

PPC 9551.1991(11)

CALIFORNIA LIST PROHIBITIONS APPLICABILITY AFTER THIRD THIRD RULE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SEP 27 1991

T.L. Nebrich, Jr.
Waste Technology Services, Inc.
640 Park Place
Niagara Falls, New York 14301

Dear Mr. Nebrich:

I am writing in response to your letter of September 18, 1991 regarding the land disposal restrictions program. In particular, you raise two questions concerning the applicability of California list prohibitions following promulgation of the Third Third.

First, you ask what treatment standards must be met to land dispose of soils or other wastes that are granted a national capacity variance but must meet California list prohibitions? The treatment standard that must be met depends on which California list waste is present. Under 40 CFR 268.42 (a) (1), liquid and nonliquid PCBs of certain concentrations must be incinerated or burned in high efficiency boilers. Under 40 CFR 268.32 and 268.43(a), numerical concentrations are specified as prohibition levels or treatment standards. Any appropriate technology may be used to meet numerical treatment standards.

Second, you ask whether the California list prohibitions remaining in effect for HOCs apply only to characteristic wastes or also to listed wastes containing HOCs? EPA specified in the preamble to the California list final rule that California list HOC standards "are only applicable to those HOCs that are not covered by other rulemakings..." 52 Fed. Reg. 25760 at 25773. Similarly, the regulations specify at 40 CFR 268.42 (a) (2) that California list HOC standards "do not apply where the waste is subject to a part 268, subpart D treatment standard for a specific HOC (such as a hazardous waste chlorinated solvent for which a treatment standard is established under [section] 268.41(a))."

The California list HOC standards apply only to characteristic wastes because all listed wastes either have their own treatment standards or, because they are newly listed wastes, the California

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list prohibitions do not apply; more specific (i.e., waste codespecific) standards have now been promulgated for all wastes listed prior to November 1984, and the California list prohibitions do not apply to wastes listed after November 1984. 55 Fed Reg. at 2267422675.

I hope you find this discussion helpful. Please feel free to contact me at 703-308-8434 if you have any further questions.

Sincerely,

Richard J. Kinch, Chief
Waste Treatment Branch

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