



EPA Deregulates 1.5 Million Tons of Hazardous Waste

In 1976, Congress passed the Resource Conservation and Recovery Act (RCRA) to ensure that any company that wanted to transport, store, or recycle hazardous waste could do so only under strict “cradle-to-grave” regulations that ensure hazardous chemicals do not escape into the environment. But with the stroke of a pen, EPA recently exempted 1.5 million tons (over 3 billion pounds) of hazardous waste from RCRA, relieving companies handling the most dangerous substances regulated by EPA from complying with requirements intended to protect human health and the environment. EPA’s interest in promoting the profits of a few large industries trumped their mandate to prevent spills, midnight dumping, and poor management practices that contaminate air, soil, and water.

Under the new rule, EPA estimates that as much as 1.5 million tons of waste that is currently defined as hazardous will now be considered innocuous enough to be stored, transported, or processed by unlicensed and barely supervised companies. More than 5,000 facilities will take advantage of the loophole, including chemical companies, pharmaceutical manufacturers, and the industrial waste industry.¹

This fact sheet lays out the high cost to public health, the environment, and the economy of rolling back these longstanding protections and debunks the purported benefits of the rule.

- | <i>Costs</i> |
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| <ul style="list-style-type: none"> • Damage to public health and the environment from increased exposure to toxins and carcinogens due to improper storage and disposal. • Exposure of workers due to improper transport, storage and handling. • Damage to environment from illegal dumping, which could increase due to decreased oversight. • Economic damage to licensed hazardous waste handlers and recyclers. • Increased taxpayer burden for cleanup of toxic sites. |

- | <i>Purported Benefits</i> |
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| <ul style="list-style-type: none"> • <i>Increased recycling.</i> Recycling actually increases only a fraction according to EPA’s own analysis of the rule. • <i>Lowers costs to industries that generate toxic waste.</i> EPA estimates that the actual annual benefit to each company would be around \$17,000, a pittance for these multi-million dollar companies. But other American companies would be hurt, and taxpayers left holding the bill for cleanup costs. |

The High Cost of De-Regulation

Damage to public health and the environment

Hazardous waste recyclers that are permitted under RCRA are far less likely to harm public health and the environment than those that are not subject to RCRA. In the lead-up to proposing this rule, EPA identified 208 cases of damage to human health or the environment from hazardous waste recycling.² Of those 208 cases, only 9 (4%) occurred at RCRA permitted facilities.³ A large majority of the damage cases occurred in operations that were already exempted from RCRA’s strict oversight.⁴ Exempting millions more tons of hazardous waste would only increase damage to public health and environment.

High cost to taxpayers

82% of the sites contaminated by hazardous waste recycling needed public funds for cleanup, in whole or in part, under state or federal Superfund programs.⁵ Although EPA’s analysis did not gather costs on all of the damage cases, it did examine the cost of cleanup for 89 sites. For 20% of these sites, cleanup costs

exceeded \$5 million, and most exceeded \$1 million. *Id.* These numbers indicate that the meager cost savings to industry from this regulatory rollback is far lower than the cost borne by taxpayers for cleaning up after the fact.

Keeping hazardous waste recycling in the hands of permitted professionals not only protects workers handling the waste and reduces the likelihood of a hazardous waste accident, it helps defray the cost of clean-up. EPA's analysis shows that most of the damage cases involving permitted facilities were cleaned up in whole or in part by the licensed entity, often because of consent decrees or financial assurance requirements in their RCRA permit.⁶

The “Benefits” of De-Regulation

Slightly Increased recycling

EPA's economic assessment shows that the proposed rule will result in only 1 ton of increased hazardous material recycling for every 10 tons of existing hazardous waste recycling that becomes unregulated.⁷ This is a shockingly low benefit, when one considers the potential damage that is likely from deregulation of billions of pounds of hazardous waste.

Reduced regulatory costs

What benefit will these industries that lobbied for this rollback receive? As little as \$95 million per year, spread over as many as 5600 companies.⁸ That is an average of less than \$17,000 per facility—a tiny fraction of the revenue that flows through many of these multi-million dollar companies.

While companies that produce hazardous waste will trim a few thousand dollars off their annual costs because of this new loophole, another industry could face dramatic cutbacks and job losses. Hazardous waste recyclers are trained, licensed, and insured to transport, store, and dispose of hazardous waste according to RCRA guidelines and under strict oversight from regulators to ensure the public is not exposed to dangerous materials. If disposal and handling of hazardous waste is left to those companies that produce the waste instead of licensed professionals, a large number of good jobs could be lost.

So costs will be reduced, but only for certain companies, only by a tiny fraction of their overall operating costs, and at the expense of other American companies and the American taxpayer.

The Next Administration Must Undo This Mistake

EPA's guiding principle is to protect public health and the environment. This rulemaking turns that principle on its head by arranging a slight increase in profits for a few companies at the expense of public health and the environment. The next administration should put vacating this rule at the top of its environmental to-do list.

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¹ EPA, Revisions to the Definition of Solid Waste, 72 Fed. Reg. 14171-14218 (proposed March 26, 2007).

² EPA, *An Assessment of Environmental Problems Associated with Recycling of Hazardous Secondary Materials*, available at <http://epa.gov/osw/hazard/dsw/abr-rule/env-prob.pdf>

³ *Id.* at 12.

⁴ See Sierra Club comments to Revisions to the Definition of Solid Waste, Docket ID EPA-HQ-RCRA 2002-0031, Appendix A.

⁵ *Id.* at 10.

⁶ *Id.* at 12.

⁷ *Regulatory Impacts Analysis for USEPA's 2007 Supplemental Proposed Revisions to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste* at 16.

⁸ EPA, Revisions to the Definition of Solid Waste, 72 Fed. Reg. 14172 (proposed March 26, 2007)