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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

OCTOBER 86

1. Land Disposal Restriction Variances

A manufacturer generates a waste which will be subject to land disposal restrictions and for which no treatment technologies have been developed that are capable of achieving the treatment standards. The only management method available is landfilling. Can the generator obtain a variance from or an extension to the effective date of the land disposal restrictions that will be finalized November 8, 1986?

The generator has three options:

1) He may demonstrate that there will be no migration of hazardous constituents from the disposal unit for as long as the waste remains hazardous, per §3004(e).

2) He may apply for a 1 year extension of the effective date of the prohibition, per §3004(h)(3), if he meets the criteria in §268.4(a). Essentially these criteria require that the generator has entered into a contractual agreement either with someone to build treatment capacity for him or with someone who can eventually provide alternative capacity for the waste, but that the capacity will not be available until some time after the effective date of the ban. The Administrator's decision to grant an extension will be made on a case-by-case basis. An extension may be renewed once for an additional year.

3) He may apply for a treatability variance, wherein the generator proves that no treatment method for the particular waste will achieve the §3004(m) standards specified in the rule. The generator essentially applies for a different performance standard for the particular waste, although it would still be based on the performance achievable by the application of BDAT to the particular waste. This new option is discussed in the September 5, 1986 Federal Register (51 FR 31787).

Source: Steve Weil (202) 382-4770

Research: Kim B. Gotwals