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## I. SIGNIFICANT QUESTIONS AND RESOLVED ISSUES-JANUARY 1990

### A. RCRA

#### 1. Two Parts to the Definition of Treatment

To facilitate disposal, a generator consolidates two spent solvents, which are listed in 40 CFR Part 261 Subpart D, into a single container. Is the mixing of these wastes considered to be treatment of hazardous waste under RCRA? Would a person consolidating waste need a RCRA permit or interim status designation for treatment of hazardous waste?

The definition of treatment is a two-part definition. The definition includes "any method ... or process ... designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous; less hazardous; (or) safer to transport, store, or dispose of" (40 CFR Section 260.10).

Putting two RCRA hazardous wastes into one container with the purpose of facilitating disposal is treatment if, for example, the mixing makes one or both of the wastes less hazardous or safer to transport. (OSWER Directive 9432.05-84; November 6, 1984) Any person, unless otherwise excluded from regulation, consolidating wastes needs a RCRA permit or interim status designation for treatment if the mixing results in treatment according to the definition in 40 CFR Section 260.10 (Certain generators accumulating wastes and treating the wastes in tanks and containers may not be subject to permit requirements (51 FR 10168, March 24, 1986).)

Regardless of whether or not the person is treating hazardous waste, he may need a RCRA permit for storage. A generator would need a permit or interim status designation for storage if waste is stored longer, or is accumulated in amounts greater, than the limitations in 40 CFR Section 262.34. A transporter also would need a storage permit if, for example, he stores waste at a transfer facility for longer than ten days (40 CFR Section 263.12).

Source: Jim Berlow, OSW (202) 382-4627  
Mitch Kidwell, OSW (202) 382-4805  
Richard Kinch, OSW (202) 382-7917  
Chet Oszman, OSW (202) 382-4499  
Research: Monica Genadio