

9441.1987(32)

RCRA/Superfund/OUST Hotline Monthly Report Question

April 1987

3. Multiple Generator Location and Consolidation

A company owns several small factories in different counties. Each factory generates less than 100 kilograms of hazardous waste per month, and is subject to reduced regulation under 261.5. Options for disposal of waste from conditionally exempt generators are provided in 261.5(f)(3). (a) May the conditionally exempt generators transport waste to one of the company's facilities for consolidation and subsequent shipment to a RCRA disposal facility? (b) Does the facility of the generator who is consolidating the waste qualify as a "transfer facility"? (c) Does the generator who consolidates the waste become a full quantity generator if he ships more than 1000 kg of hazardous waste from his site per month? (or a 100-1000 kg/mo generator if he ships between 100 and 1000 kg of waste per month?)

(a) Under 261.5(f)(3) in order to remain exempt from certain regulations, a conditionally exempt small quantity generator may ensure delivery of his hazardous waste to a storage, treatment, or disposal facility that is one the following types of facilities:

- (i.) permitted under Part 270 of 40 CFR; or
- (ii.) in interim status under Parts 265 and 270 of 40 CFR; or
- (iii.) authorized to manage hazardous waste by a state with a hazardous waste management program approved under Part 271 of 40 CFR; or
- (iv.) licensed, registered or permitted by the state to manage municipal or industrial solid waste; or
- (v.) beneficially uses, reuses or reclaims the waste.

In order for one of the generators to serve as a central collection point for the other generators, he would have to qualify as one of the above mentioned facilities. Realistically, the easiest approach

would be for the generator to receive State approval to manage the consolidated waste shipments.

- (b) If the generator does not receive authorization from his State, he may still receive and store the waste for a period of time if he qualifies as a transfer facility. Under 263.12, waste may be stored at a transfer facility for ten days or less without requiring interim status or a permit. The December 31, 1980 Federal Register (45 FR 86966) defines the term transfer facility to refer to transportation terminals (including vehicle parking areas, loading docks and other similar areas), break-bulk facilities or any other facility commonly used by transporters to temporarily hold shipments of hazardous waste during transportation. It is possible that this generator facility may qualify as a transfer facility, as long as the waste is not stored on-site for more than 10 days.

- (c) If the waste is not sent to a facility specified under 261.5(9)(3)(1)-(V), it is no longer conditionally exempt waste, and each generator must comply with applicable regulations. Thus, if the generator cannot receive state approval nor qualify as a transfer facility, he must obtain a permit for storage of hazardous waste.

—