



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

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

SEP 2 1993

Gary L. Williams, Manager
Laidlaw Environmental Services, Inc.
Transportation Programs
P.O. Box 210799
Columbia, SC 29221

Re: Hazardous Waste Discharges from Third Party Transporters

Dear Mr. Williams:

This is in response to your letter dated May 28, 1993, requesting EPA's position on the applicability of certain portions of the regulations promulgated pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 et seq. to activities undertaken by your corporation, Laidlaw Environmental Services, Inc. (Laidlaw).

Your letter outlined a hypothetical situation involving the discharge of hazardous wastes during transport by a third party transporter. You stated that the hazardous waste discharge was remediated by the third party transporter and placed into drums. You further stated that the discharged hazardous waste stored in these drums no longer met the hazardous waste description listed on the original hazardous waste manifest. You specifically requested Region I to determine who the generator of this hazardous waste discharge would be for this hypothetical situation. You also stated that 40 C.F.R. Part 263, Subparts B and C do not clearly address who should be identified as the generator in the event of a hazardous waste discharge occurring during transportation.

In order to respond to this issue, we must point out that 40 C.F.R. Part 262 must be used to determine the generator of the discharged hazardous waste. 40 C.F.R. Part 263 Subparts B and C are not meant to address generator liability issues. The intent of these Subparts is to provide temporary relief from the regulations to a transporter for any treatment or containment activities undertaken during an immediate response to a discharge of hazardous waste; an imminent and substantial threat of a discharge of hazardous waste; and, a discharge of a material which, when discharged, becomes a hazardous waste during the normal course of transportation.¹ 40 C.F.R. Part 263 also

¹ However, please note that 40 C.F.R. § 270.1(c)(3)(ii) states that "any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities."



If you have any further questions regarding this matter, please contact Kenneth Rota of the RCRA Enforcement Unit at (617) 573-5759.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Marshall". The signature is written in dark ink and is positioned below the word "Sincerely,".

Bruce Marshall, Chief
RCRA Support Section

cc: Kenneth Rota, EPA