

9441.1987(53)

WASTES GENERATED IN MANUFACTURING PROCESS UNIT NOT SUBJECT TO
LAND DISPOSAL RESTRICTIONS UNTIL IT EXITS THE UNIT IN WHICH IT WAS
GENERATED

JUN 29 1987

Mr. Curtis J. Baker
Safety Environmental Specialist
Moore Business Forms &
Systems Division
3100 North Husband
Stillwater, Oklahoma 74075-2199

Dear Mr. Baker:

In your letter of May 27, 1987, you requested Agency guidance on whether the provisions in 40 CFR 261.4(c) pertain to wastes subject to Part 268 (i.e., the Land Disposal Restrictions).

According to the provisions in 40 CFR 261.4(c), hazardous wastes that are generated in a manufacturing process unit or an associated non-waste-treatment-manufacturing process unit, are not subject to regulation under Part 262 through 265, 270, 271, and 124 or the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated. In the November 7, 1986, solvents and dioxins final rule, the Agency revised 40 CFR Part 261.4(c) to include a reference to Part 268. Therefore, wastes generated within a manufacturing process unit likewise are not subject to Part 268 until they exit the manufacturing process.

The Agency has stated in its June 11, 1987, Notice of Data Availability (52 FR 22356) that for purposes of determining compliance with land disposal restrictions, the initial generator of the waste (i.e., before the waste is treated) determines whether the waste is subject to the 2-year national capacity extension. Therefore, a hazardous waste which meets the requirements in 40 CFR 261.4(c) are subject to the 2-year national variance if it meets one or more of the following criteria (in §268.30):

- 1) The generator of the solvent waste is a small quantity generator of 100-1000 kilograms of hazardous waste per month; or

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- 2) The solvent is from a response action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or any corrective action taken under the Resource Conservation and Recovery Act (RCRA)...; or
- 3) The solvent is a solvent-water mixture, solvent-containing sludge, or solvent-contaminated soil (non-CERCLA or RCRA corrective action) containing less than 1 percent total F001-F005 solvent constituents listed in Table CCWE of § 268.41.

I hope this information adequately addresses your concerns. If you have any additional questions, you may call me at (202) 382-4770.

Sincerely,

Stephen R. Weil, Chief
Land Disposal Restrictions Branch

cc: Region VI

RO 12959