

# Reclamation Manual

## Directives and Standards

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**Subject:** Liability and Risk Reduction

**Purpose:** To establish direction for reducing both the risk and Federal liability for the dumping of hazardous waste into sanitary landfills and open dumps. The five situations addressed are: (1) existing sanitary landfills authorized under patent, deed, or lease; (2) applications for new patents, deeds, or leases for landfills; (3) open dumps or sanitary landfills located on Reclamation lands without authorization or approval; (4) construction sites; and (5) exceptions.

**Authority:** Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); Resource Conservation and Recovery Act (RCRA); 40 CFR 429

**Contact:** Environmental and Planning Coordination Office, D-5100

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1. **Liability and Risk Reduction for Sanitary Landfills, Open Dumps, and Hazardous Waste Sites on Reclamation Lands.** To the maximum extent possible and within the limits of law, open dumps will be prohibited and cleaned up where present, sanitary landfills will be tightly regulated, and title to sanitary landfill lands transferred to the operator where possible. Hazardous waste dumping shall be eliminated on all sites, and any hazardous waste releases into the environment shall be prohibited.

A. **Previously Authorized and Existing Sites.** In cases of previously authorized existing landfills, the following steps should be taken:

- (1) Send a letter to all grantees (lease, deed, or patent) that have landfill operations on Reclamation lands (a) informing them of their obligations to meet all requirements of RCRA, CERCLA, and the respective State regulations and (b) reminding them of conditions contained in their lease, deed, or patent. Consult with your Field Solicitor on the specific wording of such letters.
- (2) Establish and maintain close coordination with appropriate State and county health or environmental agencies responsible for landfill permits, monitoring, and complaints; maintain records of site inspections and compliance; and pursue joint State/local Reclamation inspections of landfill operations.
- (3) Determine if the occupied land is necessary for project purposes. If the lands are not needed for project purposes, and are not necessary to remain in Federal ownership, propose to the operator or other responsible entity that they purchase the site. The deed issued in any such sale shall not contain any reverter clause.
- (4) Intensify inspection efforts in conjunction with the Regional Hazardous Waste Coordinator, State, county, and/or municipal officials when:

# Reclamation Manual

## Directives and Standards

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- (a) Existing information, complaints from State or local agencies, or other evidence indicate potential violations of State or Federal law, or
  - (b) There is evidence of environmental damage or noncompliance with grant conditions.
  - (c) Maintain records of all compliance activities.
- B. New Applications.** For new applications for sanitary landfill sites, compatibility with project purposes, the resources management plan, and avoidance of potential Reclamation liability are the primary considerations. If the application is approved, fee title to the landfill site with no reversionary clauses will be provided. The title may be provided through land exchanges or outright sale under the Act of February 2, 1911, May 20, 1920, May 16, 1930, March 31, 1950, or other appropriate laws. Objectives include eliminating Reclamation's residual "landlord" responsibilities, the rising compliance of oversight costs, and providing the would-be land recipient control without Reclamation involvement.
- C. Unauthorized Existing Sites.**
- (1) Where unauthorized open dumps or sanitary landfills have been established and either abandoned or continue to operate without authorization from Reclamation, the operation must be terminated. In addition, a thorough survey of the site must be made to determine if any hazardous wastes have been placed in the site. These surveys shall be conducted as appropriate by the Regional Hazardous Waste Coordinator. When the coordinator is unable to personally conduct the survey, the use of a contractor should be considered to provide third-party confirmation of survey findings. If the site is certified clean of any hazardous waste, and if the using entity requests that the site be conveyed by fee title, the using entity should be offered fee title of the site. If fee conveyance cannot be done, then the perpetrator or operator should be required to clean up the dump/landfill area as required by applicable Federal and State laws and regulations.
  - (2) If the responsible agency or entity cannot be located or, if located, refuses to take responsibility for cleaning up the site, Reclamation's regional offices must assume the responsibility to fund and accomplish the cleanup required by laws and regulations. Where the perpetrator of a dump or landfill is under a water service or repayment contract to the United States, and Reclamation is forced to pay the costs of cleaning up and restoring the site, where legally possible, the costs will be added to the contract payments due to the United States. The United States can seek relief from irresponsible operators through the Justice Department and the Courts under provisions of CERCLA.

# Reclamation Manual

## Directives and Standards

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- D. **Construction and Reclamation-Operated Landfill Sites.** All oversight and containment policies stated in this directive will be applied to dumps or landfills that may be established by contractors who are engaged in construction activities on Reclamation projects. The ultimate goal is the eventual cleanup and attain closure of all such existing sites. No new sites may be established without express written prior approval of the Commissioner. All Reclamation-operated or -authorized landfills or other trash or garbage repositories, will be operated under the provisions of the RCRA or other applicable statutes or regulations.
- E. **Policy Exceptions.** Any variations or exceptions to these policies may only be approved by the Commissioner.