
environment; that there are insufficient
data and experience to determine or
predict the effects of disposal on health
or the environment; and that testing is
necessary to develop these data.

Comments were received from
Chemical Manufacturers Association
(CMA), Synthetic Organic Chemical
Manufacturers Association, Inc.
(SOCMA), Vulcan Chemicals,
Regulatory Network, Inc. (Maleic
Anhydride Consortium), Monsanto Co.,
Methyl Chloride Industry Association,
Morton Thiokol, Inc., Calorie Control
Council, and the Natural Resources
Defense Council (NRDC), on the basis
for the section 4(a)(1)(A) findings of
"may present an unreasonable risk of
injury to health or the environment" for
the chemicals listed in the proposed
rule.

All of the chemicals in the proposed
rule are listed in Appendix VIII of 40
CFR Part 261. NRDC believes that the
threshold requirement for being listed in
Appendix VIII is more than adequate to
satisfy the "may present an
unreasonable risk to health or the
environment" finding required by TSCA.
Nothing that:

Substances will be listed in Appendix VIII
only if they have been shown in scientific
studies to have toxic, carcinogenic,

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mutagenic or teratogenic effects on humans or other life forms. 40 CFR 261.11(a).

NRDC believes that, since EPA is basing its decision for a test rule on the "unreasonable risk" finding rather than the "substantial exposure" finding, there is no requirement for a showing of substantial human exposure.

CMA and other industry commenters, however, believe that the general assertion, contained in the proposed rule, that the subject chemicals are known to be constituents of wastes to which humans might be exposed does not support a conclusion under TSCA that each of the chemicals may present a hazard or risk.

II. Exposure Data

While EPA believes that the record contains sufficient information to support its findings, since relevant data are easily available and obtainable within the timeframe allowed for this rulemaking, the Agency is now inserting into the record for this rule data that document the presence of certain chemicals in waste streams and/or ground water, demonstrating potential for human exposure. The data show that tens of thousands of pounds of these chemicals are being released annually via disposal. Also, the type of disposal described in the data bases for the subject chemicals, such as deep well injection, discharge to landfill, or discharge to a POTW (publicly-owned treatment works), indicate potential for leaching and exposure to these chemicals. Indeed, data exist for many of the chemicals which document incidents in which the chemicals have migrated from their place of treatment, storage, or ultimate disposal. It is likely that these data represent only a portion of actual contamination occurrences throughout the country.

The data have been obtained by searching three data bases used by the Office of Solid Waste: The Industry Studies Data Base (ISDB), the Hazardous Waste Damage Incident Data Base (DIDB), and the Hazardous Waste Disposal Site (HWDS) Data Base. Many of the chemicals are listed in more than one data base. Much of the data contained in the ISDB is RCRA confidential business information (CBI), and is contained in a separate RCRA CBI docket. The non-CBI information is available for review in the OPTS docket No. 42088C.

The ISDB is a computerized repository of chemical manufacturing and waste management information, established by the Waste Characterization Branch of the Office of Solid Waste in conjunction with the Hazardous Waste Listing

Program. The information was provided directly from chemical manufacturers under the authority of RCRA section 3007 through questionnaire surveys, sampling and analysis site visits, and from other sources. As mentioned above, the vast majority of the data relate to proprietary product processes and are classified as CBI.

The DIDB presents a nationwide retrospective view of incidents in which hazardous wastes or products have migrated from their place of treatment, storage, or ultimate disposal. The DIDB was developed to allow the rapid identification of large numbers of incidents illustrating specific types of contamination scenarios. Presently, the data base contains summaries of nearly 1,000 mismanagement incidents.

The HWDS Data Base, developed by EPA's Environmental Monitoring Systems Laboratory, Las Vegas, NV, contains hazardous waste disposal site groundwater monitoring data obtained from the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) and the RCRA programs of EPA. Each of the 10 EPA regional offices was visited between April 1983 and September 1983, resulting in the acquisition of site investigation data for 183 Superfund sites. Groundwater data were also obtained for 175 interim-status phase RCRA sites from the State of Texas (115 sites), the State of Louisiana (40 sites), and EPA's Office of Solid Waste (20 sites).

In addition to groundwater monitoring results for each chemical contaminant, pertinent site data such as classification of site (RCRA, CERCLA), type of operation (landfill, lagoon, etc.), type of well (private, public water supply, monitoring), well location (up/downgradient, on-/off-site), sampling date, and geographic location (regions, state) were also entered into the data base.

III. Toxicity Data

Toxicity data on one chemical, methanethiol, were inadvertently omitted from the docket in support of the proposed test rule. This information, along with exposure data from the ISDB, support the TSCA section 4(a)(1)(A) "may present an unreasonable risk" finding for this chemical, and are now available in the docket for public review.

IV. Literature Review

CMA asserted in its comments that "EPA has not conducted a satisfactory review of existing data and experience for each chemical, and, therefore, the Agency is unable to reach conclusions

about the adequacy of such data for supporting the proposed section 4 rules." In response to this comment, EPA reviewed the literature search docket for each endpoint for each chemical. As a result, EPA is now supplementing the public docket with results of the literature search for three chemicals, all for the anaerobic biodegradation rate end-point: Acetamide, 2-fluoro (insufficient data); 2,3-dichloropropanol (no data); and 2,6-dinitrotoluene (insufficient data). This information supports the TSCA section 4(a)(1)(A)(ii) finding that there are insufficient data and experience upon which the effects of commercial activity with the subject chemicals on health or the environment can reasonably be determined or predicted.

V. Economic Analysis

The economic analysis prepared in support of the proposed rule assessed the potential for significant adverse economic impact of 49 chemicals. The analysis has now been revised to incorporate additional information concerning certain of the 49 chemicals and to assess six additional chemicals. The original economic analysis indicated that the potential for significant adverse economic impact may be high for 10 of the 49 chemicals based upon the expected testing costs for those chemicals. This number has been revised to nine, with four chemicals removed from this category and three other chemicals added.

For four of those chemicals, 1,3-dichlorobenzene, 1,3-dichloro-2-propanol, 2,3-dichloro-1-propanol, and dihydroisofurole, additional market information has led EPA to revise its assessment of the potential for significant adverse economic impact. It now appears that the potential for significant adverse economic impact may be low for these four chemicals. For one chemical previously classified as having a low likelihood of significant adverse economic impact, nicotine, an increase in the estimated testing costs indicates that the chemical should now be classified as having a high likelihood of significant impact.

The original economic analysis also indicated that the potential for significant adverse impact was uncertain for five chemicals. For two of these chemicals, 1,2,4,5-tetrachlorobenzene and phenacetin, EPA now believes that the potential for significant adverse economic impact is high.

For one chemical previously classified as having a low likelihood of significant adverse economic impact, methyl

chlorocarbonate, an increase in the estimated testing costs indicates that the likelihood is now uncertain.

The likelihood of significant adverse economic impact was not assessed in the original economic analysis for 24 chemicals which were believed to be manufactured solely as pesticides or not currently manufactured or imported. For 3 of these 24 chemicals,

pentabromoethane, pentabromobenzene, and malic hydrazide, the probability of significant adverse economic impact is believed to be low. For 4-bromobenzonitrile and endrin, there is a high likelihood of significant adverse economic impact. For 2-chloroethyl vinyl ether, the likelihood of significant adverse economic impact is uncertain.

Please refer to the revised economic analysis contained in the docket for a more detailed discussion of the economic assessment for these chemicals.

VI. Rulemaking Record

EPA has established a record for this rulemaking (docket number OPTS-42088C). This record includes all information considered in the development of the proposed rule and appropriate Federal Register notices. The Agency will continue to supplement the record with additional information as it is received.

The record includes all information referenced in support of the May 29 proposal plus the following information:

- (1) Notice of Proposed Rulemaking, Solid Waste Chemicals (52 FR 20826, May 29, 1987).
- (2) Exposure data from three sources: The Industry Studies Data Base, the Hazardous Waste Damage Incident Data Base, and the Hazardous Waste Disposal Site Data Base.
- (3) Revised economic analysis for the proposed rule.
- (4) Toxicity data on methanethiol.
- (5) Literature search information for: acetamide, 2-fluoro; 2,3-dichloropropanol; and 2,6-dinitrotoluene.

VII. Other Regulatory Requirements

The Agency discussed Executive Order 12291, The Regulatory Flexibility Act, and the Paperwork Reduction Act in detail in the May 29, 1987 proposal, and no changes are indicated for this notice.

Dated: December 30, 1987.

Susan F. Vogt,

Acting Director, Office of Toxic Substances.

[FR Doc. 88-632 Filed 1-13-88; 8:45 am]

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