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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 23 1991

MEMORANDUM

SUBJECT: Applicability of the Land Disposal Restrictions  
to Exported Wastes

FROM: Sylvia K. Lowrance, Director  
Office of Solid Waste (OS-300)

TO: Gerald M. Levy, Chief  
MA Waste Management Branch  
Region I

This memorandum responds to your March 8, 1991, request for clarification concerning the applicability of the Part 268 Land Disposal Restrictions (LDR) program to wastes to be exported for treatment and/or recovery; in particular, the testing and recordkeeping requirements of Part 268.7.

The requirements of Part 268 are applicable to hazardous wastes (as stated at 40 CFR 268.1(b)) unless specifically provided otherwise in Part 261 or Part 268. Neither Part 261 nor Part 268 generically exclude the export of hazardous wastes from the LDR requirements. Therefore, the requirements of Part 268.7(a) are applicable. However, this is not meant to imply that the treatment standards must be met prior to disposal in another country.

As a secondary matter, the description "corrosive, metal-containing wastes" used in your March 8, 1991 correspondence is insufficient to make a determination regarding the regulatory status of the secondary material when destined for reclamation. Specifically, as presented in Table 1 of Part 261.2, a characteristic by-product or sludge that is reclaimed is not a solid waste (and therefore not subject to the part 268 requirements); however, a characteristic spent material that is reclaimed is a solid waste (and therefore must comply with the Part 268 requirements). In addition, scrap metal that is hazardous solely due to a characteristic is not subject to the LDR Part 268 paperwork requirements (See 40 CFR 261.6(a)(3)(B)(iv)).

Should you have further questions, or need more information, please contact Charles Hunt, of my staff, at FTS 475-8551.

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