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ARTICLE DIOXIN WASTES - DILUTE SOLVENTS TO GET 2 YEAR EXEMPTION" NCBC
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However, the agency said it is proposing not to allow use of insurance or surety bonds guaranteeing payment for corrective action at permitted RCRA facilities although these two methods currently are permitted under the statute's closure and post-closure rules.

Other Methods Would Not Be Allowed

In addition, EPA is proposing not to permit escrow agreements, certificates of deposit, security interests, and pledges of collateral as proof of ability to pay cleanup costs. The agency said it assessed these methods and rejected them for the same reasons for which they originally were rejected when considered during development of Subpart H regulations.

The proposed financial assurance mechanisms, which will be published soon in the Federal Register, would differ from existing closure and post-closure rules in terms of the length of the pay-in period and the pay-in formula for the existing financial assurance trust fund, the agency said.

Comments on the proposal may be sent in triplicate until 60 days after publication in the Federal Register to RCRA Docket (S-212) (WH-562), EPA, 401 M St. S.W., Washington, D.C. 20460; comments should specify docket no. F-86-EACP-FFFFF.

For further information, contact RCRA/Superfund Hotline, toll free, at (800) 424-9346 or, in Washington, D.C., at (202) 382-3000. For technical information, contact Deborah Wolpe, Office of Solid Waste (WH-562B), at the above EPA address; telephone (202) 382-4781.

Hazardous Waste

DIOXIN WASTES, DILUTE SOLVENTS TO GET TWO-YEAR EXEMPTION FROM LAND DISPOSAL BAN

CHICAGO — (By A BNA Staff Correspondent) — Restrictions on land disposal of untreated dilute solvents and dioxin-containing wastes under the Resource Conservation and Recovery Act will not take effect for two years due to treatment capacity limitations, according to two top Environmental Protection Agency officials.

J. Winston Porter, EPA assistant administrator for solid waste and emergency response, said Oct. 20 at a solid waste management conference that requiring treatment of dioxin wastes and dilute solvents before land disposal now could force industries generating such wastes to shut down.

Because sufficient treatment capacity is not available, firms would have no choice but to abruptly stop generating these wastes, he said at the conference, sponsored by the National Solid Wastes Management Association.

Porter also explained EPA's intended final action concerning land disposal restrictions for solvents and dioxin wastes in an Oct. 16 letter to hazardous waste treatment, storage, and disposal facilities. He said in the letter that the rules likely would become effective by Nov. 4 and advised facilities currently accepting concentrated solvents to make appropriate arrangements.

EPA is required under the 1984 amendments to RCRA to determine by specific deadlines whether and to what extent all wastes regulated under the statute as hazardous should be treated before they can be disposed of on land.

In January, the agency proposed a health risk-based scheme for determining when treatment was necessary, but

\$6 Million Increase in Drinking Water Grants

The appropriation includes a \$6 million increase over the Administration's request in grants to states for drinking water and groundwater programs, a House Appropriations Committee staff member told BNA Oct. 22. This increase consists of \$5 million for public water system supervision grants and \$1 million for underground injection control program grants, which brings the total for public water system supervision grants to \$33.45 million and \$9.5 million for underground injection programs, the staff member said. The Association of State Drinking Water Administrators had sought \$37.2 million for public water system grants to fund the additional requirements of the reauthorized Safe Drinking Water Act, which are expected to go into effect in fiscal 1987 (Oct. 3, p. 824).

Hazardous Waste

THOMAS APPROVES PROPOSAL DETAILING METHODS FOR PROVING ABILITY TO PAY FOR RCRA CLEANUPS

Mechanisms for proving financial ability to pay for cleanup actions required at permitted hazardous waste handling facilities were approved for proposal Oct. 15 by Environmental Protection Agency Administrator Lee M. Thomas.

The proposed mechanisms, including use of trust funds, surety bonds guaranteeing performance, letters of credit, financial tests, and corporate guarantees, would cover hazardous constituent releases at all types of solid waste management facilities permitted under the Resource Conservation and Recovery Act, the agency said.

Interim status hazardous waste management facilities, as well as facilities that have lost their interim permit status to operate under RCRA, would not be subject to the proposed financial assurance mechanisms, according to the agency.

It is possible, however, that the agency would use RCRA enforcement powers or Comprehensive Environmental Response, Compensation, and Liability Act (superfund law) authorities to obtain the necessary funds for cleanup actions at some of these facilities, the proposal said.

Under the EPA proposal, owners of hazardous waste treatment, storage, or disposal facilities would have to demonstrate financial ability to cover cleanup costs for any corrective action measures specified by the agency in RCRA operating permits.

Amendments Cover All Management Units

The 1984 amendments to RCRA require that all operating or post-closure permits issued under the statute provide for corrective action for hazardous constituent releases from any solid waste management units at a regulated facility whether the units themselves are regulated or not. The amendments further require that such facilities prove their ability to pay the cost of completing the cleanup at leaking units.

EPA said it issued on July 15, 1985, very general regulations codifying language in the 1984 amendments concerning corrective action and financial assurance requirements, adding that this new proposal would provide the detail for those rules (Current Developments, July 19, 1985, p. 475).

According to EPA, the corrective action financial assurance proposal is modeled on existing RCRA facility closure

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decided later to require "best demonstrated available treatment" (BDAT) after reviewing widespread criticism of the original proposal (Current Developments, Jan. 17, p. 1763; Aug. 22, p. 599).

EPA also proposed in January to require treatment of all dioxin wastes and solvents listed under RCRA as hazardous before land disposal, again in response to amendment requirements.

1 Percent Cutoff Level for Solvents

According to Porter, EPA has decided to grant a two-year exemption from treatment requirements for solvent wastes containing less than 1 percent of solvents currently listed as hazardous under RCRA. Wastes containing 1 percent or more of listed solvents would have to be treated before land disposal when the final rule is issued in early November, he explained. (See related item in this issue.)

Porter told BNA Oct. 20 that the BDAT required under the final rule for solvents likely will be incineration. However, he added he anticipates that the rule will allow use of other treatments that are shown to reduce solvent levels to the same extent as incineration.

Marcia E. Williams, director of the EPA Office of Solid Waste, added that dioxin-containing wastes will be exempted for two years from the RCRA treatment rules because no facilities currently are permitted to treat the highly toxic substances.

Williams said at the conference that the final rule governing solvents and dioxin wastes will be issued before the Nov. 8 deadline set by the 1984 amendments. EPA also will issue its final general approach to RCRA land disposal restrictions at that time, she added.

The amendments provide for the two-year exemption from treatment requirements when capacity is shown not to be available, she said.

Performance-Based BDAT Requirements

Williams explained that, as with solvents, the overall EPA approach to land disposal restrictions will allow use of any technology that can meet a performance standard based on the BDAT. This will provide some flexibility in the kinds of treatments that can be used, she said.

However, the rules will explicitly prohibit use of dilution as a method of "treating" wastes to attain the BDAT standard, according to the Solid Waste Office director.

The agency plans to use the "toxic characteristic leaching procedure" to set BDAT treatment levels, Williams said. EPA proposed the leaching procedure in June to replace the extraction procedure toxicity test currently used as a method of defining wastes as hazardous under RCRA (June 27, p. 255).

To define instances in which RCRA treatment requirements can be waived by proving "no migration of waste constituents while they remain hazardous," EPA will include specific examples to demonstrate when the waiver will or will not be granted, she said. A significant number of individual wastes undoubtedly will fall into a "gray area" not covered by the agency's examples, however, and these will be assessed on a case-by-case basis, according to Williams.

Consideration of Air Emissions

The no-migration waiver, provided for under the RCRA amendments, will include consideration of air emissions

from land disposal facilities, an especially important issue for land treatment units, Williams stressed.

She said EPA will develop as a component of RCRA hazardous waste testing air emission standards that will have to be met to prove that no migration of hazardous constituents would occur.

Some wastes may qualify under the agency's planned land disposal restrictions for a waiver from treatment requirements if a BDAT standard is not attainable or not appropriate, Williams added. This variance again will be decided on a case-by-case basis, she said.

Waste generators also may obtain one-year exemptions from RCRA treatment requirements if they can demonstrate the need to collect waste on site until adequate amounts for treatment are accumulated, according to Williams.

Near-term Efforts To Raise Capacity

The Solid Waste Office director commented that EPA realizes severe treatment capacity limitations may hinder compliance with RCRA land disposal restrictions. The agency is making some efforts to alleviate the problem in the near term, she said.

For example, EPA plans to propose provisions to ease requirements under RCRA for waste storage permit modifications by considering certain changes "minor," rather than "major," Williams said.

This action is designed to expedite the permit modification process to enable storage facilities to begin accepting new types of hazardous wastes more quickly after the wastes become subject to the land disposal restrictions, she explained.

EPA plans to propose in March 1987 changes in the permitting of mobile hazardous waste incinerators to make their use easier, Williams said. Under that proposal, mobile incinerators could be awarded statewide rather than site-specific permits, for example, she said.

RCRA rules setting thermal hazardous waste treatment standards and governing permitting of experimental waste treatment methods to encourage development of new technologies are expected to help increase capacity as well, according to Williams.

Risk-Based Approach Said Not Abandoned

Although EPA will not use a risk-based approach for its land disposal restrictions under RCRA, the agency plans to continue using the approach for other provisions of the law, Williams said.

For example, EPA plans to develop a concentration-based system for determining when wastes should be listed as hazardous under RCRA, she said.

Under this system, concentration limits would be set so that wastes imparting high health risks would be listed as hazardous while those having low risk would not, Williams explained.

A concentration-based listing system would help EPA deal more expeditiously with delisting petitions from waste generators for exemption of their treated wastes from regulation as hazardous under RCRA, she added.

A substantial increase in delisting petitions for treated wastes is expected as a result of the new land disposal restrictions, Williams said.

Once a waste is delisted, it can be disposed of as a solid waste, which is subject to less stringent requirements under RCRA than hazardous waste, she noted.