

9554.1987(02)

LAND DISPOSAL RESTRICTIONS ON THE METAL FINISHING INDUSTRY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FEB 3 1987

Honorable Esteban Torres
House of Representatives
Washington, D.C. 20515

Dear Mr. Torres:

Thank you for your letter of January 12, 1987, in which you requested clarification of the hazardous waste management regulations governing wastes generated by the metal finishing/ electroplating industry. Specifically, you enclosed a copy of correspondence from Mr. Larry D. Foss of Foss Plating Company Inc. in which he addressed concerns regarding the effect of the land disposal restrictions upon the metal finishing industry.

The 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) prohibit the continued land disposal of untreated hazardous wastes unless the Agency determines that the prohibition is not required in order to protect human health and the environment (RCRA sections 3004(d)(1), (e)(1), and (g)(5)). However, hazardous wastes that meet the treatment standards established by EPA under section 3004(m) of RCRA are not subject to the restrictions and may be land disposed.

As you are aware, the legislation established a series of deadlines for Agency action. At certain deadlines, further land disposal of a particular group of hazardous wastes is prohibited unless the wastes meet treatment standards established by the Agency, or a facility has been granted a petition under 40 CFR 268.6 ("no-migration petition"), or an extension to the effective date has been granted under 40 CFR 268.5 (case-by-case extensions). As Mr. Foss correctly indicate, F006 wastes (wastewater treatment sludges from electroplating operations) are included among the wastes scheduled to be evaluated by August 8, 1988 (40 CFR 268.10). The Agency plans to propose treatment standards for the first

third of the scheduled listed wastes, including F006 wastes, in the early fall of 1987. Currently, EPA is gathering information on the performance of various technologies used for treating F006 wastes that reduce the toxicity or mobility of these wastes. After considering the public comments we receive on the proposed rule we will set the final treatment standards for these wastes by the August 8, 1988 deadline. The land disposal of the F006 waste will be prohibited (by statute) only if EPA does not meet the deadline specified in the law. Wastes meeting the treatment standards may continue to be land disposed.

Under RCRA section 3004(h)(2), the Agency has the authority to grant a nationwide variance of up to 2 years from the statutory effective date if adequate alternative treatment, recovery, or disposal capacity does not exist. Calculations of alternative capacity are utilized in determining whether to grant variances and the length of any variance from the effective dates of the restrictions. The Agency will be proposing capacity determinations at the same time as we propose treatment standards for the first third of the scheduled listed wastes.

We are sympathetic to the problems potentially faced by Mr. Foss and Foss Plating Company Inc. However, failure of the Agency to promulgate final regulations setting treatment standards for these wastes would mean that such wastes could be disposed of in a landfill or surface impoundment only if (i) the facility is in compliance with the minimum technological requirements of RCRA §3004(o) (double liners, groundwater monitoring) and (ii) the generator has certified that he has investigated the available treatment capacity and has determined that the use of such a landfill or surface impoundment is the only practical alternative. After May 9, 1990, RCRA would completely ban the land disposal of any hazardous waste for which EPA has not specified treatment standards. Allowing these provisions to take affect would likely result in an even greater regulatory impact on the metal finishing/ electroplating industry than promulgating final regulations restricting land disposal.

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We appreciate the opportunity to provide you with information regarding prohibitions on the land disposal of hazardous waste. Please feel free to contact Stephen Weil, Chief of our Land Disposal Restrictions Branch, at (202) 382-2770 if you have further questions on this matter.

Sincerely,

Original Document signed

J. Winston Porter
Assistant Administrator