

PPC 9551.1986(07)

RISK-BASED METHODOLOGIES ON LAND DISPOSAL RESTRICTIONS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

Mr. Klaus L. Mai
Vice President
Health, Safety & Environment
Shell Oil Company
One Shell Plaza
P.O. Box 2463
Houston, Texas 77252

Dear Mr. Mai:

Thank you for your June 19, 1986, letter supporting the Environmental Protection Agency's (EPA's) proposed approach to implementing the land disposal restrictions.

You expressed support for the use of risk-based methodologies to implement the Congressional directives prohibiting land disposal of hazardous waste. Specifically, you state that EPA should incorporate risk assessment principles into the development of technology-based regulations. Although the Agency agrees that risk-based methodologies are an effective tool in developing regulations to implement the hazardous waste management program, Congressional leaders argued strongly that the risk-based approach, proposed by EPA, did not fulfill the intent of the law. Rather, they argued that the statute contains a statutory presumption against land disposal of untreated wastes. Further, the statutory presumption places a burden on facilities to demonstrate that continued land disposal will not allow any untreated hazardous constituents to migrate from the disposal site. The Agency has not yet reached a final decision on how to interpret its statutory authority on this issue.

The debate surrounding the land disposal ban program has prompted a careful consideration within the Agency of when we might best use risk-assessment for the Resource Recovery and Conservation Act (RCRA). For example, we concluded that risk-based methodologies are essential to identify wastes as "hazardous" and, therefore, subject to

the RCRA Subtitle C program.

If you have questions or require additional information, please contact Stephen Weil of my staff at (202) 382-4770.

Sincerely,

J. Winston Porter
Assistant Administrator