

PPC 9452.1986(01)

WASTE MINIMIZATION CERTIFICATION REQUIREMENTS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 28 1986

Mr. Jeffrey L. Dauphin
Waste Systems Institute of Michigan, Inc.
470 Market, S.W.
Suite 100-A
Grand Rapids, MI 49503

Dear Mr. Dauphin:

This letter responds to your request, dated April, 1986, for clarification of the waste minimization certification requirement for small quantity generators of hazardous waste.

The waste minimization certification requirement was created by the Hazardous and Solid Waste Amendments of 1984 (HSWA), signed by the President on November 8, 1984. Section 3004(b) of HSWA requires that generators of hazardous waste regulated under Section 3002(a)(5) certify, on the Uniform Hazardous Waste Manifest, that they have in place a program to reduce the quantity and toxicity of the hazardous waste they generate, to a degree determined by the generator to be economically practicable and that the proposed method of treatment, storage, and disposal is that practicable method currently available which minimizes present and future threats to human health and the environment. This statutory provision does not apply to generators of less than 1000 kg per month.

The HSWA also required EPA to establish standards for generators of 100-1000 kg per month. These standards were promulgated on March 24, 1986. On the same day, EPA proposed that the waste minimization certification requirement also apply to 100-1000 kg/mo generators. If the Agency finalizes this proposed requirement, the waste minimization certification statement in item 16 of the Uniform Hazardous Waste Manifest will apply to 100-1000 kg/mo generators just as it applies to generators of greater than 1000 kg/mo. I have enclosed copies of both Federal Register notices, for your information.

The certification contained in item 16 of the manifest form consists of two parts, the waste minimization certification and the general certification of accuracy. Only one signature is required.

The waste minimization certification requirements of HSWA do not authorize EPA to "interfere with or to intrude into the production process by requiring standards for waste minimization;

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rather, it specifically provides that the substantive determinations of "economically practicable" and "practicable methods currently available" are to be made by the generator in light of his own particular circumstances. Thus, from an enforcement perspective, the Agency will be concerned primarily with compliance with the certification signatory requirement. Each generator subject to the waste minimization requirement should make a good faith effort to minimize the amount and toxicity of waste generated and to select a means of treatment, storage, or disposal most likely to minimize the present and future threat to human health and the environment (50 FR 28734). The legislative history of HSWA makes clear that "judgements made by the generator [for the purpose of the waste minimization certification] are not subject to external regulatory action (S. Rep. No. 284, 98th Cong. 1st Sess. 67 (1983)).

The HSWA, however, require the EPA to submit a report to Congress, by October 1, 1986, on the feasibility and desirability of: (1) establishing standards of performance or of taking additional action under the Act (RCRA) to require the generators of hazardous waste to reduce the volume or quantity and toxicity of the hazardous waste they generate; and (2) establishing with respect to hazardous wastes required management practices or other requirements to assure such wastes are managed in ways that minimize present and future threats to human health and the environment. In addition, the report shall include any recommendations for legislative changes which EPA determines are desirable and feasible to implement the national policy of minimizing the generation and the land disposal of hazardous waste by encouraging process substitution, materials recovery, properly-conducted recycling and reuse, and treatment.

The Agency supports all environmentally sound strategies for reducing the amount of hazardous waste which must be disposed of, including waste exchanges. The Agency's position on waste exchanges, therefore, remains consistent with that expressed in John Skinners' March 1, 1985 letter to you.

I hope this answers your questions about the waste minimization certification requirement. Thank you for your interest in the hazardous waste program.

Sincerely,

Marcia Williams
Director
Office of Solid Waste

Enclosures