

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

February 3, 1994

T.L. Richardson
Environmental Auditor, Internal Audit, 19th floor
Total Petroleum Inc.
900 19th Street
Denver, Colorado 80201-0500

Dear Mr. Richardson,

This letter is in response to your letter dated December 14, 1993 regarding enforcement authority in 9 States.

Arkansas, Colorado, Kansas, Michigan, Minnesota, Missouri, Oklahoma, Tennessee and Texas all have authorization for the Base RCRA program. This means that the States are authorized for and have primacy for all RCRA final rules published in the Federal Register between 1976 through April 1, 1983. Each of these States is also authorized for many rules issued since those dates. Please see the attachments, which show the RCRA rules for which each of these have been authorized.

These attachments reference each rule as having been issued under either HSWA or non-HSWA legal authority. HSWA refers to the Hazardous and Solid Waste Amendments of RCRA, enacted in 1984. For enforcement purposes, whether the rule has a HSWA or non-HSWA legal basis determines whether EPA or the State enforces the rule and when.

If a rule is based on non-HSWA legal authority, then this rule is generally not effective until a State has adopted it. If a rule is based on HSWA authority, then the rule is generally effective immediately in both authorized and unauthorized States. EPA implements HSWA authority rules until the States become authorized.

EPA can also enforce regulations that are part of an authorized State program. EPA, however must enforce the States authorized standards, which may be more stringent than, or equivalent to the federal standards.

In your letter you also referred to primacy related to solid waste compliance. In October 1991, EPA issued standards for municipal solid waste; under these regulations, permitting and enforcement authority fail to the States. Other non-hazardous solid waste is regulated under State rather than federal authority.

I hope you have found this information useful. Please do not hesitate to contact me or Mr. Richard LaShier, Acting Branch Chief of the State and Regional Programs Branch at (703) 308-8760 if you have further questions, or if you wish to have the attached tables explained in more detail.

Sincerely,

Michael Shapiro Director
Office of Solid Waste

Attachments

FaxBack # 11964

