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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JANUARY 88

3. Disposal of Mixed Readioactive and Hazardous Waste

A generator of a mixed radioactive and hazardous waste, which is a listed hazardous waste with a pH below 2, disposes of it on-site in a land disposal unit. The disposal began in early 1986 and ended in the summer of 1987. The owner never submitted a Part A or Part B permit application. The State in which the facility is located became authorized for RCRA in late 1985, but is not authorized to enforce HSWA provisions, and is not authorized to regulate mixed waste. However, the State has its own regulations regarding mixed waste. If the owner wants to close the land disposal unit, will he be required to submit a Part B permit application and conduct groundwater monitoring?

According to the Federal Register of July 3, 1986 (51 FR 24504), mixed radioactive and hazardous waste is subject to RCRA regulation. In a state which is authorized to implement Subtitle C, the mixed waste will not be subject to the Subtitle C authorized program until the state becomes authorized to regulate mixed waste; however, state regulations enforced under state law would apply to the mixed waste. In addition, if the facility contained a RCRA-regulated unit, and was applying for its permit, EPA could use RCRA Section 3004(u) authority for releases of hazardous constituents from solid waste management units (the mixed radioactive and hazardous waste would be a solid waste, per Section 261.2(b).

Once the State receives authorization to regulate mixed radioactive and hazardous waste, the disposal unit would become subject to the Stat's authorized program regulations, and would become subject to the HSWA provisions (which would be enforced by EPA until the State gained authorization to implement HSWA authorities).

If the disposal unit was closed and was an inactive facility prior to the date chosen by the State to be the interim status "in existence" date, the disposal unit might not be subject to State Subtitle C regulation unless the waste was subsequently managed in a manner that would constitute treatment, storage, or disposal. However, if State law does not otherwise prohibit it, the State could elect not to grandfather any inactive mixed waste units. A State could do this because a State RCRA program can be broader in scope than the Federal program. Thus, a State could choose to regulate inactive units in some manner.

If the disposal unit was still an active facility on the date the State selects as its interim status "in existence" date, which can be no later than the date on which the State's authorization to regulate mixed waste became effective, the facility would need to submit a

3. Disposal of Mixed Radioactive and Hazardous Waste (Cont'd)

Part A permit application within the timeframe specified in the State's regulations or statute to qualify for interim status.

Depending on the regulatory dates selected by the State, closre of the disposal unit could occur while the facility was under interim status. State law on closure, post-closure, permits, and groundwater monitoring will control.

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