

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 271, and 302

[FRL-3807-1]

RIN 2050-AB70

Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste; CERCLA Hazardous Substance Designation-Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038)

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating regulations under the Resource Conservation and Recovery Act (RCRA) to add two wastes to the list of hazardous wastes under 40 CFR 261.31. These wastes, designated F037 and F038, are generated in the separation of oil/water/solids from petroleum refinery process wastewaters and oily cooling wastewaters.

EPA is also amending Appendix VII of 40 CFR 261 to add the organic and inorganic constituents for which these wastes are listed. In addition, EPA is adding these wastes to the list of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and setting their reportable quantities at the statutory level of one pound.

EPA is taking this action because these wastes, when improperly treated, stored, transported, disposed of, or otherwise managed, are potentially capable of posing a substantial hazard to human health or the environment. Today's rulemaking will extend RCRA and CERCLA coverage to all oil/water/solids separation sludges and floats generated from wastewaters from petroleum refineries regardless of the type of device used to separate the wastes from the process wastewaters and oily cooling wastewaters and regardless of where treatment takes place.

The effect of listing these wastes will be to subject them to the hazardous waste regulations of 40 CFR 124, 262 through 266, 270, and 271 of this Chapter; the notification requirements of section 3010 under RCRA; and the notification requirements of section 103 under CERCLA.

EFFECTIVE DATE: This final rule is effective May 2, 1991.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F-90-PTSF-FFFFF and is located in the EPA RCRA Docket, Room M2427, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. To review docket materials, the public must make an appointment by calling (202) 475-9327. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information about this rulemaking contact the RCRA/Superfund Hotline at (800) 424-9346 or (202) 382-3000. For technical information, contact John Austin, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 or by telephone at (202) 382-4789. For further information on the CERCLA portions of this rule, contact Barbara Hostage, Office of Emergency and Remedial Response (WH-548), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; (202) 382-2198.

§ 261.31 Hazardous wastes from non-specific sources.

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(b) Listing Specific Definitions: (1) For the purposes of the F037 and F038 listings, oil/water/solids is defined as oil and/or water and/or solids.

(2) (i) For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhance biological activity, and (A) the units employs a minimum of 6 hp per million gallons of treatment volume; and either (B) the hydraulic retention time of the unit is no longer than 5 days; or (C) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a hazardous waste by the Toxicity Characteristic.

(ii) Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities must maintain, in their operating or other onsite records, documents and data sufficient to prove that: (A) the unit is an aggressive biological treatment unit as defined in this subsection; and (B) the sludges sought to be exempted from the definitions of F037 and/or F038 were actually treated in the aggressive biological treatment unit.

(3) (i) For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement. (ii) For the purposes of the F038 listing, (A) sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement and (B) floats are considered to be generated at the moment they are formed in the top of the unit.

4. Section 261 is amended by amending Appendix VII to add the following waste streams in alphanumeric order as follows:

Appendix VII.-Basis for Listing Hazardous Waste

EPA hazarous waste No.	Hazarous constituents for which listed
* * * * *	* * * * *
F037	Benzene, benzo(a)pyrene, chrysene, lead, chromium.
F038	Benzene, benzo(a)pyrene chrysene, lead, chromium.
* * * * *	* * * * *

PART 271-REQUIREMENT FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

5. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

6. Section 271.1(j) is amended by adding at the end the following entry to Table 1.

Table 1.-Regulations Implementing the Hazardous and Solid Waste Amendments of 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
November 2, 1990	Petroleum refinery primary and secondary oil/water/solids separation sludge listings	(Insert Federal Register page citation)	May 2, 1991
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PART 302-DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

7. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602; 33 U.S.C. 1321 and 1361.

8. Section 302.4 is amended by adding in alphanumeric order the waste streams F037 and F038 to Table 302.4. The appropriate footnotes to Table 302.4 are republished without change.

Table 302.4.-List of Hazardous Substances and Reportable Quantities

Hazardous substance	CASRN	Regulatory synonyms	Statutory		Proposed RQ		
			RQ	Code	RCRA waste No.	category	Pounds (kg)
*	*	*	*	*	*	*	*
F037 Petroleum refinery primary oil/ water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/ solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: oil/water/ solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludges generated in stormwater units that do not receive dry weather flow, sludges			*1	4	F037	X	1 (0.454)

generated in aggressive biological treatment units as defined in § 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are exempted from this listing.

*	*	*	*	*	*	*	*	*
F038				*1	4	F038	X	1 (0.454)
	<p>Petroleum refinery secondary (emulsified) oil/water/ solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/ solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated in aggressive biological treatment units as defined in § 261.31(b)(2) (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are exempted from this listing.</p>							
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*Indicates the statutory source as defined by 4 below.
⁴Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA section 3001.
¹*Indicates that the 1-pound RQ is a CERCLA statutory RQ.