

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

NOVEMBER 29, 1995

MEMORANDUM

SUBJECT: Administrator's Decision on Extension of
Delisting Delegation to Regions

FROM: Mike Shapiro, Director
Office of Solid Waste

TO: Regional Waste Management Division Directors

The purpose of this memorandum is to transmit to you the Administrator's decision on October 10, 1995, formally extending the delegation of delisting authority to the Regions. The proposed delegation was submitted to the Regions for review and clearance, under the Agency's Directive Clearance process, last June. Regions that submitted comments were provided with written responses addressing their comments in September.

As a result of this extension of delegation, the delisting petitions will now be submitted to the Regional Offices for decisions instead of EPA Headquarters. We will also be transferring existing petitions at EPA Headquarters, if they are without decisions, for consideration by the home Region. Consequently, in order to start an orderly transfer of the delisting program to the Regions, I would appreciate it if all of you could designate an appropriate person in your division who will have responsibility for the delisting program. Please send a return memorandum by December 15, 1995, which provides name, address, and telephone number for the person you designate.

My staff is looking forward to working with the persons you designate and want to provide them with existing guidance materials on the requirements of delisting petitions and procedures for their review. In addition, as soon as we receive the requested information from all of you, we plan to publish a short notice in the Federal Register to inform the public about the extension of the delegation of delisting authority to the Regions and the Regional contacts.

If you have any questions, please feel free to have your staff contact Narendra Chaudhari at (202) 260-4787. Thank you for your assistance.

Attachments

FaxBack # 11968

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

SEPTEMBER 6, 1995

MEMORANDUM

SUBJECT: Change to Delegation of Authority (8-19) for Actions on
De-listing Petitions to Exclude a Waste Produced at a
Particular Facility -- DECISION MEMORANDUM

FROM: Robert A. English, Acting Director
Management and Organization Division

TO: The Administrator

THRU: AX

ISSUE

The Office of Solid Waste and Emergency Response (OSWER) proposes to include the Regional Administrators as recipients of the authority under Delegation 8-19 to grant or deny delisting petitions.

BACKGROUND

Delisting is a rulemaking process which allows facilities to petition EPA to exclude a listed waste from Subtitle C jurisdiction. As a result of a delisting, the waste is no longer regulated as hazardous. The overall intent of the delisting process is to ease the regulatory burden on handlers of listed wastes improperly captured by the broad listing definitions. In addition, the delisting process can be used to exclude listed wastes that are sufficiently treated so that they no longer pose an adverse threat to human health or the environment.

OSWER is recommending the extension of the delisting delegation to the Regions for the following reasons. First, it will minimize delays created because of the number of petitions received by the Office of Solid Waste (OSW). Decentralizing this authority to the Regional Administrators would enable each Region to more quickly review the delisting petitions received from facilities in their jurisdictions. Second, the Regional Offices are likely to be more familiar with the generation and/or treatment processes of the requesting facilities, as well as the characteristics of the petitioned wastes, and therefore better able to determine whether a waste should be delisted.

ANALYSIS AND REVIEW

It is anticipated that with the extension of the delegation to the Regions the following would occur:

- Delisting petitions would be submitted to Regional Offices instead of EPA Headquarters.
- If there are few or no resources for reviewing delisting petitions, Regions could choose to develop criteria for prioritizing review of delisting petitions or inform petitioners that review of their petitions is not possible at this time.
- Regions could encourage and work with currently unauthorized states to pick up delisting authority.
- Headquarters could be asked to work on petitions with inter-Regional or National implications.
- Headquarters, would provide existing guidance materials on the requirements for a delisting petition and the review procedures. Headquarters would also provide additional technical/policy guidance when needed.

The delegation was distributed to OIG, OGC, OPPE, OECA, OROS/LR, and the 10 Regions for review and clearance. Only Regions V and IX responded with comments, and were advisory. OSWER maintained the delegation in its proposed form, after explaining their rationale to the Regions.

RECOMMENDATION

The benefits of extending the delegation of authority to the Regional Administrators include more timely responses due to expertise located in the Regions, and less backlog in the Regional offices than in Headquarters. I recommend you approve this delegation.

Signed: Carol M. Browner

Date: OCTOBER 10, 1995

cc: Sallyanne Harper, AA/OARM

Attachment

Proposed Revised Delegation 8-19