9453.1987(08)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

DEC 15 1987

MEMORANDUM

SUBJECT: Requested Re-interpretation of On-site Treatment Exemption

FROM: Marcia E. Williams, Director
Office of Solid Waste (WH-562B)

TO: Robert F. Greaves, Acting Chief
Waste Management Branch (3HW30)

This is in response to your request for a re-interpretation of the on-site treatment exemption. We have reviewed your concerns regarding our interpretation. While in general we continue to believe that treatment in tanks or containers is allowed under Section 262.34, the questions you posed indicate that the rule as currently written is unclear and should be clarified.

1. General policy. Although 40 CFR 240.1(c) does state that a permit is required for treatment, storage, and disposal of hazardous waste, please note that Section 270.1(c)(1) exempts generators who accumulate hazardous waste on-site in compliance with Section 262.34 from the requirement to obtain a RCRA permit. The exemption does not depend on whether or not treatment is conducted. The reason for this general policy is as follows. First, as you have stated, Section 262.34 does not preclude treatment in accumulation units. Also, the performance standards under Part 265, Subparts I and J, apply to the generator's containers and tanks regardless of whether storage, treatment, or both processes occur in them. In addition, both Subparts I and J contain special handling requirements for ignitable, reactive, and incompatible wastes, and these requirements should adequately control treatment typically conducted in tanks or containers. Finally, treatment often renders waste less hazardous, or at least easier to transport or more amenable for recovery. For all of these reasons, OSW believes that treatment is not only allowable under Section 262.34, but also is consistent with sound waste management.

2. Thermal treatment. You raised the concern that generators could conduct thermal treatment such as detonation or open burning under Section 262.34 and thereby avoid permitting for obviously dangerous activities. Certainly, detonation and open burning were never intended to be allowed under Section 262.34. As explained above, a large part of the Agency's rationale in allowing treatment under Section 262.34 was that the same standards would apply for both treatment and storage. All thermal treatment is subject to Part 265, Subpart P; if this was not the case, the standards would not be the same, and the premise of the Section 262.34 exemption would be violated. The regulatory language of Section 262.34 is not clear on this point, and OSW is considering promulgating amendments to clarify applicability of the section.

If you have further questions in this area, please contact Michael Petruska at FTS 475-8551.

cc: Waste Management Branch Chiefs,
Regions I, II, and IV-X