

9541.1985(07)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

MAY 85

Manifest Use and State Authorization

3. A spent solvent, which is hazardous by characteristic only (e.g. ignitable D001), is transported from the generator in Montana, to a reclamation facility in Texas. Both Montana and Texas are states with final authorization for the RCRA program. The transporter will also go through Wyoming which is a non-authorized state (i.e., it is under the Federal RCRA program).

Pursuant to 40 CFR §261.6(a), characteristic hazardous wastes which are reclaimed are not subject to RCRA regulations. According to §261.2(c) as amended by the January 4, 1985, Federal Register (50 FR 614), however, all spent solvents, characteristic or listed, will be defined as "spent materials" and will be regulated as "solid wastes" prior to reclamation. Thus, per §261.6(b), in the January 4, 1985, rule, generators and transporters of recyclable hazardous materials (e.g., spent solvents) are subject to Parts 262 and 263 (generator and transporter standards, respectively). The complicating factor is that this new definition of solid waste and respective recycling regulations may go into effect at different times through the country depending on whether a state is authorized or not.

The January 4, 1985, rule will be effective in non-authorized states on July 5, 1985. States with final authorization, such as Montana and Texas, may have up to January 4, 1987, to adopt this rule. Therefore, a characteristic ignitable spent solvent will be a regulated hazardous waste prior to reclamation in non-authorized states on July 5, 1985. In the transport situation described above, is the transporter required to carry the Uniform Hazardous Waste Manifest in Wyoming, since the spent solvent is a "hazardous waste" in Wyoming on July 5, 1985?

If the spent solvent is transported from Montana to Texas (EPA-authorized states) after July 5, 1985, the transporter need not carry the Uniform Hazardous Waste Manifest, even though the spent solvent is transported through Wyoming, which regulates the solvent as a RCRA waste. States through which the waste shipment travels may not dictate manifest requirements per 49 FR 1049

(March 20, 1984). When either the generator state (Montana) or the designated state (Texas) determines that the waste is hazardous, that waste will be subject to the Uniform Manifest requirements.

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