

9502.1985(05)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

AUGUST 85

Corrective Action for Continuing Releases (§3004(u))

2. An owner/operator of a treatment, storage or disposal facility (TSDF) is preparing a RCRA Part B application. The facility design includes sumps holding wastewater. The wastewater is considered a listed hazardous waste because it contains spent chlorinated solvents listed in §261.31 and the mixture rule of §261.3(a)(2)(iv) applies. Wastewater is held in the sump for less than 90 days. Is the owner/operator required to address these sumps in the Part B application?

Assuming the sumps are made of non-earthen material and have sufficient structural integrity, they would be regulated as tanks (see Regulation Interpretative Letter #110 regarding tanks versus surface impoundments and §264.191). Section 262.34 states that hazardous waste may be stored in tanks or containers for 90 days or less without a RCRA permit provided compliance with §262.34 (a) through (c). On this basis alone, the sumps need not be addressed in the Part B application (§264.1(g)(3) and §270.1(c)(2)(i)).

However, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require that information be submitted regarding solid waste management units, including sumps, for RCRA permits issued after November 8, 1984. The new corrective action provisions for continuing releases (§3004(u) of the Solid Waste Disposal Act, as amended) requires identification of all solid waste management units at the facility and releases of hazardous wastes and hazardous constituents from these units. Guidance on the §3004(u) corrective action provision is found in RCRA Reauthorization Statutory Interpretation #3 (RSI #3) dated February 5, 1985, and the July 15, 1985, codification rule (50 FR 28711). RCRA permits issued after November 8, 1984, must contain compliance schedules for corrective action and assurances of financial responsibility for completing such corrective action per §264.101 (50 FR 28711).

Source: Dave Fagan (202) 382-4497