

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APRIL 5, 1995

MEMORANDUM

SUBJECT: Delay Rule for Subtitle D Financial Assurance

FROM: Michael Shapiro, Director  
Office of Solid Waste

TO: Waste Management Division Directors  
Regions 1-10

The Administrator has recently signed a final rule that will delay for two years the date on which owners and operators of municipal solid waste landfills (MSWLFs) would be required to comply with a financial assurance mechanism for closure, post-closure, and corrective action costs in order to be able to accept additional shipments of solid waste. I am attaching a copy of the signed notice for your information and the Environmental Fact Sheet for public distribution.

EPA is developing final rules related to financial assurance mechanisms including a local government financial test as well as a corporate financial test. These financial tests would allow an owner or operator to demonstrate that it has sufficient financial strength to meet the obligations associated with its facility.

Owners or operators will now have until April 9, 1997 to comply with financial assurance requirements so that all mechanisms can be considered for use, including the local government and corporate financial tests. EPA expects to promulgate these rules in the fall of 1995 and the spring of 1996, respectively. The lead time also enables state governments to revise relevant state laws or regulations. This delay rule is expected to decrease the cost of financial assurance to the regulated community. Owners and operators who are able to use the local government or the corporate financial test will not have to incur the cost of securing a third-party instrument in the interim to meet the previous effective date of April 9, 1995.

This rule will affect all owners and operators of MSWLFs. Reaction from most outside groups is expected to be favorable because the final rule provides regulatory relief for a temporary period to landfill owners and operators that are finding it difficult to comply with the previous effective date without the availability of an alternative financial test mechanism.

While the final rule incorporates a date change from the proposed rule (revising the effective date to April 9, 1997), the substance and intent of the final rule do not differ from the proposed rulemaking.

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If you would like to receive copies of, the *Federal Register* notice, please have your staff call the RCRA Information Center at 202-260-9327. The general public may order copies from the RCRA Hotline at 800-424-9346. In addition, the notice will be available on the Internet System one day following publication (see the fact sheet for complete details). If you need further assistance or have questions regarding the rule, please contact Nancy Hunt of my staff at 703-308-8762.

#### Attachments

cc: RCRA Branch Chiefs  
Permits Section Chiefs  
MSW Regional Implementation Team  
RCRA Public Involvement Network