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United States Environmental Protection Agency
Office of Solid Waste and Emergency Response
Washington, D.C. 20460

November 3, 1992

Mark Hansen
Facilities Manager
Corporate Office
Environmental Products
& Services, Inc.
P.O. Box 315
Syracuse, NY 13209-0315

Dear Mr. Hansen:

Thank you for your letter of September 28, 1992 in which you ask about the transportation and disposal of shock sensitive or explosive materials. Specifically, you requested EPA guidance on how to handle materials like picric acid and ethyl ether while removing old laboratory chemicals.

Under EPA's RCRA regulations (40 CFR 270.1(c)(3)), all activities taken in immediate response to a discharge of hazardous waste, or an imminent and substantial threat of discharge of a hazardous waste, are exempt from the RCRA permitting and substantive requirements. Since the chemicals in question would be hazardous by virtue of their reactivity, any actions you take to eliminate the imminent and substantial danger would qualify under this exemption. If the response action involves transportation to a remote site for destruction, then the transportation as well as the destruction would be exempt. However, the transportation is exempt only to the extent necessary to respond to the immediate threat. Hence, we expect the transportation would normally cover a relatively short distance and would occur in special transportation equipment such as bomb trailers.

Should there be any question about the exempt or no-exempt status of removing a certain chemical, the RCRA emergency permit regulations (40 CFR 270.61) can be used for destruction

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activities. As these regulations provide, an emergency RCRA permit can be issued by an EPA Regional Office or by an authorized State official via telephone or in writing. These permits may be issued when the Region or State finds that an imminent and substantial endangerment to human health or the environment exists, according to the requirements of 40 CFR 270.61. This permit can address both treatment and storage of hazardous waste. If necessary, transportation can be authorized at the same time the emergency permit is authorized by obtaining a provisional identification number. To reiterate, however, no permit is necessary when the safety official determines that an immediate safety threat exists.

The guidance given above is based on the Federal RCRA program as administered by EPA pursuant to 40 CFR Parts 260-271. In authorized States, EPA has delegated the responsibilities of the hazardous waste program. Although each authorized State program must be consistent with and no less stringent than the Federal program, a State is free to be more stringent (e.g., some States may not offer emergency permits). In the end, you should check with the authorized State where your facility is located to ensure that there are not additional (more stringent) management standards.

I trust that this letter provides you with guidance helpful to your efforts to remove old lab chemicals. If you need additional assistance, please call Chester Oszman of my staff at (202) 260-4499.

Sincerely,

Sylvia K. Lowrance, Director
Office of Solid Waste

cc: Chester Oszman, OSW
Ken Gigliello, OWPE
RCRA Permit Section Chiefs, Regions I-X

bcc: Sonya Sasseville
Jim Michael
Jeff Gaines
Karen Randolph