

**§ 148.29 Funding to redesigned projects.**

After publication of a decision that a proposed project may contaminate a sole or principal source aquifer in a designated area through its recharge zone so as to create a significant hazard to public health, a commitment for Federal financial assistance may be entered into, if authorized under another provision of law, to plan or redesign such project to assure that it will not so contaminate the aquifer.

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[ 6560-01 ]

[ 40 CFR Part 250 ]

[ FRL 797-6 ]

**DEVELOPMENT OF REGULATIONS FOR THE TRANSPORTATION OF HAZARDOUS WASTE**

**Joint Public Meeting**

**AGENCY:** Environmental Protection Agency and Office of Hazardous Materials, Department of Transportation

**ACTION:** Supplemental advanced notice of proposed rulemaking; notice of meeting.

**SUMMARY:** The Environmental Protection Agency announces a joint meeting with the Office of Hazardous Materials Operations/DOT to determine whether current DOT regulations under the Hazardous Materials Transportation Act of 1974 may have the potential to be expanded to partially meet the mandates of the Resource Conservation and Recovery Act of 1976. The purpose of this meeting is to maximize the coordination of the RCRA regulatory requirements with existing DOT rules for the benefit of all parties.

**DATES:** The meeting will be held on October 26, 1977. Comments must be received on or before November 9, 1977.

**ADDRESSES:** Send comments to: U.S. Environmental Protection Agency, Office of Solid Waste, Hazardous Waste Materials Division, Docket Section, Room 2111, 401 M St. SW., Washington, D.C. 20460, and Department of Transportation, Room 8500, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

The meeting will be held at the Ramada O'Hare Inn, Mannheim and Higgins Road, Des Plaines, Ill., 312-827-5131.

**SUPPLEMENTARY INFORMATION:** The Resource Conservation and Recovery Act of 1976 (RCRA) mandates a comprehensive Federal-State-local approach to all aspects of waste management, in-

cluding resource conservation and recovery, land disposal of municipal and industrial wastes, and authorizes a new regulatory program for hazardous wastes.

The Environmental Protection Agency (EPA) under Subtitle C—Hazardous Waste Management—is required to write standards for generators, shippers, transporters, and receivers of hazardous waste. In addition EPA is required to develop criteria and a list to define what are hazardous wastes.

During the analysis of the RCRA requirements, it became apparent that current Department of Transportation (DOT) regulations under the Hazardous Materials Transportation Act of 1974 (HMTA) may have the potential to be expanded to partially meet the mandate of RCRA. EPA would like to maximize the coordination of the RCRA regulatory requirements with existing DOT rules for the benefit of all parties.

The Act requires that regulations developed under Subtitle C of RCRA be consistent with the requirements of HMTA and the regulations thereunder. In addition, it authorizes the EPA to make recommendations to DOT respecting regulations for hazardous wastes under HMTA and for the addition of materials to be covered by that Act.

Authority for the regulation of hazardous waste transportation is contained in both HMTA and RCRA. The HMTA is concerned with the protection of public safety, health, and property during the loading, transportation, storage incident to transportation, and unloading of hazardous materials. HMTA requires the Secretary of Transportation to designate materials as hazardous upon finding that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property. The materials designated as hazardous may include, but are not limited to: explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases.

Under Subtitle C, RCRA is concerned with the protection of the public health and the environment from improper hazardous waste management during transportation, treatment, storage or disposal. Hazardous waste as defined by RCRA is a solid waste, or combination of solid wastes which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of. In turn, RCRA defines "solid" waste to include solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and, with some exception, agricultural operations, and from commu-

nity activities. The Administrator shall take into account, when designating hazardous wastes, toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics.

For the transportation of hazardous wastes under RCRA, Section 3002 requires the Administrator to develop standards for generators/shippers of hazardous wastes concerning labeling practices for any containers used for storage, transport, or disposal that will identify accurately such wastes; use of appropriate containers, and use of a manifest system to assure that all hazardous waste generated is designated for treatment, storage or disposal to a permitted hazardous waste management facility. The manifest as defined by the Act means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage. Section 3003 requires the Administrator to develop standards for transporters of hazardous waste concerning recordkeeping, transportation of hazardous wastes only if properly labeled, compliance with the manifest system and transportation of all the hazardous wastes to the designated permitted facility. In addition, the Administrator is considering the development of standards for the acceptance of hazardous waste for transport, loading and stowage of hazardous wastes, notification in the event of a spill and spill reporting, marking and placarding of vehicles, and notification of the transportation of hazardous wastes.

Many of the standards being considered under RCRA for transportation are currently required under HMTA. Specifically, definition of a hazardous material (waste), labeling, placarding, packaging, manifest (shipping document) spill notification and reporting, and loading and stowage. In addition, HMTA has provisions for the development of standards concerning recordkeeping and registration.

In December of 1976 the Department of Transportation evidenced concern for the development of regulations for hazardous waste transporters. HM-145, Environmental and Health Effects Materials Advance Notice of Proposed Rulemaking, published December 9, 1976, in the FEDERAL REGISTER, presented several questions concerning hazardous wastes: "with regard to hazardous wastes, what classification system may be used to clearly identify mixtures as opposed to single compound materials; what packaging may be appropriate for transportation; and how existing transportation documentation can be used to cover transport of hazardous wastes from the generator (shipper) to the disposer (consignee)." Several comments were received expressing concern for the development of hazardous waste transportation regulations by both EPA and DOT.

<sup>1</sup> See 42 FR 22332, May 2, 1977, for information on Hazardous waste guidelines and regulations.

## PROPOSED RULES

A one-day public meeting will be held on October 26, 1977, to solicit public, industry, State and local government comment on the regulation of hazardous waste transportation by the Department of Transportation and the Environmental Protection Agency. The public meeting will begin at 9:30 a.m. at the Ramada O'Hare Inn, Mannheim and Higgins Road, Des Plaines, Ill. 312-827-5131. Interested members of the public; representatives of industry that ship as well as transport hazardous materials (waste); entities, both public and private, that respond to transportation emergencies; State and local governments; and firms that receive hazardous wastes for storage, treatment, and disposal are urged to attend and respond to any or all of the discussion topics listed below, as well as any other issues concerning the regulation of hazardous waste transportation.

The meeting is open to the public and will be conducted by a panel from the U.S. Environmental Protection Agency and the U.S. Department of Transportation.

The following procedural rule will apply. The Chairman of the panel is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, to schedule presentations by participants, and to exclude material which is irrelevant, extraneous, or repetitious. The time allotment for oral statements shall be at the discretion of the Chairman, but shall not ordinarily exceed 15 minutes. With the permission of any person offering a statement, questions may be asked by members of the panel. At the discretion of the Chairman, a procedure may be made available for presentation of pertinent questions from other persons or participants. Individuals with prepared statements are requested to bring at least one copy for the record. Persons unable to attend, but wishing to comment on the Discussion Topics, are invited to send written comments to the address below by November 9, 1977.

A transcript of the meetings will be made and a copy of the transcript, together with copies of all documents presented at the meeting, and all written submissions will constitute the record of the meeting. A copy of the record of the meeting will be available for public inspection by December 16, 1977, at the U.S. Environmental Protection Agency, Office of Solid Waste, Hazardous Waste Management Division, Docket Section, Room 2111, 401 M Street, S.W., Washington, D.C. 20460 and at the Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

Anyone desiring additional information on the meeting or wishing to be placed on the program to present a statement is requested to contact: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, WH-462, U.S. Environmental Protection Agency, Washington, D.C. 20460. Phone: 202-755-9157 before October 21, 1977.

## DISCUSSION TOPICS

1. Regulations being developed by the Environmental Protection Agency and existing regulations of the Department of Transportation impact the transportation of hazardous wastes. Which Agency should take the lead in developing the regulations for hazardous waste transportation? What approach should be taken? Should DOT modify its definition of hazardous materials to include all hazardous wastes? (Wastes which are bioaccumulative, toxic above current DOT definition levels, infectious, carcinogens, or having potential for genetic change are likely to be identified under RCRA as hazardous wastes and are not currently covered by the DOT Hazardous Materials Regulations.) Should EPA then incorporate DOT regulations by reference or should EPA consider a separate set of regulations to supplement the gaps in DOT regulatory coverage, in that EPA regulations would cover only wastes which are hazardous, not all hazardous materials?

2. If DOT does modify its definition of hazardous materials to include all hazardous wastes, should DOT regulations specifically address the transportation of hazardous wastes or treat them the same as hazardous materials that are bioaccumulative, toxic, infectious, carcinogenic, etc.?

3. Section 3002 of RCRA requires the development of a manifest (shipping paper) to assure that the hazardous waste is designated to a permitted hazardous waste management facility and that all the hazardous waste is delivered to that facility. Should DOT modify its shipping paper requirements to fulfill the needs of the RCRA manifest or should EPA develop requirements to supplement existing shipping paper requirements (including the possibility of a separate document)?

4. Are the current DOT requirements for labeling, marking and placarding sufficient for handling of hazardous waste in transportation? For those hazardous wastes which will not fall under DOT purview, should EPA develop labels and placards of separate design or should DOT develop the labels and placards for these hazardous wastes that are compatible with current DOT design?

5. HMTA authorizes the registration of anyone transporting hazardous materials; RCRA requires notification of the transportation of hazardous wastes. Should registration requirements be developed for transporters of hazardous wastes?

6. In the event of an accident or a spill of a hazardous material during loading, transportation, or unloading, DOT requires notification of the incident and the filing of a report. For the spill of hazardous waste, EPA is also considering similar requirements. Should notification of spills be directed to EPA, DOT (Office of Hazardous Material Operations), or the U.S. Coast Guard National Emergency Response Center? Should EPA and DOT receive incident reports

(DOT for hazardous materials and EPA for hazardous wastes), or should all reports be filed with DOT (even when spilled hazardous wastes are not covered by DOT regulation)?

7. In the event of a spill, the material cleaned up may become a hazardous waste. Should DOT or EPA develop the regulations for handling the spilled hazardous material?

8. HMTA authorizes DOT to require training to be conducted by shippers and transporters of hazardous materials. Are training programs necessary relative to emergency response and cleanup of hazardous wastes specifically? If so, to what extent should they be required?

9. Since hazardous wastes are mixtures or may be mixed during collection for transportation, is it necessary for DOT to modify its loading and stowage requirement to address the mixing and stowage of incompatible wastes?

10. Any other comments relevant to the development of regulations for transportation of hazardous wastes by the Department of Transportation and the Environmental Protection Agency are welcome.

Dated: September 22, 1977.

THOMAS C. JORLING,  
Assistant Administrator  
for Water and Hazardous Materials.

ALAN I. ROBERTS,  
Director, Office of  
Hazardous Material Operations.

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[ 4310 ]

## DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[ 43 CFR Part 4 ]

## REVISION OF PROCEDURES FOR PROCESSING COAL MINE HEALTH AND SAFETY DISCRIMINATION CASES

AGENCY: Office of Hearings and Appeals, Department of the Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 110 (b) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 820) provides miners, who believe they have been discharged or otherwise discriminated against because they have reported alleged health or safety violations or dangers to the Mining Enforcement and Safety Administration (MESA) or initiated or testified in a proceeding brought under the Act, the right to file an application for review of the discriminatory actions they feel have been taken against them. These proposed rules are designed to allow for greater leeway in the present 30-day time period set for filing an application. They also provide for an investigation by MESA of each § 110(b) application filed and give MESA the right to intervene in § 110(b) cases. DATE: Written comments, suggestions, and objections must be received by October 31, 1977.