

September 11, 1986

MEMORANDUM

SUBJECT: Application of RCRA Corrective Action Requirements
to POTWs

FROM: Martha G. Prothro, Director
Permits Division (EN-336)

TO: Water Management Division Directors
Regions I - X

Purpose

The Resource Conservation and Recovery Act (RCRA) imposes requirements upon facilities which treat, store, or dispose of hazardous waste. Certain POTWs which receive such waste may be subject to RCRA requirements. This memorandum outlines the applicability of RCRA to POTWs and contains a model letter, to be sent to POTWs, requiring them to notify EPA whether RCRA "hazardous waste" is received by the POTW. The mailing to POTWs is intended to identify those POTWs for which the Office of Water Enforcement and Permits and the Regional Water Management Divisions will subsequently implement RCRA requirements. We ask all Regional Offices to conduct the mailing October 1986, following an opportunity for discussion and comment on this memorandum and attachments. Conference calls to discuss this memorandum and attachments with Regional hazardous waste coordinators are being arranged for Monday, September 12, 1986.

Applicability of RCRA to POTWs Receiving RCRA Hazardous Waste

Generally, sewer line influents to POTWs will fall under the domestic sewage exclusion of 40 CFR 261.4(a)(1) and therefore are not considered to be "hazardous waste" under RCRA. However, waste received at a POTW by truck, rail or by a dedicated pipe (i.e., where the waste does not mix with domestic waste in the pipe before entering the POTW) is not covered by the domestic sewage exemption. If that waste is a listed hazardous waste or exhibits a hazardous waste characteristic, the POTW is required to obtain a RCRA permit for the treatment, storage and disposal of such waste.

For example, wastewater treatment sludge from the chemical conversion coating of aluminum is a listed hazardous waste in the RCRA regulations. If this waste is sent to a POTW via a sewer where the waste mixes with domestic sewage prior to reaching the POTW's treatment plant, then the waste would be covered by the domestic sewage exemption, and

therefore would not subject the POTW to a RCRA permit. If, however, the same waste is trucked directly to the POTW, then the waste would still be considered "hazardous waste" and the POTW would be required to have a RCRA permit to accept such waste.

Generally, POTWs which receive hazardous waste by truck, rail or dedicated pipe are eligible for a simplified permitting process under RCRA, which is similar to the NPDES general permits program under the Clean Water Act. Individually issued RCRA permits are not required of such POTWs; rather, the RCRA regulations provide that a POTW is deemed to have a RCRA "permit by rule" if it complies with certain conditions, including compliance with its NPDES permit, compliance with certain reporting and record-keeping RCRA Part 264 requirements, and compliance with all Federal, State, and local pretreatment requirements (i.e., the waste received by truck, rail, or dedicated pipe meets all pretreatment limits).

Among the changes to RCRA made by the Hazardous and Solid Waste Amendments of 1984 is a requirement for permitted RCRA facilities to address continuing releases. This requirement, known as the 'corrective action' provision, applies to POTWs subject to the RCRA permit by rule. Implementation of the corrective action provision will involve the RCRA permitting authority in determining whether there was a release of hazardous waste from the facility and prescribing necessary clean-up actions to protect human health and the environment. Since there are currently no States approved under RCRA for implementation of this requirement. SPA has the responsibility to implement corrective action for all RCRA facilities, including POTWs under the permit by rule.

FY '87 Activities

In FY '87, SPA will focus on high priority POTWs, which are POTWs that either receive RCRA hazardous waste accompanied by a RCRA manifest, or receive RCRA hazardous waste without a RCRA manifest and are known by the Regional Office to have releases which threaten public health and the environment (for example, POTWs with known significant groundwater leachers, volatilization, or other environmental problems). In accordance with the Agency's FY '87 operating guidance (see item II.D.3.e), the Office of Water and the Regional Water Management Divisions are responsible for implementing RCRA permit by rule requirements (including corrective action). Thus, the first RCRA corrective action activity in FY '87 for EPA Regions is to identify high priority

POTWs in their States that should be covered by the RCRA permit by rule requirements. The second RCRA corrective

action activity in FY '87 is to implement the initial stages of corrective action for these facilities.

On or about October 1, 1986, Regional Offices should begin to identify high-priority POTWs in their States. Letters should be sent by the Regions to all major and minor POTWs informing them of their obligations under RCRA and requiring them to notify EPA whether they receive hazardous waste by truck, rail or dedicated pipe. An example letter for this purpose is enclosed. The mailing, at a minimum, is intended to identify those high priority POTWs which receive hazardous waste accompanied by a RCRA manifest. EPA Regions are also encouraged to use any other approach, including examination of RCRA manifest reports and consultation with States, to identify high-priority POTWs that should be covered by the RCRA permit by rule. Headquarters will be asking Regional Offices for the results of this facility identification effort by no later than the end of the second quarter of FY '87, so that we can estimate the national workload and to provide the most effective guidance and assistance possible in light of the size and type of universe identified.

The second RCRA corrective action activity for EPA Regions, to occur in the second half of FY '87, is to begin to implement the initial stage(s) of corrective action requirements for identified high-priority POTWs. Implementation of corrective action is a step-by-step process which will entail the collection of information from POTWs, and, as necessary, subsequent site investigations, sampling visits, remedial investigations, and corrective measures. Detailed guidance is now being prepared to assist the Regions in implementing the initial stages of the corrective action process. Contractor assistance will also be available upon request to help Regions and POTWs conduct these initial activities.

The Permits Division is currently working on several fronts intended to assist you in implementation of RCRA requirements for POTWs. Proposed regulations intended to clarify the current corrective action regulatory requirements are being prepared, and a technical guidance document is being developed to assist POTWs in identifying RCRA hazardous wastes and in developing monitoring and sampling programs to help keep hazardous waste out of POTWs that choose not to receive it. Attached to this memorandum for your information is a copy of the RCRA Orientation Manual, a document prepared by the Office of Solid Waste which provides an overview of the RCRA program.

I expect you and your staff to have many comments and questions on the attached draft letter, the RCRA permit by rule and the Regional activities to be undertaken in FY '87. For this reason, we will be scheduling conference calls with

the Regional Water Division hazardous waste coordinators on September 22, 1986.

We will soon be contacting your coordinator to arrange the time of the conference call for your Region. Because the conference calls will necessarily focus only on major issues, if you have any preliminary questions or minor issues to raise, please call me at FTS 475-9545, or have your staff contact Gary Cohen of my staff at FTS 475-7050, prior to the conference call.

In addition, in November or December 1986, we expect to have a national meeting with the coordinators to discuss our draft program operating guidance and follow-up activities. Further information on these activities will be forthcoming.

Attachments

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