

9441.1989(11)

MAR 27 1989

James E. Johnson  
President  
SAFCO Environmental  
1255 South 188th  
Seattle, Washington 98148

Dear Mr. Johnson:

This letter responds to your February 13, 1989 letter concerning the regulatory requirement for a Resource Conservation and Recovery Act (RCRA) storage permit for facilities engaged in hazardous waste recycling activities. In particular, you ask whether a storage permit is required for your recycling of hazardous waste by blending, mixing, physical separation, or distillation without prior storage of the hazardous wastes.

The Agency does not require a storage permit for activities where not storage occurs. For example, if a hazardous waste is received at the recycling facility and immediately fed directly into the recycling process (i.e., no storage occurs), then a RCRA storage permit would not be required. In your letter, you state that you have heard that a holding time of 24 hours is allowed prior to the waste being directly fed into the recycling process. Federal regulations do not specify an allowable "holding time" prior to the waste being introduced to the recycling process; however, the appropriate EPA Regional office or authorized State regulatory agency may specify such a holding time on a site-specific basis, defining a time at which storage begins. As you stated, some States and Regions do allow up to 24 hours for the off-loading of a hazardous waste into the recycling process before the waste is considered to be stored, thus requiring a storage permit.

I should also point out to you that hazardous waste fuel blending tanks are subject to storage regulations. As the April 13, 1987 Federal Register notice specifically states, tanks used for blending hazardous waste fuels or for settling out impurities are subject to regulation as storage tanks, and are not exempt recycling units (see 52 FR 11820).

In your letter, you also raised a question on the possibility of case-by-case regulation of recycling activities

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under 40 CFR 261.6(c). As you noted, case-by-case regulation of  
-2-

certain recycling activities is already provided for under 40 CFR 260.40. The Agency is not currently planning to modify these regulations; however, EPA is reevaluating the regulations applicable to recycling activities and may determine that regulatory amendments are necessary to encourage environmentally protective recycling.

Finally, you should be aware that local and State governments may have applicable regulations that differ from Federal regulations. You should contact your State regulatory agency, as well as the appropriate EPA Regional office for specific answers about your recycling activities.

Sincerely,

Original Document signed  
"Robert W. Dellinger for"

Matthew A. Straus  
Deputy Director  
Characterization and  
Assessment Division