



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



INTRADepartmental MEMORANDUM

TO : David Nash, Director
DEP/WMB--Waste Engineering and Enforcement Division
18-20 Trinity Street, Hartford, CT

FROM: *[Signature]* Bet Flores, Assistant Director
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DATE: October 3, 1991

SUBJ: MEMORANDUM: Small/Large Quantity Generators
Treatment in Accumulation Containers and Tanks

The attached memorandum is intended to clarify the standards for generators choosing to treat wastes in accumulation containers and tanks to ensure protection of human health and the environment from mismanagement of hazardous waste.

The memorandum, however, does not replace or supercede either Regulations of Connecticut State Agencies, Sections 22a-449(c)-100 through 110 and 22a-449(c)-11 (Hazardous Waste Management Regulations) or the Code of Federal Regulations, Title 40, Parts 260 through 271. The reader is advised to consult all applicable regulations and subsequent regulatory amendments.

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cc: WEED staff



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



SMALL/LARGE QUANTITY GENERATORS
TREATMENT IN ACCUMULATION CONTAINERS AND TANKS WITHOUT PERMIT

In a memorandum dated June 17, 1986, the United States Environmental Protection Agency ("EPA") provided clarification of a statement, applicable to all generators subject to 40 CFR 262.34, in the preamble to the final small quantity generator regulations promulgated on March 24, 1986 which states that:

". . . no permitting would be required if a generator chooses to treat their hazardous waste in the generator's accumulation tanks or containers in conformance with the requirements of Section 262.34 and J or I of Part 265."

The EPA memorandum clarifies that the foregoing statement is based upon a legal interpretation of what the existing rules allow at this time as no language in Section 262.34 precludes a generator (large or small) from treating waste in an accumulation container or tank without a permit.

1. EPA believes treatment in accumulation tanks or containers without a permit is permissible under the existing rules, provided the tanks or containers are operated strictly in compliance with all applicable standards, specifically:
 - a. Subparts I and J requirements of 40 CFR Part 265 shall be strictly complied with.
 - b. The accumulation date shall be clearly marked and visible for inspection on each container.
 - c. Each container and tank shall be labelled or marked clearly with the words, "Hazardous Waste" and other words that identify the contents of the containers or tanks, such as the chemical name.
 - d. Applicable provisions of Subparts C (Preparedness and Prevention) and D (Contingency Plan/Emergency Procedures) requirements of 40 CFR Part 265 shall be complied with.
 - e. Treatment shall occur within the specified 90-day or 180 (270)-day accumulation time limits for large quantity generators or small quantity generators, respectively.
 - f. All treatment residuals are subject to hazardous waste determinations.

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2. The Connecticut Department of Environmental Protection Bureau of Waste Management/Waste Engineering and Enforcement Division ("DEP") may allow treatment in accumulation tanks or containers without a permit in Connecticut under the existing rules, provided the tanks or containers are operated strictly in compliance with all applicable standards as set forth in paragraphs 1(a) through (f) above (including some provisions in Connecticut's Regulations which are broader in scope or more stringent than the federal regulations) and provided that the following additional requirements are also strictly complied with, specifically:
- a. Treatment in accumulation tanks and containers shall not occur if such treatment results in a release of hazardous constituents to any environmental media (air, water, or soil). DEP discourages treatment activities which essentially shift pollution from one environmental media to another.
 - b. Treatment in accumulation tanks and containers shall not occur if there is a significant likelihood that such treatment of wastes would pose a hazard by producing or resulting in an explosion, a fire, or the generation of toxic mists, fumes, dusts, or gases.
 - c. Ideally, treatment in accumulation tanks and containers should occur only at the time wastes are first placed in containers. (Treatment practices employed at a time after hazardous wastes have been placed in a container may pose a hazard as such containers must be opened. The opening of containers of hazardous wastes can be hazardous because of accidental ignition of ignitable waste, accidental reaction of reactive wastes, or the release of toxic gases. While such dangers can presumably be avoided by employing sophisticated container opening devices designed to prevent such hazards, DEP cannot assume that these safeguards will always be employed. Without these safeguards, the absence of potential hazards cannot be assumed or guaranteed. This is consistent with 40 CFR 270.1(c)(2)(vii) and its preamble published in Volume 47, No. 38 of the Federal Register (Thursday, February 25, 1982).)
 - d. Treatment in accumulation tanks or containers shall only occur where there is an environmental benefit associated with such treatment. Examples include:
 - i) decanting chemicals (e.g. solvents) for reuse on site, thereby reducing the amount of waste to be shipped off-site.
 - ii) converting a characteristically hazardous waste to a nonhazardous waste (e.g. via neutralization) thereby eliminating or minimizing environmental hazards associated with the transportation or disposal of such wastes.

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- e. The generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their waste treatment responsibilities.
3. Common treatment activities which may not require a hazardous waste permit may include on-site soil remediation (e.g. bioremediation and stabilization), sludge drying, neutralization, blending, and phase separation provided these activities do not result in a release of hazardous constituents to the environment. However, allowing these treatment options without a permit is dependent upon the characteristics of the waste, as well as the environmental setting. Prior to commencing any treatment activity for which a hazardous waste permit was not issued, the generator is advised to contact the DEP to determine if the proposed activity is consistent with the terms of this memorandum or if a permit will be required.
 4. The regulations already specifically exclude persons engaged in the following treatment activities from the requirement of obtaining a RCRA permit:
 - a. Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations by 40 CFR 261.4 or 261.5. (Refer to 40 CFR 270.1(c)(2)(iii).)
 - b. Owners or operators of totally enclosed treatment facilities as defined in 40 CFR 260.10. (Refer to 40 CFR 270.1(c)(2)(iv).)
 - c. Owners or operators of elementary neutralization units or wastewater treatment units as defined in 40 CFR 260.10. (Refer to 40 CFR 270.1(c)(2)(v).)
 - d. Persons adding absorbent material to waste in a container (as defined in 40 CFR 260.10) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 40 CFR 264.17(b), 264.171, and 264.172 are complied with. Absorbents commonly used are cement kiln dust, fly ash, fuller's earth, and vermiculite. (Refer to 40 CFR 270.1(c)(2)(vii).)

DEP cautions generators and those who may wish to alter their accumulation practices in order to treat waste without a permit not to rely upon the continued existence of this interpretation in making process changes requiring substantial capital outlays. While no new guidance has come out on this issue since the March 4, 1986 preamble, the accumulation rule or the Connecticut regulations may change and may consequently change the regulatory requirements for generators with respect to treatment in accumulation tanks or containers.

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DEP advises the regulated community that the type of treatment discussed in this memorandum became permissible in Connecticut only after Connecticut's incorporation by reference of 40 CFR into RCSA Hazardous Waste Management Regulations when revised July 17, 1990. Prior to July 17, 1990, Connecticut's regulations stated that generators would not have to comply with permit requirements ". . . if their only treatment, storage or disposal activity is the on-site accumulation of hazardous waste in tanks or containers for 90 calendar days or less. (Generators not choosing to employ this option must comply with the permit requirements. . . .)" In other words, prior to July 17, 1990, treatment in accumulation tanks and containers without a permit was prohibited in Connecticut.

DEP further advises the regulated community⁴ not to rely solely upon the information presented in this memorandum, but to read all applicable regulations set forth in both the Regulations of Connecticut State Agencies, Sections 22a-449(c)-100 through 110 and 22a-449(c)-11 (Hazardous Waste Management Regulations) and the Code of Federal Regulations, Title 40, Parts 260 through 271, and to keep informed of all subsequent revisions or amendments to these regulations.

This memorandum is not intended to replace or to supercede either Regulations of Connecticut State Agencies, Sections 22a-449(c)-100 through 110 and 22a-449(c)-11 (Hazardous Waste Management Regulations) or Code of Federal Regulations, Title 40, Parts 260 through 271.

DEP encourages generators to contact the Waste Engineering and Enforcement Division with any questions regarding this memorandum or regarding the requirements for hazardous waste permits.

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