

existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

6. Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 29, 1998.

Russell F. Price,

Acting Regional Director, Western Regional Coordinating Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH-FRL-6011-9]

National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts; Notice of Data Availability: Notice of Re-Opening of Comment Period and Public Meeting

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of re-opening of comment period and public meeting.

SUMMARY: This action provides notice of re-opening of the comment period for the National Primary Drinking Water Regulations: Disinfectants and Disinfection Byproducts Notice of Data Availability published in the **Federal Register** on March 31, 1998 (63 FR 15674). USEPA solicits comment on all aspects of this Notice and the supporting record. EPA also solicits additional data and information that may be relevant to the issues discussed in the Notice. The comment period is being re-opened for an additional 30 days due to the unanticipated interest regarding the public health implications of the information presented in the Notice of Data Availability.

The Agency will hold a public meeting on May 26, 1998, to discuss the contents of the Notice. Additional details regarding the meeting are provided below.

DATES: The original comment period ended April 30, 1998. The re-opened

comment period will end on June 8, 1998. Comments should be postmarked or delivered by hand on or before June 8, 1998. Comments must be received or post-marked by midnight June 8, 1998.

ADDRESSES: Send written comments to DBP NODA Docket Clerk, Water Docket (MC-4101); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency; 401 M Street, SW; East Tower Basement, Washington, DC 20460. Comments may be submitted electronically to ow-docket@epamail.epa.gov.

As noted above, EPA is holding a public meeting on May 26, 1998, from 9:00 a.m. to 4:00 p.m. to discuss the contents of the Notice of Data Availability. The public meeting will be held at the office of Resolve at 1255 23rd Street, NW; Suite 275; Washington DC 20037. In keeping with its open door policy for meetings with the public EPA is inviting all interested members of the public to attend this meeting, with seating on a first-come, first-served basis. Interested persons who wish to submit comments should do so in writing during the 30-day public comment period in the manner described in the previous sections of this Notice.

FOR FURTHER INFORMATION CONTACT: For

Comments in electronic format should also be identified by the docket number F-98-4TMA-FFFFF. Submit electronic comments as an ASCII file and avoid the use of special characters and any form of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in Wordperfect 6.1 file format.

Commenters should not submit

be supported by the data, the level of uncertainty acceptable for making the decisions, and the documentation to be generated to support the PBMS approach in the RCRA Program. The criteria may be published in regulations, technical guidance documents, permits, work plans, or enforcement orders. Data producers will demonstrate that a proposed sampling and analytical approach meets the monitoring criteria specified in the Quality Assurance Project Plans or Sampling and Analysis Plans for the individual projects or applications.

EPA believes that the PBMS approach will provide many benefits to both regulators and the regulated community when conducting monitoring for compliance with the RCRA regulations or for general information gathering. The benefits include flexibility in method selection, expedited approval of new and emerging technologies to meet monitoring requirements, and the development and use of cost-effective methods. Where PBMS is implemented, the regulated community will be able to select an appropriate analytical method for use in complying with EPA's RCRA regulations, including any method not found in EPA-published method manuals that is both cost-effective and meets the data quality objectives of the particular project for which it is being used.

It is EPA's intent that implementation of PBMS have the overall effect of both improving data quality and encouraging the advancement of analytical technologies. Therefore, EPA has been working at breaking down barriers to using new and innovative monitoring techniques, including requirements to use specific measurement methods or technologies when complying with some of the RCRA regulations. As part of EPA's efforts to implement PBMS, and thus reform monitoring under the RCRA Program, the following actions are planned:

- Incorporating the PBMS philosophy into new regulations.
- Establishing data quality and performance requirements for RCRA-required monitoring and including the requirements in the RCRA regulations, as necessary, to assist the regulated community in method selection and help assure successful PBMS implementation.
- Developing new sampling and testing methodologies which are compatible with the PBMS approach and encouraging use of those methods.
- Working with other regulating entities to help assure that the regulated community benefits from the flexibility of the PBMS approach at all regulating

levels of the RCRA Program, when practical and feasible.

—Fostering training and guidance to educate regulators and the regulated community regarding the flexibility of PBMS, the inherent flexibility of SW-846, and application of PBMS during RCRA-related monitoring.

—Removing some of the required uses for SW-846 methods from the RCRA regulations, where the Agency believes these requirements are not necessary (in order to facilitate PBMS implementation), and thus removing regulatory barriers to the use of new and innovative technologies for RCRA-related monitoring.

The Agency is interested in comments regarding PBMS implementation within the RCRA Program. In particular, EPA is interested in receiving public comment in response to the following questions:

1. Will EPA's implementation of PBMS provide adequate flexibility in method selection and facilitate the use of new technologies?
2. What Agency actions during the process of changing to PBMS within the RCRA Program would particularly assure a smooth transition (including actions related to public notice and the training of affected parties)?
3. What are the perceived technical and programmatic barriers to effective PBMS implementation in the RCRA Program and what Agency actions might be effective in removing these barriers?
4. What might be the economic impact (additional costs and cost savings) on the regulated community and other entities (e.g., small businesses) as a result of PBMS implementation in the RCRA Program?
5. What concerns exist regarding establishment of the data quality and performance requirements for RCRA-required monitoring that are necessary to adequately assist the regulated community in method selection and assure successful PBMS implementation?
6. How might the Agency best work with other regulating entities (e.g., states) to maximize the regulated community's benefits from the flexibility provided by the PBMS approach?

7. What concerns exist regarding the impact of PBMS implementation on state programs?

8. What concerns exist regarding the potential effect of PBMS on compliance monitoring and enforcement of RCRA-related regulatory and statutory requirements? What might be the positive or negative impacts of PBMS on compliance monitoring and enforcement, including regarding facility inspections?

9. What might be the environmental benefits that may be achieved through implementation of PBMS within the RCRA program?

B. Removing the Required Uses of SW-846 Methods From the RCRA Regulations

As noted in the previous section, EPA intends to implement PBMS to the extent feasible for RCRA-related monitoring. One barrier to successful PBMS implementation is the current requirement to use specific measurement methods or technologies in complying with regulations. Some RCRA regulations require the use of specific SW-846 methods or SW-846 in general. As explained below, EPA believes that some of these regulatory restrictions on methods may no longer be necessary and run counter to EPA's intent to adopt PBMS for RCRA-related monitoring.

Several of the regulations require the use of specific SW-846 methods for defining the particular regulatory parameters. Such requirements are referred to as "method-defined parameters." For example, 40 CFR 261.24(a) requires the use of SW-846 Method 1311, the Toxicity Characteristic Leaching Procedure, to determine if a waste exhibits the toxicity characteristic. In those cases, the method itself is the regulation and a method change or substitution cannot be accomplished without undermining the substantive requirement demonstrated by the method. These required uses of SW-846 methods are necessary.

Several other RCRA regulations require the use of SW-846 methods where those methods do not define the particular regulatory parameter. Most required uses of SW-846 methods fall under this category. An example is 40 CFR 260.22(d)(1)(I), which currently requires the use of only SW-846 methods in support of a petition to amend part 261 to exclude ("delist") a waste listed with code "T" in subpart D of 40 CFR part 261. EPA believes that these types of required uses of SW-846 methods may not be necessary.

As a result of the requirements to use SW-846 methods, all final SW-846 updates must be issued by rulemaking. This often delays the availability of needed new or revised methods. In addition, requiring the use of SW-846 methods discourages or impedes the use of new and innovative methods which are both cost-effective and capable of meeting data quality objectives.

Therefore, EPA is considering publishing in the near future a proposal in the **Federal Register** to remove

required uses of SW-846 methods from the RCRA subtitle C regulations for all purposes other than the determination of method-defined parameters. The Agency would take this action as part of its efforts to implement PBMS for RCRA-related monitoring. This action would also remove the need to engage in rulemaking for every SW-846 update and would allow the updates to be issued as revisions to a guidance document, which was what SW-846 was originally intended to be. This action should promote the timely incorporation of new and innovative technologies into the RCRA Program.

The Agency is interested in receiving comments at this time regarding its plan to remove certain required uses of SW-846 methods from the RCRA regulations, as described above. In particular, EPA is interested in public comment in response to the following questions:

1. Are any of the required uses of SW-846 methods in the RCRA regulations for other than method-defined parameters necessary?
2. What might be the economic impact on the regulated community and other entities (e.g., small businesses) as a direct result of the removal of certain required uses of SW-846 methods?
3. What concerns exist regarding implementation and enforcement of the allowed use of "other appropriate methods" in lieu of a specific SW-846 method for RCRA-related monitoring?
4. What concerns exist regarding the impact on state RCRA programs of the removal of certain required uses of SW-846 methods from the Federal RCRA regulations?

C. Changing the Approach for Releasing SW-846 Updates and Changing the Method Evaluation Process

Assuming that the rule to remove the required use of most SW-846 methods is finalized, as described in the previous section, EPA is considering the use of rulemaking only for those updates to SW-846 which include methods used for method-defined parameters. Rulemakings for those method updates will remain necessary because the required uses of those methods will remain in the RCRA regulations. All other SW-846 updates will be finalized more efficiently as guidance, such as by releasing a draft SW-846 update in conjunction with publication of a **Federal Register** document with an invitation for public comment before finalizing the update. The Agency may also use other means of update release and public notification to assure that reliable, innovative methods are

provided to the regulated community in a timely and cost-effective manner.

At a minimum, future procedures for releasing new SW-846 methods will include a critical method evaluation process, in order to continue to assure the publication of reliable methods for the RCRA Program. Peer input and review, internal and external, are already in place within the RCRA monitoring program to ensure that its products (e.g., new SW-846 methods) are based upon the best current knowledge from science and judged credible by those who deal with the products. Currently, the Agency receives peer input regarding any method considered for inclusion in SW-846 from an internal technical work group composed of national expert-level chemists and sometimes external experts, as required based on the necessary expertise. To augment this process, the Agency is considering an approach whereby additional relevant experts from outside the program are invited to evaluate new methods, through peer review or another advisory process. Such reviewers or advisors might include both internal (from within EPA) or external (outside EPA) peers of the program staff. The new process is expected to include a critical evaluation of a final new method, before its release, whereby formal comments are submitted and a review record created and maintained.

The Agency is interested in comments regarding possible alternative approaches to SW-846 update releases, if, as mentioned above, the rule to remove certain required uses of SW-846 methods is finalized. Specifically:

1. Should EPA continue to solicit public comments on SW-846 methods? Should the Agency use more timely means of releasing updates other than **Federal Register** documents and under what circumstances would such procedures be preferred or necessary?
2. What future mechanism should be used to assure adequate and quality review of methods? How could EPA best make use of peer review or another advisory process in the development of guidance and methods for RCRA-related monitoring?

D. Improving SW-846 Availability to the Public

In order to further promote the availability of RCRA-related monitoring technologies, EPA is considering an SW-846 distribution approach which offers more choices to the public for obtaining SW-846 methods. For most of the history of SW-846, the public received paper copies of SW-846 through a subscription service with the

Government Printing Office (GPO), or the public purchased paper copies of any portion of the manual at any time through the National Technical Information Service (NTIS).

In response to requests for electronic versions of the SW-846 methods, EPA published in 1996 a CD-ROM version of the manual for sale from NTIS. EPA and NTIS recently completed Version 2 of the SW-846 CD-ROM, which includes the manual as revised through Update III. The SW-846 CD uses Adobe Acrobat Reader with Search, supplied with the CD, to view the SW-846 methods and chapters. As explained below, EPA is also planning to offer all of the SW-846 methods and chapters on the Internet, without the Adobe Acrobat search feature.

The Internet is another means used today by EPA to distribute documents electronically to the general public. EPA has established a policy of placing official rulemakings and related background documents in support of the rulemakings on the Internet. The public has expressed an interest in receiving SW-846 documents for free on the Internet, and in response EPA has decided to make SW-846 available on the Internet in the near future. SW-846 is very large, both in number of documents and electronic file size (several methods contain many imported diagrams and flow charts). EPA is interested in determining whether the downloading of the entire manual from the Internet will be too timely or otherwise impractical or difficult for most Internet users. If the Agency determines that having the current SW-846 on the Internet provides a valuable service to the public, then EPA will make subsequent SW-846 updates, and other relevant testing protocols and documents, available on the Internet.

EPA is requesting comment on the effectiveness of the above means to distribute SW-846. The Agency is also interested in other ideas for making SW-846 methods more available. The Agency understands that making SW-846 available on the Internet without cost may alleviate the need to purchase paper versions of the manual.

E. Improving Public Outreach and Communication Regarding SW-846 and RCRA-Related Monitoring

The Agency currently uses many different means (e.g., **Federal Register** documents, training, and symposia) to inform the public of important activities within its programs. EPA is considering an approach which both maintains and supplements these means of public communication in a manner that

improves public outreach and communication regarding SW-846 and RCRA-related monitoring. EPA believes that improving public outreach will promote public preparedness and understanding regarding the reforms discussed in sections II.A through II.C. The Agency also believes that improved outreach efforts will help dispel any misconceptions regarding SW-846 and RCRA-related monitoring. The paragraphs to follow describe some of the communication and outreach efforts which the Agency is considering maintaining or expanding. EPA is interested in public comment regarding these efforts and suggestions for other means to improve public outreach and education.

The Agency remains open to the needs and interests of environmental laboratories and the regulated community and is interested in receiving comment on those needs and interests. Specifically, EPA wants to facilitate communication and work directly with the laboratories and the regulated community regarding the

and the Performance-Based Measurement System (PBMS)" and "Method Flexibility and PBMS Initiatives." Other publications to which OSW submits articles include the bi-monthly "Environmental Testing and Analysis," which includes a new EPA-OSW Methods Update feature, and the bi-weekly "Environmental Laboratory Washington Report."

As another means to provide timely communications to interested parties, EPA presently lectures and conducts presentations in both this country and abroad regarding innovative analytical technologies, new analytical strategies and issues regarding RCRA-related monitoring. EPA also provides training courses regarding monitoring under the RCRA Program. The training course entitled "Analytical Strategy for the RCRA Program: A Performance-Based Approach" is currently taught by OSW staff to Regional, State and symposium (e.g., WTQA) audiences with the intent to clarify the monitoring flexibility allowed by SW-846 methods and the RCRA regulations and to promote and explain PBMS. Basically, the training course explains: (1) the regulatory aspects of RCRA analyses; (2) the role of SW-846, its organization and method format, and its correct application for RCRA-related monitoring; and (3) the

atomic absorption methods. The exception is Method 3810, "Headspace", an obsolete headspace screening method which has been replaced by Method 5021, "Volatile Organic Compounds in Soils and Other Solid Matrices Using Equilibrium Headspace Analysis." The Agency expects to delete Method 3810 because it is no longer needed in SW-846 because Method 5021 was recently added to SW-846 as part of Final Update III. Method 5021 can be used for

both quantitative analysis and screening applications.

The individual atomic absorption methods are being deleted as part of Draft Update IVA because their inclusion is redundant given that their procedures and target analytes have been fully integrated into revised Method 7000B (see Table 1) or new Method 7010 (see Table 2), the general methods for the techniques. The Agency is interested in comments on these method integrations and deletions. As

mentioned earlier in section II of this notice, several regulations under subtitle C of RCRA currently require that certain SW-846 methods be employed. Therefore, the methods contained in Draft Update IVA, cannot be used for compliance with required uses of SW-846 methods and remain in effect until the rule to remove the required use of SW-846 methods has been promulgated.

TABLE 2.—NEW METHODS

Method No.	Method title
3562	Supercritical Fluid Extraction of Polychlorinated Biphenyls (PCBs) and Organochlorine Pesticides.
4500	Mercury in Soil by Immunoassay.
4670	Triazine Herbicides as Atrazine in Water by Quantitative Immunoassay.
6200	

manner and should EPA determine that promulgated versions of the Update IVA methods are needed for compliance purposes, EPA will publish a notice of proposed rulemaking and a final rulemaking for the update.

V. Request for Comment on the Removal of Chapter Eleven From SW-846

The hazardous waste management regulations for permitted facilities (40 CFR 264) were promulgated in July 1982 under subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments of 1984 (HSWA). Subpart F under these regulations, *Releases From Solid Waste Management Units*, sets forth performance standards for ground-water monitoring systems at permitted hazardous waste land disposal facilities. A manual was prepared by the Office of Solid Waste to provide guidance for implementing the ground-water monitoring regulations for regulated units contained in 40 CFR 264, subpart F, and the permitting standards of 40 CFR 270. In 1986, EPA released two documents relating to RCRA ground-water monitoring, specifically the "RCRA Groundwater Monitoring Technical Enforcement Guidance" (TEG) and Chapter Eleven of SW-846.