channels pursuant to this paragraph will be subject to the automatic cancellation provisions in paragraph (b) of this section at the end of one year from the date the area first appears on a Commission waiting list, or at the end of their license term, whichever is longer.

12. 47 CFR 90.637 is amended by revising paragraph (a) as follows:

§ 90.637 Restrictions on operational fixed stations.

(a) Except for control stations, operational fixed operations will not be authorized in the 806–824 MHz, 851–869 MHz, 896–901 MHz, or 935–940 MHz bands. This does not preclude secondary fixed tone signaling and alarm operations authorized in § 90.235 or in paragraph (c) of this section.

* * * * *

13. 47 CFR 90.655 is revised as follows:

§ 90.655 Special licensing requirements for Specialized Mobile Radio systems.

All end users of conventional or trunked Special Mobile Radio systems must be licensed for any associated control points, control stations and mobile radio stations and only licensed end users are authorized to use those systems.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-7844 Filed 4-12-88; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[FHWA Docket No. MC-126]

Minimum Levels of Financial Responsibility For Motor Carriers; Environmental Restoration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the Minimum Levels of Financial Responsibility regulations to make permanent an amendment contained in an interim rule published in the **Federal Register** on September 23, 1986. This change makes clear that motor carriers are required to provide evidence of financial responsibility to satisfy claims for damage to human health and to the environment including necessary environmental restoration costs, but not for potential or speculative damages for which they would not otherwise be found liable.

EFFECTIVE DATE: This rule is effective April 13, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366–4049, or Paul L. Brennan, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except on legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA published an interim final rule (Docket No. MC-126; Amdt. No. 83-19) in the **Federal Register** on September 23, 1986 (51 FR 33854), deleting the phrase "or potential for damage" from the definition of "environmental restoration" in 49 CFR 387.5. The rulemaking was in response to a joint petition filed by the American Insurance Association (AIA) and the American Trucking Associations, Inc. (ATA). In amending this section of the Federal Motor Carrier Safety Regulations (FMCSRs), the FHWA deleted a phrase from the definition which required liability coverage for the "potential for damage" to the environment. This action was intended to reduce the uncertainty as to the extent of liability of the insured and the insurer by clarifying that the evidence of financial responsibility did not need to cover potential or speculative damage for which the motor carrier would not otherwise be found liable.

Comments

The FHWA received 13 comments to the public docket in response to the interim final rule. Eleven commenters supported the adoption of the interim final rule as a final rule. One commenter opposed the adoption and one comment was not germane to the rulemaking.

The Regular Common Carrier Conference (RCCC), in its support of the adoption as a final rule, echoed the comments of many of the supporters for adoption. The RCCC asserted that insurers view the request to insure motor carriers for environmental restoration claims as a request to provide bondless coverage.

The National-American Wholesale Grocers' Association (NAWGA) argued that obtaining liability insurance has become increasingly difficult for virtually all its members, but those policies which can be purchased are often accompanied by substantial increased premiums. The NAWGA contends that this dramatic increase in premium rates is at least partially due to the vagueness of the "potential for damage" language contained in the previous definition of "environmental restoration."

The Transportation Committee of the Rubber Manufacturers Association, Inc. (RMA), opposed the amendment. It stated its "concern that the FHWA's proposed rules will have the unintended result of permitting motor carriers to carry an insufficient amount of insurance to cover all of their liability currently imposed under federal law," and that, "* * * the insurance crisis affecting all sections of commerce should not be allowed to undermine basic elements of financial responsibility."

The RMA asserted that, "* * * the FHWA does not address the fact that carriers are liable for potential environmental restoration costs under Federal law. Specifically, no consideration is given to the fact that under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9601 *et seq.* (as amended 1986), once there has been a accidental discharge of hazardous material by a carrier, the carrier is considered to be a generator or transporter of hazardous waste. As a generator of waste, the carrier's liability includes liability for the costs of potential environmental restoration costs."

Based on the CERCLA requirements, RMA argued that, "By ignoring the liability of carriers under CERCLA, and eliminating the requirement for insurance to cover potential environmental restoration, the FHWA succeeds only in ensuring that motor carriers are not likely to have adequate insurance to cover their liability under CERCLA in case of accidential spills." Thus, "* * * whereas carriers are liable under CERCLA for potential environmental restoration, the statutory scheme provides for financial responsibility for that liability under the Motor Carrier Act of 1980. The FHWA's proposed action would remove the insurance requirement, but certainly would not remove the carriers' liability under CERCLA."

Rebuttal comments were received from the American Insurance Association (AIA) and from the National Tank Truck Carriers, Inc. (NTTC).

The AIA believes that the RMA misconstrues the scope of liability imposed by CERCLA and that "the minimum dollar amount of insurance * * * required under Section 30 and the maximum liability imposed under CERCLA are not coextensive, nor was that intended by Congress."

The AIA argued that carriers wishing to transport a limited category of hazardous materials need only carry $5 million worth of liability coverage under section 30, whereas $50 million in liability coverage is required under section 107(c)(1)(c) of CERCLA. The AIA notes that "Section 108(b)(5) of CERCLA defers to Section 30 the requirements of minimum financial responsibility for motor carriers. In addition, CERCLA neither preempts nor imposes a damage cap upon the common law theories which may be argued in pursuit of a claim for bodily injury or property damage resultant from the transportation of a hazardous waste or substance."

In a final argument, the AIA restated its original comments from their petition that injuries will occur and that they will be compensated. But, "* * * on the other hand, by helping to dispel the insurance industry's fears and concerns caused by the current definition, the insurance unavailability and pricing problems currently being experienced by motor carriers can be ameliorated."

The thrust of the rebuttal comments by the National Tank Truck Carriers, Inc., centered on the objections raised in 1981 by underwriters when the Secretary published the definition of the term "environmental restoration." They found that underwriters were correct in objecting to the definition on an economic basis, "the Secretary's 'definition' would bind a underwriter to reserve expenses for damages which might not be claimed either: (1) for several years in the future; or, (2) after the expiration of a policy period. Thus, computation of a sound actuarially-based premium was impossible." From this, the NTTC concluded that, "beginning in 1984, 'environmental restoration' coverages were withdrawn by the reinsurance community or provided at prohibitive dollar levels."

Discussion

The FHWA issued an interim final rule to amend the definition of "environmental restoration" in order to address the serious problems of affordability and availability of insurance facing motor carriers. The AIA and the ATA, in petitioning the FHWA for this change, identified the inclusion of the phrase "or potential for damage" as contributing to the insurance problems facing motor carriers. They argued that the inclusion of this phrase led insurers to conclude that they were being asked to insure for unknown and unknowable potential damages which were merely speculative. They further argued that the definition of "environmental restoration" unintentionally expanded the scope of recompensable liability.

In adopting its interim final rule, the FHWA stated its belief that, "Section 30 of the Motor Carrier Act of 1980 was not intended to create a new basis for finding liability, but rather was intended to provide assurances that motor carriers found liable for damages under other law (e.g., State law or the common law) would have the financial means to pay for those damages." 51 FR 33854 (1986).

The FHWA has carefully considered the arguments made by the RMA, as well as the rebuttal arguments made by the AIA and the NTTC, and the comments made by others. The RMA has stated in its comments that the FHWA did not address the issue of motor carrier liability for potential environmental restoration costs under Federal law, i.e., under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund), 42 U.S.C. 9601. The RMA further states that it believes that the FHWA's action in redefining "environmental restoration" will have the "unintended result of permitting motor carriers to carry an insufficient amount of insurance to cover all of their liability currently imposed under federal law."

Section 30 of the Motor Carrier Act of 1980 does not define the term "environmental restoration," although it requires motor carriers to maintain evidence of financial responsibility to cover such costs. The FHWA has found it necessary to define this term, and has attempted to do so in such a way that it would be clear that, in order to comply with the requirements of section 30, motor carriers are required to maintain a minimum amount of financial responsibility to satisfy any claims for which motor carriers would be liable under existing law. This would include section 107 of CERCLA. However, the FHWA has attempted to be equally clear that it was not creating any new source of liability for motor carriers. The FHWA believes that its amended definition of liability for the term "environmental restoration" is sufficiently broad to include any liability for environmental costs for which a motor carrier is found liable, including liability under CERCLA. We agree with the RMA that this change does not affect a carrier's liability for environmental response costs under CERCLA. However, we disagree that a result of the change will be to eliminate coverage for liabilities under CERCLA. We never intended such an effect and believe that the environmental restoration coverage required by 49 CFR Part 387, as revised, is sufficiently broad so as to cover liability for environmental response costs under CERCLA.

Section 107 of CERCLA does not use the term "environmental restoration," nor does it provide that motor carriers will be liable for "potential damages." The FHWA does not believe that anything in CERCLA limits the FHWA's flexibility to define the term "environmental restoration" under section 30 as was done in the interim final rule. It is the position of the FHWA that the financial responsibility coverage required under Section 30 would cover liability which has been determined under CERCLA, up to the amount of the coverage evidenced by the required MCS-90 endorsement form in those instances when a motor carrier satisfies its financial responsibility requirement with insurance.

The CERCLA provides that a motor carrier's liability might reach $50 million for each release of a hazardous substance. Clearly, the minimum level of financial responsibility to be required under section 30 of the Motor Carrier Act of 1980 or section 108 of CERCLA need not be at such a high level. In establishing its minimum levels of financial responsibility requirements, the FHWA recognized that it should not require a minimum dollar level which would cover all possible losses, including those resulting from catastrophic incidents. Based on the enabling legislation, the FHWA was required to set levels of financial responsibility of $750,000 for nonhazardous property, $1,000,000 for most hazardous materials, and $5,000,000 for certain "extra-hazardous" materials. The FHWA recognizes that it is possible that a motor carrier may be found liable for damages which exceed the amount of coverage required by the FHWA. However, we believe that such catastrophic losses will be extremely rare and that the cost of requiring all motor carriers to maintain financial responsibility to satisfy such rare catastrophic losses is not justified by available accident and loss data. Accordingly, the FHWA does not believe that a motor carrier's potential liability of "not to exceed $50 million" under section 107 of CERCLA is a reason for establishing higher financial responsibility limits or for including "potential for damage" in the definition of environmental restoration.

As stated above, in rebuttal comments, the National Tank Truck Carriers, Inc., argued that the deletion of the words "or potential for damage" would relieve insurers of covering expenses for damages which might not be claimed: (1) For several years in the future; or (2) after the expiration of a policy period. The FHWA does not agree with this interpretation. As stated in the **Federal Register** notice of September 23, 1986 (51 FR 33856): "We believe that any damage for which a motor carrier is found to be liable remains covered under the revised definition. The change is not intended to relieve the insurers of the obligation to pay for such damages. While the term 'environmental restoration' is not intended to create liability, it is intended to guarantee that motor carriers are covered for damage claims for which they may be liable."

The FHWA has determined that this action does not constitute a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation.

The FHWA believes it is clarifying the definition of the term "environmental restoration" so as to quiet the concern of insurers, without making a substantive change in the required financial responsibility coverage or reducing public protection. This amendment was subjected to public comment by way of the September 23, 1986, interim final rule and those comments have been duly considered. Therefore, the FHWA believes the provisions for prior notice and opportunity for comment under the Administrative Procedures Act, 5 U.S.C. 553(b) have been satisfied. For reasons stated above, the FHWA finds good cause to make this amendment final without a 30-day delay in effective date.

The FHWA is confident that the economic impact which results from this regulatory action will be generally beneficial. No reduction in public protection or in the protection afforded the environment will result from this change. This change could, however, make insurance more readily available and more affordable to many motor carriers by better enabling insurers to assess risk and establish prices which are reasonable in light of the coverage requested.

Because the classes of motor carrier operations subject to the FHWA's financial responsibility requirements under section 30 of the Motor Carrier Act of 1980 are somewhat different from the classes regulated for safety under the agency's other statutory authorities, and because the FHWA did not impose a reporting requirement of motor carriers subject to its jurisdiction, the FHWA is uncertain of the number of motor carriers subject to the regulations and upon which this rule will have an impact. Estimates by the FHWA indicate that approximately 1 million commercial motor vehicles (trucks only) are subject to the requirements of the regulations promulgated under Section 30. It is further estimated that motor carriers currently pay approximately $7.1 billion in annual insurance premiums for personal injury, property damage, and environmental restoration coverage for these vehicles.

Accordingly, the interim final rule amending 49 CFR 387.5 and 387.15 which was published in the **Federal Register** at 51 FR 33854 on September 23, 1986, is adopted as a final rule without change.

List of Subjects in 49 CFR Part 387

Highways and roads, Insurance, Motor carriers, Surety bonds.

(Catalog of Federal Domestic Assistance Program Number, 20.217 Motor Carrier Safety)

(49 U.S.C. 10927 note, 49 CFR 1.48)

Issued on April 8, 1988.

Robert E. Farris,

Deputy Administrator, Federal Highway Administration.

[FR Doc. 88-8080 Filed 4-12-88; 8:45 am]

BILLING CODE 4910-22-M

Proposed Rules

Federal Register
Vol. 53, No. 71
Wednesday, April 13, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3285-2]

Approval and Promulgation of Implementation Plans; Ohio

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

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to disapprove two site-specific revisions to the ozone portion of the Ohio State Implementation Plan (SIP). These revisions are: (1) A permanent relaxation for two fabric coating lines at B.F. Goodrich Company (B.F. Goodrich); and (2) a permanent relaxation for two fabric coating lines at the Goodyear Tire and Rubber Plant I (Goodyear Plant I). These facilities are all located in Summit County, Ohio.

USEPA today is proposing to disapprove these SIP revisions because these sources are all located in an area (Summit County) lacking a current federally approved ozone attainment demonstration. Under USEPA's SIP revision policy, sources which are located in areas lacking current federally approved ozone attainment demonstrations cannot be considered for relaxations until the SIP has been revised to demonstrate attainment and maintenance of the national ambient air quality standard (NAAQS) for ozone. In addition, the State must demonstrate that reasonable further progress (RFP) will be maintained in the area.

DATE: Comments on this revision and on the proposed USEPA action must be received by May 13, 1988.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886-6031, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments on this proposed rule should be addressed to: (Please submit an original and six copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan (312) 886-6031.

SUPPLEMENTARY INFORMATION:

USEPA approved Ohio's RACT I and RACT II rules as meeting the Clean Air Act RACT requirements on October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28097), respectively. In lieu of the requirements mentioned above, OEPA has requested two site-specific SIP revisions comprised of an extended compliance schedule for a relaxation for B.F. Goodrich, and a relaxation for the Goodyear Plant I. These are described below:

B.F. Goodrich

On August 19, 1983, OEPA submitted a proposed site-specific VOC revision to its ozone SIP for B.F. Goodrich's two fabric coating lines (K001-K002), which are located at the B.F. Goodrich facility in Summit County, Ohio. The proposed revision consists of a facility-specific redefinition of RACT, which would be a relaxation from the present SIP limits. Under this proposed revision, the combined emissions from sources K001 and K002 can neither exceed 500 pounds per day, nor 50 tons per year.

Under the existing federally approved SIP, each fabric coating line (K001-K002) at B.F. Goodrich is subject to the control requirements contained in OAC Rule 3745-21-09(G) of 2.9 pounds of VOC/gallon of coating. OAC Rule 3745-21-04(C)(6) required final compliance by April 1, 1982.

Goodyear Plant I

On September 19, 1983, OEPA submitted a proposed site-specific VOC revision to its ozone SIP for Goodyear Plant I's seven fabric coating lines (K001-K007), which are located at Goodyear Plant I's facility in Summit County, Ohio. The revision consists of a permanent relaxation from the SIP limit by combining VOC emissions from sources K001 through K007. The combined emissions can neither exceed 1550 pounds of VOC per day, nor 202 tons per year.

Under the existing federally approved SIP, each fabric coating line (K001-K007) at Goodyear Plant I is subject to the control requirements contained in OAC Rule 3745-21-09(G) of 2.9 pounds of VOC/gallon of coating. OAC Rule 3745-21-04(C)(6) required final compliance by April 1, 1982.

SIP Deficiency—Summit County

On February 24, 1984, the USEPA notified the Governor of Ohio, pursuant to Section 110(a)(2)(H) of the Clean Air Act, that the Ohio SIP is inadequate to achieve the NAAQS for ozone in Summit County. The basis for the finding of inadequacy is USEPA's conclusion that, even though this area is covered by a fully approved Part D Plan which was to assure attainment of the ozone NAAQS by 1983, Summit County is still experiencing ozone NAAQS violations. In the SIP inadequacy letter, USEPA called upon the State to cure the inadequacies by revising the SIP within 1 year from the date of the letter. To date, the State of Ohio does not have a re-approved SIP for Summit County.

SIP Deficiency—Goodyear and B.F. Goodrich

Under USEPA's July 29, 1983, SIP revision policy memorandum entitled "Source Specific SIP Revisions" from Sheldon Meyers, Director of the Office of Air Quality Planning and Standards, sources which are located in areas lacking current federally approved ozone attainment demonstrations cannot be considered for relaxations, until the SIP has been revised to demonstrate attainment and maintenance of the national ambient air quality standard (NAAQS) for ozone. In addition, the State must demonstrate that RFP will be maintained in the area.

On September 1, 1983, USEPA returned to OEPA a number of draft and final SIP revision requests for sources which are located in urban nontainment areas lacking current attainment demonstrations. Because these were requests to change applicable SIP requirements in areas lacking current attainment demonstrations, the requests were considered incomplete.

In a letter dated February 28, 1985, USEPA requested that OEPA notify the

Region V Office of its preferred disposition of each submittal within 2 weeks. If the OEPA elected to withdraw the revisions, USEPA stated it would take no further action on them. If, on the other hand, the State did not withdraw them, USEPA stated that it would have to propose to disapprove them because they were requests to change applicable SIP requirements in areas lacking current attainment demonstrations. On April 4, 1985, the State notified USEPA that is still considered each of these SIP revision requests pending, and requested USEPA to approve them. Therefore, USEPA is proposing to disapprove these SIP revisions relaxation requests for the B.F. Goodrich, and Goodyear Plant I facilities in Summit County, Ohio.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before May 13, 1988 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V Office, address provided at the front of this notice.

Under 5 U.S.C. 605(b), I certify that this SIP disapproval will not have a significant economic impact on a substantial number of small entities, because the effect of this disapproval is to leave in effect existing emissions limitations. Therefore, there is no change or any impact on any source or community.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401–7642.

Dated: February 11, 1987.

Valdas V. Adamkus,

Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register on April 8, 1988.

[FR Doc. 88–8054 Filed 4–12–88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[FRL-3364-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and request for comment.

SUMMARY: On November 12, 1980, the Environmental Protection Agency proposed to amend the listings for two of the hazardous wastes generated by the petroleum refining industry; these listings were promulgated in final form in that same issue of the **Federal Register**. Specifically, the Agency proposed to amend the listing of API separator sludge (K051) to read "Primary oil/solids/water separation sludge from the petroleum refining industry" and the listing of dissolved air flotation float (K048) to read "Secondary (emulsified) oil/solids/water separator sludge from the petroleum refining industry".

On February 11, 1985, the Agency noticed additional analytical information on wastes covered by the amended listings and published a clarification that the intended scope of the proposed listings was limited to primary, rather than secondary treatment. EPA has subsequently obtained additional waste composition data on these sludges; in addition, the American Petroleum Institute (API) has provided information relevant to further clarifying the scope of the proposed listings. Thus, EPA is today noticing the additional data and approaches to clarifying the proposed listings, and requesting comment on that data. The API data would distinguish primary separation and secondary separation (primary treatment) from secondary treatment based upon phenolic removal efficiencies, while the other approach is based on the physical and chemical properties of the sludges themselves. EPA is requesting comment on these alternative approaches for clarifying the scope of the proposed listings. Finally, EPA is soliciting comment on whether to include organic constituents, which the new data indicate are present in the primary treatment sludges, as additional listing criteria.

DATES: Comments on this notice of data availability must be received on or before May 31, 1988.

ADDRESSES: The public must send an original and two copies of their comments to: EPA RCRA Docket (S–212) (WH–562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Place the Docket Number F–88–PTSA–5F on your comments. The Office of Solid Waste (OSW) docket is located in the sub-basement at the above address, and is open from 9:00 to 4:00, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 475–9327. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost; additional copies cost $0.20 per page. Copies of the non-CBI version of sampling data and other support information are available for *viewing and copying only* in the OSW docket.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 or at (202) 382–3000. For technical information, contact Ben Smith, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 or by phone at (202) 382–4791.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published (in interim final form) a list of hazardous wastes (Subpart D of 40 CFR 261.32), which included five wastes generated by the petroleum refining industry (see 45 FR 33123). Among the listed petroleum refining wastes were "Dissolved Air Flotation (DAF) Float from the Petroleum Refining Industry" (K048) and "API Separator Sludge from the Petroleum Refining Industry" (K051). These wastes are generated as a result of the primary treatment of oily wastewaters. These particular listings were promulgated in final form on November 12, 1980 (45 FR 74884).

Subsequent to the May 1980 rulemaking, a rulemaking petition was submitted by Envirex, Inc. which argued that any petroleum refining sludge resulting from primary or secondary oil/solids/water separation (both of which are primary treatment) should be included in the listing because all such sludges would be similar in composition regardless of the equipment or method used in the separation step. After evaluating the rulemaking petition, the Agency proposed (also on November 12, 1980 at 45 FR 74893) that the K048 and K051 listings be amended to read, respectively: "Secondary (emulsified) oil/solids/water separator sludge in the petroleum refining industry"; and "Primary oil/solids/water separation sludge in the petroleum refining industry".

Commenters on the 1980 proposal expressed two major areas of concern. First, they believed the proposed amendment to the K048 (secondary separation) listing to be sufficiently vague that the proposal could be read to apply to biological treatment systems (which are considered secondary treatment), not just to sedimentation and flocculation systems. Secondly, commenters believed that the Agency had not demonstrated that the various categories of units potentially subject to the expanded listing possessed lead and