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United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

September 9, 1992

Joseph S. Paulick  
Department of the Army  
Tooele Army Depot  
Tooele, Utah 84074-5000

Dear Mr. Paulick:

This responds to your letter of November 12, 1991 requesting clarification of the federal Resource Conservation and Recovery Act regulations concerning notification for treatability studies. You ask whether, under 40 CFR 261.4(f)(1), the owner/operator of a facility is required to submit a one-time notification to the Regional Administrator (or State Director if located in an authorized state) no less than 45 days before beginning to conduct treatability studies, or to submit a notification 45 days before conducting each individual treatability study.

To provide some context for the answer to your question, the general intent of this provision is to ensure that the U.S. EPA Regional Office (or state agency) is aware that a facility is conducting treatability studies. More specific information about the individual treatability studies is obtained through the other reporting requirements found in §261.4(f).

More specifically, §261.4(f)(1) requires only that the owner/operator of a facility submit a one-time notification indicating that treatability studies will be conducted at the facility under the provisions of §261.4(f). §261.4(f)(11) then requires that the owner/operator again notify the Regional Administrator (or State Director) when he or she is no longer planning to conduct treatability studies at the locality (see footnote 1).

In addition, there are several other reporting requirements for facilities conducting treatability studies found in §261.4(f). First, records must be maintained for three years demonstrating

compliance with the treatment rate limits and the storage time and quantity limits (§261.4(f)(7)). Second, copies of treatability study contracts and treatability sample shipping papers must be maintained for three years (§261.4(f)(8)). Finally, annual reports must be submitted to the Regional Administrator (or State Director) by March 15 of each year including detailed information about treatability studies conducted the previous year, and estimates of the number of treatability studies to be conducted and the amount of waste to be used in these studies during the current year (§261.4(f)(9)).

Please note, however, that state agencies generally implement the RCRA program within each state (although some parts of the program may be implemented by the U.S. EPA Regional Office), and that state regulations may be different (although no less stringent) than the federal regulations. Thus, you should contact the appropriate state environmental agency or U.S. EPA Regional Office to determine how the regulations of that particular state will apply to any treatability studies you are planning.

Thank you for your interest in the safe and effective management of hazardous waste.

Sincerely,  
David Brussard  
Director, Characterization and Assessment Branch

- 1 If treatability studies were later to be resumed at the facility after notifying of the cessation of such studies under §261.4(f)(11), the facility would again be required to notify of the intent to conduct treatability studies 45 days before conducting any studies under §261.4(f)(1).