

To: Tom Conrardy, PE Administrator
Petroleum Cleanup Section 3
Bureau of Petroleum Storage Systems

From: Bill Neimes
Technical Review Section
Bureau of Waste Cleanup

Date: January 9, 1998

Subject: Proposed Thermal Treatment of Contaminated Soil
Other Than Petroleum Contaminated Soil

This memo is in response to your December 18 memo. Your memo asks for our consideration of Rinker Material Corporation's (Rinker) latest reply in a letter from Geoffrey Smith. In Rinker's reply, they are primarily concerned with the expense of performing a TCLP analysis from each individual generator. A comparison is made between the thermal treatment facility and a landfill and they note that a landfill does not require a TCLP analysis in many instances. This apparent disparity will provide the landfill an economic incentive over thermal treatment.

I had a discussion with you about this disparity prior to your October 22 letter and at that time we agreed that we did not want to be responsible for the Department to allow the treatment of any possible hazardous waste. We decided to include strict sampling and compliance language in your letter so that a hazardous waste determination would be made by each generator. Although we included strict sampling and compliance language in this letter, you noted during our meeting that the Solid Waste Section did not require this same strict sampling requirement when disposing wastes at landfills. Although we knew that there may be a disparity across program lines we thought it would be best to be conservative in your letter.

This letter from Rinker references 40 CFR 262.11(c) and Rinker states that this section "specifically authorizes the hazardous waste determination to be made based upon the generator's process knowledge of the waste materials". By this reference Rinker is requesting the Department's approval to allow the generator to make a hazardous waste determination. Although this proposal sounds acceptable by relieving Rinker and the Department the responsibility of determining whether or not a waste is hazardous and by placing this responsibility on each generator, I do have some concerns.

By an examination of some of the materials to be treated, I wonder how a generator by "process knowledge" could determine whether or not some of these waste are hazardous. I envision process knowledge as someone who has control of the process and is knowledgeable of what went into the waste stream and is knowledgeable of the waste stream when being disposed.

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For example, when the waste stream is "car wash reclaim water tank residues" there could be an assortment of waste materials in this waste stream depending on what type of automobiles were washed in the car wash. If a truck that is the home pesticide application business was washed in a car wash, there could be levels of pesticide contamination in the reclaimed water. I believe that it is improbable that a local car wash can determine by "process knowledge" whether or not the reclaimed wash water is characteristically hazardous given the variety of substances that could be washed off a car or truck.

Another concern I have with allowing the generator to make a hazardous waste determination is the description of some of the processes requesting treatment is too general. In your memo dated August 27, 1997, you mention six different process streams in which Rinker is requesting an Alternate Procedure to thermally treat. I would need more of a description of what specific process these waste streams are from to get a clearer idea on whether or not I feel the generator has control over the waste stream. An example of this is the oil/water separator residues. What process is the oil/water separator used in? A general oil/water separator could mean a variety of process streams and is not specific enough to provide assurance to me of the wastes from this process stream.

We are still working on the draft soil thermal treatment rule. Our goal is to have a draft ready for mailing by mid-March. Presently, the only language in this draft rule that discusses hazardous waste is the prohibition of blending characteristic wastes. I am sure additional language to prohibit hazardous waste treatment will be included.

Please stop by my office or e-mail me if you have any questions.