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TITLE: Soils and Debris Contaminated By Hazardous Waste Regulated Under RCRA at VAP Sites

DATE EFFECTIVE: February 2000

KEYWORDS: Hazardous waste; RCRA waste; contaminated soils; contained-in policy; contaminated debris

RULES: Eligibility: OAC 3745-300-02(C); Remediation: OAC 3745-300-15 (C); Remedy must comply with all other applicable laws.

QUESTION: Are soils, sediment or debris containing hazardous waste constituents considered a hazardous waste under RCRA?

ANSWER: Pursuant to the RCRA regulations, contaminated media (soils, groundwater, sediments, etc.) and debris are not themselves a hazardous waste. However, any such medium can become subject to regulation under RCRA if it contains hazardous waste. EPA generally considers a contaminated environmental medium to contain hazardous waste: (a) if it exhibits a characteristic of hazardous waste (OAC 3745-51-20); and/or (b) if the media is contaminated with concentrations of listed hazardous wastes (OAC 3745-51-11) above health-based levels. Under these circumstances, any contaminated environmental medium meeting the above criteria would be subject to all applicable RCRA requirements until they no longer contain a hazardous waste.

EPA generally considers a contaminated environmental medium no longer “containing a hazardous waste” when (a) it no longer exhibits the characteristics of a hazardous waste; or (b) if the media contains concentrations of a listed hazardous waste which are below health-based levels. However, contaminated environmental media which contained hazardous waste when it was first generated (i.e., first removed from the landfill) would remain subject to LDR treatment requirements even if it “no longer contains a hazardous waste”.

SUMMARY: Contaminated media and debris can become subject to regulation under RCRA if they “contain” hazardous waste. EPA generally considers contaminated environmental media to contain hazardous waste: (a) if it exhibits a characteristic of hazardous waste (OAC

3745-51-20); and/or (b) if the media is contaminated with concentrations of listed hazardous wastes (OAC 3745-51-11) above health-based levels.

OHIO EPA
CONTACT:

For any questions concerning this issue, please contact the VAP central office at (614) 644-2924 or for Further Information on the "Contained-In Policy" see the following Federal Registers: 53 FR31138, 31142, 31148 (August 17, 1998); 57FR21450, 21453 (May 20, 1992); and the detailed discussion in HWIR-Media proposal preamble 61FR18795 (April 29, 1996). Additionally, for information on the LDR requirements for soils which no longer contain hazardous waste, please refer to the HWIR-Media proposal Preamble, 61FR18804. Or please contact Ohio EPA's Division of Hazardous Waste Management - Central Office at (614) 644-2917.