

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR

**IN THE MATTER OF**

**RMI TITANIUM CO., SODIUM PLANT**

**[RCRA] Docket No. V-W-001-93**

**Respondent**

**ORDER DENYING MOTIONS FOR PARTIAL  
ACCELERATED DECISION**

**Introduction**

Following the issuance of an order on June 28, 1996 by the undersigned setting this matter for hearing, Respondent and Complainant filed a joint motion on July 18, 1996, requesting that the hearing be postponed so that the parties would have an opportunity to file motions for accelerated decision. By order issued by the undersigned on July 23, 1996, the hearing was canceled and dates were set for the filing of motions for accelerated decision and responses thereto.

On August 23, 1996, Respondent and Complainant filed motions for accelerated decision. Subsequently, each party filed in opposition to the other's motion. For the reasons set forth below, the motions for partial accelerated decision shall be denied.

**Respondent's Motion for Partial Accelerated Decision**

On August 23, 1996, Respondent filed a motion for partial accelerated decision requesting a ruling that no penalties for RMI be assessed for periods prior to December 11, 1991, because that was the first time (Respondent alleges) that Respondent became aware of the Complainant's RCRA definition of "tank" under 40 C.F.R. § 260.10. Complainant opposes this request. Due to the complexity of the issues raised by Respondent's motion, and Complainant's response thereto, they represent matters that should be resolved in a formal hearing. Respondent's motion for partial accelerated decision is denied.<sup>1</sup>

**Complainant's Motion for Partial Accelerated Decision**

Complainant requests accelerated decision on the issue of Respondent's alleged failure to modify its federal permit to store drums of sodium waste (hazardous waste code D003) from its Medal Reduction facility prior to thermal treatment at the Sodium facility. Complainant also requests accelerated decision on the amount of the penalty to be assessed against Respondent.

Due to the complexity of the issues raised by Complainant's motion, and Respondent's answer thereto, they represent matters that should be resolved in a formal hearing. Complainant's motion for partial accelerated decision is denied.

**Conclusion**

Since, as noted above, the respective motions for partial accelerated decision are denied, this case shall be set for hearing by separate order issued this same day.

Charles E. Bullock  
Administrative Law Judge

Dated: January 13, 1997  
Washington, D.C.

**IN THE MATTER OF RMI TITANIUM CO., SODIUM PLANT**, Respondent

[RCRA] Docket No. V-W-001-93

**Certificate of Service**

I certify that the foregoing Order Denying Motions for Partial Accelerated Decision, dated January 13, 1997, was sent this day in the following manner to the below addressees:

**Original by Regular Mail to:**

Ms. Jodi Swanson-Wilson  
Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region V

77 West Jackson Boulevard  
Chicago, IL 60604-3590

**Copy by Certified Mail, Return Receipt Requested and by Regular Mail to:**

Attorney for Complainant:

Andrew Warren, Esquire  
Assistant Regional Counsel  
U.S. Environmental Protection  
Agency, Region V  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

Attorney for Respondent:

Philip C. Schillawski, Esquire  
Douglas A. McWilliams, Esquire  
SQUIRE, SANDERS & DEMPSEY  
4900 Society Center  
127 Public Square  
Cleveland, OH 44114-1304

Marion Walzel  
Legal Staff Assistant

Dated: January 13, 1997

<sup>1</sup> Complainant's motion to file a signed copy of Francine Norling's affidavit out-of-time is granted.