

40 CFR Part 268

[FRL-4146-5]

Hazardous Waste Management System: Land Disposal Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to approve storage of lead-bearing hazardous materials case-by-case capacity variance.

SUMMARY: In the final rule establishing land disposal restrictions for Third Third hazardous wastes (55 FR 22520), EPA granted a two-year national capacity variance to allow the continued storage of lead-bearing hazardous materials in waste piles (considered a form of land disposal) prior to smelting. The variance has now expired and these untreated wastes became prohibited from land disposal on May 8, 1992. At the time it granted the national capacity variance, the Agency indicated its intent to address the concerns raised by the secondary lead smelting industry to allow the continued storage of these materials in piles prior to lead recovery. While the Agency has published a proposal that would address this problem, the Agency has not yet finalized such a rule. The Agency believes that the continued storage of these lead-bearing hazardous materials in piles at smelting facilities prior to recovery is preferable to any alternative management available and consistent with the Agency's goal of waste minimization. Although the Agency is developing a solution that would allow the continued management of these wastes prior to lead recovery, until final standards are issued, it would be infeasible as a practical matter for regulated parties to design and construct the capacity to store the materials properly. This practical infeasibility results in an industry-wide, short term unavailability of non-land based storage capacity preceding treatment.

Therefore, EPA is taking regulatory action to approve an extension of the LDR effective date applicable to owners and operators of secondary lead smelters who are engaged in the reclamation of lead-bearing hazardous materials. This extension applies only to lead-bearing hazardous wastes placed in a staging area immediately prior to being introduced into a lead smelter. EPA believes that this extension to the LDR effective date is appropriate and consistent with the Agency's overall objective of encouraging recycling. No further applications will be required at this time from persons granted the extension of this action. However, EPA is requiring such persons to maintain certain recordkeeping, and to meet certain other requirements to qualify for the extension.

EFFECTIVE DATE: This notice becomes effective on June 5, 1992.

ADDRESSES: The official record for this notice is identified as Docket Number F-92-CD2P-FFFFF, and is located in the EPA RCRA Docket, room 2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays. The public must make an appointment to review docket materials by calling (202) 260-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost \$0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424-9346 toll-free or (703) 920-9810 locally. For information on specific aspects of this notice, contact Nick Vizzone, Office of Solid Waste, Capacity Programs Branch (OS-321W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308-8477.

>>>> Preamble has not been included in this file. <<<<

PART 268-LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. Section 268.35 is amended by revising paragraph (c) and by adding paragraph (k) to read as follows:

§ 268.35 Waste specific prohibitions-Third Third wastes.

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(c) Effective May 8, 1992, the following waste specified in 40 CFR 261.31 as EPA Hazardous Waste Numbers F039 (nonwastewaters); the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste Number K031 (nonwastewaters); K084 (nonwastewaters); K101 (nonwastewaters); K102 (nonwastewaters); K106 (nonwastewaters); the wastes specified in 40 CFR 261.33(e) as EPA Hazardous Waste Numbers P010 (nonwastewaters); P011 (nonwastewaters); P012 (nonwastewaters); P036 (nonwastewaters); P038 (nonwastewaters); P065 (nonwastewaters); P087; and P092 (nonwastewaters); the wastes specified in 40 CFR 261.33(f) as EPA Hazardous Waste Numbers U136 (nonwastewaters); and U151 (nonwastewaters); the following wastes identified as hazardous based on a characteristic alone: D004 (nonwastewaters); and D009 (nonwastewaters); inorganic solid debris as defined in 40 CFR 268.2(g) (which also applies to chromium refractory bricks carrying the EPA Hazardous Waste Numbers K048-K052); and RCRA hazardous wastes that contain naturally occurring radioactive materials are prohibited from land disposal.

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(k) Effective May 8, 1993, D008 lead materials stored before secondary smelting are prohibited from land disposal. On or before March 1, 1993, the owner or operator of each secondary lead smelting facility shall submit to EPA the following: A binding contractual commitment to construct or otherwise provide capacity for storing such D008 wastes prior to smelting which complies with all applicable storage standards; documentation that the capacity to be provided will be sufficient to manage the entire quantity of such D008 wastes; and a detailed schedule for providing such capacity. Failure by a facility to submit such documentation shall render such D008 managed by that facility prohibited from land disposal effective March 1, 1993. In addition, no later than July 27, 1992 the owner or operator of each facility must place in the facility record documentation of the manner and location in which such wastes will be managed pending completion of such capacity, demonstrating that such management capacity will be adequate and complies with all applicable subtitle C requirements.

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