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REGULATORY STATUS OF TREATMENT ASSOCIATED WITH FUEL-  
BLENDING ACTIVITIES

United States Environmental Protection Agency  
Washington, D.C. 20460  
Office of Solid Waste and Emergency Response

January 28, 1994

Mr. Dennis R. Downs, Director  
Utah Division of Solid and Hazardous Waste  
288 North 1460 West  
P.O. Box 144880  
Salt Lake City, Utah 84114-4880

Dear Mr. Downs:

Thank you for your letter of December 3, 1993 in which you request clarification of the Agency's intent regarding the permitting of hazardous waste fuel-blending activities. We have evaluated the fuel blending-related processes described in your letter, and have provided comments below.

Your letter describes five fuel-blending activities and requests whether such practices meet the definition of hazardous waste treatment which, according to 40 CFR 260.10, reads as follows:

Treatment means any method, technique, or process, including neutralization, 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, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery amenable for storage. or reduced in volume. (Emphasis added.)

[This definition of treatment was upheld as reasonable by the D.C. Circuit in *Shell Oil v. EPA*, 950 F.2d 741, 753-56 (D.C. Cir. 1989).]

1. The addition of other materials (e.g., sodium hydroxide) to facilitate homogeneous mixtures/blends of fuel streams.

Adding materials such as sodium hydroxide to the waste stream changes the physical and/or chemical character of the waste stream, and therefore meets the definition of treatment.

2. Sizing/suspension units designed to grind up or break down large solids into a smaller, more manageable form for inclusion in the fuels stream.

Physical manipulation of the waste would be treatment, provided that it changes the physical character or composition of the waste stream.

3. Commingling or consolidation of similar or chemically compatible hazardous wastes so as to increase their volume, enhance their BTU content, to meet various boiler or industrial furnace characteristics such as metal or chlorine limitations, or to alter viscosity and enhance miscibility.

Commingling or consolidation of hazardous wastes resulting in physical and/or chemical changes in the waste streams to make energy recovery more amenable, meets the definition of treatment.

4. The use of distillation to remove contamination from various solvents.

Distillation to remove contaminants is a process that changes the physical and chemical composition of the waste stream to render it less hazardous and is, therefore, considered treatment.

5. Processes designed to accomplish phase separation (e.g., removal of water or other undesirables) to facilitate capture of the desired waste for further processing.

Processes to remove components from the waste stream may constitute treatment if the physical, chemical, or biological composition of the waste stream is changed.

As you can see, we were unable to make a definitive

determination on items #2 and 5 above due to a lack of specific information. We hope that the principles provided in the discussion will allow the State to make the determination based on site-specific circumstances.

Finally, you asked about certain waste treatment codes listed in 40 CFR 264 Appendix I; specifically T50 (blending), T54 (distillation), and T63 (solvent recovery), and what activities related to these codes did the Agency intend to regulate as treatment. Appendix I simply identifies handling codes that most closely represent the technique(s) used at the facility to treat, store, or dispose of hazardous waste for recordkeeping requirements only. The codes are not intended to identify all those activities that require a RCRA permit or, in your specific case, what constitutes treatment.

Thank you for the opportunity to assist you in your efforts to regulate fuel-blending activities. If you have any questions, please call Jeff Gaines at (703) 308-8655 or Chet Oszman at (703) 308-8659.

Sincerely,  
Frank McAlister, Chief  
Assistance Branch (5303W)

cc: James Michael, OSW; Steve Silverman, OGC; Jeffrey Gaines, OSW; Chester Oszman, OSW; Terry Brown, Region VIII