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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

NOV 2 1988

Mr. Ronald T. Taritas  
Environmental Technology Corporation  
1124 Morse Avenue  
Schaumburg, IL 60193

Dear Mr. Taritas:

This is in response to your letter of September 19, 1988 in which you raise several questions about permit requirements as they relate to on-site treatment and wastewater treatment unit exemptions.

Under Subtitle C of the Resource Conservation and Recovery Act (RCRA), the scope of the RCRA permit requirements are detailed in 40 CFR Section 270.1(c). A RCRA permit is required for treatment, storage, or disposal of any hazardous waste. Treatment, storage, or disposal of hazardous wastes are defined as hazardous waste activities in 40 CFR Section 260.10.

Specific exclusions to the RCRA permit requirements are found in 40 CFR Section 270.1(c)(2). Generators that accumulate hazardous waste on-site in compliance with 40 CFR Section 262.34 are exempt from the requirement to obtain a RCRA permit, as specified in 40 CFR Section 270.1(c)(2)(i). The Agency currently interprets this regulatory exemption from permitting to cover storage and treatment activities in a generator's accumulation tanks or containers. The reasoning behind this policy can be found in Office of Solid Waste (OSW) memoranda dated June 17, 1986 and December 15, 1987 (copies enclosed), and preamble language in 51 FR 10168, March 24, 1986.

As I understand your letter, you are interested in applying the on-site treatment exemption for generators to the ribbon blender unit that stabilizes the listed F006 sludge, and possibly to the filter press, as well. It is important that you understand that this response is only dealing with a theoretical situation since the final determination as to whether and which RCRA regulations apply is facility-specific and, thus, must be made by the appropriate EPA Regional Office or authorized State. In the following discussion, I will deal with your Generators A and B separately.

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Generator A

Your description of Generator A did not include enough detail to determine which RCRA regulations are applicable. One possibility is to assume that every unit at the facility meets the definition of a wastewater treatment unit per 40 CFR Section 260.10. If this is the case, the on-site treatment exemption for generators is not relevant since Part 264 standards (i.e., Subpart J--Tank Systems) and Part 270 permit requirements do not apply to owners and operators of wastewater treatment units, in accordance with 40 CFR Sections 264.1(g)(6) and 270.1(c)(2)(v), respectively.

For the above assumption to be correct, however, Generator A's wastewater treatment plant must be subject to regulation under either Section 402 or 307(b) of the Clean Water Act. In addition, each unit at the facility must either treat or store hazardous wastewater or hazardous wastewater treatment sludge (listed waste F006) and each unit on-site must meet the definition of a tank in 40 CFR Section 260.10. If material entering the filter press from the wastewater treatment plant is identified as a wastewater, rather than a wastewater treatment sludge (listed waste F006), the wastewater must exhibit a characteristic of a hazardous waste, such as EP toxicity for lead, cadmium, or chromium, to be identified as a hazardous wastewater. The Agency defines wastewaters as wastes that contain less than 1% total organic carbon and less than 1% total suspended solids (i.e., total filterable solids). See 53 FR 31145, August 17, 1988.

Another possibility is to assume that Generator A's facility is not subject to regulation under either Section 402 or 307(b) of the Clean Water Act. If this is the case, no units on-site are eligible for the wastewater treatment unit exemption. All units not meeting the definition of a wastewater treatment unit could be regulated as generator accumulation tanks or containers, depending on when the wastewater is identified as a hazardous waste. If the wastewater can be identified as a hazardous waste at its point of generation, the 90-day accumulation time period begins when the wastewater first enters the first unit (90-day accumulation tank or container) at the facility. Shipment of the stabilized (as specified in your letter) hazardous waste from the ribbon blender must take place within 90 days of the beginning point mentioned above.

A final possibility is to assume that all units on-site can be identified as wastewater treatment units except for either the filter press or the ribbon blender. This condition could only exist if either the filter press or the ribbon blender does not meet the definition of a tank (e.g., container) in 40 CFR 260.10. This scenario becomes much more complicated and

would best be answered by the appropriate EPA Regional Office or authorized State based on the specific facility design and operating parameters.

In any case, all tanks or containers at the facility must be in compliance with Subparts J or I, respectively, of Part 265 and Generator A must also comply with Subparts C and D of Part 265, as well as Section 265.16, as specified in 40 CFR Section 262.34. In other words, Generator A must be in compliance with all the time-frames and technical requirements outlined above and detailed in Section 262.34 to utilize the on-site treatment exemption for generators.

#### Generator B

Based on the information provided in your letter, the treatment of the listed waste K061 in the central accumulation tank would not require a RCRA permit provided the following conditions are met. First, from the moment Generator B places the K061 in the central accumulation tank, the K061 must be shipped off-site within 90 days. Second, the accumulation tank must be in compliance with the technical standards for hazardous waste tanks in Subpart J or Part 265. Third, Generator B must comply with Subpart C. Preparedness and Prevention and Subpart D, Emergency Procedures, of Part 265. Finally, all other regulatory requirements in 40 CFR Section 262.34 must be met by Generator B.

I want to reiterate that the above discussion addresses a theoretical situation. Facility-specific determinations as to the applicability and extent of regulation under RCRA must be made by the appropriate EPA Regional Office or authorized State. As you know, an authorized State may have more stringent regulations than those of the Federal government.

If you have further questions or need additional clarification, please contact Steve Cochran at (202) 475-8551.

Sincerely,

Original Document signed

Sylvia K. Lowrance  
Director  
Office of Solid Waste

Enclosures