

PPC 9528.1991(02)

MOBILE TREATMENT UNITS QUALIFIED FOR INTERIM STATUS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 27 1991

Mr. George Sullivan
Chairman, Recycling Sciences
International, Inc.
30 South Wacker Drive
Suite 1420
Chicago, Illinois 60606

Dear Mr. Sullivan:

This letter responds to the inquiry made by you and your company's legal counsel whether several hazardous waste treatment facilities that employ a single mobile treatment unit may qualify for interim status. Your firm, Recycling Sciences International, Inc. (RSI) owns several waste storage and treatment facilities at different locations, but employs only one mobile treatment unit among these various facilities, transporting the treatment unit from one facility to another. You also indicated that RSI's mobile treatment unit accepts only organic-contaminated soils that are newly regulated as hazardous waste under the revised toxicity characteristic (TC) rule (55 FR 11798, March 29, 1990), and that RSI has applied for interim status to EPA for facilities in Arizona, Pennsylvania, Michigan, and Mississippi.

As you are aware, the TC rule was promulgated by EPA under the authority of the Hazardous and Solid Waste Amendments (HSWA) and therefore is implemented by EPA in all states (until the states become authorized for the TC rule). I have addressed your specific questions below:

1. How does a facility qualify for interim status under the TC rule?

There are three basic prerequisites for obtaining interim status pursuant to § 3005 of RCRA:

- (a) The facility must be in existence on the effective date

of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit (§ 270.70(a));

- (b) The facility must have complied with the notification requirements of § 3010(a) of RCRA (§ 270.70(a)(1)); and
- (c) The facility must comply with the requirements in 40 CFR 270.10 for the submission of the Part A permit application (§ 270.70(a)(2)).

A facility must meet all of the above criteria to qualify for interim status. Note that for a facility to be "in existence", it may either be in operation or under construction. See § 270.2 for the definition of "existing hazardous waste facility".

2. Can a mobile treatment unit qualify for interim status at each facility where it is operated?

Yes, a single MTU may qualify for interim status at more than one location. At each site the MTU must meet the three interim status criteria described in question one above. The fact that the treatment unit is a mobile unit instead of a stationary unit does not diminish the opportunity to gain interim status. After the effective date of the TC rule (September 25, 1990), the unit must meet all applicable interim status standards.

3. Does routine movement of the MTU from site to site constitute a change in interim status that has to be approved by EPA?

No, such movement is not a change in interim status under Federal regulations as long as the unit is always operated within the constraints identified on the Part A permit application (e.g., the types and quantities of hazardous waste, and the unit process types and design capacity). Simply moving the unit to or from the site does not in itself constitute a change in interim status. However, any change to the unit or to the operation that results in an "increase in design capacity", a "change in process", or an "addition of process" would require a revised Part A and prior approval by EPA before the change could be implemented (see § 270.72(a)).

4. If a facility in an authorized state obtains interim status for TC wastes from EPA, can the company amend interim status without prior approval to treat and store hazardous waste not previously identified in the Part A?

An interim status facility located in an authorized state but regulated by EPA because of the TC rule can apply to EPA for additional TC waste codes not on the original Part A and other HSWA waste codes that the State is not authorized for. The addition of a new, non-HSWA waste code would be subject to regulation by the authorized State and not by EPA. Note that if the State has not yet adopted the TC rule and a facility with Federal interim status due only to TC wastes wants to make changes to add non-HSWA wastes regulated under the authorize State program, this may be viewed by the state as a "new" hazardous waste operation since the facility would not have interim status under State law. In this case, the State might require a RCRA permit prior to receipt of the wastes.

If you have any questions, please contact me (202-382-2223) or Wayne Roepe of my staff (202-475-7245).

Sincerely,

Original Document signed

Frank McAlister
Acting Chief, Permits Branch