Bloomfield Refining Company
A Gary Energy Corporation Subsidiary

ENTERED

June 27, 1991

Mr. Mike Smith
San Juan Regional Medical Center
801 West Maple
Farmington, New Mexico 87401

Dear Mr. Smith:

Bloomfield Refining Company is a generator and treater of hazardous waste as defined under the Resource Conservation and Recovery Act and is, therefore, subject to specific requirements under the Act. One of these requirements, HWMR-6, Part VI, 40 CFR 265.53(b), is that local hospital(s) be provided with a copy of our contingency plan. We are, therefore, providing you with a copy of our contingency plan herewith.

Please call me if you need any additional information.

Sincerely,

Chris Hawley
Environmental Manager

CH/jm

Enclosure

cc: Dave Roderick
Joe Warr
John Goodrich

I would also like to use this opportunity to touch on several other important elements of the delisting evaluation process. If you have not done so already, you should refer to the delisting guidance manual ("Petitions to Delist Hazardous Wastes A Guidance Manual", EPA Publication No. EPA/530-SW-85-003, April 1985) for further details on the information that must accompany a petition. To obtain a copy of the guidance manual, call NTIS at (703) 487-4650 and ask for PB-85-194488. Please be aware that we are currently in the process of modifying this guidance manual to reflect recent changes in hazardous waste regulations and delisting criteria. We also require that petitions to exclude wastes contained in land-based waste management units include ground-waster monitoring information relevant to the unit in which the petitioned waste is managed (see 54 FR 41930, October 12, 1989).

If you have any questions about this matter, please do not hesitate to call Chichang Chen at the above number.

Sincerely,

James R. Kent

James R. Kent
Environmental Protection Specialist

Enclosure

cc: Bob Kayser, EPA HQ
Chichang Chen, EPA HQ
Guy Tidmore, Region VI
Rena McClurg, Region VI
Jenny Utz, SAIC

ctor(s) of the NARA division(s) ch has custody of the requested ords. The Committee may consult other persons within and outside the Federal Government who are knowledgeable in the research field for assistance in evaluating a request.

(1) The Committee will examine the request to determine:

(i) Whether the requested information is of such a highly sensitive personal nature that disclosure should not be permitted even for biomedical statistical or quantitative research;

(ii) Whether the methodology proposed by the requester will permit the researcher to obtain the projected research results without revealing personally identifying information;

(iii) Whether the research results will be published or presented at an academic or research conference;

(iv) Whether the requester is a *bona-fide* biomedical researcher who has previous experience in conducting statistical research projects and publishing articles or books on such research;

(v) Whether the safeguards proposed by the requester will adequately protect the personal information; and

(vi) Whether NARA has sufficient aff and space available to safeguard privacy interests necessary to accommodate the research project.

(2) The decision of the Committee will be made in writing to the requester within 15 workdays after receipt of a completed request. At the discretion of the Committee, the researcher may meet with the Committee to discuss the project or to discuss revising the research proposal to meet possible objections of the Committee.

(d) *Conditions of access.* Researchers who are granted access to restricted records, all others associated with the research project who will have access to personally identifiable information from the records, and the manager of any ADP facility handling the records or data elements containing personal identifiers shall agree in writing to maintain the confidentiality of the information and to adhere to the conditions of access imposed by NARA. NARA may impose some or all of the following conditions of access on any project; additional conditions may be imposed on the use of specific records or on specific projects:

(1) The records may be used only for the purpose of the statistical research and for the statistical reporting of research findings as described in the approved research project. The records may not be used for any other purpose without NARA approval;

(2) The records and copies of any data elements which permit the identification of an individual or which can be identified with an individual may not be transferred to any person or institution not directly involved with the approved research project;

(3) Reasonable administrative, technical, and physical safeguards, as approved by NARA, to prevent unauthorized use or disclosure of the records shall be established by the researcher and followed by all persons associated with the research project;

(4) When required by NARA, the records shall be consulted at the NARA facility where the records are located;

(5) Any individually identifiable information in the researcher's notes or in authorized copies of the records shall be rendered anonymous by the researcher at the earliest possible time consistent with the purpose of the research project;

(6) Persons who are identified in the records may not be contacted by or on behalf of the researcher;

(7) Prior to publication or public presentation of the data, the final research product(s) shall be provided to the Assistant Archivist for the National Archives for review. NARA's review shall be limited to ensuring that there is no possible identification of individuals in the research findings. NARA will not evaluate the validity of the research findings;

(8) All research notes containing personally identifiable information from privacy-restricted records and/or copies of such records shall, upon completion of the project, be destroyed or returned to NARA, whichever condition NARA has imposed as a condition of access. If the notes and/or copies are destroyed, the researcher shall verify in writing to the Assistant Archivist for the National Archives that the research notes and/or copies have been destroyed.

(e) *Noncompliance with conditions of access.* If NARA discovers that a researcher has violated any of the conditions of access imposed by NARA, NARA shall take steps to revoke the NARA research privileges of that person and shall consult with the NARA legal counsel to determine any other steps to be taken to prevent any further disclosure of the personal information concerned. NARA may also inform the following persons and organizations of the researcher's failure to follow the conditions of use:

(1) The institution with which the researcher is affiliated, if applicable;

(2) Persons who served as references in the application for access;

(3) Organizations which provided grant funds for the project;

(4) The sponsor of the publication or public presentation; and/or

(5) Appropriate professional organizations.

Dated: February 19, 1988

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-4637 Filed 3-2-88; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3337-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of delisting strategies and procedures.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is announcing strategies and procedures it intends to apply in reviewing exisung and anticipated petitions submitted to the Agency under 40 CFR 260.20 and 260.22 to exclude certain wastes on a "generator-specific" basis from the hazardous waste lists in Subpart D of Part 261.

These strategies and procedures should improve the petition review process, help to eliminate the existing backlog of petitions, and reduce processing time. This notice outlines new strategies and reiterates several existing procedures.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Terry Grogan, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION: Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to exclude (*i.e.*, delist) their wastes from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. After reviewing the delisting process, the Agency has developed several strategies and procedures to facilitate reaching expeditious decisions on these petitions. This notice summarizes both existing and new delisting strategies and procedures, in particular:

appropriate. For example, the Agency may process petitions out of chronological order when a rulemaking or policy decision will allow several related petitions to be processed simultaneously. This occurred when the F006 listing was modified on December 2, 1986 (see 51 *FR* 43350), allowing a number of delisting petitions to be removed from consideration simultaneously due to regulatory changes. The Agency will also deviate from chronological order to process complete petitions submitted later than incomplete petitions that are awaiting the receipt of additional information.

The Agency considered using a programmatic as opposed to a chronological basis for determining review and processing priority of petitions. Primarily, consideration was given to providing priority review for delisting petitions for wastes associated with corrective action, even if such a petition was submitted at a later date than other petitions (*i.e.*, petitions for wastes not associated with corrective action). Such a general procedure was not adopted since it would not be equitable to those petitioners who submitted their petitions at an earlier date. The Agency may, however, on a case-by-case basis, revise its priorities to give early consideration to delisting petitions for wastes at facilities which are subject to RCRA corrective action under permits or orders, when the issuance of a delisting decision is integral to the timely completion of corrective action measures to be taken at the facility. Similarly, when the delisting decision is an integral part of other facility efforts to dispose of wastes and avoid adverse impacts to human health and the environment, the Agency may deviate from its procedure of reviewing petitions in chronological order.

III. Pre-Submittal Consultation

Prior to submitting a formal petition, petitioners are strongly encouraged to meet or to discuss with EPA staff the nature and extent of information that must be included in the petition, particularly to develop adequate sampling and analytical plans. This should assist petitioners in preparing a complete petition, and will help to assure petitioners of the adequacy of sampling and analytical data before they invest resources to develop those data. Petitioners should note, however, that draft sampling and analytical plans must be clearly identified as drafts and will be handled separately from formal petitions in the petition review process. (Plans should be sent to the same address as petitions.)

IV. Certification Requirements

For some exclusions that are granted, the petitioner is responsible for conducting sampling and analysis and reporting the results to EPA according to a schedule specified in the exclusion. To ensure that petitioners comply with conditions of exclusions, the Agency will require petitioners to provide the following signed certification statement with each data submittal. This statement will be proposed for each individual rulemaking concerning a conditional exclusion.

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

Name of Certifying Person

Title of Certifying Person

Date

V. Practical Quantitation Limits

Where appropriate, the Agency has evaluated the mobility of constituents of concern in a petitioned waste using the vertical and horizontal spread (VHS) model (see 50 *FR* 48896, November 27, 1985). The VHS model is used to calculate hypothetical compliance-point values for concentrations of constituents of concern, based on the waste volume, the extract concentrations (*e.g.*, from the EP or Oily Waste EP toxicity test or the Organic Leachate Model (OLM)), and reasonable worst-case parameters for dispersion of leachate by ground water in two dimensions. The compliance-point concentrations are then compared to the regulatory standard established for each constituent of concern.

The Agency is aware that the recommended or accepted extraction and analytical procedures (either as described in "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods, U.S. EPA Office of Solid Waste and Emergency Response, Publication SW–846 or as accepted by EPA under 40 CFR 260.21) in some cases cannot achieve low enough quantitation limits for particular wastes to pass the VHS model analysis for some constituents when the quantitation limit is used as the input concentration. The Agency has determined that, if hazardous constituents in a waste are not quantifiable using appropriate analytical methods, the Agency will not usually consider the waste to be hazardous for those constituents. EPA has taken this position in a number of proposed exclusions (*e.g.*, see 51 FR 36235 and 36241, October 9, 1985; 52 *FR* 33439, September 3, 1987).

Appropriate practical quantitation limits (PQLs) will be determined on a case-by-case basis and will depend on the waste matrix and available procedures for extraction and analysis of specific constituents. The PQL is the lowest level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions. EPA is specifying the use of PQLs rather than minimum detection limits (MDLs) because PQLs provide a reasonable degree of certainty that true values, rather than false negatives or positives, are determined. The Agency has specified the use of PQLs, rather than MDLs, in proposed rules (*e.g.*, see 50 *FR* 46902, November 13, 1985), as well as in SW–846 methods 8240 and 8270 for the analysis of organic contaminants.

(42 U.S.C. 6921)

Date: February 24, 1988.

J.W. McGraw,

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

[FR Doc. 88–4606 Filed 3–2–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements two changes to the Department's regulations governing administration of the low-income home energy assistance

(1) Dismissal of certain incomplete petitions.

(2) Petition review priorities.

(3) Agency assistance to petitioners prior to petition submission.

(4) Certification of data submitted in response to conditional exclusions.

(5) Use of analytical detection limits in petition evaluation.

I. Dismissal of Incomplete Petitions

Petitions for an exclusion from hazardous waste control must contain sufficient information to allow the Agency to determine that (1) the waste to be excluded is non-hazardous based upon the criteria for which it was listed, and (2) that no other factors (including additional constituents) could cause the waste to be hazardous. Acquisition and analysis of this information is necessary before a tentative determination (*i.e.*, a proposal to grant or deny a petition) can be made for the petitioned waste.

If adequate data are not received in a timely fashion, the Agency will remove these petitions from the review process. Such removal will help to conserve Agency resources for processing complete petitions by avoiding burdensome, iterative requests for needed information. Incomplete petitions include, but are not limited to, petitions: (1) That are seriously deficient upon receipt (*e.g.*, lack analytical results; or lack of appropriate information on quality assurance procedures used during sample analyses); (2) for which the petitioner does not provide complete, responsive information within 6 months of an Agency information request; and (3) that are the subject of a deferral request by the petitioner (*e.g.*, the petitioner plans to make a process change and asks that the petition be put on hold).

The Agency currently specifies that petitioners must respond to information request letters within 6 months. The Agency has previously denied petitions based on the failure to provide information within 12 months of making the initial information request. The Agency has reduced the 12-month denial period to 6 months, based upon historical analysis of petitions and responses. Six months should provide a reasonable period of time for petitioners to submit information responding to typical petition deficiencies, such as: Clarification of process descriptions; identification of chemical components in trade-name products used as raw materials or as treatment reagents; and resampling and analytical testing requests to assure that samples are representative. EPA expects that in most cases, the requested information can be submitted in much less than 6 months. If EPA anticipates that the requested information will take longer than 6 months, the petition will be considered seriously deficient, and dismissed at that point. Petitioners are encouraged to submit the requested information as soon as possible but in no event later than 6 months from the Agency's request.

In the past, when a petitioner did not respond to an information request, the Agency's procedure was to publish a proposed denial notice in the Federal Register. Because the administrative burdens of such rulemakings resulted in resource demands and in delays for those petitioners who have fully responded to EPA's information requests, the Agency now plans to dismiss incomplete petitions by letter. This procedure applies to petitions currently under review as well as to new ones.

The dismissal letter will be sent to the petitioner and to appropriate State and EPA regional contacts. The letter will explain the reason that the petition is being dismissed and will clearly state what information is needed to complete the petition. The effect of the dismissal is to remove the petition from the review system and to close the petition file. The petitioner may at any time re-submit a complete petition. The Agency will review newly submitted and re-submitted petitions in chronological order.

A. Seriously Deficient Petitions

Seriously deficient petitions include petitions that lack information that will take more than 6 months to collect, including those that will require significant resampling and analysis. Serious deficiencies also include lack of seasonal sampling data for processes that vary throughout the calendar year and omission of necessary quality assurance/quality control analytical data (*e.g.*, data on the use of standard additions and surrogate spiking) that allow verification of detected and nondetected constituents. Seriously deficient petitions will be dismissed immediately based on the Agency's determination that even given an additional six months, the petitioner will not be able to correct the data deficiencies.

EPA plans to publish a Federal Register notice regarding the use of ground-water monitoring information by the Delisting Program. This notice will describe ground-water data needs, use of the data in delisting decision-making, and the Agency's dismissal procedure where there is a lack of sufficient ground-water monitoring data from an adequate system.

B. Insufficient Responses

If a petitioner's initial submission is not considered seriously deficient upon receipt, but is still not complete, the Agency will generally make only one request for the petitioner to submit the needed data. Given the availability of an EPA guidance manual on preparing petitions [1] and of EPA staff to resolve questions and problems, the Agency believes that 6 months should provide more than sufficient time for petitioners to respond. (If the information can be prepared in less than 6 months, EPA will establish a shorter time period.) If a petitioner submits additional information in a timely fashion that does not fully respond to the Agency's request (*e.g.*, EPA requests Oily Waste EP toxicity test data for a waste containing greater than one percent oil and grease but receives Ep toxicity test data), and if conforming or missing information is not received before the 6-month period expires, the petition will be dismissed. The Agency will not notify petitioners that such unresponsive submissions are deficient prior to sending a dismissal letter. Of course, a petitioner may submit a new petition for the same waste that contains the complete information.

C. Requests for Deferral

In the past, some petitioners have requested that the review of a petition be deferred until such time as they collect additional information or until decisions are made on other petitions they may have submitted. The Agency does not believe that it is appropriate to keep such petitions in the petition review system. Therefore, EPA will dismiss such petitions and will encourage petitioners to resubmit their petitions when they are ready to provide complete information.

II. Delisting Petition Review Priorities

The ultimate goal of the Agency is to process each petition in a timely manner. The Agency intends to review petitions in chronological order of receipt. Under this procedure, a petition received in June 1987, for example, will have higher priority in the review process than a petition submitted in December 1987.

Nothwithstanding, the Agency will process petitions out of chronological order whenever the Agency determines that such action is necessary or

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[1] Copies of "Petitions to Delist Hazardous Wastes—A Guidance Manual" are available from the National Technical Information Service (NTIS), Port Royal Road, Springfield, VA (703) 487-4650. Ask for Publication No. PB85194499.