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NSY PORTSMOUTH
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LETTER REQUESTING INFORMATION REGARDING CORRECTIVE ACTION OF
HAZARDOUS WASTE AT NSY PORTSMOUTH ME

5/23/1985
U S EPA REGION I



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

MAY 23 1985

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Captain D.J. Briselden
Portsmouth Naval Shipyard
Portsmouth, N.H. 03801

EPA I.D. No. ME7170022019

RE: Request for information pursuant to §3007 of the Resource Conservation and Recovery Act, 42 U.S.C. §6927, and §104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C §9604.

Dear Captain Briselden:

On November 8, 1984, the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6901 et seq., was amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The HSWA alters the scheme of hazardous waste regulation in your state. Among the provisions of the HSWA that may have a significant impact on your facility are those that deal with corrective action.

Section 3004 of RCRA has been amended by adding subsection 3004(u) which requires that any permit issued after November 8, 1984 address corrective action for all releases of hazardous waste or constituents from any solid waste management unit (SWMU) at the facility regardless of when the waste was placed in such unit.

A solid waste management unit is defined as any unit at the facility from which hazardous waste or constituents might migrate. This definition applies to active and inactive units containing either hazardous wastes or solid wastes, or both. Examples of SWMUs include: landfills, surface impoundments, waste piles, land treatment units, incinerators, injection wells, above and below ground tanks (including 90-day accumulation tanks), container storage areas, transfer stations, and waste recycling operations. Spills from a production area or product storage tank would not be considered a SWMU except where these releases are indistinguishable from releases originating from SWMUs.

Your state agency has been authorized by EPA, pursuant to Section 3006 of RCRA, to issue permits to hazardous waste management facilities. However, they have not yet been authorized by EPA to address the federal corrective action provisions of the HSWA. In order to make your permit conform with the HSWA, EPA will, after evaluation of your facility, assess the need for any corrective action necessary at your facility and will make a permit decision on how corrective action will be carried out.

Section 3008 of RCRA has been amended to give EPA the authority to require corrective action whenever it is determined that there is or has been a release of hazardous waste into the environment from a facility authorized to operate under Section 3005(e) of RCRA (Interim Status).

In order for EPA to identify any releases of hazardous waste or constituents from your facility, including SWMU's, EPA hereby requests that the information below be furnished to the EPA within forty-five (45) days of receipt of this letter.

Please be advised that this information request is being made pursuant to the authority of Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C §6927, and Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9604(e). Please respond to each of the following paragraphs separately, referencing EPA's specific request (i.e., by paragraph number) in your answer.

EPA requests the following information:

- 1.a. Provide a map showing facility boundaries and the location of all known SWMUs whether currently in operation or not. This map should be drawn to scale and clearly indicate the location and size of all SWMUs. The scale of the map should also be identified.
- b. For each SWMU identified, describe the type of unit (e.g., storage area, landfill, waste pile, etc.), and the dimensions of the unit.
- c. For each SWMU identified, indicate the dates that the unit was in use.
- d. For each SWMU identified, indicate the quantity and type(s) of wastes managed in the unit.
- e. For each SWMU identified, indicate the dates, quantity, and type(s) of any known release(s) of hazardous wastes or hazardous constituents from that SWMU.
- f. Provide all information, data, and documentation concerning any releases occurring from a SWMU at your facility, including the results of any soil or water (ground or surface) testing that indicates presence of hazardous waste or hazardous constituents.
- g. For each SWMU identified, describe any corrective action measures and any mitigating measures (for example, replacement of water supplies) which have been completed or are currently underway to address any release(s).

- 2.a. On the map provided pursuant to paragraph 1.a above, indicate the location of all known units at the facility, other than SWMUs, whether currently in operation or not, which hold or have held hazardous substances and from which there have been releases of hazardous wastes or hazardous constituents.
- b. For each unit identified, describe the type of unit (e.g. production area, underground storage tank) and the dimensions of the unit.
- c. For each unit identified, indicate the dates that the unit was in use.
- d. For each unit identified, indicate the quantity and type(s) of hazardous substances managed in the unit.
- e. For each unit identified, indicate the dates, quantity, and type(s) of any known release(s) of hazardous wastes or hazardous constituents.
- f. Provide all information, data, and documentation concerning any releases occurring from a unit at your facility, including the results of any soil or water (ground or surface) testing that indicates presence of hazardous waste or hazardous constituents.
- g. For each unit identified, describe any corrective action measures and any mitigating measures (for example replacement of water supplies) which have been completed or are currently underway to address any release(s).

For the purposes of the above requests for information, the following definitions apply:

1. "Hazardous Constituents" include those constituents listed in Appendix VIII to 40 CFR Part 261.
2. "Hazardous waste" means those solid wastes identified as hazardous waste in 40 CFR Part 261.
3. "Facility" includes all contiguous property under the control of the owner or operator on November 8, 1984, on which units subject to permitting are located.
4. "Release" includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excluding releases otherwise permitted or authorized under the law (e.g., NPDES permitted discharges).
5. The terms "furnish," "describe," or "indicate" mean turning over to EPA either originals or duplicate copies of the requested information in the possession, custody, and/or

control of the owner or operator of the facility. Where specific documents do not exist which are responsive to an information request but such information is known, you may respond to the question with a written response, without providing documents.

6. "Hazardous substance" means (A) any substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to Section 102 of CERCLA, (C) any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of RCRA (but not including any waste the regulation of which under RCRA has been suspended by Act of Congress), (D) any toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under Section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501, et seq. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 CFR §2.203(b). You should read the above-cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Information covered by such a claim will be disclosed by EPA only to the extent, and by the means of the procedures set forth by 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

Please forward the information requested to:

U.S. Environmental Protection Agency
Waste Management Division
JFK Federal Building - Room 1903
Boston, Massachusetts 02203

ATTN: Barbara O'Toole

Failure to comply with the above request within forty-five (45) days of receipt of this letter, may result in an enforcement action by EPA, including the assessment of penalties. If you have any questions with regard to the above, please contact Kenneth Chin of my staff, at (617) 223-5630.

EPA will be closely coordinating it's activities under HSWA with your state agency. Therefore, I am requesting that you send an additional complete copy of the above requested information to

your state hazardous waste management agency at the same time it is submitted to EPA. Please forward the information requested to:

Maine Department of Environmental Protection
Bureau of Oil & Hazardous Materials Control
Ray Building - Station 17
Augusta, Maine 04333

ATTN: Stacey Ladner

Sincerely,



Merrill S. Hohman, Director
Waste Management Division

cc: Alan Prysunka

Introduction

On November 8, 1984, Congress passed the Hazardous and Solid Waste Amendments of 1984 (HSWA). The Amendments add a considerable number of new requirements applicable to the treatment, storage and disposal facilities that are regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA). MAINE DEP WILL CONTINUE TO BE RESPONSIBLE FOR THE PORTION OF THE PROGRAM FOR WHICH IT IS AUTHORIZED (as set forth in the Maine Hazardous Waste Management Rules), but EPA will be responsible for aspect of the program initiated because of the 1984 Amendments.

The requirements that apply specifically to your facility are summarized below.

Corrective Action and Financial Assurance for Prior Releases

All interim status treatment, storage or disposal facilities must determine whether releases of hazardous waste or hazardous constituents from any solid waste management units (SWMUs) at their facility have occurred. If a release has occurred, the facility must determine the corrective action that would be required to protect human health and the environment.

To understand this provision, a few definitions are in order:

- ° Solid Waste Management Unit (SWMU) - an active or inactive unit containing either hazardous or solid wastes (as defined in 40 CFR §261.2), or both. The following are examples of SWMUs: landfills, surface impoundments, waste piles, land treatment units, incinerators, injection wells, tanks (including 90-day accumulation tanks), container storage areas, transfer stations, and waste recycling operations.
- ° Facility - all contiguous property under the control of the owner or operator as of November 8, 1984, at which hazardous waste treatment, storage or disposal units are located.
- * Release - any spilling, leaking pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, but excluding releases otherwise permitted or authorized under law (e.g. NPDES permitted discharges).
- ° Hazardous wastes or hazardous constituents - wastes specified in 40 CFR Part 261, and those constituents listed in Appendix VIII of part 261.

This provision is applicable to all interim status treatment, storage or disposal facilities. You have received a letter dated May 23, 1985, which outlines the information you must submit to comply with this requirement.

Because the Amendment requires any permit issued after November 8, 1984, to address corrective action for all "releases", EPA will either issue a Corrective Action Permit (CAP) for facility that is in the permit process or Corrective Action Order (CAO) for facility that remains in interim status. Both the CAP and CAO will contain a schedule of compliance for establishing the need for corrective action and developing a cost estimate and financial assurance mechanism for the corrective action. This financial assurance for corrective action is similar to the existing financial requirements for closure in 40 CFR 264, Subpart H.

Because your facility is in the permit process, EPA will address the corrective action with the CAP. The CAP and the State issued permit together will be a RCRA Permit.

Submission of Part B Application or Loss of Interim Status

All interim status RCRA storage facilities must submit either a Part B permit application or closure plan to Maine DEP prior to November 8, 1988. Failure to submit these documents will result in loss of interim status.

Waste Minimization Certification

The Uniform Manifest form used by generators will be amended to include a waste minimization certification statement which must be signed by the waste generator. The statement will contain the following conditions:

- that a program is in place to reduce the volume or quantity and toxicity of the waste, as economically practicable, and
- that the proposed storage method minimizes any present and future threat to human health and the environment.

Information

Attached is a chart that clearly shows which provisions of the Amendments apply to each type of facility.

subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

42 USC 9607,
9611.

“(4) For the purpose of this subsection, the term ‘guarantor’ means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.”

CONTINUING RELEASES AT PERMITTED FACILITIES

SEC. 206. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (t) thereof:

Ante, p. 3238.
42 USC 6924.

“(u) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.”

Post, pp. 3241,
3242.

CORRECTIVE ACTION BEYOND FACILITY BOUNDARIES; UNDERGROUND TANKS

SEC. 207. Section 3004 is amended by adding the following after subsection (u):

Supra.

“(v) CORRECTIVE ACTIONS BEYOND FACILITY BOUNDARY.—As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall amend the standards under this section regarding corrective action required at facilities for the treatment, storage, or disposal, of hazardous waste listed or identified under section 3001 to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Administrator that, despite the owner or operator’s best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such regulations shall take effect immediately upon promulgation, notwithstanding section 3010(b), and shall apply to—

42 USC 6921.

“(1) all facilities operating under permits issued under subsection (c), and

Post, p. 3258.

“(2) all landfills, surface impoundments, and waste pile units (including any new units, replacements of existing units, or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending promulgation of such regulations, the Administrator shall issue corrective action orders for facilities referred to in paragraphs (1) and (2), on a case-by-case basis, consistent with the purposes of this subsection.

“(w) UNDERGROUND TANKS.—Not later than March 1, 1985, the Administrator shall promulgate final permitting standards under