

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APRIL 16, 1991

Richard Di Salvo
Radiation Service Organization
P.O. Box 1526
Laurel, Maryland 20725-0953

Dear Mr. Di Salvo:

Thank you for your letter of March 15, 1991. Your letter will be handled as a petition for a regulatory change to allow generators of mixed radioactive and hazardous wastes to treat such wastes without a permit under RCRA in order to facilitate timely disposal of the waste under U.S. NRC regulations. Action on rulemaking petitions, as any other regulatory action taken by EPA, requires a significant commitment of time and other resources. We are unable to devote significant resources to your petition at this time. As the rest of this letter explains, however, we believe there may be existing provisions that accomplish much of what you are seeking. Please let us know if that is the case.

Final action on your petition will require careful analysis of the fact patterns involved, and will likely require information beyond that provided in your letter. Based on the information you have provided, however, it would appear that, at least in some instances, the generators in question may already be provided opportunities for treatment without a permit in the current regulations.

Generators who accumulate wastes on site before shipment off-site for treatment, storage, or disposal need only meet requirements of 40 CFR Part 262.34. These requirements impose standards for tanks and containers used for accumulating wastes. EPA's long-standing interpretation of these regulations is that some types of treatment are allowable during the accumulation period so long as applicable management standards are met. (See the enclosed letter from Marcia Williams, then Director of the Office of Solid Waste to Harry Seraydarian, of EPA's Region IX, dated June 17, 1986.)

You indicate that in a "typical laboratory chemical disposal scenario," the weight of chemicals in the containers is less than one pound. This information leads us to consider whether some of the generators you write about would be considered conditionally exempt small quantity generators (CESQGs) under the Federal regulations. (See 40 CFR 261.5.) CESQGs are provided time beyond the regular 90-day accumulation period provided in 40 CFR 262.34 to accumulate wastes on site, either while treating in accumulation tanks on-site in compliance with applicable standards, or while waiting for off-site capacity to become available.

In light of these facts, you may wish to consider whether it is necessary for your petition to receive continued consideration. If you have additional questions regarding the interpretations above, you may contact Becky Cuthbertson of my staff at (202) 475-8551.

Please keep in mind that the comments on the Federal regulations provided above may not be applicable in each State. Under RCRA, states may apply and be authorized to implement a state hazardous waste program totally in lieu of the Federal program; state programs are allowed by law to be both more stringent and/or broader in scope. Consequently, the regulatory status of a generator who wishes to treat on-site must be determined by the appropriate state regulatory agency. Where states are not authorized to run the hazardous waste program, EPA's Regional offices administer the Federal program and are the appropriate contact point for the relevant site-specific regulatory determination.

Sincerely,

Sylvia K. Lowrance, Director
Office of Solid Waste

cc: RCRA Docket