

9528.1990(01)

NEW WASTE STREAMS AT INTERIM STATUS FACILITIES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 2 1990

MEMORANDUM

TO: Patrick M. Tobin, Director
Waste Management Division

FROM: Joe Carra, Director
Permits And State Programs Division

SUBJECT: Changes During Interim Status

In your memorandum of March 2, 1990, you recommend that §270.42.72(a)(1), which addresses the addition of new waste streams at interim status facilities, should be amended to require a justification of need and approval by the Director because of a lack of available capacity or the change is necessary to comply with a federal, state, or local requirement. We appreciate your concern regarding this matter in light of the recent waste listings and the new Toxicity Characteristic.

Frank McAlister in my Division recently spoke with Betty Willis of your staff regarding the specific concerns of Region 4. The Region has been receiving inquiries from consultants and facilities who are investigating the possibility of constructing units that would manage nonhazardous waste that shortly thereafter would be listed or characterized as hazardous. Those facilities then would be able to gain interim status as an "existing facility". Under the current regulations (§270.42(a)(1)), the facility could then amend its Part A permit application to treat any other hazardous waste without first gaining approval from the Agency as long as no additional capacity or a change in process is involved. Betty Willis expressed concern over this particular situation and the lack of an Agency role in approving such requests.

We appreciate the concern you have expressed regarding this situation. OSW will be considering amendments, such as the one

you have recommended, to the permitting regulations, and will contact you for additional information at that time. In any case, it should be noted that authorized states have the discretion to amend their hazardous waste management regulations to make them more stringent if they believe there is a programmatic need to do so.

Thank you for bringing this matter to our attention. If you have additional questions or observations on this subject, please have your staff contact Wayne Roepe (FTS-475-7245) or Frank McAlister (FTS-382-2223).

cc: Denise Keeher
Frank McAlister
Wayne Roepe
Betty Willis, Region 4