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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

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9. Subtitle D Survey

Under the Subtitle D Survey, the EPA is evaluating solid waste disposal facilities in response to the Hazardous and Solid Waste Amendments of 1984. The authority EPA is using to obtain the survey information is sited in §3007(a) of RCRA. However, this authority only allows access to facilities which handle or have handled hazardous waste. Where does EPA get its authority to access and obtain information at a facility that does not or has not handled hazardous waste?

EPA gets its authority to access entry and obtain information at solid waste disposal facilities from §3007(a) of RCRA. This section requires any person who handles or has handled hazardous wastes to furnish to EPA information relating to such wastes and to allow access to the facility and its records to EPA or authorized State officials, for the purpose of developing or assisting in the development of any regulation or for enforcement purposes. The scope of EPA's inspection authority is not limited under the statute to hazardous wastes identified or listed under Subtitle C but rather extends to any waste that the Agency believes may meet the statutory definition of a hazardous waste under §1004(5). As defined by Congress, the term hazardous waste means any solid waste that EPA reasonably believes "because of its quantity, concentration of physical, chemical, or infectious characteristics may-

(A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed," (emphasis added)

Solid wastes which may contain any of the hazardous constituents listed in 40 CFR 261. Appendix VIII which may form the basis

for listing actions under 40 CFR 261.11 would fall within the statutory definition of hazardous waste and would be subject to EPA's information gathering and inspection authorities.

These authorities also apply to hazardous waste from households and small quantity generators which are often placed in municipal landfills and other Subtitle D disposal facilities.

Consequently, when EPA needs information to facilitate regulatory development or enforcement, EPA can use Section 3007 to obtain information from Subtitle D facilities.

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