

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

9554.1997(04)

Christophe Lawrence
209 Wharton Street
Blacksburg, VA 24060)

Dear Christophe;

You have raised the question of the applicability of RCRA's Land Disposal Restrictions (LDR) program to land treatment or land farming of hazardous waste. By land farming, I am referring to the purposeful application of "as-generated" waste water or sludge to soils in order to promote the degradation and treatment of waste constituents. I am not referring to bioremediation or other in-situ techniques used for the clean-up of soils at Superfund or other contaminated sites.

Application or placement of waste into a land treatment facility is defined as land disposal, according to 40 CFR §268.2(c). Therefore, any RCRA hazardous waste that is subject to the LDR program must either meet the applicable LDR treatment standards or qualify for a variance from those treatment standards before it can be applied in a land treatment unit, even if the purpose of that land application is treatment. As 40 CFR §268.40(a) indicates, the table "Treatment Standards for Hazardous Wastes" in §268.40 lists the RCRA waste codes that are subject to LDR and the treatment standards established for each of those codes. As of February 1997, almost all RCRA waste codes are subject to LDR regulations.

The primary exemption from LDR treatment requirements available to land treatment units is the no-migration variance. Such a variance is granted only after a petition making the detailed demonstration outlined in 40 CFR §268.6 is approved by EPA Headquarters. All tentative and final EPA decisions on these no-migration variances are published in the Federal Register, as required by §268.6(j). Currently, only one no-migration variance from the LDR treatment standards has been granted to a hazardous waste land treatment facility. That facility is the Exxon refinery at Billings, MT, and the notice approving its variance was published in the July 27, 1993, Federal Register (58 FR 40134). The number of RCRA land treatment units qualifying for this variance from LDR will probably not increase significantly in the near future, as no new no-migration petitions for land treatment facilities have been received at EPA headquarters during the past six years.

It should be noted that permits that predate all or part of the LDR regulations, and that allow the application of hazardous wastes to land treatment units, do not shield the permittee or facility from any of the LDR rules, as stated in §270.4(a)(2) and the June 1,

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1990, Federal Register (55 FR 22525). Furthermore, unlike certain other parts of the RCRA program, LDR regulations are applicable and effective at the same time in all states regardless of state regulatory adoption and authorization issues (40 CFR §271.3(b)).

I hope this adequately addresses your concerns. If you have any further questions, please contact David Eberly of my staff on 703-308-8645.

Sincerely,

Sonya Sasseville, Acting Chief
Permits Branch

CC: David Eberly
Chris Rhyne