

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 148, 261, 268, 271, and 302**

[RCRA-2003-0001; SWH-FRL-7587-6]

RIN 2050-AD80

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Designation of Five Chemicals as Appendix VIII Constituents; Addition of Five Chemicals to the Treatment Standards of F039 and the Universal Treatment Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to list nonwastewaters from the production of certain dyes, pigments, and FD&C colorants as hazardous wastes under the Resource Conservation and Recovery Act (RCRA), which directs EPA to determine whether these wastes present a hazard to human health or the environment. EPA is proposing a mass loading-based approach for these wastes. Under this approach, these wastes are hazardous if they contain any of the constituents of concern at annual mass loading levels that meet or exceed regulatory levels. If generators determine that their wastes are below regulatory levels for all constituents of concern, then their wastes are nonhazardous. If their wastes meet or exceed the regulatory levels for any of eight specific constituents of concern, the wastes must be managed as listed hazardous wastes. However, even if the wastes meet or exceed the regulatory levels, the wastes would not be hazardous if two conditions are met: The wastes do not meet or exceed annual mass loadings for toluene-2,4-diamine, and the wastes are disposed in a Subtitle D landfill cell subject to the municipal solid waste landfill design criteria or in a Subtitle C landfill cell subject to applicable design criteria. When mass loadings meet or exceed the specified annual levels, the generator may still manage as nonhazardous all wastes generated up to the loading limit.

This proposal would also add the toxic constituents o-anisidine, p-cresidine, 1,2-phenylenediamine, 1,3-phenylenediamine, and 2,4-

dimethylaniline associated with these identified wastes to the list of constituents that serves as the basis for classifying wastes as hazardous. In addition, this proposal would establish treatment standards for the wastes.

If these dyes and/or pigments production wastes are listed as hazardous waste, then they will be subject to stringent management and treatment standards under Subtitle C of RCRA.

Additionally, this action proposes to designate these wastes as hazardous substances subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The proposal would not adjust the one pound statutory reportable quantity (RQ) for K181 waste, nor would EPA develop a "reference RQ" for the new constituents identified for K181.

Other actions proposed in this notice would add o-anisidine, p-cresidine, 1,3-phenylenediamine, toluene-2,4-diamine, and 2,4-dimethylaniline to the treatment standards applicable to multisource leachate and also to add these chemicals to the Universal Treatment Standards. As a result, a single waste code would continue to be applicable to multisource landfill leachates and residues of characteristic wastes would require treatment when any of these chemicals are present above the proposed land disposal treatment standards.

**DATES:** EPA will accept public comments on this proposed rule until February 23, 2004. Comments postmarked after this date will be marked "late" and may not be considered. Any person may request a public hearing on this proposal by filing a request with Mr. Robert Dellinger, whose address appears below, by December 9, 2003. Consult the sources of information in **FOR FURTHER INFORMATION CONTACT** for the time and location of the hearing, if such hearing is requested.

**ADDRESSES:** Comments may be submitted by mail to: OSWER Docket, Environmental Protection Agency, Mailcode: 5305T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. RCRA-2003-0001. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

If you would like to file a request for a public hearing on this proposal, please submit your request to Mr. Robert Dellinger at: Office of Solid Waste, Hazardous Waste Identification Division

(5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308-7271 or via email at [dellinger.robert@epa.gov](mailto:dellinger.robert@epa.gov).

See the beginning of the

**SUPPLEMENTARY INFORMATION** section for information on how to submit your comments as well as view public comments and supporting materials.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Call Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412-9810 or TDD (703) 412-3323 or review our Web site at <http://www.epa.gov/epaoswer/hazwaste/id/dyes/index.htm>. For information on specific aspects of the rule, contact Ms. Gwen DiPietro of the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (E-mail address and telephone number: [dipietro.gwen@epa.gov](mailto:dipietro.gwen@epa.gov), (703) 308-8285). For technical information on the CERCLA aspects of this rule, contact Ms. Lynn Beasley, Office of Emergency Prevention, Preparedness, and Response, Emergency Response Center (5204G), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (E-mail address and telephone number: [beasley.lynn@epa.gov](mailto:beasley.lynn@epa.gov), (703) 603-9086). For information on the procedures for submitting CBI data, contact Ms. Regina Magbie (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (E-mail address and telephone number: [magbie.regina@epa.gov](mailto:magbie.regina@epa.gov), (703) 308-7909).

**SUPPLEMENTARY INFORMATION:****Who Potentially Will Be Affected by This Proposed Rule?**

If promulgated as proposed, this regulation could directly impact businesses that generate and manage certain organic dyes and/or pigments production wastes. In addition, manufacturers that do not make dyes or pigments, but that generate wastes containing selected constituents of concern, may be indirectly impacted. This is because we are adding new treatment standards for eight chemicals, and we are adding five new constituents to the list of hazardous constituents on appendix VIII of part 261. Thus, these actions may result in indirect impacts on these manufacturers. In addition, landfill owners/operators who previously accepted these wastes may be indirectly impacted. This action may also affect entities that need to respond