

9551.1989(01)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JAN 6 1989

Mr. Robert H. Simmington  
Senior Environmental Engineer  
Niagara Plant - Waste Disposal  
Occidental Chemical Corporation  
P.O. Box 344  
Niagara Falls, New York 14302

Dear Mr. Simmington:

In response to your letter of November 28, 1988 to Mr. William Fortune, the following information is provided to clarify your questions about hazardous wastes containing halogenated organic compounds (HOCs). Mr. Fortune is no longer with the Agency, so I am responding to your letter in his place.

As correctly stated in your letter, the two-year national capacity variance for hazardous wastes containing HOCs in concentrations greater than 1000 ppm was rescinded in the First Third rule (Federal Register, August 17, 1988, page 31138), with the exception of HOC-contaminated soil and debris/ Your questions relate to the specific HOCs regulated by these provisions. Your questions are repeated below, followed by our response.

Question 1: "The HOCs to be included in the 1000 ppm are only those listed in the Appendix III to Part 268 - List of Halogenated Organic Compounds Regulated Under Part 168.32, as published in the Federal Register, Vol. 562, No. 130 on Wednesday, July 8, 1987."

Response: As stated in your question, the Agency has limited the California list HOC prohibition to those HOCs listed in Part 268 Appendix III, which is a finite list of constituents for which test methods exist. In determining the concentration of HOCs in a hazardous waste for purposes of the land disposal restrictions, EPA has defined the HOCs that must be included in the calculation as any compounds that have a carbon-halogen bond and are listed in Appendix III. Therefore, those wastes affected by the rescission of the two-year national capacity variance for hazardous wastes containing HOCs in total concentrations greater than or equal to 1000 mg/l are those wastes contained in Part 268 Appendix III.

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Question 2: "The land disposal restrictions only apply to hazardous wastes that contain over the 1000 ppm HOCs (i.e., wastes classified as non-hazardous that contain over 1000 ppm of these HOCs or hazardous wastes with less than 1000 ppm of these HOCs are not restricted from land disposal)."

Response: The California list land disposal restrictions apply to wastes that:

Are listed as hazardous under 40 CFR Part 261; OR

Exhibit one or more of the characteristics of hazardous waste identified in Part 261 (i.e., ignitability, corrosivity, reactivity, or EP toxicity); AND

Also contain a California list constituent.

In other words, as indicated in your question, the California list land disposal restrictions only apply to wastes that are listed or characteristic hazardous wastes and that also contain a California list constituent in concentrations that exceed the prohibition levels.

Your second example in question 2 mentions hazardous wastes with less than 1000 ppm HOCs. While these wastes would not be restricted from land disposal as California list wastes, they might be restricted as solvent- or dioxin-containing wastes, or as First Third wastes. These restrictions include treatment, notification, demonstration, and certification requirements prior to disposal (see 53 FR 31138).

Question 3: You also requested an opinion as to whether the PCBTF Finishing Filter Soda Ash described in your "OXY CHEM-Niagara Plant Waste Characterization Form" is now subject to the land disposal restrictions on the basis of its HOC content, or will be in the future due to its characteristic of EP Toxicity for arsenic.

Response: Based on the data provided in your waste characterization, it appears that the total concentration of HOCs in this waste may exceed 1000 ppm (i.e., the value for total organic halogen is 3.7 percent, or 37,000 ppm). As indicated in the response to question 1 above, however, the HOCs to be included in the calculation are only those listed