

to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by December 3, 1997.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

Ventura County Air Pollution Control District, 702 County Square Drive, Ventura, California 93003.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1226.

SUPPLEMENTARY INFORMATION: This document concerns SDCAPCD's Rule 67.4, Metal Container, Metal Closure, and Metal Coil Coating Operations, and VCAPCD's Rule 74.24, Marine Vessel Coating Operations. These rules were submitted by the California Air Resources Board (CARB) to EPA on October 18, 1996 and May 24, 1994, respectively. For further information,

please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 26, 1997.

Felicia Marcus,

Regional Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL-5916-4]

Project XL Site-specific Rulemaking for Molex, Inc., 700 Kingbird Road Facility, Lincoln, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to implement a project under the Project XL program for the Molex, Inc. (Molex) facility located at 700 Kingbird Road, Lincoln, Nebraska. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by this document. Also, EPA is making available for informational purposes a draft variance by the Nebraska Department of Environmental Quality necessary for implementation of the project. In addition, EPA is today proposing a site-specific rule, applicable only to the Molex facility, to facilitate implementation of the project. In the final rules section of this **Federal Register**, EPA is also adopting this rule as a direct final rule because EPA views this as a noncontroversial action and anticipates no adverse comments. If no significant adverse comments are received, the direct final rule will become effective in 60 days and no further action will be taken on this proposed rule. If significant adverse comments are received during the comment period, the direct final rule will not go into effect and EPA will proceed pursuant to this proposal, responding to the comments on the direct final rule and this proposal when final action is taken on the rule. EPA does not intend to initiate a further round of notice and comment, if comments are received on this proposal or the direct final rule. Therefore, any parties interested in commenting on this rule, or on the FPA, should do so at this time.

The site-specific rule is intended to provide regulatory changes under the Resource Conservation and Recovery Act (RCRA) to implement Molex's XL project, which will result in superior environmental performance and, at the same time, provide Molex with greater operational flexibility. The flexibility provided by Project XL will allow the facility to segregate waste streams which had previously been co-mingled into a single waste stream. By changing the process lines to generate separate waste streams (nickel, copper, tin/lead), the facility can optimize the precipitation of each metal more effectively before the effluent is sent to the POTW. The environmental benefit from the project will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfilled. The site-specific rule, applicable only to the Molex facility, would change certain RCRA requirements so the implementing agency, the Nebraska Department of Environmental Quality, may issue a temporary variance from classifying as solid waste nickel, copper, and tin/lead non-precious metals containing sludges generated by Molex.

DATES: Comments. All public comments must be received on or before December 3, 1997 except that if a public hearing is held, the public comment period will remain open until December 18, 1997.

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning this direct final rule to implement Molex's XL project. If anyone contacts the EPA requesting to speak at a public hearing by November 24, 1997, a public hearing will be held on December 15, 1997. EPA will decide by November 28, 1997 whether a public hearing will be held. Additional information is provided in the section entitled **ADDRESSES**.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Mr. David Doyle at the EPA by November 24, 1997. Additional information is provided in the section entitled **ADDRESSES**.

ADDRESSES: Comments. Written comments should be submitted in duplicate to: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics

Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7667.

Docket. A docket containing supporting information used in developing this rulemaking, including the draft FPA and draft variance, is available for public inspection and copying at U.S. EPA, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, during normal business hours, and at EPA's RCRA docket (Docket name "XL-Molex"); 401 M Street, SW, Washington, DC 20460. For access to the Water docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. (Eastern time) for an appointment. A reasonable fee may be charged for copying. A docket is also available for public inspection at the Nebraska Department of Environmental Quality, Lincoln, Nebraska.

Public Hearing. If a public hearing is held, it will be held at 7 pm on +40 days next business day, 1997 at the following location: Nebraska Department of Environmental Quality, Lincoln, Nebraska. Persons interested in attending the hearing should notify Mr. David Doyle, (913) 551-7667, to verify that a hearing will be held. Same change as in final rule.

FOR FURTHER INFORMATION CONTACT: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7667.

SUPPLEMENTARY INFORMATION: For further information on the rule proposed today, including the text of the proposed rule, see the direct final rule which appears in the Final Rules section of today's **Federal Register**.

Dated: October 27, 1997.

Carol M. Browner,
Administrator.

Before The Nebraska Department of Environmental Quality

In the Matter of Molex, Inc.; Applicant.
Case No. 1898.

Order for a Temporary Variance

This matter comes before the Director of the Department of Environmental Quality (DEQ) on the application of Molex, Inc. (Molex), for an Order granting a temporary variance pursuant to Title 128, Rules and Regulations Governing Hazardous Waste Management in Nebraska, chapter 5, section 001.04. The variance requests a temporary exemption from the classifying as solid waste of segregated sludges generated during wastewater treatment at the Molex Upland facility located at 700 Kingbird Road, Lincoln, Nebraska. The purpose of the variance request is to allow Molex sufficient time to collect information to demonstrate that segregation and separate treatment of various wastestreams at its facility results in

a significantly reduced metals content in its wastewater effluent discharge to the City of Lincoln's publicly owned treatment works (POTW) and produces a readily recyclable sludge with market value. The variance is necessary to remove a regulatory barrier which would otherwise classify the sludges generated from the segregation and treatment of wastewater from Molex's electroplating operation as a solid waste and a listed hazardous waste. The sludge generated from wastewater treatment at the Molex facility, prior to the implementation of process changes to segregate and separately treat wastestreams, was considered a recyclable material utilized for precious metal recovery subject to reduced management requirements under title 128, chapter 7, section 010. The Director has investigated the claims made by the applicant and the interests of others likely to be affected and the general public.

The Director finds that the application of the regulation which would classify the sludge generated from the treatment of electroplating wastestreams at the Molex facility as a listed hazardous waste as applied to the applicant discourages innovative treatment by greatly increasing the cost and ability of the company to continue the recycling of the sludges. However, the Director possesses insufficient information to determine whether the sludges generated from the segregation and separate treatment of wastestreams should not be classified as solid waste because they have been reclaimed and are commodity-like, but must be reclaimed further.

The Director finds that the granting of a temporary variance to allow Molex to obtain this information removes a significant barrier to the achievement of the environmental performance goal of a cleaner effluent discharge from the facility and reduced mass metals loading on the POTW and continued recycling of sludges. Among the factors to be considered in any final variance determination are:

The degree of processing the material has undergone and the degree of further processing that is required;

- The value of the material after it has been reclaimed;
- The degree to which the reclaimed material is like an analogous raw material;
- The extent to which an end market for the reclaimed material is guaranteed; and
- The extent to which the reclaimed material is handled to minimize the loss.

The Director further finds that the granting of this temporary variance fosters the incentive for innovation demonstrated by Molex and provides an opportunity to test monitoring requirements that may result in modified performance standards for the material at issue.

It Is Therefore Ordered that the temporary variance request for up to two years from classification as solid waste of the sludges generated from the segregation and treatment of wastestreams at the Molex facility is granted subject to the following conditions and requirements:

1. The temporary variance is limited to three sludges which are being recycled to reclaim nickel, copper, and tin/lead. These sludges shall not be mixed with each other and any other materials at the Molex facility.

2. Molex shall maintain records to document the volume of these materials generated, stored, and recycled during the two years this temporary variance is in effect.

3. Within 30 days of the date of issuance of this variance, Molex shall conduct an initial waste analysis on all three sludges (nickel, copper, and tin/lead) for TCLP and total metals (to be reported in milligrams per kilogram dry weight, in accordance with the procedures found in 40 CFR part 261, Appendices I, II, and III, and for pH and moisture content and report this analysis to the DEQ within 30 days of receipt of analytical results. This data shall be included in the initial baseline report required in paragraph 10.

4. Molex shall conduct waste analysis for a representative composite sample from each shipment of sludge prior to shipment for reclamation for the following parameters: Total copper, nickel, lead, tin, zinc; pH; and moisture content; to be reported in milligrams per kilogram dry weight.

5. The DEQ reserves the right to require additional waste analysis based on the results of any waste analysis performed on the sludges, including any testing conducted by the DEQ.

6. Molex shall maintain records of test results, waste analyses and other determinations made in accordance with this temporary variance.

7. Within sixty days of the date of issuance of this variance, Molex shall notify the DEQ of the name, address, and facility contact for each facility to which material is sent for reclamation and provide a description of the processing to be done on the sludge, including specifications on material which the facility will accept for processing.

8. Molex shall maintain non-hazardous waste manifests identifying the specific shipment by an individual number, the date on which the material was shipped and confirmation from the reclamation facility of the date on which the shipment is received.

9. The sludges containing nickel and copper destined for reclamation pursuant to this temporary variance shall not be accumulated at the facility for longer than 180 days. The sludge containing tin/lead destined for reclamation pursuant to this temporary variance shall be stored in closed containers which are clearly marked to identify the contents and the date on which accumulation in the container began. Containers shall be stored in a secure location, inspected on a weekly basis, and otherwise managed to prevent any exposure to the environment. Materials subject to this variance shall be transported in accordance with U.S. Department of Transportation requirements for hazardous materials, including use of a non-hazardous waste manifest.

10. Within 60 days of the date of issuance of this variance, Molex shall provide an initial report in accordance with Attachment 1 describing baseline data for: (a) the combined treatment system for the most recent 12 month period prior to implementation of the segregated treatment system, including a description of the wastewater treatment process, estimated daily average metals mass loading and pH

measurement in the effluent discharge, capital and operating costs of the combined treatment system, volume and fate of the sludge, TCLP and total metals analysis of the sludge if previously done, reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge, and (b) the segregated treatment system including descriptions of each wastewater treatment process, capital costs of the segregated treatment system, the proposed volume and fate of the sludge, and an estimate of the cost to transport and treat or dispose of the sludge as hazardous waste based on anticipated generation rate and transportation and treatment or disposal costs.

11. Quarterly reports in accordance with Attachment 2 shall be due on the last day of the month every three months after the initial report describing current data for the segregated treatment system including the actual daily average mass metals loading in the facility discharge and associated metal effluent concentrations including pH measurements; operating costs of the segregated treatment system; storage, recycling volume, and fate of the sludge; waste analysis of the sludge; and reclamation value of the sludge and the associated costs to Molex for the storage, transportation, and reclamation of the sludge.

12. Within 90 days of the end of this two year temporary variance, Molex shall provide a final report that: (a) provides an overview of the demonstration project; (b) incorporates the initial report and quarterly reports as appendices; (c) describes the technical aspects of the project; (d) describes and quantifies the environmental aspects of the project; (e) describes and quantifies the economic aspects of the project, including a comparison of the mass treatment system to the segregated treatment system and calculation of costs saved by this variance.

It Is Further Ordered that Molex shall at all times remain in compliance with its Pretreatment Permit #NE0131776 and comply with all other applicable requirements in Title 128 and Nebraska law.

It Is Further Ordered that this temporary variance shall expire two years from the date signed below. This temporary variance shall be subject to cancellation at any time for violation of any of the conditions and requirements identified in this temporary variance or refusal to conduct any additional waste analysis required pursuant to paragraph 5 above.

By The Director.

Randolph Wood,

Nebraska Department of Environmental Quality.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period for Additional Information Relative to the Status of the Lesser Prairie-Chicken

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period

SUMMARY: On July 8, 1997, the U.S. Fish and Wildlife Service (Service) published a positive 90-day finding on a petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened under the Endangered Species Act of 1973 (Act), as amended, and requested that any additional information be submitted by September 8, 1997. The Service has been asked by the Lesser Prairie-chicken Interstate Working Group to reopen the comment period to allow for submission of a conservation strategy for the lesser prairie-chicken.

Thus, the Service announces that it will reopen the comment period to allow additional time for submission of information regarding the status, population trend, distribution, and habitat use of the lesser prairie-chicken.

DATES: The comment period, which originally closed on September 8, 1997, is reopened and now closes on December 3, 1997. To be considered in the 12-month finding for this petition, additional information on the lesser prairie-chicken should be submitted to the Service by December 3, 1997.

ADDRESSES: Information, comments, or questions should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 222 S. Houston, Suite A, Tulsa, Oklahoma 74127-8909. The petition finding and supporting data are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jerry Brabander, Field Supervisor, at the above address, or telephone (918) 581-7458 ext. 224.

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Act (16 U.S.C. 1531 *et seq.*), requires that the Service make an initial finding within 90 days, if practicable, on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. A

petition to list the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as threatened was received by the Service on October 6, 1995, from the Biodiversity Legal Foundation, Boulder, Colorado, and Marie E. Morrissey. On July 8, 1997 (62 FR 36482), the Service published a 90-day finding on that petition. The finding stated that the petition contained substantial information to indicate that listing under the Act may be warranted, and announced that the Service would conduct a thorough status review of the species in conjunction with the affected states. In addition, the Service requested that any additional information on lesser prairie-chicken population abundance, population trends, distribution, and use of habitats be submitted to the Service by September 8, 1997.

On September 3, 1997, the Service received a request from the Lesser Prairie-chicken Interstate Working Group (Working Group) to extend or reopen the comment period to allow this group additional time to submit a Conservation Plan for the lesser prairie-chicken. The Working Group stated in their letter that they are currently editing the first draft of a conservation strategy that contains goals, objectives, and action items that will significantly reduce the threats to the species.

This notice reopens the comment period for submission of information on the status of the species throughout its range until December 3, 1997. The Service invites the public to submit additional information on the population abundance, population trends, distribution, use of habitats including native prairie and cropland, and factors documented to influence population abundance, distribution, and habitat use of lesser prairie-chickens.

Authors

This document was prepared by Noreen E. Walsh, at the Service's Oklahoma Ecological Services Field Office (see **ADDRESSES** above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.