



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

Date: 11.19.2021

COVERSHEET: EXPLANATION OF CITATION AND/OR TERMINOLOGY CHANGES IN THIS POLICY DOCUMENT

This policy document remains wholly in effect, but some or all of the regulatory citations within it have changed. These changes do not alter the existing regulatory interpretations.

As part of the [2016 Hazardous Waste Generator Improvements Rule](#), many of the regulations that apply to hazardous waste generators were moved to, or reorganized within, title 40 of the Code of Federal Regulations (CFR) part 262. To view a crosswalk between the old and new citations, please visit the [Hazardous Waste Generator Regulations Crosswalk webpage](#).

The Hazardous Waste Generator Improvements Rule also made changes to terms that may be included in this document. The most common term change was replacing “conditionally exempt small quantity generators” (CESQGs) with “very small quantity generators” (VSQGs). In addition, EPA defined the term “central accumulation area” (CAA) to mean a generator’s 90- or 180-day accumulation area for hazardous waste.

A handwritten signature in black ink that reads "Jessica Young". The signature is written in a cursive, flowing style.

Jessica Young
Chief of the Recycling and Generator Branch
Office of Resource Conservation and Recovery

9441.1995(09)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

March 8, 1995

Mr. Jack H. Goldman
Morgan, Lewis, and Bockius
1800 M Street, N.W.
Washington, D.C. 20036-5869

Dear Mr. Goldman:

Thank you for your letter of December 6, 1994, concerning the applicability of Resource Conservation and Recovery Act (RCRA) regulations to hazardous wastes generated in product storage tanks and manufacturing process units. As you mentioned in your letter, 40 CFR 261.4(c) indicates that hazardous waste generated in these units is not subject to RCRA regulation until it exits the unit, or unless the waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or product storage. As is explained in the discussion you cited in an August, 1987, RCRA/Superfund Hotline Monthly Report, this provision means that the applicable 90/180/270-day generator accumulation period prescribed by 40 CFR 262.34 does not begin until 90 days after a product storage tank or manufacturing process unit ceases to be operated for manufacturing or product storage.

This letter addresses only the federal hazardous waste regulations. Most state agencies are authorized to implement the base RCRA program, which includes the generator regulations and the 40 CFR 261.4(c) exemption. State regulations, which are in effect in authorized states in lieu of the federal program, may be different (although no less stringent) than the federal regulations. Thus, you should contact the appropriate state environmental agency to determine how the regulations of that particular state apply to your client's activities.

I hope this information is useful to you.

Sincerely,

Michael J. Petruska, Chief
Regulatory Development Branch

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Attachment

MORGAN, LEWIS & BOCKIUS
Counselors at Law
1800 M Street, N.W.
Washington, D.C. 20038

December 6, 1994

Mr. Michael J. Petruska
Chief, Regulatory Development Branch
Office of Solid Waste
U.S. Environmental Protection Agency
Mail Code 5304 401 M Street, S.W.
Washington, D.C. 20460

Pursuant to our telephone conversation of November 17, 1994, the purpose of this letter is to confirm that the Agency's policy with regard to 40 CFR §261.4(c), as stated in an November 4, 1987 memo from Thea McManus (copy attached),(see footnote 1) is still in effect. I represent a company that has a facility with several product storage and manufacturing process tanks that contain both product and hazardous waste. The company has begun to terminate its operations at this facility. My client is trying to ascertain the applicable deadlines for removing the hazardous waste from the tanks and shipping the waste off-site for treatment or disposal.

Hazardous waste in product or raw material storage tanks, in "manufacturing process units, " and in "non-waste-treatment-manufacturing nits" (collectively "MPUs") is currently exempt from applicable hazardous waste regulations at 40 CFR Parts 262-265, 268, 70, 271, and 124 until the waste is removed from the MPU or remains in the unit for more than ninety days after the cessation of operations. (see footnote 2) In the case of a facility ceasing the operations of an MPU, Agency policy, as stated in the November 1987 memorandum, is that after the passage of ninety days, the waste is subject to the hazardous waste management regulations and may then be stored on-site without a permit or interim status of an additional ninety days, pursuant to the accumulation rule at 40 CFR §262.34(a). (see footnote 3) In other words, two consecutive ninety-day periods potentially apply to management of the waste: ninety days (or until removal of the

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waste or the date of extinction, whichever comes earliest) until the waste is subject to regulation, and ninety days for the waste to be stored on-site without obtaining a storage permit or interim status.

As a follow up to the above interpretation, it is my understanding that hazardous waste that is stored in an MPU for ninety days pursuant to 40 CFR §261.4(c) can continue to remain in that unit for up to an additional ninety days under the ninety-day accumulation rule at 40 CFR §262.34(a), provided that the MPU meets the definition of tank at 40 CFR §260.10, and all applicable provisions of 40 CFR §262.34(a) are met, including that the tank complies with all applicable requirements for tanks at 40 CFR Part 265 Subpart J.

I would greatly appreciate it if you would confirm that these interpretations regarding the MPU rule of 40 CFR §261.4(c) remain the Agency policy. Because my client has initiated procedures to shut down its facility, I would appreciate an answer as soon as possible. Thank you very much for your assistance. Please call me if you have any questions.

Sincerely yours,

Jack H. Goldman

Enclosure

Footnotes

1 U.S. Environmental Protection Agency, memorandum from Thea McManus, "Final Monthly Report -- RCRA/Superfund Industry Assistance Report for August 1987," at 6-8 (November 4, 1987) (hereinafter "Hotline Memorandum")

2 40 CFR 261.4(c) (1993).

3 Hotline Memorandum, supra note 1; personal communication, Michael Petruska, Office of Solid Waste (November 1994) (enclosed)