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BULKING AND CONSOLIDATING SHIPMENTS OF COMPATIBLE WASTES
WITH DIFFERENT WASTE CODES

Mr. G. Thomas Manthey
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Dear Mr. Manthey:

This is in response to your letter of August 30, 1985, which concerned the bulking and consolidating of compatible wastes with different EPA hazardous waste codes. We recognize that transporters sometimes pick up waste from several generators in order to send full loads to treatment, storage, and disposal facilities. These transporters also may consolidate different bulk waste shipments in a tank truck or pump the contents or drums containing different EPA waste codes into a single tank truck. You asked whether this method of handling hazardous waste constitutes treatment. It is our interpretation that incidental changes in the characteristics of the waste that occur from consolidating shipments going to treatment, storage, and disposal facilities for handling under RCRA regulations would not be considered treatment.

Treatment as defined in §260.10 "means any method, technique, or process...designed to change the physical, chemical, or biological character or composition of any hazardous waste ... to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of...." Mixing listed waste does not render the wastes non-hazardous (40 CFR 261.3(c) and (d)). Mixing hazardous waste that is identified in 40 CFR 261 Subpart C on the basis of characteristics renders the waste non-hazardous if the waste no longer exhibits those characteristics after mixing (40 CFR 261.3(d)(1)).

Although characteristic wastes mixed by transporters may exhibit fewer hazards, this incidental reduction of hazard is not considered treatment if the wastes are still sent to treatment,

storage, or disposal facilities. The basis of this interpretation is found in the definition of treatment in Section 1004 of the Hazardous and Solid Waste Amendments, which states: "...'treatment'...includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous." The type of transportation you describe does not appear to be designed to render the waste nonhazardous. This is the basis of our interpretation that the bulking is not regulated as treatment under RCRA.

You should be aware that the blending of wastes by transporters is addressed by two other regulations. In particular, §263.10(c)(2) requires transporters to comply with generator requirements (e.g., issue a new manifest) when transporters combine wastes with different Department of Transportation (DOT) shipping descriptions in the same container. This occurs when combining two shipments of RCRA ignitable waste, when one is a DOT combustible and the other is a DOT flammable. Combining different RCRA waste streams that are both classified by DOT as "hazardous waste solid, n.o.s." would not require a new manifest. You can obtain the proper DOT shipping descriptions in 49 CFR 172.101 or contact DOT's Hazardous Materials Standards Division at (202) 426-2075.

The policy of bulking and consolidating waste shipments is also addressed in the preamble to the December 31, 1980, Federal Register on transfer facilities (45 FR 86966). At transfer facilities, "shipments may be consolidated into larger units or shipments may be transferred to different vehicles for redirecting or rerouting." Transfer facilities can store manifested waste shipments in DOT packages for up to 10 days without complying with §264 or §265 storage requirements, as described in 40 CFR 263.12. "These amendments relieve transporters who own or operate a transfer facility of the necessity of obtaining a RCRA permit and of complying with the substantive requirements for storage for the holding of wastes which is incidental to normal transportation practices (45 FR 86966)." Furthermore, this preamble later states, "These amendments do not place any new requirements on transporters repackaging waste from one container to another (e.g., consolidation of wastes from smaller to larger containers) or on transporters who mix hazardous wastes at transfer facilities (45 FR 86967)." In other words, this issue concerns storage, not

treatment.

The transfer facility preamble also requested comments on whether transporters need to have a regulation similar to §265.17 for handling ignitable, reactive, or incompatible wastes to prevent ignition or reaction. Prudent waste management practices would probably include voluntary compliance with many of these standards.

If you have any other questions about these issues, please contact Irene Horner of my staff at (202) 382-2550.

Sincerely yours,

Marcia Williams
Director
Office of Solid Waste (WH-562)