

OCT 21 1986

MEMORANDUM

SUBJECT: Redraft of Model Letter to be Sent to POTWs

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

TO: Water Management Division Directors
Regions I - X

On September 11, 1986, I sent you a draft example letter to be sent to all POTWs to determine whether they are subject to RCRA corrective action requirements. My staff and I discussed the draft during conference calls with the Regional Water Division Hazardous Waste Coordinators on September 22, 1986. Based on the comments received, we have redrafted the example letter. A copy is attached for your information.

Regions are, of course, free to modify the example letter and may include additional questions. However, we will need answers to the four basic questions in the example letter in a form that will allow us to make some nationwide assessments for strategic purposes. If you decide to send a letter that differs substantively from the example we have developed, I strongly suggest that your staff work closely with Gary Cohen of my staff in the drafting effort and that you send me a copy in advance for informal comment.

Please note in the attached example letter that we are interpreting the RCRA permit by rule to apply to all POTWs which receive hazardous waste by truck, rail, or dedicated pipe, where the waste is not mixed with domestic sewage in a sewer before reaching the POTW property boundary (excluding sewer pipes outside the facility boundary). This is the interpretation we intend to use in implementing the RCRA permit by rule program for POTWs. Questions 1 and 2 in Attachment A of the example letter are designed to determine whether manifested hazardous waste is delivered either inside or outside of the POTW. Delivery inside the boundary would subject the POTW to the RCRA permit by rule; delivery of manifested hazardous waste outside the boundary could constitute a violation of RCRA manifesting and reporting requirements.

Region VII has asked whether letters should be sent to non-discharging POTWs, i.e., POTWs not subject to an NPDES permit. I encourage you to do so, since the purpose of the mailing is to identify POTWs subject to RCRA treatment, storage or disposal requirements. Although non-discharging POTWs are not eligible for a RCRA permit by rule (since a precondition to the permit by rule is that a POTW have and comply with an NPDES permit), non-discharging POTWs which receive hazardous waste may need to obtain individual RCRA Subtitle C permits. I should caution you, however, that there are certain legal questions concerning the applicability of regulatory RCRA permitting requirements to non-discharging POTWs. I urge you therefore to work closely with Gary Cohen of my staff before issuing RCRA permits in any such cases.

The conference calls with the Regional Water Division Hazardous Waste Coordinators provided us with valuable feedback. We hope the Regions also found the calls worthwhile. We are considering arranging such conference calls monthly and would appreciate your thoughts on this. Your Hazardous Waste Coordinators may contact Gary Cohen at FTS 475-7050 with their reactions to our plans.

If you have any questions or comments, please call me at FTS 475-9545 or have your staff call Gary Cohen.

Attachment

cc: Jim Elder - EN 335
Bill Jordan - EN 338
Bruce Weddle - WH 563
Mark Greenwood - LE 1326
Pam Savage - LE 132W
NPDES Permits Branch Chiefs
Regional Water Division Hazardous Waste Coordinators:
John Healey - Reg. I
Bob Olson - Reg. II
Terry Oda - Reg. III
Al Herndon - Reg. IV
Tim Henry - Reg. V
Bill Luthans - Reg. VI
Mike Turvey - Reg. VII
Marshall Fischer - Reg. VIII
Andy Lincoff - Reg. IX
Bob Robichaud - Reg. X

Cohen's #14(17):rev:per GHG:10/17/86
REV:per MGP:10/21/86

[ADR]

ATTN: Legal Department or Operator of POTW

RE: [RCRA EPA. I.D. # (if applicable)]

Dear Sir/Madam:

The Resource Conservation and Recovery Act (RCRA) imposes requirements upon facilities which treat, store, or dispose of hazardous waste. POTWs which receive hazardous waste by truck, rail, or dedicated pipeline, where the waste does not mix with domestic sewage in the sewer system before reaching the POTW property boundary, are subject to RCRA permit requirements.

Generally, POTWs which receive hazardous waste by truck, rail or dedicated pipeline are eligible for a simplified permitting process under RCRA. Individually-issued RCRA permits are not normally required for 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. These conditions include compliance with its NPDES permit, compliance with certain reporting and record-keeping RCRA (40 CFR Part 264) requirements, and compliance with Federal, State, and local pretreatment requirements (i.e., the waste received by truck, rail or dedicated pipeline meets all pretreatment limits and monitoring and reporting requirements). On November 8, 1984, the Hazardous and Solid Waste Amendments to RCRA went into effect. One impact on POTWs is a new requirement that permitted RCRA facilities address continuing releases. This requirement, known as the "corrective action" provision, involves determining whether any releases of hazardous waste from the facility have occurred and, if there have been releases, establishing any necessary cleanup actions to protect human health and the environment.

In order to effectively implement RCRA permit by rule requirements for publicly owned treatment works, the Environmental Protection Agency is required to determine whether your facility has been engaged or plans to engage in certain activities. Therefore, pursuant to the authorities of §§3007 and 3018(d) of the Resource Conservation and Recovery Act and §308 of the Clean Water Act, you must respond to the questions in Attachment A to the best of your knowledge based on all information and documents in your possession, your control, or the possession, custody, or control of your employees, agents, servants or attorneys. You must respond within 30 days of the date of this letter.

All information you submit must be certified in accordance with the certification on Attachment A and mailed to:

Name, Water Management Division Director
Region ____
Address ____

The certification must be signed by a principal executive officer, ranking elected official or an authorized representative of your installation. An "authorized representative" is a person responsible for the overall operation of the facility (i.e., a plant manager or superintendent, or a person of equal responsibility).

Under the provisions of the both the Clean Water Act and the Resource Conservation and Recovery Act, failure to comply with this request may result in substantial penalties.

If you have any questions please contact _____ of my staff. Your prompt attention to this matter is appreciated.

Sincerely yours,

Water Management Division Director
U.S. EPA, Region ____
Address

ATTACHMENT A

Answer the following questions and mail within thirty days
to:

Name, Water Management Division Director
Region _____
Address _____

- (1) Have you received hazardous waste (as identified in 40 CFR Part 261) accompanied by a "Uniform Hazardous Waste Manifest" as shown in Attachment B?
_____ YES, _____ NO

If you answered "yes," was or is this hazardous waste delivered _____ inside or _____ outside of the POTW property boundary?

- (2) Do you plan to receive hazardous waste (as identified in 40 CFR Part 261) accompanied by a "Uniform Hazardous Waste Manifest" as shown in Attachment B?
_____ YES, _____ NO

If you answered "yes," will this hazardous waste be delivered _____ inside or _____ outside of the POTW property boundary?

- (3) Have you received hazardous waste (as identified in 40 CFR Part 261) by dedicated pipe where the waste does not mix with domestic sewage (i.e., sanitary waste) in the sewer system before reaching the POTW property boundary?
_____ YES, _____ NO

- (4) Do you plan to receive hazardous waste (as identified in 40 CFR Part 261) by dedicated pipe where the waste does not mix with domestic sewage (i.e., sanitary waste) in the sewer system before reaching the POTW property boundary?
_____ YES, _____ NO

CERTIFICATION - I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature of principal
executive officer, ranking
elected official or
authorized representative