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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 1 1990

Mr. Christopher J. Jaekels
GSX Government Services, Inc.
P.O. Box 140
902 South Main Street
Saukville, WI 53080

Dear Mr. Jaekels:

This letter is in response to your January 22, 1990 request for clarification of regulations applicable to bulking or containerizing compatible hazardous wastes for transportation. Specifically, you requested EPA's concurrence on your interpretation of the regulations: that bulking and containerizing practices do not constitute fuel blending, and thus, do not require permitting.

Determinations of this type are made by authorized states and EPA regional offices. In some cases authorized states have promulgated applicable regulations that differ from Federal regulations; hence, you should contact the authorized state hazardous waste office. If you need information in an unauthorized state, you may contact the appropriate EPA regional office.

However, for your information, this letter discusses in a general fashion the federal regulations which may apply. First, it is important to distinguish between bulking and containerizing different hazardous wastes for the purpose of efficient transportation and disposal from bulking and containerizing different wastes to product a hazardous waste fuel.

The bulking of characteristic hazardous waste shipments to achieve efficient transportation may result in incidental reduction of the hazards associated with that waste mixture. However, this incidental reduction may not meet the definition of treatment (as defined under 40 CFR Section 260.10) because it is not designed to render the waste nonhazardous or less hazardous. Accordingly, such activity may not require a RCRA permit. For a specific situation a determination is made by the appropriate Regional office or authorized State based on the particular circumstances, state regulations, and policies.

There is no definition for "fuel blending" in Federal regulations. However, the March 16, 1983 Federal Register (48 FR 11157) discusses the Agency's current enforcement guidance for blenders of hazardous waste fuel. In the preamble, the Agency explains that "waste-derived fuel blenders are responsible for ensuring that low-energy value

hazardous waste are not blended into fuels" (48 FR 11159). Therefore, bulking and containerizing of hazardous wastes which are intended to be burned for energy recovery (i.e., "fuel blending") are subject to RCRA jurisdiction. Specifically, a RCRA permitted storage facility consolidating compatible hazardous wastes for the purpose of burning for energy recovery must ensure that the resulting hazardous waste fuel has substantial heat value (i.e., 5,000 to 8,000 Btu) and that each consolidated hazardous waste fuel constituent possesses substantial heat value.

The Agency has clearly stated that the storage requirements of 40 CFR Parts 264 and 265 apply to hazardous waste fuel blending tanks. (See the April 13, 1987 Federal Register 52 FR 11820).) Therefore, unless the fuel blending operations are conducted in units exempt from permitting requirements (e.g., a generator's accumulation tank or container in compliance with standards for less than 90 day storage), these units are subject to RCRA permitting requirements under Federal regulations.

Again, we remind you that the final determination of the regulations that apply at a particular facility is made by the authorized states and EPA regions. Should you have additional questions regarding this letter, please contact Emily Roth of my staff at (202) 475-8551.

Sincerely,

Original Document signed

Sylvia K. Lowrance, Director
Office of Solid Waste