

and French will also be available at <http://www.fda.gov/oc/bioterrorism/bioact.html>.

## VI. Transcripts

Within 3 weeks of the satellite downlink public meeting, written transcripts in English, French, and Spanish will be available for viewing at DDM (see **ADDRESSES**) and posted on the following Web site: <http://www.fda.gov/oc/bioterrorism/bioact.html>. A written transcript of the satellite downlink meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, 3 weeks after the satellite downlink public meeting at a cost of 10 cents per page. A copy of the videotaped meeting may also be viewed at DDM. Or you may contact Lou Carson for a copy of the videotaped meeting and specify format and language.

**Pre-event Test:** A pre-event test for downlink sites will be provided on October 28 from 12 noon EST to 1 p.m. EST. During that hour, technical assistance will be available through a trouble line at 1-888-626-8730.

Dated: September 26, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[SW-FRL-7567-1]

### Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

**AGENCY:** The Environmental Protection Agency (the EPA).

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The EPA is proposing to grant a petition submitted by OxyVinyls, LP (OxyVinyls) to exclude (or delist) a certain solid waste generated by its Houston, TX Deer Park VCM Plant from the lists of hazardous wastes.

The EPA used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

The EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision,

if finalized, would exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, the EPA would conclude that OxyVinyls' petitioned waste is nonhazardous with respect to the original listing criteria and that the Incinerator Offgas Treatment Scrubber Water generated from treating and neutralizing gasses generated in the firebox during the incineration process and not from a manufacturing process will adequately reduce the likelihood of migration of constituents from this waste. The EPA would also conclude that OxyVinyls' process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

**DATES:** The EPA will accept comments until November 17, 2003. The EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Your requests for a hearing must reach the EPA by October 16, 2003. The request must contain the information prescribed in 40 CFR 260.20(d).

**ADDRESSES:** Please send three copies of your comments. You should send two copies to the Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. You should send a third copy to Nicole Bealle, Waste Team Leader, Texas Commission on Environmental Quality, 5425 Polk Avenue, Suite A, Houston, TX 77023. Identify your comments at the top with this regulatory docket number: "F-02-TX-OXYVINYLS." You may submit your comments electronically to James Harris at [harris.jamesa@epa.gov](mailto:harris.jamesa@epa.gov).

You should address requests for a hearing to Steve Gilrein, Associate Director of RCRA, Multimedia Planning and Permitting Division (6PD), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

**FOR FURTHER INFORMATION CONTACT:** James A. Harris, Jr. (214) 665-8302.

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

#### I. Overview Information

- What action is the EPA proposing?
- Why is the EPA proposing to approve this delisting?
- How will OxyVinyls manage the waste if it is delisted?
- When would the proposed delisting exclusion be finalized?

E. How would this action affect states?

#### II. Background

- What is the history of the delisting program?
  - What is a delisting petition, and what does it require of a petitioner?
  - What factors must the EPA consider in deciding whether to grant a delisting petition?
- #### III. The EPA's Evaluation of the Waste Information and Data
- What wastes did OxyVinyls petition the EPA to delist?
  - Who is OxyVinyls and what process does it use to generate the petitioned waste?
  - How did OxyVinyls sample and analyze the data in this petition?
  - What were the results of OxyVinyls' analysis?
  - How did the EPA evaluate the risk of delisting this waste?
  - What did the EPA conclude about OxyVinyls' analysis?
  - What other factors did the EPA consider in its evaluation?
  - What is the EPA's evaluation of this delisting petition?

#### IV. Next Steps

- With what conditions must the petitioner comply?
- What happens if OxyVinyls violates the terms and conditions?

#### V. Public Comments

- How may I as an interested party submit comments?
- How may I review the docket or obtain copies of the proposed exclusions?

#### VI. Regulatory Impact

#### VII. Regulatory Flexibility Act

#### VIII. Paperwork Reduction Act

#### IX. Unfunded Mandates Reform Act

#### X. Executive Order 13045

#### XI. Executive Order 13084

#### XII. National Technology Transfer and Advancements Act

#### XIII. Executive Order 13132 Federalism

## I. Overview Information

### A. What Action Is the EPA Proposing?

The EPA is proposing:

- To grant OxyVinyls' delisting petition to have its Incinerator Offgas Treatment Scrubber Water generated from treating and neutralizing gasses generated in the firebox during the incineration process excluded, or delisted, from the definition of a hazardous waste; and
- To use a fate and transport model to evaluate the potential impact of the petitioned waste on human health and the environment. The EPA would use this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

### B. Why Is the EPA Proposing To Approve This Delisting?

OxyVinyls' petition requests a delisting from the K017, K019, and K020, waste listings under 40 CFR