

9441.1995(15)

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

April 20, 1995

Mr. W. J. Sweeney  
Manager, Environment Department  
Alyeska Pipeline  
1835 South Bragaw Street  
Anchorage, Alaska 99512

Dear Mr. Sweeney:

I am writing in response to your letter of December 23, 1994 and the earlier May 9, 1994 letter from Jordan E. Johnson which, on behalf of Alyeska Pipeline, request an interpretation of a regulatory exemption provided at 40 CFR 261.4(c) for tanks, vehicles, vessels, process or manufacturing units, or pipelines if these units have been shut down for ninety days. The letters also request definition of when a material comes within the listing description for K050 listed hazardous waste.

Regulations at 40 CFR 261.4(c) state: "A hazardous waste which is generated in a raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under parts 262 through 265, 268, 270, 271, and 124 of this chapter or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials."

EPA provided further clarification on this provision in the October 30, 1980 preamble to this rulemaking: "The 90-day accumulation period (262.34) starts when the hazardous waste is removed from the tank, vessel, or unit, except when in the case where a tank vessel or unit ceases to be operated for its primary purpose in which case the period starts when operation ceases." 45 FR 72024 (emphasis added.) Thus, the preamble implies that for the owner/operator the accumulation period begins the day the manufacturing process unit is shut down.

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It was not the Agency's intent to regulate wastes in these units unless the waste exits the unit or remains in the unit for more than 90 days after the unit is no longer in operation. Therefore, the accumulation period for a tank, vessel, or unit that ceases to be operated for its primary purpose would begin either when the waste exits the unit, or if the waste remains in the unit for more than 90 days, the accumulation period would begin on day 91. Because the regulations delay application of Part 262 until 90 days after operation ceases, the Agency believes that the availability of the 90-day accumulation period in 262.34 is more consistent with the plain language of the regulation. Thus, hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or associated non-waste-treatment-manufacturing unit, may remain in the unit for up to ninety days after the unit has been shut down, and may then be stored for an additional ninety days in a tank, container, drip pad, or containment building in the compliance with the requirements of 40 CFR 262.34, without a RCRA storage permit.

Please note that under section 3006 of RCRA, individual states can be authorized to administer and enforce their own hazardous waste programs in lieu of the Federal program. In addition, section 3009 of RCRA allows states to promulgate regulatory requirements that are more stringent than the Federal program. Therefore, you should contact the appropriate state environmental agency in your state for applicable laws and regulations that may exist.

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

Sincerely,

Michael Shapiro, Director  
Office of Solid Waste

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Attachment  
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Alyeska Pipeline Service Company  
1835 South Bragaw Street  
Anchorage, Alaska 99512  
Telephone (907) 278-1611  
Fax (907) 265-8611  
Telex 265-8439

December 23, 1994

APSC Letter #94-2663 G

Michael Shapiro  
Director  
Office of Solid Waste  
US Environmental Protection Agency  
401 M Street  
Washington, D. C. 20460

SUBJECT: INTERPRETATION OF TIME OF GENERATION OF HEAT  
EXCHANGER-BUNDLE CLEANING SLUDGE

Dear Mr. Shapiro:

Alyeska Pipeline Service Company (Alyeska) is the operator of the Trans-Alaska Pipeline System (TAPS). TAPS transports crude oil from North Slope oil fields to a Valdez, Alaska marine terminal where the crude oil is loaded on tankers for transportation to lower 48 states' refineries. As a part of TAPS, Alyeska operates three crude oil topping units (COTU) at pump stations 6, 8, and 10. The COTU distill fuel to operate pump station machinery from the crude oil transported by TAPS. The COTU are complying with 40 CFR 261.32, designating heat exchanger bundle cleaning sludge from the petroleum refining industry as a listed hazardous waste (K050). However, because of the unique title of this waste type "heat exchanger bundle cleaning sludge from the petroleum refining industry" (emphasis added) Alyeska wishes to clarify when K050, heat exchanger bundle cleaning sludge, is generated as hazardous waste.

Alyeska has examined known EPA documents discussing K050 waste. That examination yielded the following information:

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First, OSWER Memorandum 9441.1985 (29) discusses the five waste streams generated by petroleum refineries, including K050. Unfortunately, of these five waste streams the memorandum does not discuss when K050 is "generated."

Second, the "Listing Background Document, Petroleum Refining," November 14, 1980, for K048-K052, pages 689-690, provided the following statement about the generation of K050:

Heat exchanger bundles are cleaned during plant shutdown to remove deposits of scale and sludge. Depending upon the characteristic of the deposits, the outside of the two bundles may be washed, brushed, or sandblasted, while the tubes inside can be wiped, brushed, or rodded out.

Third, EPA Document, EPA-530-SW-88-0009-C, "Best Demonstrated Available Technology Background Document for Petroleum Refining Treatability group (K048, K049, K050, K051, K052), Volume 3, "pages 2-13, 2-15, April 1988, provided the following statements:

Heat exchanges are utilized throughout petroleum refining processes. Bundles (grouping of tubes) from these heat exchangers are periodically cleaned to remove deposits of scale and sludge. Depending on the characteristics of the deposits, the outsides of the tube bundles may be washed, brushed, or sandblasted, while the tubes inside can be wiped, brushed, or rodded out. The sludge resulting from his cleaning operation forms the listed waste K050. (emphasis added) (2-13)

K050 Waste (heat exchanger bundle cleaning sludge) is generated within a refinery by the cleaning of heat exchangers. Heat exchangers are used throughout the refining process to provide heat exchange between refining process to provide heat exchange between refinery process streams. (2-15)

Fourth, the attached letter from Betty Weise, program Supervisor, RCRA Compliance Section, Region 10, US EPA states:

EPA Region 10 considers the point of generation to occur when the sludge is removed from the bundle. However, when the bundle is taken out of the heat exchanger, the residuals which are in an around the bundle may be a characteristic hazardous waste. [1]

Fifth, the Court in Omstede Machine Works, Inc., Docket No. RCRA-VI-437-H, December 13, 1985, stated that K050 was generated as a hazardous waste when heat exchanger bundles were cleaned.

Examining this information in total strongly suggests that heat exchanger bundle cleaning sludge is not generated until the bundles are physically cleaned. With that information, Alyeska interprets 40 CFR Parts 261 and 262 to allow heat exchanger bundles to be left in a COTU if the COTU discontinues operations longer than 90 days (CFR 261.4 ©) because no hazardous waste has been generated.

Footnote [1] – Alyeska's testing of the sludge from a previous COTU turnaround, when the heat exchangers were cleaned, showed that the residue did not exhibit any hazardous waste.

Changing to another matter, I ask you to respond to a letter, Alyeska Letter No. 94-2183 G, that Jordan Jacobsen, an Alyeska attorney, sent you with respect to interpreting 40 CFR §261.4 (c). Mr. Jacobsen sent you that letter on May 9, 1994 and has not yet received an answer. I understand that a Ms. Anne Cadrington (sp?), of your staff, was working on that request. Alyeska would appreciate a response to that request with and the same time you answer this letter.

We would appreciate a response to the information and interpretations provided in this letter no later than February 15, 1995. If no response is received, Alyeska will proceed with the assumption that EPA does not disagree. Please contact Carol Garrison of my staff; (907) 265-8634, if you have any questions on this matter.

Sincerely,

W.J. Sweeney  
Manager, Environment Department

WJW:csp