

9522.00-1

LAND DISPOSAL RESTRICTIONS EFFECT ON PERMITS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

SEP 15 1986

MEMORANDUM

SUBJECT: Effect of Land Disposal Restrictions on Permits

FROM: Marcia E. Williams, Director

TO: Hazardous Waste Division Directors Regions I-X

On or before November 8, 2986, the Agency will promulgate regulations that will restrict the disposal of certain solvents and dioxins that are hazardous wastes. (Note that in the absence of such regulations a ban on the land disposal of these waste would automatically take effect on November 8 pursuant to the self-implementing RCRA provision at §3004(e).) The land disposal restrictions will apply to all land disposal facilities regardless of any existing permit conditions.

The HSWA land disposal restrictions supersede the §270.4 provision which currently provides that compliance with a RCRA permit constitutes compliance with Subtitle C. Therefore, the permit does not shield the facility from the new land disposal requirements. The Agency is in the process of amending §270.4 to make it consistent with the self-implementing requirements of RCRA. (See 51 FR 10715, March 28, 1986.) However, these provisions automatically apply to permitted facilities even without the regulatory change. In addition, there is no need to reopen or modify the existing permits to incorporate those provisions. The land disposal restrictions are fully enforceable notwithstanding contrary or absent permit provisions concerning land disposal.

Similarly, for those land disposal permits that are not being processed it is not necessary to provide permit conditions regarding the applicability of the land disposal restrictions since they apply automatically. However, the Fact Sheet should briefly describe the effect of the new requirements for the benefit of the public and the facility owner/operator. The following language is recommended for inclusion in the Fact Sheet:

"SELF-IMPLEMENTING HSWA PROVISIONS

In several instances HSWA imposes self-implementing requirements that apply to all facilities regardless of their current permit conditions. RCRA provisions that supersede permit conditions include: 1) requirements that go into effect by statute, and 2) regulations promulgated under 40 CFR Part 268 restricting the placement of hazardous wastes in or on the land. Pursuant to this RCRA authority, certain dioxins and solvents have been restricted from land disposal unless treated according to specified standards. Although the permit does not contain conditions regarding the management of the restricted dioxin and solvent wastes, the facility is required to comply with the standards in 40 CFR Part 268."

Once the land disposal restriction program is established, it will be preferable to incorporate the applicable standards and practices into new permits. This will clarify specific activities at the facility and will simplify enforcement of the land disposal requirements at permitted facilities.

Please feel free to contact Frank McAlister of the Permits Branch (FTS 382-2223) if you have any questions regarding this matter.

cc: Hazardous Waste Branch Chiefs, Regions I-X  
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