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PLACEMENT OF STABILIZED WASTES THAT DO NOT MEET LAND RESTRICTION  
REQUIREMENTS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAY 5 1989

Mr. Richard Pastor  
Director, Government Relations  
Envirosafe Management Services, Inc.  
P.O. Box 833  
Valley Forge, Pennsylvania 19482-0833

Dear Mr. Pastor:

This letter is in response to your April 15, 1989, correspondence requesting a clarifying rule or guidance that would allow placement of stabilized wastes that do not meet land restrictions requirements at the time of replacement. Your justification for this clarification is that EPA based its BDAT treatment standards on a 28 day curing period without clearly stating where the curing was to occur.

As Jim Berlow explained to you when you met with him on March 9, 1989, it is EPA's policy that wastes must meet treatment standards prior to placement in land disposal units. This policy is founded on our reading of the statutory intent. Because EPA must be concerned that wastes may be exposed to rainfall or other sources of leachate at any point in the life of the disposal unit, it is necessary that Envirosafe establish the effectiveness of its technology immediately upon placement.

Your letter requests that Envirosafe believes its process for in-place curing can be demonstrated to be superior to the existing basis for BDAT standards, but provides no data. If you have data that shows your process is superior, then you should submit those data if you pursue a BDAT variance or petition for rulemaking. These data should demonstrate the effectiveness of the process in reducing mobility of hazardous constituents both at placement and once fully cured. As Mr. Berlow mentioned in your discussions, you should submit this data in the form of Toxicity Characteristic Leaching Procedure data to describe the effectiveness of your process. This will allow us to determine the degree to which your process relies on simply encapsulation rather than chemical fixation to bind the hazardous constituents. If your process can be judged equivalent or better than the current technology basis for our standards, then a variance would be appropriate.

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Many of our standards are based on the leachability achieved by stabilizing waste and curing it for 28 days prior to placement. It is our understanding, however, that several companies have been able to comply with the standards using processes that achieve the limits after an initial curing of far less than 28 days, in some cases within about 24 hours. EPA views this issue as a matter of cost optimization, storage capacity for curing versus possibly more expensive chemical costs for stabilization. We do not believe that achieving the standards based on 28 day curing strength has been shown to represent a significant technical problem. However, any such problems that you can document should be addressed in a BDAT variance submission.

Your letter also mentions the possibility of a "temporary" no migration petition for the period of curing; we have not completed our consideration of this idea. I hope to inform you of our analysis within the next several weeks. However, I believe that there are several interim points for you to consider.

HSWA requires that a no migration variance be based on an analysis of the period over which the waste remains hazardous. I suspect that a petitioner would have to demonstrate that no migration would occur for as long as the waste remains hazardous within the disposal unit, and not necessarily only for the period within which the stabilized waste will achieve a particular curing endpoint.

More significant, however, may be Section 3004(c)(1) of RCRA. This section prohibits "...the placement of bulk or non-containerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not absorbents have been added) in any landfill...". The Agency issued a Statutory Interpretive Guidance on June 11, 1986 (enclosed) for this provision. In effect, the Agency's policy is that bulk and non-containerized wastes must pass the "Paint Filter Liquids Test" prior to placement in a landfill. You may wish to consider whether the treated wastes that you wish to landfill prior to complete curing can pass such a free-liquids test. As explained in the Statutory Interpretive Guidance, the statute provides for no variance opportunity.

-3-

I appreciate your interest in this matter. If you wish to pursue a BDAT variance, you should continue to contact Jim Berlow and his staff.

Sincerely,

Original Document signed  
"JD for SKL"

Sylvia K. Lowrance  
Director  
Office of Solid Waste

Enclosure