

9477.1987(11)

THIRD-PARTY LIABILITY COVERAGE REQUIREMENTS

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

NOV 10 1987

Richard Crain, Vice President
R&D Fabricating & Manufacturing, Inc.
Box 31225
Lafayette, LA 70503

Dear Mr. Crain,

Thank you for consenting to participate in a pre-test of a questionnaire developed by the Environmental Protection Agency (EPA) for the purposes of gathering information on difficulties associated with third-party liability coverage requirements of the Resource Conservation and Recovery Act (RCRA). The RCRA liability coverage requirements, contained in 40 CFR Parts 264.147 and 265.147, are briefly described below.

The enclosed questionnaire is intended to help EPA better understand the problems that owners and operators of hazardous waste treatment, storage, and disposal facilities have encountered in obtaining liability coverage, in particular through insurance, to meet the current RCRA requirements. The information will provide EPA with a factual basis for determining necessary modifications to regulatory requirements and policies. Responses to our questions will not be used for enforcement purposes. Your participation in our pre-test, along with that of several other hazardous waste management facilities or firms, will enable EPA to determine whether our questions are clear and understandable, and also whether our instructions provide helpful guidance. Because of your willingness to participate in the pre-test, you will not be required to respond to the final questionnaire.

Currently, RCRA financial responsibility regulations in 40 CFR Parts 264.147 and 265.147 (§§264.147 and 265.147) require owners or operators of hazardous waste treatment, storage, and disposal facilities to provide liability

coverage for third-party bodily injury and property damage by sudden accidents arising from facility operations. The RCRA regulations also require owners or operators of most types of hazardous waste land disposal facilities to maintain third-party liability coverage for bodily injury and property damage due to nonsudden accidents. The respective coverage levels for sudden and nonsudden

accidents must be at least \$1 million and \$3 million per occurrence, with annual aggregates of at least \$2 million and \$6 million, exclusive of legal costs. These requirements apply to owners and operators of interim status (§265.147) and permitted (§264.147) facilities or groups of facilities.

Financial instruments that can be used to provide third-party liability coverage are also specified in the 264.147 and 265.147 regulations. Insurance and a financial test were initially included as allowable instruments for liability coverage. In July, 1986, in response to difficulties that hazardous waste management facilities experienced in obtaining liability insurance, EPA authorized the corporate guarantee as an additional financial instrument. We intend to further amend the regulations to allow other instruments to be used to demonstrate compliance with the RCRA liability coverage requirements.

EPA has authorized most States to administer their own hazardous waste programs in lieu of the federal RCRA program. While the liability coverage requirements of authorized States may differ from the federal requirements of §§264.147 and 265.147, they must be at least as stringent. Since your facility is located in an authorized State, please base your responses to our questions on your State's liability coverage regulations.

You should answer all questions contained in the enclosed questionnaire that are applicable to your facility or the group of facilities owned or operated by your firm. If a response to a question requires more space than is provided please use the back of the questionnaire or attach a separate sheet of paper. Please feel free to consult with your insurance agent or broker, if necessary, to respond to any of the questions.

As a pre-test participant, any comments that you may have regarding rephrasing either the questions or the instructions for further clarity are welcome. We encourage you to note, on the questionnaire itself or on a separate piece of paper, any additional instructions that might be useful, or any particular difficulty you encountered in answering our proposed questions. Your estimate of the amount of time needed to respond, including preparation and research time, would also be helpful to EPA in estimating the burden that our inquiry places upon owners/operators. At any time as you read through the questions or answer them, you should feel free to contact Elizabeth Cotsworth at 202-382-4746 to discuss the purpose of the question. EPA's expectations regarding this form or content of an answer, or to provide general comments directly to us.

Upon completion of the questionnaire, please return it in the enclosed envelope, along with any written comments, to:

Elizabeth Cotsworth
Office of Solid Waste, WH-563
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

We are requesting this information under authority of Section 3007 of RCRA. Information obtained under RCRA Section 3007 must be made available to the public unless you demonstrate to EPA that it is confidential. The treatment of confidential business information is provided for by Section 3007(b) of RCRA and regulations contained in 40 CFR Part 2.

We look forward to your response to our pre-test. We expect it to provide EPA with useful information for finalizing our questionnaire.

Sincerely,

Original Document signed

Marcia Williams
Director
Office of Solid Waste

Enclosure