United States
Environmental Protection
Agency

Office of Solid Waste
and Emergency Response
(OS-305)

EPA530-F-92-008
May 1992

Office of Solid Waste

EPA

Environmental Fact Sheet

EPA PROPOSES REVISED HAZARDOUS WASTE IDENTIFICATION RULE

The Environmental Protection Agency (EPA) has issued a Notice of Proposed Rulemaking outlining a number of options that would amend the definition of hazardous waste by either establishing concentration-based exemption levels for some hazardous constituents found in certain wastes, or by expanding the number of hazardous constituents in the Toxicity Characteristics (TC) rule. EPA is requesting comments on the proposal.

Background

Subtitle C of The Resource Conservation and Recovery Act (RCRA) outlines two procedures to be used in defining hazardous waste: characteristics and listing. Waste that exhibits any of four specific characteristics is defined as hazardous under hazardous waste management regulations, and remains so until it no longer exhibits that characteristic. Current regulations also stipulate that listed wastes, mixtures of solid and listed wastes, and materials derived from the treatment, storage, or disposal of listed wastes remain "hazardous" unless delisted by petition. Media or materials (e.g., soil, groundwater, rags) that are contaminated with listed waste must also be managed as hazardous, unless they are delisted, or all the listed waste is removed. Although some of these wastes and contaminated media or materials may not pose significant risk to human health or the environment, there is no concentration level below which these materials are no longer considered subject to hazardous waste regulations.

The proposed rule outlines approaches EPA is considering to define wastes which do not merit regulation under Subtitle C and which can and will be safely managed under other regulatory regimes.

Action

As the first step in the Agency's RCRA Reform Initiative, EPA is considering several approaches to define the conditions under which certain hazardous wastes no longer present a substantial threat to human health and the environment and therefore do not merit Subtitle C regulation under RCRA. This action is intended to enhance environmental protection by removing lower risk wastes from RCRA Subtitle C requirements and targetting the program on the most significant risks.

The first approach would be to set regulatory threshold levels to exempt wastes under the current system. The levels would be tested using currently used methods. This approach is referred to in the proposal as the Concentration-Based Exemption Criteria, or CBEC. Three options for setting these levels are being considered under CBEC: health-based exemption levels; technology-based concentration levels; or a combination of the two. Dilution would not be allowed as a means of reaching the exemption level. CBEC has the potential of exempting millions of tons of low-risk wastes.

The second approach would be to expand the characteristics for a number of additional substances, this approach is referred to in the proposal as the Expanded CHaracteristics Option, or ECHO. The expansion of the characteristics would serve as the sole means for identifying hazardous wastes. This approach would simplify the waste identification system by making the "entrance" for a waste into the system the same concentration as the "exit." Under ECHO, whether or not a particular waste is added to or dropped from regulatory controls would depend on the levels triggering inclusion into the system. ECHO has the potential to bring some new solid waste streams into Subtitle C control, while deregulating substantial volumes of low-risk wastes currently being managed as hazardous waste.

EPA is also considering the use of management standards in conjunction with both the CBEC and ECHO approaches as a way of providing a continuum of management based on risk. Under these contingent management options, wastes within a certain concentration range would be exempt from Subtitle C regulation if certain waste management practices are followed.

Public Comment

EPA is requesting public comment on this proposed rule. Comments should be submitted to EPA within 60 days of the publication of the *Federal Register* notice announcing this action. For instructions on submitting written comments, please see the *Federal Register* notice. It is available at no charge by calling the RCRA Hotline or by going to EPA's RCRA Information Center in Washington, D.C.

Contact

For further information, or to order a copy of the *Federal Register* notice, please contact the RCRA Hotline Monday through Friday, 8:30 a.m. to 7:30 p.m. EST. The national toll-free number is (800) 424-9346 or TDD (800) 553-7672 (hearing impaired); or in Washington, D.C., the number is (703) 920-9810 or TDD (703) 486-3323.