

memorandum

DATE: March 9, 2000

REPLY TO: Office of Environmental Policy and Guidance (EH-413):Fortune:6-7302
ATTN OF:

SUBJECT: Deferral of Treatment Standards for PCB's in Certain Contaminated Soils

TO: Distribution

Purpose To notify DOE elements that on February 16, 2000 (65 FR 7809), the Environmental Protection Agency (EPA) published a proposed rule concerning the land disposal restriction (LDR) treatment standards for metal-contaminated soils that also contain polychlorinated biphenyls (PCBs). Specifically, EPA is proposing a temporary deferral of the LDR requirement that PCBs be treated as an underlying hazardous constituent (UHC) in soils exhibiting the toxicity characteristic (TC) for metals.

Background Under the LDR program, generators of hazardous contaminated soils are provided the option of complying either with the treatment standards for industrial process wastes (i.e., the Universal Treatment Standards specified in 40 CFR 268.48) or with the alternative soil treatment standards (40 CFR 268.49).

The alternative treatment standards for contaminated soil were promulgated by the LDR Phase IV final rule (May 26, 1998; 63 FR 28602, 28751). A primary objective of these alternative standards was to increase the range of appropriate treatment alternatives available to achieve the LDR requirements, and thereby increase the likelihood that more cleanups would include treatment as a component of the remedy.

When the alternative treatment standards for contaminated soils are used, generators are required to treat for each UHC reasonably expected to be present in the soil at concentrations greater than 10 times the universal treatment standard. This particular requirement was initially applied to soils exhibiting the TC for metals, and soils containing listed hazardous wastes, as part of the LDR Phase IV final rule.

Proposed Temporary Deferral EPA is concerned that the requirement to treat all UHCs in contaminated soils appears to be discouraging remediation, *in those cases where PCBs exist as UHCs in soils that exhibit the TC for metals*. This outcome is contrary to EPA's intent for establishing the alternative treatment standards for contaminated soils. With this in mind, EPA is proposing to temporarily defer the requirement that PCBs be considered a UHC when they are present in soils exhibiting the TC for metals.

EPA would use the proposed deferral to examine the best approach for integrating the LDR requirements applicable to PCBs with the cleanup programs under RCRA and CERCLA, and to evaluate the relationship of the RCRA regulations with those applicable to PCB remediation wastes under TSCA.

**Specific
Wastes
Affected**

The proposed temporary deferral would specifically apply to the following wastes:

- Contaminated soils exhibiting the TC for metals that also contain PCBs in concentrations between 100 ppm and 1000 ppm.

**DOE
Response**

The Office of Environmental Policy and Guidance, RCRA/CERCLA Division (EH-413) will be developing a DOE response to the proposed rule. It is our intention to support the proposed temporary deferral.

If you would like to provide any specific input pertaining to this proposed rule, written comments will be accepted until **Wednesday, March 22, 2000**. These comments may be faxed to EH-413 at 202-586-3915 or sent via the Internet to william.fortune@eh.doe.gov, with a signed hard copy to follow.

Contacts

Questions regarding the proposed rule, or the effort to develop a Departmental response, may be directed to Bill Fortune (at 202-586-7302) or Beverly Whitehead (at 202-586-6073).



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Office of Environmental Policy and Guidance