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ACCEPTABLE BOND RATINGS FOR USE IN SUBTITLE C FINANCIAL TEST

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAY 16 1989

MEMORANDUM

SUBJECT: Acceptable Bond Ratings for the Use in Subtitle C
Financial Test

FROM: Joseph S. Carra, Director
Permits and State Programs Division

TO: RCRA Branch Chiefs, Regions I - X

We have recently received specific inquiries concerning whether certain types of bond ratings meet the conditions required by the bond rating alternative of the Subtitle C financial test. 40 CFR §§264/265.143(f), 264.145(f), 265.145(e), and 264/265.147(f). Specifically, whether a BBB- rating from Standard and Poor's (S&P) or a Baa3 rating from Moody's satisfies the minimum ratings required by regulation. In brief, these ratings can be used to satisfy the bond rating alternative of the financial test.

Regulations relating to the bond rating alternative of the financial test specify that the owner or operator must have a bond rating "of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's." At the time these regulations were promulgated, S&P had not yet begun the practice of adding a "+" or "-" suffix to bond ratings, and Moody's had not yet begun adding a "1", "2", or "3" suffix. The bond rating suffix indicates the relative standing of a bond within a major rating category. In other words, a BBB- bond has a lower relative standing than a BBB bond or a BBB+ bond, but all three bonds fall within the major rating category of BBB bonds. The BBB- bond would have been rated as a BBB bond prior to the time when S&P began adding a rating suffix. Similarly, a bond rated Baa3 by Moody's would have been rated Baa prior to the time when Moody's began adding the rating suffix.

In summary, pursuant to current regulations, a Moody's rating of Baa3 or better, or a S&P rating of BBB- or better satisfies the legal requirements of the financial test. We note that revisions to the financial test are currently being considered. The question of bond ratings will be fully re-examined during this effort.

If you have any questions, please call Mark Pollins of FTS 382-6259.

cc: RCRA Hotline
Regional Subpart H Contacts