Center, Radon Proficiency Program User Fees (IRAA), P.O. Box 952491, St. Louis, Missouri, 63195–2491. The fee payment shall include the original copy of the EPA payment invoice. Collection of fees will begin in the calendar year beginning January 1, 1995. Specific guidance on how and when fees must be paid can be found in How to Pay Your Radon Proficiency Programs User Fees, U.S. EPA/Office of Radiation and Indoor Air. Copies of this document can be obtained by contacting the RIS at (334) 272–2797 or by FAX at (334) 260–9051.

(e) *Adjustment of Fees.* (1) EPA shall collect 100 percent of its operating costs associated with its radon proficiency programs by calendar year 1998. As necessary, EPA shall adjust the fees established by this subpart each year over the next four years to collect the following percentages of program costs:

Year 1	Year 2	Year 3	Year 4	Year 5
30%	47.5%	65%	82.5%	100%

Actual fees for each fiscal year will be calculated based on program costs and participation rates. New fee schedules will be published in the **Federal Register** as a technical amendment final rule to this part to become effective 30 days or more after publication.

(2) EPA will use a three-step process to adjust the fees annually. First, EPA will estimate the costs of providing each of the proficiency programs for the upcoming year. EPA will account for future additional fixed costs (e.g., updating examinations) and increases/decreases in variable costs due to inflation and other factors. In order to calculate increases/decreases in costs due to inflation, EPA may use one of the three following indices: the Federal General Schedule (GS) pay scale, the Consumer Price Index (CPI), and/or a component of the CPI, such as services. Second, EPA will estimate the number of participants for each program. At a minimum, these participation rates will be based on past and current program participation rates. Third, EPA shall calculate the per capita costs that individuals and organizations should pay to enable it to recover its fixed and variable costs each year for each program. EPA shall also consider potential industry impacts as it adjusts to levels to ultimately achieve full cost recovery over the period of five years.

[FR Doc. 95–20008 Filed 8–11–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 261

[FRL–5276–3]

Hazardous Waste Management System: Carbamate Production, Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interpretative rule.

SUMMARY: The Environmental Protection Agency is today announcing a change in the Agency's interpretation of its rule that lists wastes from carbamate production as hazardous wastes under the Resource Conservation and Recovery Act (RCRA). Under this new interpretation, wastes from the production of non-carbamate intermediates that are used exclusively in the production of carbamates but are not produced at the ultimate site of manufacture of the carbamates will not be subject to the rule. These wastes are among those given the RCRA waste code designations K–156 and K–157 in the rule.

EFFECTIVE DATE: August 8, 1995.

ADDRESSES: The official record for this interpretative rule is identified as Docket number F–95–CPLF–FFFFF and is located in the RCRA Docket, Room M2616 (5305), 401 M Street, SW, Washington, DC, 20460. The public may make an appointment in order to review docket materials by calling (202) 260–9327. The docket is open for inspection from 9 AM to 4 PM, Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund Hotline, toll free, at (800) 424–9346, or at (703) 920–9810. For technical information concerning this notice, contact Mr. John Austin, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, (202) 260–4789.

SUPPLEMENTARY INFORMATION:

I. Background

On February 9, 1995 (60 FR 7824), EPA promulgated regulations under RCRA that listed as hazardous wastes six wastes generated during the production of carbamates and 58 commercial chemical products that become hazardous wastes when they are discarded or intended to be discarded. This rule becomes effective on August 9, 1995.

Among the six wastes subject to the rule are those designated by EPA as K–156 and K–157. The K–156 listing consists of ''[o]rganic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes'' (60 FR 7849, to be codified at 40 CFR 261.32). This waste was listed because it contains one or more of the following hazardous constituents of concern: formaldehyde, methylene chloride, triethylamine, carbofuran, benomyl, carbendazim, carbaryl, or carbosulfan (60 FR 7853, to be codified in Appendix VII to 40 CFR Part 261).

The K–157 listing consists of ''[w]astewaters (including scrubber waters, condenser waters, washwaters and separation waters) from the production of carbamates and carbamoyl oximes'' (60 FR 7849, to be codified at 40 CFR 261.32). This waste was listed because it contained one or more of the following hazardous constituents of concern—carbon tetrachloride, formaldehyde, methyl chloride, methylene chloride, pyridine, or triethylamine (60 FR 7853, to be codified in Appendix VII to 40 CFR Part 261).

Public comments on the proposed rule requested that EPA clarify the definition of carbamate ''production,'' principally to ensure that production would not include operations that isolate non-carbamate product for which there is otherwise a commercial market. In response to these comments, EPA set out its interpretation of the definition of production for purposes of the carbamate listing rule in the preamble to the final rule at 60 FR 7830.

After considering the comments and examining the industry, EPA concluded that carbamate production for purposes of the rule begins with the synthesis of non-carbamate chemicals that have no other use except for the production of a carbamate product. These non-carbamate chemicals are known as chemical ''intermediates'' in the industry. The consequence of this interpretation is that wastes generated from the manufacture of these

intermediates would be considered to be within the scope of the listing.

In its preamble interpretation, the Agency stated that processes that produce non-carbamate products which may be used in carbamate production, but have other uses, are not included in the definition of carbamate production. These latter processes would include production of phosgene and methyl isocyanate.

However, EPA also interpreted carbamate production to include manufacture of the non-carbamate intermediates used exclusively in carbamate production regardless of whether the manufacture occurred at the ultimate site of manufacture of the carbamate chemical. EPA specifically cited, as examples of these off-site intermediates—bendiocarb phenol, A–2213 (an intermediate in oxamyl production), and carbofuran phenol. 60 FR 7830.

A number of petitions for review challenging the carbamate listing have been filed in the United States Court of Appeals for the District of Columbia Circuit. These cases have been consolidated under the name, *Dithiocarbamate Task Force* v. *EPA*, Docket No. 95–1249.

As a result of settlement discussions EPA has reexamined the rulemaking record and determined that it lacks support for the interpretation of ''production'' as including manufacture of non-carbamate intermediates not produced at the ultimate site of carbamate production. In particular, information submitted by the producers of these non-carbamate intermediates shows that their wastes generated from manufacture of these intermediates do not contain any of the hazardous constituents of concern for which the K–156 and K–157 wastes have been listed. EPA has no other information to indicate that these waste streams contain any of these constituents.

Thus, EPA believes it has interpreted the definition of carbamate production in an overly broad manner to include wastes that should not be subject to the rule. Accordingly, EPA hereby changes its interpretation of carbamate ''production'' not to include non-carbamate intermediates that are produced at a site other than the ultimate site of carbamate production. Wastes from the production of such intermediates will not be covered by the listing.

II. Justification for Making the Interpretation Immediately Effective

EPA considers this change to its regulatory interpretation to be an interpretative rule exempt from the requirement for public notice and opportunity for comment procedures under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), because it informs the public of the Agency's views of how the term, ''production,'' in its own regulations will apply to carbamate waste listings. Also, EPA does not consider that this interpretation is subject to the requirements of the APA (5 U.S.C. 553(d)) or RCRA (section 3010(b); 42 U.S.C. 6930(d)) to delay the effective date of regulations after they are promulgated.

To the extent it may be argued that EPA is required to provide public notice and opportunity to comment or delay in the effective date, the Agency finds that good cause exists not to apply these procedures. If either notice and comment or delayed effective date procedures were applied, the off-site non-carbamate waste streams would become subject to the requirements of RCRA Subtitle as of August 9. The Agency has determined that this would be unfair, since EPA's rulemaking record indicates that the risks from these wastes are not significant and that the record does not support regulating them. Given the likelihood that the risks appear to be insignificant, at least to the extent they are examined in the rulemaking record, the wastes should not be subjected to the extensive requirements of the RCRA waste management regulations.

Dated: August 8, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–20002 Filed 8–11–95; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–5276–5]

Alabama; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Alabama has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Alabama's revisions consist of the ''Burning of Hazardous Waste in Boilers and Industrial Furnaces'' (BIF) provision and provisions contained in RCRA Cluster III. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Alabama's applications and has made a decision, subject to public review and comment, that Alabama's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Alabama's hazardous waste program revisions. Alabama's applications for program revisions are available for public review and comment.

DATES: Final authorization for Alabama's program revisions shall be effective October 13, 1995 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Alabama's program revision applications must be received by the close of business, September 13, 1995.

ADDRESSES: Copies of Alabama's program revision applications are available during 8:00 am to 4:30 pm at the following addresses for inspection and copying: Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109–2608. (334) 271–7700; U.S. EPA, Region 4, Library, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, U.S. EPA Region 4, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (''RCRA'' or ''the Act''), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter ''HSWA'') allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive ''interim authorization'' for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most