

9551.1987(16)

RESTRICTED WASTE DEFINITION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

SEP 4 1987

Ms. Patricia M. Trainer
AQUA-TECH, INCORPORATED
140 South Park Street
Port Washington, Wisconsin 53074

Dear Ms. Trainer:

In your letter of August 12, 1987, you requested Agency guidance in clarifying the interpretation of "restricted waste" as defined under 40 CFR Part 268, entitled Land Disposal Restrictions.

A restricted waste is a waste which is prohibited from land disposal by regulation, even if such prohibitions are accompanied by a delayed effective date, or which, absent any regulatory action by the Agency, would be prohibited from land disposal by the statute.

The example given in your letter is a California list liquid waste containing 100 mg/l arsenic. Under Section 268.7, waste analysis and recordkeeping is the responsibility of the "initial generator" to test the waste utilizing the Paint Filter Liquid Test (PFLT) or use knowledge of the waste to determine if the waste is restricted from land disposal.

In your example, it is not specified whether the waste containing 100 mg/l arsenic has been treated to reach that level. If so, certification under Section 268.7(a)(2) is required.

If the waste in your example contains 100 mg/l arsenic upon generation, prior to any treatment, Section 268.7(a)(2) does not apply. As a practical matter, the generator in your example may have to prepare a certification, even though it is not legally required, in order to satisfy the land disposal facility accepting the waste.

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You should also be aware that the Agency solicited comments on the possibility of lowering levels of toxic metals in liquid wastes. Were we to take this action, your waste would then be restricted and subject to all of the requirements of Section 268.7.