

Soil Case-by-Case Extension

EPA established a generic case-by-case extension of the land disposal restrictions effective date for soils contaminated with Third Third wastes that have treatment standards based on incineration, vitrification, or mercury retorting in the October 20, 1992, Federal Register (57 FR 47772). This extension allows soils contaminated with these wastes to be land disposed without meeting Part 268, Subpart D treatment standards provided that the generator or owner/operator complies with certain recordkeeping requirements (57 FR 47775-47776). Treatment standards for both arsenic (D004) and lead (D008) were promulgated in the Third Third final rule. Since the treatment standard for D004 is based on vitrification (55 FR 22556; June 1, 1992), soil that exhibits the toxicity characteristic (and the characteristic of EP toxicity) for arsenic qualifies for the case-by-case extension. The treatment standard for D008 (lead) is based on stabilization (55 FR 22565); soil that exhibits the toxicity characteristic (and EP) for D008 only does not qualify for the extension. Does soil that exhibits the TC (and EP) for both lead and arsenic qualify for the generic case-by-case extension?

Soil that exhibits the TC (and EP) for both lead and arsenic qualifies for the generic soil case-by-case extension, and need not be treated to meet either the lead (D008) or the arsenic (D004) treatment standard until May 8, 1993. When soil is contaminated with two or more Third Third wastes, the soil qualifies for the October 20, 1992, generic case-by-case extension as long as at least one of the Third Third wastes with which it is contaminated has a treatment standard based on incineration, vitrification, or mercury retorting, or if it is contaminated with radioactive mixed waste. Soil that is contaminated with an eligible Third Third waste and a Second Third waste also qualifies for the case-by-case extension, since the maximum period allowable for capacity extensions under RCRA Section 3004(h) is four years, and four years have not yet passed since the treatment standards for Second Third wastes were promulgated. If soil is contaminated with a Third Third waste that is eligible for the extension and a solvent, dioxin, California list, or First Third waste, however, the soil must meet the treatment standard for the non-Third Third waste before

it can be land disposed. Any other interpretation would result in EPA extending the date of a prohibition beyond the dates established by Congress, and therefore beyond EPA's legal authority (see the June 1, 1990, Federal Register; 55 FR 22650). For example, if soil is contaminated with D004 and an F-listed spent solvent waste (e.g., F001), the soil must be treated to meet the F001 treatment standard prior to disposal.

Note that EPA promulgated treatment standards for four newly listed F002 and F005 solvent constituents in the Third Third final rule (1,1,2-trichloroethane; benzene; 2-ethoxyethanol; and 2-nitropropane). Unlike all other F001-F005 spent solvent wastes which had treatment standards promulgated in the November 7, 1986, Federal Register (51 FR 40572), these newly listed F002 and F005 solvents are considered Third Third wastes. F002- and F005-contaminated soil that contains one or more of the four newly listed solvent constituents and no other F-listed solvent constituents is eligible for the soil case-by-case extension, since the nonwastewater treatment standards for these F002 and F005 constituents are based on incineration (see 55 FR 22577-22578). (January 1993 Monthly Hotline Report)