



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

OCT - 3 1991

Mr. Stergios Spanos
New Hampshire Department of Environmental Services
Hazardous Waste Compliance Section
6 Hazen Drive
Concord, NH 03301-6509

Dear Stergios:

This letter is a followup to our telephone conversation on September 20, 1991, to request Region I's interpretation of the generator tank requirements cited in the "Inspection Procedures" section of Appendix III, Table III-1, page 13 of the RCRA Inspection Manual. Specifically, you requested an interpretation of paragraph three on page 13 which states that less-than-90-day hazardous waste storage tanks must be emptied every ninety days by a generator.

Your request was prompted by a specific tank inspection conducted by the New Hampshire Department of Environmental Services (NH DES) at a generator facility. During this inspection, you stated that New Hampshire inspectors observed a generator storing hazardous waste in a six thousand gallon capacity tank.

Your inspection determined that the hazardous waste tank was never completely emptied. This determination was based on a review of the hazardous waste manifests, waste inventory logs, and statements by the generator. In these statements, the generator explained that capacity of the existing storage tank (six thousand gallons) exceeded the capacity of the vehicle (four thousand gallons) used to transport the hazardous waste off-site.

As a result of your findings described above, you believe a conflict exists with Appendix III, Table III-1, page 13 of the RCRA Inspection Manual. Specifically, you believe that the hazardous waste that remains in the storage tank after manifesting violates the RCRA Inspection Manual guidance that states that hazardous waste storage tanks must be emptied every ninety days by a generator.

Region I believes the ninety day "emptying" requirement refers to the hazardous waste placed in a tank. This section of the RCRA Inspection Manual only refers to generator requirements. To maintain generator status, hazardous waste must be stored for less than ninety days. The intent of this requirement is to determine if a facility is operating as a generator.



The Region's interpretation is further supported by the RCRA Inspection Manual which references 40 C.F.R. §§ 262.34(a-c) in the "Inspection Procedures" section contained in Appendix III, Table III-1 on page 13. These requirements exempt a facility from a RCRA permit provided hazardous wastes are stored for less than 90 days on-site and the containers/tanks used to store the wastes conform to specific marking and labeling requirements.

For the situation you have presented, the total cumulative volume of the manifested shipments for a ninety day period must be equal or greater than the total cumulative volume of hazardous waste generated and stored in the tank system for the ninety day period preceding those shipments to retain the conditional exemption.

If hazardous wastes were found to be stored for greater-than-90 days, Appendix III, Table III-1, page 87 (Subpart J - Interim Status) or page 130 (Subpart J - Permitted Unit) of the RCRA Inspection Manual would apply.

Please call me if you have any question or if I can provide any assistance. My telephone number is (617) 573-5759.

Sincerely,



Kenneth B. Rota
Environmental Scientist
RCRA Support Section