

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RECORD OF DECISION
Final Decision and Response to Comments

UNDER THE
RESOURCE CONSERVATION AND RECOVERY ACT
AS AMENDED BY THE HAZARDOUS AND SOLID WASTE
AMENDMENTS OF 1984

Facility: Rosedale Landscape Depot
Maryland Department of Transportation, State Highway Administration

ID Number: MDD981041601

Address: 8355 Pulaski Highway, Rosedale, MD 21237

PURPOSE

This Response to Comments and Final Decision is issued by the United States Environmental Protection Agency (EPA) under the authority of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. § 6901 *et seq.*, and EPA regulations at 40 C.F.R. Parts 260-271 and Part 124, to the Rosedale Landscape Depot facility in Rosedale, MD. EPA has used the administrative procedures for permitting found in 40 C.F.R. Part 270 to provide public notice and solicit comment on EPA's proposed remedy.

PROPOSED REMEDY

In May 2002, EPA proposed that no further corrective action was necessary at the Rosedale Landscape Depot at this time, with the exception of the following activities to ensure the multilayer cap installed on the Former Herbicide/Pesticide Disposal Area remains in good condition.

- Perform annual inspections of the cap and surrounding area to verify its integrity;
- Submit a certified annual inspection report to EPA and Maryland Department of the Environment (MDE) documenting observations from the inspection;
- File a notice with the recorder of deeds for Baltimore County, Maryland that will inform prospective buyers about the residual contamination present below the cap, which notice shall not be released or modified without EPA approval;
- Provide verification in the annual inspection report that the deed notice remains in place; and
- Notify EPA and MDE within sixty (60) calendar days in the event of a property transfer or new construction in the capped area.

EPA requested comments from the public by announcing the forty-five (45) calendar day comment period on the proposed remedy in a local newspaper. The comment period lasted from May 22 to July 8, 2002. During that time, the Administrative Record, including the Statement of Basis describing the proposed remedy, was made available for review by the public at the EPA Region III office in Philadelphia and also at the Rosedale Library in Rosedale, Maryland.

RESPONSE TO COMMENTS

The forty-five (45) day comment period on the proposed remedy ended on July 8, 2002 and one comment was received from the current owner and operator of the Rosedale Landscape Depot facility, the Maryland Department of Transportation, State Highway Administration (SHA), via a letter dated July 3, 2002. The comment was in reference to the requirement for verification in the annual Inspection Report that the deed notice remains in place. SHA asserted that, under Maryland property law, an annual certification of the deed notice would be unnecessary, since once the notice has been recorded, the "deed notice becomes a link in the described property's chain of title." According to SHA, any modifications or release to the deed notice would require the joint agreement of EPA, MDE and SHA.

Based on the information provided by SHA in the July 2002 letter and the fact that no comments were received from other sources, EPA has decided to modify the proposed remedy to remove the annual verification requirement for the deed notice. Also, the last requirement of the final remedy concerning the notification requirement for new construction or property transfers has been varied slightly to clarify the intent. The final remedy for the Rosedale Landscape Depot facility is described below.

FINAL DECISION - Corrective Action Complete with Controls

Consistent with EPA's February 2003 document, *Final Guidance on Completion of Corrective Action Activities at RCRA Facilities* (reference 68 FR 8757), EPA is making a determination of "Corrective Action Complete with Controls" for the Rosedale Landscape Depot. The guidance recommends that EPA make this determination where the full set of corrective measures has been implemented and all that remains is performance of required operation and maintenance and monitoring actions and/or maintenance of institutional controls. The final remedy of the Rosedale site meets these objectives and is protective of human health and the environment. With this determination, EPA recognizes the significant progress made at the facility and the resulting reduction in risk. The final remedy for the Rosedale Landscape Depot is as follows:

1. Perform annual inspections of the cap and surrounding area to verify its integrity;
2. Submit a certified annual inspection report to EPA and MDE documenting observations from the inspection;
3. File a notice with the recorder of deeds for Baltimore County, Maryland that will inform prospective buyers about the residual contamination present below the cap, which notice shall not be released or modified without EPA approval; and

