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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

MAY 85

Free Liquids

1. Section 3004(c)(3) of RCRA as amended by the Hazardous and Solid Waste Amendments of 1984 states that "Effective twelve months after the date of enactment...the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required under Section 3005 (c)...is prohibited." There is no mention of "free liquids" in this prohibition. How is EPA going to define "any liquid"?

EPA believes that Congress intended the term "liquid" in Section 3004(c)(3) to encompass free liquids (as defined in §260.10) as well as liquids. The legislative history to Section 3004(c) indicates that Congress meant EPA to develop a uniform definition of "liquid" and to prescribe a test to determine when a waste contains liquids and free liquids. See S. Rep. No. 284, 98th Cong., 2d Sess. 22 (1983). In addition, the legislative history shows that Congress generally used the term "liquid" to include both liquids and free liquids.

Hence, the Agency intends to use the paint filter test for the purpose of determining whether a material is a liquid under Section 3004(c)(3). The paint filter test is an appropriate test method to determine the presence of free liquids. The April 30, 1985, Federal Register (50 FR 18370) contains and discusses the final rule which requires the use of the paint filter test. The paint filter test will be the new method 9095 as set out in "Update II to SW-846," (Test Methods for Evaluating Solid Wastes).

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