



**DIRECTIVE NUMBER:** 9477.02(84)

**TITLE:** EPA Authority to Enforce Subpart H Compliance at  
Facilities Located on State-Owned Land

**APPROVAL DATE:** 1-30-84

**EFFECTIVE DATE:** 1-30-84

**ORIGINATING OFFICE:** Office of Solid Waste

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**STATUS:**

[ ]	A- Pending OMB approval
[ ]	B- Pending AA-OSWER approval
[ ]	C- For review &/or comment
[ ]	D- In development or circulating headquarters

**REFERENCE (other documents):**

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Key Words: Financial Responsibility Requirements

Regulations: 40 CFR 140(c), Subpart H

Subject: EPA Authority to Enforce Subpart H Compliance at Facilities  
Located on State-Owned Land

Addressee: Harry Seraydarian, Director, Toxics and Waste Management  
Division, Region IX

Originator: John H. Skinner, Director, Office of Solid Waste

Source Doc: #9477.02(84)

Date: 1-30-84

Summary:

Under 40 CFR 140(c), States and the Federal government are exempt from Subpart H regulations. Therefore, EPA does not have authority to enforce compliance with financial responsibility requirements in facilities located on State-owned lands. Only the State may require the facility to demonstrate financial responsibility by contractual arrangement.

JAN 30, 1984

MEMORANDUM

SUBJECT: U.S. Ecology's Nevada Facility and Financial Responsibility

FROM: John H. Skinner, Director  
Office of Solid Waste (WH-562)

TO: Harry Seraydarian, Director  
Toxics and Waste Management Division  
Region IX (T-1)

Your memorandum of April 5 requested comments on the Notice of Deficiency you sent U.S. Ecology.

While I sympathize with your desire to ensure that all owners and operators demonstrate financial responsibility, EPA is not in a position to require such compliance in this instance. Section 140(c) of the regulations clearly exempts the States and the Federal government from the Subpart H regulations. Therefore, EPA does not have authority to enforce compliance with the financial requirements since the U.S. Ecology facility is located on land owned by the State of Nevada. Only the State of Nevada may require U.S. Ecology to demonstrate financial responsibility by contractual arrangement.

This point is covered in both the January 5, 1983 letter to U.S. Ecology and the May 11, 1983 memorandum to you (copy attached). I want to reassure you that my staff had extensive conversations with your staff before the January letter was issued. I hope this clears up the matter for you.

Attachment