



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

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

FEB 26 2014

Mr. Bruce Armbruster, Vice President  
JE Compliance Services, Inc.  
12505 North Mainstreet, Suite 212  
Rancho Cucamongo, California 91739

Dear Mr. Armbruster:

I am responding to your email of January 13, 2014 where you seek an applicability determination from EPA regarding compliance with the storage requirements of 40 CFR 265.17 (a) without being able to meet 50 foot boundary requirement of 40 CFR 265.176 when ignitable or reactive hazardous waste are accumulated at the site.

In particular, you describe the scenario where a facility generates ignitable hazardous waste and subsequently accumulates this waste in a rated modular chemical storage unit. You state that this modular storage unit is designed to limit the potential for harm to human health and the environment by being equipped with integral secondary containment, walls that are fire rated, and with the unit equipped with an integral fire suppression system that is maintained and inspected in accordance with applicable fire code requirements.

Under the existing RCRA hazardous waste regulations, a large quantity generator (LQG) must comply with both 40 CFR 265.17 (a) and 40 CFR Part 265, Subpart I (Use and Management of Containers), including the 50 foot boundary requirement for containers holding ignitable and reactive hazardous waste at 40 CFR 265.176. As stated in the preamble to the Agency's original regulations for generators and interim status treatment, storage and disposal facilities in May of 1980, 40 CFR 265.176 is taken from the National Fire Protection Association's (NFPA) Flammable and Combustible Code of 1977 (NFPA 30). (A copy of its most recent edition is attached.) As EPA explained in the preamble, "The purpose of the setback required in the Code is to protect adjacent residences, businesses and other public places from the acute effects of explosions and fires that may be caused in facilities that store flammable materials." See 45 FR 33200, May 19, 1980.

Situations do occur periodically, however, when a LQG is able to comply with 40 CFR 265.17(a) but unable to comply with the 50 foot boundary requirement for the accumulation of ignitable and reactive hazardous waste at 40 CFR 265.176. This usually occurs in urban settings, but other situations may exist also. When these situations occur, the Agency recommends that the generator work with the EPA regional office or state inspector to determine if the local fire department or fire marshal will provide a waiver, in writing, from having to comply with the 50 foot boundary requirement at 40 CFR 265.176.

EPA and state inspectors often do not have the expertise of the local fire marshal to determine if a generator's hazardous waste management operations are sufficiently safe to prevent or suppress fires or other hazards that could adversely impact surrounding buildings or the public. In such cases, EPA relies on the expertise of the local fire department or fire marshal to inspect the generator's site to determine if it is in compliance with all applicable fire codes and if additional fire prevention or suppression equipment or systems may be necessary. Therefore, when such situations occur, we recommend you contact your local fire department or fire marshal for assistance.

Also, please check with your state to determine if they are authorized to operate their program in lieu of the federal program and if their regulations are more stringent than federal regulations in this area.

Should you have any additional questions, please contact Jim O'Leary at 703-308-8827 or [oleary.jim@epa.gov](mailto:oleary.jim@epa.gov).

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Betsy Devlin".

Betsy Devlin, Director  
Materials Recovery and Waste Management Division

cc: Katherine Nam  
Diana Saenz  
John Schofield