



ASBESTOS INFORMATION ASSOCIATION

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December 1, 1980

MEMORANDUM FOR: Members

SUBJECT: Hazardous Waste Regulations Under RCRA

REFERENCE: Federal Register of November 25, 1980

Although the EPA has dropped asbestos from the list of hazardous wastes subject to extensive regulation under Subtitle C of the Resource Conservation and Recovery Act, it did so with the caveat that delisting would only be temporary while the relationship between RCRA rules and other regulatory programs was examined. In light of the continuing possibility of relisting, the following overview of RCRA regulations is presented.

The regulations would govern relevant activities of all generators and transporters of hazardous wastes, and all owners and operators of hazardous waste treatment, storage, or disposal facilities. Initially, all such parties are required to notify EPA of their relevant activities and obtain an EPA identification number.

As to generators and transporters, the regulations mandate the use of a manifest system to track shipments of hazardous waste, designate use of specific labels and containers, and set up requirements for recordkeeping and reporting.

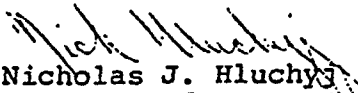
Treatment, storage or disposal (T/S/D) facilities must make permit applications to the EPA or to an approved state program to continue operations. T/S/D facilities regulations are the most wide ranging and include requirements for continuation of the manifest system, monitoring of wastes, financial liability, and facility closure and post-closure care.

As listed on the interim final list before being dropped, asbestos would have been subject to the hazardous waste regulations only in its "pure" form. Absent additional factors, such as the presence of other regulated wastes, manufacturing process waste which contains asbestos was not subject to these regulations. Even so, the regulations contain a "small quantity generator" exemption from regulation. This exemption from the RCRA rules applies to any plant location which generates less than 1000 kg of hazardous waste per month.

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Pertinent excerpt from preamble to final RCRA regulation is enclosed for information. This Association will continue to work with EPA to assure the development of efficient and reasonable regulatory proposals.


Nicholas J. Hluchy
Assistant for Government Affairs

NJH/cn

Enclosure

● **F. Asbestos.**

The Asbestos Information Association submitted extensive comments arguing that the interim final listing of discarded asbestos (as hazardous waste U013) was procedurally defective for want of prior notice, and substantively unjustified because disposal is already regulated under the National Emission Standard for Asbestos (NESHAP) program (40 CFR Part 61).

We disagree that the interim final promulgation of the asbestos listing was procedurally defective. In our view, the opportunity to comment prior to any regulatory effect of § 261.33 cures any possible procedural deficiencies. The situation here thus is distinguishable from those in such cases as *U.S. Steel Corp. v. EPA*, 595 F.2d 207 (5th Cir., 1979), and *State of New Jersey v. EPA*, — F.2d — (D.C. Cir., 1980), where interim final regulations became effective prior to opportunity for comment.

We are, however, more impressed with the commenter's substantive argument. Certainly, duplicative regulation should be avoided where possible. We therefore are temporarily deferring final promulgation of the listing of asbestos while we investigate further the relationship of the NESHAP and the RCRA management standards, and the extent to which NESHAP facilities afford comparable environmental protection in managing waste asbestos. One possible approach would be to grant NESHAP facilities a RCRA permit by rule, and apply substantive RCRA standards to discarded asbestos up until the point of disposal. (See § 265.1(c) (1) and (2) and § 122.26 (a) and (b) where the Agency has adopted a comparable approach for hazardous wastes also subject to regulation under the Marine Protection, Research, and Sanctuaries Act, and the Underground Injection Control program approved or promulgated under the Safe Drinking Water Act). Another approach would be integration of the Toxic Substances Control Act asbestos-in-the-schools program, the NESHAP program, and RCRA standards into a single regulatory program. The NESHAP program will serve as a safeguard against pollution problems resulting from asbestos disposal pending final determination of this issue.