

9453.1982(01)

ACCUMULATION OF HAZARDOUS WASTE IN TANKS (90-DAY)

AUG 31 1982

MEMORANDUM

SUBJECT: 90-Day Accumulation of Hazardous Waste in Tanks

FROM: John H. Skinner
Acting Director
Office of Solid Waste WH-562)

TO: Thomas W. Devine
Director
Air and Waste Management Division, Region IV

This is in response to your memorandum of June 29, 1982 regarding the 90-day accumulation of hazardous waste in tanks. In your memo, you requested headquarters' rationale for allowing generators to accumulate hazardous waste in tanks under 40 CFR 262.34. You pointed out that accumulation in tanks is virtually the same activity as storage in tanks, and therefore it seems inconsistent to apply different standards to the two activities.

Section 262.34 allows generators who accumulate hazardous waste as a normal part of their manufacturing or industrial processes to do so for short periods of time without obtaining a RCRA permit for storage or qualifying for interim status. This distinction between accumulation and storage was made for practical and administrative reasons. EPA determined that generators should not be burdened with the RCRA permitting process for short-term accumulation that is incidental to their operations. We allow generators to accumulate hazardous waste in both containers and tanks because we believe that if generators adhere to the standards in Part 265 Subparts I and J that they can safely accumulate hazardous waste for 90 days or less without having to obtain a permit. The requirements of §262.34 were designed to be consistent with both goals of relieving generators of RCRA permitting procedures applicable to storage facilities while ensuring protection of human health and the environment during accumulation.

Regarding your comment that "an empty tank has not been defined", the preamble to the January 11, 1982 final rule on 90-day accumulation (47 FR 1250) gives the following guidance; "A tank will be considered 'empty' when it's contents have been drained to the fullest extent possible. Since many tank designs do not allow for complete drainage due to flanges, screens or syphons, it not expected that 100% of the wastes will always be removed." As you suggest, there amy be cases where a tank is never "completely empty." We recognize this problem but believe a deviation from "completely empty" is a satisfactory compromise in a real world of day-to-day operations.

Finally, you states in your memo that the preamble to §202.34 in the May 19, 1980 FR said "Part 264 requirements will be added" as requirements for accumulation. The preamble states that "Part 262 may be amended again to include the Part 264 final standards for tanks when they are promulgated." We have no immediate plans to amend §264.34 to incorporate Part 264 Subpart I and J standards for storage in containers and tanks. However, we are re-evaluating the 90-day rule as part of the Regulatory impact Analysis (RIA). We intend to complete our analysis or the 90-day rule, including an analysis of standards for accumulation in tanks, within 12 months.

Please call Amy Mills of my staff at 382-4755 if you have further questions.