9528.1989(13)

INTERIM STATUS REQUIREMENTS FOR NRC LICENSEES MANAGING RADIOACTIVE MIXED WASTE, CLARIFICATION

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

OCT 15, 1989

Subject: Clarification of Interim Status Qualification Requirements for NRC Licensees Managing Radioactive Mixed Waste

Dear NCR Licensee:

I am writing this letter to you because as a NCR licensee it is possible that your facility generates or otherwise handles radioactive mixed wastes (i.e., wastes that are both radioactive and chemically hazardous). Facilities that handle mixed wastes are subject to regulation by both the NRC (or the Department of Energy) and the U.S. Environmental Protection Agency (EPA). Consequently, your facility may need to comply with EPA standards and requirements, including obtaining a permit granted by EPA.

The permit process can be quite lengthy. As a result, EPA has created provisions and requirements for facilities awaiting final decision on their permit application. The main provision is one of qualifying for interim status. Under interim status, you may continue your hazardous waste (i.e., mixed waste) activity until final decision is made on the permit. Applying for a permit and gaining interim status is an important step in complying with EPA regulations regarding mixed waste.

Below, I describe the requirements for obtaining interim status in unauthorized States. Please read this material to determine if and how your facility may need to comply with interim status requirements.

Background

On July 3, 1986, EPA issued a notice in the Federal Register (51 FR 24504) clarifying the applicability of the Resource Conservation and Recovery Act (RCRA) to the management of radioactive mixed waste. (Mixed waste is defined as waste that satisfies the definition of radioactive waste subject to the Atomic Energy Act (AEA) and contains hazardous waste that either (1) is listed as a hazardous waste in Subpart D of 40 CFR Part 261 or (2) exhibits any of the hazardous waste characteristics identified in Subpart C of 40 CFR Part 261. The hazardous component of mixed waste is regulated under RCRA.)

Since that time, EPA has become aware that many handlers of radioactive mixed waste have been substantially confused about the regulatory status of their facilities, because EPA's Federal Register notice addressed only RCRA's applicability to treatment, storage, or disposal facilities (TSDF's) handling radioactive mixed waste, and not the issue of interim status. Consequently, many owners and operators of these facilities are uncertain about how to qualify for interim status if they are handling radioactive mixed waste.

Therefore, EPA issued another notice in the Federal Register on September 23, 1988, (53 FR 37045) that clarified the requirements for facilities that treat, store, or dispose of radioactive mixed waste to obtain interim status pursuant to Subtitle C of RCRA. I have enclosed a copy of that notice with this letter and summarized below its key points.

EPA Identification Number

All treatment, storage, and disposal facilities and persons generating or transporting radioactive mixed wastes must obtain an EPA Identification Number. This number is obtained by completing an EPA Notification Form 8700-12 and forwarding it to the Regional EPA Office serving the area in which the relevant hazardous waste activity is located (see enclosed map and list). TSDF's in addition, must obtain interim status to continue handling mixed waste until a final permit is received.

Interim Status

Section 3005(a) of RCRA prohibits treatment, storage, or disposal of hazardous waste without RCRA permit after November 19, 1980. This same section of RCRA, however, allows a facility to continue treatment, storage or disposal under interim status pending a final decision on it permit application.

State Authorization

The RCRA program is designed to be implemented by the States, and EPA has established an authorization process by which individual State agencies may take responsibility for the RCRA program in their State. Currently, 44 States and Territories are authorized for EPA's base RCRA program. [1]

[1]The authorized States and Territories are: AL, AZ, AR, CO, DC, DE, FL, GA, Guam, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MN, MS, MT, NC, ND, NE, NH, NJ, NM, NV, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WI, and WV. Also, four of these States, CO, SC, TN, and WA, have authorization for their mixed waste programs.

Authorized State regulations must be at least equivalent to the Federal RCRA regulations, and may be more stringent. For States that are not authorized[1] to implement the RCRA program, EPA implements the Federal RCRA program directly.[2]

Consequently, requirements may be different for facilities in authorized and non-authorized States.

NCR licensees in RCRA authorized States need to check with their State authorities to determine the exact requirements they must comply with in order to initiate a permit application and obtain interim status. The interim status requirements facing NCR licensees in non-authorized States are summarized below.

Interim Status Requirements for Facilities in Non-Authorized States and Trust Territories

Facilities must be in existence as of July 3, 1986. (EPA considers any facility in operation or under construction to be in existence.

Owners and operators of treatment, storage, and disposal facilities must submit Part A of their permit applications (as described in the Code of Federal Regulations, Title 40, Part 270, Sections 270.10 to 270.73) or a modification to an existing Part A permit application no later than March 24, 1989, in order to obtain interim status.

Owners and operators of land disposal facilities handling radioactive mixed waste must submit Part B of their permit applications as well as a certificate of compliance with applicable RCRA ground-water monitoring and financial assurance requirements by September 24, 1989.

Facilities other than land disposal facilities must comply with their Regional EPA Office's deadline to submit Part B of their permit applications.

I hope this letter eliminates much of the confusion regarding interim status requirements for TSDF's handling radioactive mixed waste. I encourage each of you to read the enclosed Federal Register notice carefully, as it explains each of the above requirements in detail. Please do not hesitate to contact EPA with any

---

[2] Currently, 12 States and Territories do not have authorization by EPA for their hazardous waste program: AK, American Samoa, CA, CT, HI, IA, ID, Marianna Islands, OH, PR, VI, and WY.

questions regarding this matter. Questions should be addressed to your EPA Regional Office or Ms. Betty Shackleford, Office of Solid Waste (OS-342) U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202 382-2210.

Sincerely yours,

Joseph Carra, Director
Permits and State Programs Division

Enclosures