

9461.1994(01)

June 21, 1994

Mr. Kevin Igli  
Environmental Management  
Chemical Waste Management  
3001 Butterfield Road  
Oak Brook, Illinois 60521

Dear Mr. Igli:

Thank you for your letter of January 11, 1993, regarding the temporary holding of hazardous waste at transfer facilities while enroute to a designated facility. In addition, you requested a written interpretation on the use of multiple transfer facilities as part of the "normal course of transportation".

Nothing in EPA's regulations specifically prohibits the use of multiple transfer facilities when they are used in the normal course of transportation. Determinations of what activities are "in the normal course of transportation" must be made on a case by case basis. However, we recognize that there may be exceptional situations where several days of unplanned shutdowns at the receiving facility or considerations of transportation efficiency would make the use of multiple transfer facilities part of the normal course. Of course hazardous wastes in this case could only be held for 10 days or less at any one transfer facility (otherwise a storage permit is needed as per §263.12).

In addition, to be considered in the normal course, transportation should be completed in a timely manner. As you know, 40 CFR 262.42 recognizes that most hazardous waste deliveries to a TSDF are completed within 45 days (see footnote 1). This requirement helps ensure that the waste will not be held for lengthy periods by transporters and that the transport process will be completed in a timely manner. EPA, in a June 7, 1990 memo to Region VIII, provides further clarification of what constitutes timely shipment (a copy of the memo is enclosed). The memo discusses a case in which waste was being passed through numerous transporters to allow enough time in which to accumulate a quantity of hazardous waste sufficient to fill a tank truck. To summarize, EPA noted that at the time of promulgation of the transfer facility

rules, the transportation industry cited 15 days as generally the maximum amount of time required to transport waste to a destination in the U.S. The Agency acknowledged, however, that circumstances occasionally justify periods significantly longer than 15 days, noting that determinations as to whether waste is being held in a manner inconsistent with the normal course of transportation are to be made on a case-by-case basis by the appropriate State or Regional office, based on the facts surrounding the individual circumstance.

Please be aware that the transporter remains responsible for the waste while it is at the transfer facility, and Part 263 transporter standards, including Subpart C pertaining to hazardous waste discharges, continue to apply during this period.

Thank you for your interest in the safe management of hazardous waste. Should you have any questions about this letter, please contact Ann Codrington in the Regulatory Development Branch at (202)260-8551.

Sincerely yours,  
Michael Petruska, Chief  
Regulatory Development Branch

Enclosure

- 1 According to 40 CFR 262.42, a generator must contact the owner or operator of the designated facility within 35 days if a copy of the manifest is not received. If, after 45 days, a copy of the manifest still is not received, the generator must file an Exception report.