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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

SEP 23 1996

Philip Kircher
Director of Government Sales
RGF Environmental Systems, Inc.
3875 Fiscal Court
West Palm Beach, FL 33404

Dear Mr. Kircher:

Thank you for your letter of July 9, 1996 concerning the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to your chemical flocculation unit, the "Split-O-Mat," when used to treat wash water from C-130 aircraft engines. As you discussed with Charlotte Mooney, of my staff, at the federal level we can explain how the federal regulations might apply to your unit, and what criteria you (and/or the generator of a hazardous waste) should use to determine which federal regulations would apply.

However, most state environmental agencies are authorized to implement the RCRA hazardous waste program, and the states' regulations, rather than the federal regulations, apply in authorized states. State hazardous waste regulations must be at least equivalent to the federal regulations, but may also be more stringent. Because authorized states implement and enforce their own hazardous waste programs, authorized states generally make decisions about how the regulations apply to specific facilities within the states. Therefore, you (and/or the generator of the hazardous waste) should work with the appropriate state agency to determine how the hazardous waste regulations of a particular state would apply to the specifics of any particular installation of your equipment. Since many of the state hazardous waste regulations are similar to the federal regulations, the following discussion of the federal regulations should help you become

RO 14104

familiar with some of the possible regulatory requirements.

Based on the information you provided, it appears there are several ways your unit might be regulated under the federal hazardous waste regulations. In general, treatment (see Footnote 1) of hazardous waste is subject to the RCRA hazardous waste regulations. Thus, assuming the cadmium contaminated wash water you describe exhibits the hazardous waste characteristic of toxicity, treatment of that waste would generally require a hazardous waste treatment permit. However, there are several exceptions that may apply to your unit.

First, it appears likely that your unit would meet the wastewater treatment unit exemption of 40 CFR 264.1(g)(6), which exempts treatment units from RCRA permitting if they meet the definition of wastewater treatment unit. This definition is found in 40 CFR 260.10 and reads as follows:

"Wastewater treatment unit" means a device which:

(1) Is part of a wastewater treatment facility that is subject to regulation under either section 402 or 307(b) of the Clean Water Act; and (2) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in 261.3 of this chapter, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 261.3 of this chapter; or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 261.3 of this Chapter; and 3) Meets the definition of tank or tank system in 260.10 of this chapter.

To determine whether your unit would meet this definition, at each location you should determine whether the facility is subject to section 402 or 307(b) of the Clean Water Act (National Pollutant Discharge Elimination System permitting and pretreatment standards, respectively), and whether the unit meets the definition of tank. "Tank" is defined in 40 CFR 260.10 as "a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support." Whether or not your unit meets the definition of tank will depend on the specifics of each situation, and where questions arise, is a determination that should be made by the appropriate state.

Second, your unit may also be considered a generator accumulation unit and therefore subject to 40 CFR 262.34. This provision exempts generator accumulation tanks and containers from RCRA permitting as long as they are managed in compliance with certain requirements. Thus, this provision could apply if it were determined that the wastewater treatment unit exclusion did not cover some of your units because they were considered to be containers (see Footnote 2), rather than tanks. The 40 CFR 262.34 requirements include general standards for generators, accumulation time limits, and specific design and management requirements for each type of accumulation unit (e.g., tank or container). Since the military sites you are working with are generators of hazardous waste, it is likely that they are already in compliance with the general standards for generators. If that is the case, they would only need to revise their procedures for compliance with the general standards as necessary to address the new treatment activity, to meet the accumulation time limits, and to comply with the specific design and management requirements for the unit itself (e.g., compliance with Subpart I of Part 265 for containers).

The discussion above assumes that facilities using your unit are already regulated large quantity generators of hazardous waste (greater than 1,000 kilograms of hazardous waste per month). It is also possible, however, that such a facility might be a "small quantity generator" or a "conditionally exempt small quantity generator," in which case less stringent requirements would apply. I have enclosed copies of two documents that summarize the federal hazardous waste regulations for each of these generator categories.

You should also be aware that if the treatment sludge generated in your unit exhibits characteristics of hazardous waste, including the toxicity characteristic for cadmium, the waste must be managed as a hazardous waste. Finally, there may be requirements under the land disposal restrictions program (40 CFR Part 268) that would apply to the treatment sludge or to the original wash water. Additional information about the hazardous waste regulations can be found in the enclosed documents, and by calling our RCRA Hotline at (800) 424-9346. The Hotline can explain the federal regulations in detail, and can also provide contacts at the various state agencies to find out about state regulations.

I hope this information concerning the federal regulations is useful. You (and/or the generator of the hazardous waste) should check with the appropriate state agencies to determine the specific requirements that may be applicable in those states. If you have further questions, please contact Charlotte Mooney, at (703) 308-7025.

Sincerely,

David Bussard, Director
Hazardous Waste Identification Division

Footnotes:

1 The term "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. (40 CFR 260.10)

2 The term "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled. (40 CFR 260.10)

Enclosures