

9432.1987(03)

EVAPORATOR USED TO REMOVE WATER FROM HAZARDOUS WASTE

MAY 1 1987

Mr. Anthony Sasson
Technical Assistance and Engineering Section
Division of Solid and Hazardous Waste Management
State of Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43266-1049

Dear Mr. Sasson:

Your letter of January 7, 1987, requested an opinion from this office on the regulatory status of evaporators used to remove water from hazardous wastes. First, you asked whether evaporation would be considered treatment, as defined in 40 CFR 260.10. Second, you asked whether, if evaporation is considered to be treatment, an evaporator would be eligible for an exclusion from permitting under the generator 90-day accumulation exclusion or the totally enclosed treatment exclusion.

You are specifically concerned about the "Nordale Fluid Eliminator," a device that in one circumstance would be used to remove water from aqueous waste that is hazardous because of its metal content. We consider that this unit is a treatment unit because it meets the definition of "treatment" contained in 40 CFR §260.10; i.e., it reduces the volume of the waste. Additionally, for the reasons described below, the Nordale units do not appear to meet the criteria established for totally enclosed treatment.

A totally enclosed treatment facility is defined in 40 CFR §260.10 as a facility that is "...directly connected to an industrial production process and...which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment." As operated, the Nordale unit discharges vapor directly into the environment. Since neither the definition contained in 40 CFR §260.10 nor the preamble (45 FR 33218) distinguishes between hazardous and nonhazardous constituents

-2-

in the hazardous waste, a totally enclosed treatment system can not release any constituents into the environment. Although the waste you describe is hazardous on the basis of its metals content, evaporation could release volatile organics as well as water vapor into the environment. Therefore, we believe the Nordale units do not meet the criteria of totally enclosed treatment.

With regard to the 90-day accumulation exclusion, generators who accumulate hazardous waste on-site for 90 days or less in a tank do not need a permit if they meet the requirements of 40 CFR §262.34. This policy is stated in the preamble to the small quantity generator regulations that were promulgated on May 24, 1986, (51 FR 10168). The "Nordale Fluid Eliminator" meets the definition of a thermal treatment unit in that it is a device that "uses elevated temperatures as the primary means to change the chemical, physical, or biological character of the hazardous waste" (see 40 CFR §260.10). However, our review of the manufacturer's literature leads us to the conclusion that this specific evaporative unit also meets the definition of "tank" as that term is used in 40 CFR §262.34. Therefore, generators could remove water from hazardous wastes using the Nordale units without obtaining a RCRA permit provided they comply with the provisions of 40 CFR §262.34.

I want to make you aware of the fact that the Agency is currently developing regulations that would apply to air emissions from treatment, storage, and disposal facilities. The first phase of this rulemaking effort was published in proposed form on February 5, 1987, (see enclosed 52 FR 3748). Additionally, we are considering modifying the 90-day accumulation standards as discussed in an advanced notice of proposed rulemaking that appeared in the Federal Register on July 14, 1987, (see enclosed 51 FR 25487). Thus, in the future, we would regulate air emissions from evaporative equipment if we were to determine that emissions from these units posed an unacceptable human risk to human health and the environment.

If you would like to discuss this matter in more detail, please contact Robert Dellinger, Chief of the Waste Treatment Branch, at (202) 382-7917.

Sincerely,

RO 12923

-3-

Marcia E. Williams
Director
Office of Solid Waste

Enclosures

cc: Suzanne Rudzinski
Matt Hale