

Key Words: State/EPA Coordination

Regulations:

Subject: State Participation in the Development of EPA Programs  
Guidance and Regulation

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Source Doc: See Miscellaneous [9560.06(84)]

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Summary:

EPA and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) developed a cooperative program to ensure greater State participation in the development of many EPA programs guidance and regulations. As an example, EPA is asking State people to accept responsibility for assisting in the development of guidance and regulations for location of hazardous waste facilities.

CERCLA

- Have the proposed reportable quantities for CERCLA hazardous substances been finalized?

No, the reportable quantities proposed in the May 25, 1983, Federal Register have not been finalized. A Federal Register announcement is anticipated in June 1984.

- If I spill a certain material, is it reportable under CERCLA?

The release of a material defined as a CERCLA hazardous substance according to Section 101(14) of the Act must be reported to the National Response Center when the release into the environment is equal to or greater than its reportable quantity (RQ). Until final promulgation of the RQ's proposed in the May 25, 1983, Federal Register Notice, the statutory RQ's prevail for notification requirements under CERCLA Section 103(a).

- Who pays the hazardous waste tax that took effect October 1, 1983?

The tax, \$2.13 per dry weight ton of hazardous waste, will be paid to the IRS by both interim status and permitted disposal facilities. The IRS promulgated final regulations on this tax in the November 25, 1983, Federal Register. For further information, contact Ada Russo, Office of Chief Counsel, IRS (202) 566-4336.

RCRA

- Specific questions on permitting facilities.

These questions and answers are both general and site specific. In general, a caller is provided assistance in determining if a waste and its treatment, storage, or disposal are subject to the Part 270 permit requirements.

- Is my waste a hazardous waste?

The Hotline staff assists each caller by asking the caller several questions about the process, amount of waste produced, etc. in order to establish which criteria apply. While information supplied to each caller varies, assistance is provided within the following general framework. The generator must follow 262.11 (Hazardous waste determination). If his waste is not excluded by 261.4 (Exclusion), then he must check to see if his waste is listed under 261.31 (Hazardous wastes from non-specific sources), 261.31 (Hazardous wastes from specific sources), 261.33 (Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof), or mixed with a waste that is listed in Subpart D and possibly regulated through the criteria in 261.3 (Definition of hazardous waste). If the waste is not listed, then the generator must test or apply his knowledge to determine if the waste meets the Subpart C characteristics in 261.21-261.24 (ignitability, corrosivity, reactivity, or EP toxicity).

- What regulations currently apply if I recycle my hazardous waste?

If the waste is hazardous only because of a Subpart C characteristic, the recycling and any storage, treatment, etc. prior to recycling are excluded under 261.6(a) and 265.1(c)(6). According to 261.6(b), if the waste is a sludge or is listed in 261.31 or 261.32, all regulations for generators, transporters, and storage facilities must be followed, according to 261.6(b). The actual recycling itself is excluded from regulation under 265.1(c)(6). A material listed in 261.33 does not become a hazardous waste if it is recycled or reused, so the hazardous waste regulations do not apply.

- Questions on the status of specific State program authorizations.

For basic questions on which States have which type of authorization, the Hotline staff uses an in-house map which shows Phase I States; Phase II A States; Phase II A and B States; Phase II A, B, and C States; States with final authorization; and States with no authorizations. For callers seeking more detail, e.g., when components of State programs were authorized, or information on the status of extensions for filing Phase II applications, resources used include State Programs Branch memos, in-house lists, and Federal Register notices.

- When will the Uniform Manifest appear in the Federal Register?

A Federal Register notice is not expected until March 1984.

- What is the status of the RCRA reauthorization bill?

The House of Representatives bill #2867 passed on November 3, 1983. The Senate bill #S757 has not been voted on yet. Callers are referred to Congress at (202) 224-3597 (Senate) or 226-3160 (House) for information on these bills.

- Questions on the status of specific regulations.

Callers are referred to the latest regulatory agenda which appeared in the October 17, 1983, Federal Register.

- Has the small quantity generator limit been lowered to 100 kilograms?

No, the small quantity generator limit is still 1,000 kilograms per month under the Federal program. However, some States may have a lower limit. Also, when passed, the RCRA reauthorization bill may lower the limit.

#### New Questions Asked This Month

##### RCRA

- Section 264.94(b)(i)(iv) states that for establishing an alternate concentration limit (ACL), the proximity and withdrawal rates of groundwater users must be considered. How far from the hazardous waste unit must the owner/operator look to determine the proximity of groundwater users to his unit?

It is not a chance for potential user consideration. The owner/operator must demonstrate that his ACL will be attenuated or cut over a certain distance so there will be no adverse impact on any potential users or on the environment.

Source: Burnell W. Vincent

- Are 55 gallon drums that are found flattened and "empty" at a Superfund removal site regulated under RCRA?

There is no way to determine if drums have been fully emptied per Section 261.7(b)(1)(i). According to Section 261.7(b)(1)(iii)(A), for a drum to be considered empty and non-regulated by RCRA, there must be no more than 3 percent difference in weight between that drum and a comparable empty drum.

Source: Alan Corson

#### CERCLA

- Why is a spill of an ignitable petroleum product like gasoline considered to be a reportable event?

Gasoline is specifically excluded by the definition of hazardous substance under CERCLA Section 101(14) unless specifically otherwise designated. Sections 311 and 307(a) of the Clean Water Act, Section 112 of the Clean Air Act, Section 7 of the Toxic Substance Control Act do not designate gasoline. Since gasoline is a commercial chemical product, it is not a RCRA waste when it is spilled. However, if the spill residue is not cleaned up, the gasoline is a waste, and the event would be reportable at the one pound RQ for RCRA ignitable wastes. If waste gasoline is spilled, the one-pound RQ for RCRA ignitable waste applies.

Source: Rick Horner

- Is toluene excluded from the list of hazardous substances because it is a petroleum product excluded under CERCLA Section 101(14)?

No, toluene is specifically designated by Section 311 of the Clean Water Act and by RCRA. Therefore, it is a CERCLA hazardous substance.

Source: Rick Horner

- What are the penalties for not complying with a request for information under Section 104(e) of CERCLA? The site has been requested to provide further groundwater monitoring data to document a release to groundwater.

EPA could act under Section 106 Administrative Order to require a response. Refusal to cooperate could result in fines up to \$5,000 per day under Section 106(b). Section 106 action can be taken when imminent and substantial endangerment and contamination exist.

Source: Doug Cohen