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THE 1984 HSWA AMENDMENTS:
THE LAND DISPOSAL RESTRICTIONS

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Getting a Handle on Hazardous Waste Controls

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I. INTRODUCTION

A. The federal Hazardous and Solid Waste Amendments of 1984 (HSWA) and the Land Disposal of Hazardous Wastes.

The federal Hazardous and Solid Waste Amendments of 1984 (HSWA), in the words of no less of an authority than the U.S. Environmental Protection Agency ("EPA" or "Agency"), requires "profound changes in the way that this country manages hazardous wastes." 50 Fed. Reg. at 28702 (July 15, 1985). In large measure, these 1984 amendments to the federal Resource Conservation and Recovery Act of 1976 ("RCRA") 42 U.S.C. 6901, et. seq. focus particularly on the practice of the land disposal of hazardous wastes. "Land disposal", for the purposes of the principal HSWA provisions, is defined to include "any placement of such hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt belt formation, salt bed formation, or underground mine or cave." RCRA §3004(k). In a somewhat schizophrenic, two-pronged approach, Congress authored HSWA "how-to" engineering provisions to upgrade national land disposal practices while simultaneously creating a rebuttable statutory presumption that land disposal of all hazardous waste will be banned by 1990. Today's discussions will focus briefly on EPA's widely-discussed implementation of EPA's land disposal engineering-by-statute provisions (II, below) and

focus more extensively on EPA's more recent and potentially far-reaching efforts to develop a regulatory framework to implement the HSWA land disposal ban provisions (III, below).

B. References.

1. The Schedule for Land Disposal Restrictions. RCRA Section 3004(d), (e), and (g), 50 Fed. Reg. 23250 (May 31, 1985), affecting 40 C.F.R. Part 268
2. The HSWA Codification Rule ("Codification Rule"). 50 Fed. Reg. 28702 (July 15, 1985), affecting 40 C.F.R. Parts 260-262, 264-266, 270-271, and 280.
3. Proposed Land Disposal Ban Restrictions. 51 Fed. Reg. 1602 (January 14, 1986), affecting 40 C.F.R. Parts 260-262, 264, 265, 268, 270, and 271.
4. New Closure/Post-Closure and Financial Responsibility Requirements for Treatment, Storage and Disposal Facilities. 51 Fed. Reg. 16422 (May 2, 1986), affecting 40 C.F.R. Parts 260, 264, 265 and 270.

II. **LAND DISPOSAL AND THE CODIFICATION RULE: MAJOR NEW LIMITATIONS ON THE USE OF LAND DISPOSAL TECHNOLOGIES**

As described above, HSWA imposes several new limitations on the use of land disposal technologies. These technological limitations range from requiring double liners and leachate collection systems for landfills to greatly limiting the use of hazardous wastes for dust suppression purposes. The following describes such limitations in the order discussed in the Codification Rule.

A. Liquids in Landfills. HSWA amended RCRA §3004(c) to incorporate several provisions relating to the placement of liquid hazardous and non-hazardous wastes in landfills. RCRA §3004(c)(1) provides for an absolute ban on the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing "free liquids" (as defined at 40 C.F.R. 260.10) in any landfill after May 8, 1985. Such ban is codified at 40 C.F.R. 264.314(b) and 265.314(b).

Further, RCRA §304(c)(3) imposes a qualified ban on the placement of non-hazardous liquids in landfills after November 8, 1985. RCRA Section 3004(c)(3). An exemption is provided from this ban if the landfill owner/operator makes certain demonstrations to the EPA Regional Administrator. Specifically, such owner/operator must demonstrate that: (1) the only reasonably available alternative for such non-hazardous liquids is in a landfill or unlined surface impoundment which already contains hazardous waste; and, (2) that the disposal of such non-hazardous liquids in the owner/operator's landfill will not present the risk of contamination to any underground source of drinking water. This exemption is intended to prevent the shifting of non-hazardous liquid from interim status and permitted landfills to municipal landfills and unlined surface impoundments containing hazardous waste as a result of

past co-disposal practices. These provisions are codified at 40 C.F.R. Sections 264.314(e) and 265.314(f).

B. Minimum Technological Requirements. RCRA Section 3004(o) provides new technological requirements for owner/operators of landfills and surface impoundments seeking permits. HSWA also added a new RCRA Section 3015 imposing similar requirements on certain interim status waste piles, landfills, and surface impoundments.

1. New Facilities. RCRA Section 3004(o)(1)(A) provides that a permit for a new landfill or surface impoundment, a new landfill or surface impoundment unit in an existing facility, or a replacement or lateral expansion in an existing landfill or surface impoundment unit, must require the installation of two or more liners, a leachate collection system above (in the case of the landfill) and between the liners, and also imposes certain ground-water monitoring requirements. Further, Congress decided to engineer in HSWA a particular type of liner design pending the issuance of EPA regulations or guidance implementing its more general double liner requirement. Such congressional engineering is described in new RCRA Section 3004(o)(5)(B). Note that RCRA Section 3004(o)(2) and (3) provide certain limited exemptions to the liner and leachate collection system

requirements. See, 40 C.F.R. Section 264.221 (surface impoundments) and Section 264.301 (landfills).

2. Expansion During Interim Status. New RCRA Section 3015(b)(1) established new technological requirements for expansion of interim status surface impoundments and landfill facilities. Any new unit, or replacement or lateral expansion of an existing unit, of such facilities was made subject by Section 3015(b) to the Section 3004(o) minimum technological requirements for new land disposal permits with respect to wastes received beginning May 8, 1985. Owner/operators of such new expansion units were required to provide 60 days notice prior to receipt of the waste in any such unit, and were required to file a RCRA Part B application with the Agency within 6 months of EPA's receipt of such notice. An owner/operator who so installed liners and leachate collection systems in good faith compliance with EPA regulations cannot be required to install a different liner leachate collection system at the time the facility receives its RCRA permit. However, EPA may require installation of a new liner if it determines that the liner installed during interim status

is leaking. RCRA Section 3015(b)(3). See, generally 40 C.F.R. Sections 265-221 (surface impoundments), 265-301 (landfills), and 265-259 (waste piles).

C. Corrective Action/Continuing Releases.

1. Facilities Seeking RCRA Sub-title C Permits. RCRA Section 3004(u) imposes important new corrective action requirements governing releases from any solid waste manage unit ("SMU"), including inactive SMUs, at any treatment, storage or disposal facility seeking a permit under Section 3005(C) of RCRA. This new subsection provides that any such permit issued after November 8, 1984 must contain corrective action provisions for all releases of hazardous waste or hazardous constituents from any such SMU at such facility, regardless of when such waste was placed at or in such unit. It also requires the inclusion of financial assurance for the completion of such corrective action.

Further, new RCRA Subsection 3004(v) requires that owners/operators institute corrective action for continuing releases beyond facility boundaries where necessary to protect human health and the environment. However, owner/operators can avoid such off-site corrective action obligations by demonstrating

to the EPA that such owner/operator is unable to obtain the necessary permission to undertake such action.

2. Interim Status Facilities. New RCRA Section 3008(h) provides EPA with the authority to issue Orders requiring corrective action whenever it determines that there is, or has been, a release of hazardous wastes into the environment from an interim status facility. EPA interprets such authority to include release from all SMUs at interim status facilities, and to incorporate the RCRA Section 3004(v) requirement to institute corrective action beyond the facility boundary. EPA may assess a civil penalty of up to \$25,000 a day for each day of non-compliance with Section 3008(h) Order. See, generally, 50 Fed. Reg. at 28716 (July 15, 1985).

D. Groundwater Monitoring Variances. New RCRA Section 3004(p) eliminates several of the ground-water monitoring waivers incorporated in EPA's pre-HSWA regulations. As a result, EPA has deleted former 40 C.F.R. Sections 264.222, 264.252, 264.253, and 264.302. RCRA Section 3004(p) also introduces a new variance from ground-water monitoring requirements for "engineered structures." Further, EPA interprets this new provision as preserving the ground-water monitoring waiver

contained in Section 264.90(b)(4), [264.280(e) for land treatment units] for facilities at which "there is no potential for migration" of liquid to the uppermost aquifer during the operating, closure, and post-closure periods. See, 50 Fed. Reg. at 28717 (July 15, 1985).

E. Salt Dome Formations, Salt Bed Formations, Underground Mines and Caves. New RCRA Section 3004(b) places new stringent controls on the disposal of hazardous waste in salt dome formations, salt bed formations, underground mines and caves. Such provisions were made effective on the date of enactment of HSWA (November 8, 1984). The placement of non-containerized (or bulk) liquid hazardous waste in such locations is prohibited until: (1) EPA has determined that such placement is protective of human health and the environment; (2) EPA has promulgated performance and permitting standards for such facilities; and, (3) a permit has been issued for the facility. For containerized liquid hazardous waste and all other non-liquid hazardous waste, the placement of such wastes in such locations is prohibited until a permit has been issued for the facility. These location prohibitions will survive any land disposal ban provision decisions made under amended RCRA Section 3004, as described at III, below.

F. Permit Application Requirements/Loss of Interim Status ("LOIS"). Amended RCRA Section 3005(e) required that interim status for owner/operators of landfill disposal facilities be terminated on November 8, 1985 if such owner/operator failed to submit a RCRA Part B application by that date, and failed to certify facility compliance with applicable ground-water monitoring and financial responsibility requirements. Amended RCRA Section 3005 also requires the Agency to process all such Part B application in four years, (i.e. by November 8, 1988).

III. THE BANNING OF THE LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES: THE HSWA REBUTTABLE PRESUMPTION

With the passage of HSWA, Congress clearly intended to greatly minimize this country's reliance on land disposal technology for the management of hazardous wastes. RCRA was amended to explicitly state that "reliance on land disposal should be minimized or eliminated, and land disposal, particularly landfill and surface impoundment, should be the least favored methods for managing hazardous waste". RCRA Section 1002(b)(7). The land disposal amendments to RCRA Section 3004 are generally regarded as establishing a rebuttable presumption against the land disposal of any hazardous waste after 1990. The following briefly describes HSWA's statutory provisions relating to this rebuttable presumption, and EPA's proposed regulatory

framework for implementing those provisions. For the serious student of the HSWA land disposal ban provisions, the preambles to the May 31, 1985 and January 14, 1986 Federal Register provisions listed above are necessary, if at times tedious, reading.

A. Overview of the HSWA Land Disposal Ban Proposed

Regulatory Framework.

1. RCRA Section 3004 Statutory Presumption. New RCRA Sections 3004(d), (e), and (g) essentially provide that statutory bans on land disposal will go into effect on specific dates for specified categories of waste unless EPA rebuts the presumption against land disposal of a particular waste by determining, for that waste, that one or more methods of land disposal are "protective of human health and environment". For purposes of these provisions, "land disposal" is defined to include any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave. RCRA Section 3004(k). As described in 2, below, the statute provides two ways to "rebut" this statutory land disposal ban presumption.

2. Rebutting the Presumption.

(a) Petitions Demonstrating Land Disposal to be Protective of Human Health and the Environment.

As described above, the RCRA Section 3004 statutory land disposal will go into effect on specified dates unless EPA rebuts the presumption by determining, for a particular waste, that one or more methods of land disposal are "protective of human health and the environment". The statute specifies that the Agency cannot find a particular land disposal method to be "protective" unless a petitioner demonstrates "to a reasonable degree of certainty" that the employment of such method would result in "no migration of hazardous constituents from the disposal unit or injection zone for as long as the waste remains hazardous." RCRA Section 3004(d)(1), (e)(1), (g)(5). The Agency proposes to interpret this statutory standard to mean that a petition can be granted "only in cases where it is shown that any migration that does occur from the disposal unit will be at concentrations that do not pose a threat to human health or the environment". See, 51 Fed. Reg. at 1699 (January 14, 1986.) Procedural issues involved in the petition process are discussed at C.3, below.

See, generally, proposed 40 C.F.R. Section 268.5.

(b) Compliance with RCRA 3004(m) Treatment Standard.

HSWA, however, provided a second method for rebutting the statutory presumption. Wastes that meet treatment standards promulgated by the Agency pursuant to RCRA Section 3004(m) are not subject to the land disposal prohibitions. RCRA 3004(m) requires EPA to establish "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized". In the January 14, 1986 Federal Register proposal referenced above, EPA proposes to utilize both technology-based treatment standards [best demonstrated achievable technology ("BDAT")] and toxicologically-based "screening levels" (treatment levels expressed as concentrations in waste extracts or wastes themselves) as "intermediate steps" in establishing the RCRA Sections 3004(m) treatment standards. 51 Fed. Reg. at 1610. (January 14, 1986.) The Agency proposes to develop screening levels for each individual

hazardous constituent and to identify which will "identify the maximum concentration for which the Agency believes there is no regulatory concern for the land disposal program and which is protective of human health and environment". 51 Fed. Reg. at 1611. The relationship between the technology-based BDAT level and the "screening levels" in establishing the 3004(m) treatment standard is discussed in greater detail at paragraph C.2., below. See, generally, proposed 40 C.F.R. Section 268.40 et. seq.

3. Effective Date Variances. The land disposal prohibitions are effective immediately upon promulgation unless EPA establishes an effective date variance. EPA can set a new effective date based on the earliest date on which adequate alternative treatment, recovery or disposal capacity which protects human health and the environment will be available. RCRA Section 3004(h)(2). Pursuant to these variance provisions, EPA may extend the applicable statutory deadline by a maximum of two years. The Agency claims the ability to establish, through application of these variance procedures, different effective dates for different physical or chemical forms of a waste. 51 Fed. Reg. at 1605. In the January 14

proposed rulemaking, EPA proposes to grant a two year national variance for all dioxin-containing wastes subject to the November 8, 1986 statutory land disposal ban provisions, thereby postponing the applicability of the proposed dioxin treatment standard to a new effective date of November 8, 1988. See, discussion at 51 Fed. Reg. 1623. As described below, EPA also proposes to establish immediate effective dates for all but three categories of solvent wastes subject to the January 14 rulemaking regarding the November 8, 1986 statutory ban date. Therefore, if a final rule is adopted as proposed, excepting those three categories, solvent wastes that do not comply with the applicable RCRA Section 3004(m) treatment standard also proposed in that rulemaking will be prohibited from continued land disposal commencing on November 8, 1986, unless case-by-case extensions are granted pursuant to Section 3004(h)(3) and the proposed 40 C.F.R. Section 268.4 procedures. [See, A. 4, below], or unless individual petitions for continued land disposal are approved pursuant to Section 3004(e) and the proposed 40 C.F.R Section 268.5 procedures. [See, A. 2., above].

4. Case-By-Case Extensions. Finally, two one-year case-by-case extensions may be granted by EPA when an applicant demonstrates that binding contractual commitments exist to construct, or otherwise provide alternative capacity, but, due to circumstances beyond of the control of the applicant, such alternative capacity cannot reasonably be made available by the effective date. RCRA Section 3004(h)(3). Substantive issues related to case-by-case extensions are discussed in greater detail at C. 3. below. See, generally, proposed 40 C.F.R. Section 268.4.

B. Schedule for Land Disposal Restrictions. HSWA establishes various land disposal ban deadlines for Agency action. At certain deadlines, [i.e. solvent/dioxins, "California list" statutory deadlines], further land disposal of the designated group of hazardous waste is prohibited unless the Agency establishes a RCRA Section 3004(m) treatment standard for that group. In such cases [i.e., EPA has not established a RCRA Section 3004(m) treatment standard by the applicable statutory date], land disposal will be allowed only if the Agency grants an individual case-by-case Section 3004 "protective of human health" petition, or has either granted a variance or case-by-case extension. Other

deadlines [i.e., scheduled wastes] require conditional land disposal restrictions to be implemented if the Agency has not promulgated a treatment standard. The schedule and effective date for various classes of hazardous wastes are listed below.

1. Solvents and Dioxins. HSWA established an effective date of November 8, 1986 for the banning of the land disposal of dioxin containing wastes (EPA Nos. F020-F023 and F026-F028) and solvent containing wastes [F001-F005]. RCRA Section 3004(e)(1) and (2). If EPA fails to set treatment standards for solvents and dioxins by the statutory deadline, or fails to grant variances or case-by-case extensions of the statutory deadline, land disposal of such wastes will be prohibited for those waste sites for which a petitioner has not successfully demonstrated that land disposal is "protective of human health and the environment." As described above, the Agency, on January 14, proposed a screening level/liner protection threshold as the Section 3004(m) treatment standard for each Appendix VII constituent contained in the subject solvent waste categories, and proposed immediate effective dates (November 8, 1986) for all but three categories of solvent wastes.

See, generally, proposed 40 C.F.R. Section 268.30, 268.31, 268.40 and 268.42. The Agency is proposing to grant a two-year national variance for the following solvent wastes: solvent water mixtures [wastewaters containing less than 1% of total organic constituents and less than 1% of total solids; inorganic sludges and solids containing less than 1% total organic constituents; and solvent-contaminated soils. See, discussion at 51 Fed. Reg. 1621-1622; proposed 40 C.F.R. Section 268.30 and 268.31. In regard to dioxin wastes, the Agency is proposing to establish a RCRA Section 3004(m) treatment standard based on best demonstrated achievable technology, and is proposing to grant a two year national variance for the effective date of that treatment standard, thereby amending the land disposal ban effective date for these dioxin materials to November 8, 1988. See, discussion at 51 Fed. Reg. 1622-23, and proposed 40 C.F.R. Section 268.31.

2. California List. HSWA establishes an effective date of July 8, 1987 for the implementation of a ban on the land disposal of what it generally

referred to as the "California list" of hazardous wastes. RCRA Section 3004(d)(1) and (2). See, the amended statute, 50 Fed Reg. at 23251, or 51 Fed. Reg. at 1606 for a detailed description of the California list.

3. Contaminated Soil or Debris from Superfund Response Actions. Until November 8, 1988, disposal of contaminated soil or debris resulting from either a CERCLA 104 or 106 response action, or a RCRA corrective action, is not subject to any land disposal prohibition or treatment standard established for solvents/dioxin containing wastes or wastes covered by the California list. RCRA Sections 3004(d)(3), (e)(3). EPA has until November 8, 1988 to establish standards for such contaminated soil or debris.

4. Injection Well Disposal. Similarly, decisions on disposal restrictions for deep well injection of these three categories of wastes must be made no later than August 8, 1988. RCRA Section 3004(f). Therefore, regardless of the Agency's actions on the solvent-dioxin and California lists, in the interim, deep well injection of these wastes can continue until August 8, 1988.

5. Scheduled Wastes. Finally, HSWA requires EPA to establish a schedule for establishing land disposal ban restrictions for listed hazardous wastes that do not fall under the previous categories. RCRA Section 3004(g). The statute requires that such schedule be based on the ranking of such listed wastes based on a number of statutory toxicity and volume factors. EPA proposed such a ranking May 31, 1985. See, 50 Fed. Reg. 23250 et. seq., (May 31, 1985). RCRA Section 3004(g)(4) requires the Agency to make determinations on land disposal ban prohibitions within the following time frame: 1) at least one-third of all ranked wastes by August 8, 1988; at least two-thirds of all ranked hazardous wastes by June 8, 1989; and 3) the remaining one-third of ranked hazardous wastes and for all hazardous wastes identified by characteristic under Section 3001 by May 8, 1990.

6. Newly Listed Wastes. The HSWA provides that land disposal ban restrictions/prohibitions apply to all hazardous wastes identified or listed under Section 3001 as of the date of the enactment of HSWA (November 8, 1984). The Agency is required to make land disposal prohibition determinations for any hazardous wastes

identified or listed under Section 3001 after that date within 6 months of the date of such identification or listing. RCRA Section 3004(g)(4). HSWA, however, does not impose an automatic prohibition if EPA misses a deadline for a newly listed waste.

7. Consequences of EPA's Failure to Meet a Statutory Deadline. To summarize the above, if EPA fails to set treatment standards for solvents/dioxins and for the "California list" by the respective statutory deadlines, HSWA provides that such wastes are prohibited from land disposal (other than in injection wells) unless individual Section 268.5 petitions are granted, a statutory deadline variance is established, or one-year case-by-case Section 268.4 extensions are granted.

If EPA fails to set treatment standards by the statutory deadline for any hazardous waste in the first or second 1/3 of the scheduled waste category, such waste may be disposed in the landfill or surface impoundment only if the facility is in compliance with the RCRA Section 3004(o) minimum technological requirements, and if, prior to disposal, the generator certifies to the

Agency that he has investigated the availability of treatment capacity, and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to him. RCRA Section 3004(g)(6)(A) and (B). If EPA fails to set treatment standards for any of the scheduled list wastes by May 8, 1990, such waste will be prohibited from land disposal unless EPA grants variances or case-by-case petitions. RCRA Section 3004(g)(6)(C). Please note that EPA is proposing to interpret the statute as imposing this automatic May 8, 1990 prohibition for listed wastes, but not for characteristic wastes identified under Section 3001. See, 50 Fed. Reg. at 23252.

- C. Land Disposal Ban Substantive Issues. EPA's January 14, 1986 proposal raises a number of substantive issues and questions involved in the implementation of the HSWA land disposal ban restriction which the serious student of these provisions may wish to review in depth. The following provides a brief overview of some of these important issues with references to relevant preamble passages discussing such issues in greater detail.

1. Applicability. The preamble to the January 14 proposal devotes nearly three pages to issues regarding the applicability of the Agency's land disposal ban regulatory framework in various contexts. See, 51 Fed. Reg. at 1607-1610. For example, the preamble discusses the Agency's interpretive expansion of the RCRA Section 3004(k) "land disposal" definition to include "open detonation" and "placement in concrete vaults or bunkers," as well as sets forth the Agency's interpretation that the land disposal ban provisions apply only prospectively. This preamble provision also discusses the exemption from land disposal restrictions for treatment in surface impoundments. Section 3005(j)(11)(B) provides that a waste that would otherwise be prohibited from one or more methods of land disposal, nevertheless, may be treated in a surface impoundment as long as treatment residues that are hazardous are removed within one year of the entry of the wastes into the surface impoundment. This preamble passage also discusses in detail the applicability of the land disposal ban provisions on wastes resulting from CERCLA remedial response actions and states the Agency's position that the CERCLA program will comply with the land disposal restrictions "off-site

[and t]o the extent that the land disposal restrictions of this program is applicable or relevant and appropriate to the management of Superfund wastes on-site, the Superfund program will comply with the land disposal restrictions program in a manner that is consistent with the NCP and the compliance with other environmental statutes policy contained in the preamble" to the November 20, 1985 NCP promulgation. Who knows what that really means!

2. "Screening Levels" Versus "BDAT". To understand Agency procedures for the establishment of RCRA Section 3004(n) treatment standards, one must first understand the interaction between the intermediate "screening levels" and "best demonstrated achievable technology" (BDAT) levels. These concepts are discussed at great length at 51 Fed. Reg. 1610-1621. Particular attention should be paid to decision case Nos. I-IV set out at pages 1618-1621.

3. Determination of Alternative Capacity and the Establishment of Variances to Land Disposal Ban Effective Dates. As described above, RCRA Section 3004(h)(2) provides that the Agency may grant a variance of up to two years from the statutory ban effective dates if adequate

alternative treatment, recovery, or disposal capacity which protects human health and the environment is not available. At preamble pages 1692-1696, the Agency discusses at length issues involved in determining whether to establish national variances, including mechanisms for establishing regional and national capacity for various alternative treatment technologies, the definition of alternative treatment capacity, the definition of available capacity, and the Agency's interpretive definitions of alternative treatment capacity, available capacity, alternative recovery and disposal capacity as well as how EPA intends to actually calculate capacity. That discussion is immediately followed by a discussion of the Agency's procedural proposals for the acceptance and processing of applications for case-by-case extensions, including detailed discussion of the statutory demonstrations the petitioner must make to successfully obtain such case-by-case extension. See, 51 Fed. Reg. at 1696-1698; proposed 40 C.F.R. Section 268.4.

4. Proposed Procedures to Evaluate Petitions Demonstrating Land Disposal to be Protective of Human Health and the Environment. The Agency discusses in detail its proposed procedures for evaluating the first method of rebutting the land disposal ban prohibition -- the individual petition -- at preamble pages 1698-1708. Simply put, making such a demonstration does not look easy. See, proposed 40 C.F.R. Section 268.5.
5. "Sham" Storage Provisions. Finally, RCRA 3004(j) provides that any waste that is prohibited from one or more methods of land disposal is also prohibited from storage, unless Such storage "is solely for the purpose of the accumulation of such quantities" of the waste to facilitate proper recovery, treatment or disposal. The Agency's interpretation of this provision is discussed at preamble pages 1708-1709, and embodied in proposed 40 C.F.R. Section 268.50. In short, the Agency is proposing to interpret this provision as not to override the small quantity generator accumulation rules, the 90 day generator on-site accumulation rule, the satellite accumulation rule, and the transfer accumulation rule. Interestingly, the Agency's proposed rules limit storage of land banned

wastes at treatment, storage and disposal facilities to 90 days prior to proper recovery, treatment or disposal. Proposed 40 C.F.R. Section 268.50(a)(1). The Agency is also soliciting comments on whether it should implement a case-by-case extension procedure for the storage of land disposal prohibited waste for the purposes of accumulation prior to proper recovery, treatment, or disposal.