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RECORDKEEPING REQUIREMENTS FOR SMALL QUANTITY GENERATORS  
SUBJECT TO LAND DISPOSAL RESTRICTIONS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460  
Office of Solid Waste and Emergency Response

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SUBJECT: Recordkeeping Requirements for Small Quantity  
Generators Subject to Land Disposal Restrictions

FROM: Michael Shapiro, Director  
Office Of Solid Waste

TO: Karen V. Brown  
Asbestos and Small Business Ombudsman  
Office of Small and Disadvantaged Business  
Utilization

Thank you for your memorandum of March 23 on the Land Disposal Restrictions (LDR) program. Your memorandum makes two points: (1) Small quantity generators should not be subject to the LDR notification requirements; and (2) EPA should provide outreach material on notification requirements directed to small quantity generators.

On the first point, you suggest that the threshold for exempting small quantity generators (SQGs) from LDR requirements that are set out in the regulations at 40 CFR 268.1(e)(1) should be the generation of 1000 kg/month of hazardous wastes, "thereby exempting all SQGs from the subject Notification Requirements." Due to the requirements of the Resource Conservation and Recovery Act (RCRA), however, no legal means exist for the Agency to exempt such SQGs from the LDRs. The only relief available for small entities is the existing small quantity generator and conditionally exempt small quantity generator exemptions found in 40 CFR 262.11-12, and 261.5, respectively. These exemptions basically prescribe the generation of 100 kilograms per calendar month of hazardous waste as the limit below which one is exempted from complying with most of the RCRA hazardous waste requirements. The 100 kilogram per month limit is specified in RCRA section 3001(d). This limit has

been the threshold for LDR compliance since November 1986, when the LDR program was first implemented.

It is also suggested in your memorandum that the LDR Notification will be redundant once the Uniform Hazardous Waste Manifest is revised. However, the revised Manifest will not include some of the information required by the LDR program that is essential to implementing the LDR requirements. For example, generators of multisource leachate must identify what chemical constituents are in their waste; also, generators must certify that the waste as generated meets the treatment standards when such a situation exists.

It is further suggested that treatment, storage, and disposal facilities (TSDFs), rather than generators, assign "treatment codes" to wastes. While we understand your desire, Wastecode determinations are based on information that is available to the generator, not necessarily to TSDFs, although generators can seek advice from others to help make the determinations. In addition, a requirement of RCRA in general and the LDR program in particular is proper tracking of hazardous wastes from the point of generation to the point of ultimate disposal. (See RCRA Section 3002(a)(5).)

We are aware of the need to streamline the LDR notification requirements whenever possible in order to lessen the paperwork burden for all members of the regulated community. In our most recent LDR proposed rule ("Phase II") published in the Federal Register on September 14, 1993, and in the drafts of the final Phase II rule provided to our workgroup member, Mr. James Malcolm of your staff, we have included streamlining measures. For example, the LDRs will no longer require individual constituent treatment standards to be noted on LDR notifications. Also we provided an easy-to-read paperwork requirement summary table as an appendix to our regulations that we believe will help SQGs, as well as the rest of the regulated community, comply with LDR paperwork requirements. Furthermore, we plan to make additional streamlining changes in future LDR rulemakings.

On the second main point, that of providing outreach materials on LDR notifications to SQGs, I agree that such materials would be very useful. Thus, my staff is currently preparing a brochure on the LDR paperwork requirements targeted to SQGs. We hope to have the brochure available for distribution when the Phase II final rule is promulgated in July of this year.