

## MEMORANDUM

SUBJECT: Suspension of RCRA Permitting at Commercial Mixed Waste Facilities

FROM: Elizabeth Cotsworth, Acting Director  
Office of Solid Waste

TO: Regional RCRA Senior Policy Advisors

[Date Signed: May 21, 1997]

On April 11, 1997, EPA obtained approval for a revision to the consent decree setting a deadline for the promulgation of the "Hazardous Waste Identification Rule for Waste." In the revised consent decree EPA agreed to seek comment by October 31, 1999 on regulatory relief for wastes generated at nuclear power plants that are both chemically hazardous and radioactive. In a separate letter to the attorney for the Edison Electric Institute, one of the parties to the consent decree, EPA agreed to make a final decision about potential relief for radioactive "mixed wastes" from nuclear power plants by April 30, 2001. In that letter EPA also agreed to recommend that EPA Regions and States authorized to implement RCRA programs provide interim relief relating to the call-in of RCRA Part B permit applications.

This memorandum provides EPA's recommendations regarding interim permitting relief pending completion of the rulemaking described above. In that rulemaking EPA will consider potential relief from RCRA permitting requirements for on-site storage of both mixed wastes generated by nuclear power plants and mixed wastes generated by other commercial entities. Accordingly, in this memorandum the term "commercial mixed waste" refers to any commercially-generated, low-level, radioactive hazardous mixed waste regulated by EPA under Subtitle C of RCRA and by the Nuclear Regulatory Commission (NRC) or NRC-Agreement States under the Atomic Energy Act (AEA).

To eliminate a potentially needless expenditure of resources while EPA evaluates a possible exemption, the Office of Solid Waste (OSW) recommends that EPA Regions and States authorized under RCRA to regulate mixed wastes temporarily suspend the call-in and processing of RCRA Part B applications and the issuance of RCRA permits for facilities which have interim status for the on-site storage of commercial mixed wastes. This permit suspension only applies where the facility is not otherwise subject to RCRA permitting requirements. Moreover, OSW does not recommend any suspension for facilities where Regions or States find a particular environmental concern that merits the call-in or issuance of such a permit.

Any facility that generates and stores commercial mixed waste for more than 90 days remains subject to RCRA section 3010 notification and Part A filing requirements, other Part 270 interim status requirements, Part 265 interim status standards, and section 3008(h) corrective action authorities, as well as other relevant hazardous waste regulations, including

the land disposal restrictions. EPA continues to recommend a low priority for enforcement of the land disposal storage restrictions applying to mixed wastes, but only for facilities that meet the conditions set out in the “Extension of the Policy on Enforcement of RCRA Sec. 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Waste”, 61 FR 18588, April 26, 1996. In particular, EPA reminds mixed waste generators that they must utilize all available capacity to treat mixed wastes. This new recommendation regarding the temporary suspension of RCRA permitting for interim status facilities does not affect any of the terms of the enforcement policy for the land disposal restrictions.

During this period of permitting suspension, OSW believes that, in general, any risks to human health and the environment from the storage of commercial mixed waste can be adequately addressed under RCRA interim status authorities and AEA regulations administered by NRC or NRC-Agreement States. Finally, OSW notes that this policy will not affect the processing of RCRA permits for new facilities. A letter with identical provisions has been sent to Hazardous Waste Management Division Directors in each State.

If OSW determines that a change in this policy on the suspension of permitting at these facilities is appropriate, it will issue another written policy notice.

Attachment: April 7, 1997 letter to Douglas H. Green