

OSWER Policy Directice No. 9487.00-9

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 10 1988

MEMORANDUM

SUBJECT: Vertical Expansion at U.S. Ecology's  
Trench 10, Beatty, Nevada Facility

FROM: Marcia Williams, Director  
Office of Solid Waste (WH-562)

TO: Jeff Zelikson, Director  
Toxics and Waste Management Division  
Region IX

This is in response to your memorandum of December 30, 1987 requesting a written clarification as to whether the Minimum Technology Requirements would apply to a vertical expansion at U.S. Ecology's Trench 10 in Beatty, Nevada. Based on our understanding of the facts contained in your memorandum, we agree with Region IX and conclude that the Minimum Technological Requirements do not apply to Trench 10. Our position is based on the following:

1. The existing unit had obtained all necessary permits and was operational as of November 8, 1984.
2. The Part A submitted by U.S. Ecology in 1980 indicates a landfill capacity of 800 acre-feet. Neither the landfill nor the proposed vertical expansion will exceed that capacity.
3. The TSCA permit in effect on November 8, 1984 required a three-feet-below-grade limit on placement of PCB waste (this limit was rescinded in August 1987). This applied to PCB wastes only and did not affect the RCRA permit for this unit. Other permits that would affect RCRA wastes placed in this unit placed no limitations on the elevation of RCRA waste.
4. The proposed vertical expansion will not allow placement of waste beyond the unit's existing lateral boundaries.

5. Dikes constructed to provide for additional waste are not addressed in any permit in effect on November 8, 1984, and State and local permits do not require a permit change to address construction of the dikes.

We are in agreement with your general conclusion that the vertical expansion is permissible, however, we believe your discussion of "vertical expansion" should emphasize the fact that regardless of whether the expansion occurs within the unit boundary or not, vertical expansions are limited by the Federal, State and local permits in effect prior to the enactment of HSWA including any requirements for pre-approval of a vertical expansion of RCRA wastes. Thus, consistent with our May, 1985 guidance, where a permit concerning the placement of hazardous waste includes an elevation limit, a vertical expansion beyond that elevation limit after November 8, 1984 would constitute a "new unit" subject to Minimum Technological Requirements. This is because the vertical expansion would not be "operational" due to the legal impediment to its operation. (See also, 50 FR 28702 & 28707, July 15, 1985.) On the other hand where no elevation or construction limits are required by applicable permits and/or other State, local, or Federal requirements concerning hazardous waste, as in this case, additional waste can be placed on the area taking into consideration the slope of the final cover at closure. Furthermore, the limitations imposed on U.S. Ecology for disposal of PCB wastes are not relevant in this case but would have been meaningful, as is apparent from the preceding discussion, if RCRA hazardous wastes had been included in the height limitation specified in the TSCA permit.

I hope this clarifies Headquarters' position that the vertical expansion at Trench 10 of U.S. Ecology's Beatty, Nevada facility does not constitute a new unit or a lateral expansion. To promote national consistency in determining the applicability of the Minimum Technological Requirements to new units and lateral expansions, all Regions will receive a copy of this memorandum.

Should you have additional questions, please contact Chris Rhyne, of my staff, on FTS 382-4695.

cc: RCRA Branch Chiefs, Regions I-X  
Permit Section Chiefs, Regions I-X  
Bob Tonetti  
Les Otte  
Frank McAlister  
Pam Savage

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