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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

FEBRUARY 86

1. Land Disposal Ban of Solvents

Section 3004(e) of RCRA as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) prohibited the land disposal of certain hazardous wastes by specific dates unless the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the waste remains hazardous. The first group of wastes to be affected include "those hazardous wastes numbered F001, F002, F003, F004, and F005 in regulations promulgated by the Administrator under Section 3001 (40 CFR 261.31 (July 1, 1983)), as those regulations are in effect on July 1983."

EPA proposed regulations on January 14, 1986 (51 FR 1602), for the implementation of HSWA Section 3004(e). Proposed 40 CFR 268.30 addresses the prohibition on land disposal of solvent wastes and lists as prohibited, with certain exceptions, the wastes numbered F001, F002, F003, F004, and F005 as those listings were amended and expanded to include mixtures or blends on December 31, 1985, (50 FR 53315). How does EPA have the authority to use the expanded solvent listings for the prohibition when the statute specifies that the prohibition applies to the solvent listings as the solvent listings as they were in effect on July 1, 1983?

Section 3004(e) of RCRA as amended by HSWA specifies that the earliest land disposal prohibition applies to the solvent listings as they were in effect on July 1, 1983. The universe of solvent wastes covered by those listings in 1983 is proposed to be restricted from land disposal under the authority of that section. Section 3004(g)(4) of RCRA as amended requires the Administrator to make a determination concerning the prohibition on land disposal of "any new waste identified or listed under Section 3001 after the date of enactment" of HSWA within six months after the date of such identification or listing. Since the expanded solvent listings promulgated on December 31, 1985, (50 FR 53315) list new solvent blends or mixtures as hazardous wastes after the date of enactment of HSWA (November 8, 1984), EPA is required to make a determination concerning the prohibition on land disposal of these newly listed wastes within six months of listing. The universe of solvent wastes not covered by F001-5 listings on July 1, 1983, but included in the proposed §268.30 land disposal restrictions is proposed under the authority of §3004(g)(4) of RCRA as amended by HSWA.

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