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RCRA/SUPERFUND HOTLINE SUMMARY

OCTOBER 1989

5. Notification Requirements for New Wastes Not Covered by the Bevill Exclusion

In the September 1, 1989 Federal Register (54 FR 36592), EPA significantly modified the Bevill Exclusion. (40 CFR 261.4(b)(7) This final rule narrows the scope of the exclusion by identifying, under Section 3001 of RCRA, additional substances as hazardous wastes subject to Subtitle C. Since these regulations are not being imposed pursuant to HSWA, they will not be effective in authorized States until the States revise their programs to adopt equivalent requirements. In an authorized State, when must a generator or transporter of such substances or an owner/operator of a facility which treats, stores, or disposes of such substances notify under Section 3010 of RCRA?

Under Section 3010(a) of RCRA, "not later than ninety days after promulgation of regulations under Section 3001 identifying any substance as hazardous waste subject to this subtitle, any person generating or transporting such substance or owning or operating a facility for treatment, storage, or disposal of such substances shall notify the implementing agency of their activity." However, also under this section, EPA was given the option of waiving the notification requirements following the revision of any regulation promulgated under Section 3001, at the discretion of the Administrator.

Since the final rule published in the September 1, 1989, Federal Register (54 FR 36592) revises regulations promulgated pursuant to Section 3001, the Administrator may use the provided waiver option. The Administrator did, in fact, use the option (see 54 FR 36592) as it was intended: persons who have previously notified of their hazardous waste activity and have received an EPA I.D. number need not re-notify. All other persons, regardless of the authorization status of their State, who generate, transport, treat, store, or dispose of any substance now subject to Subtitle C as a result of this final rule, must notify under section 3010; that is, not later than November 30, 1989 (ninety days after the promulgation of the final rule).

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