

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM

DATE : June 27, 1984

SUBJECT: Applicability of the Wastewater Treatment
Unit Exemption to a Groundwater Treatment *System*

FROM: John H. Skinner, Director
Office of Solid Waste (WH-562)

To: Dennis Kuebner, Chief
State Waste Programs Branch
E.P.A. Region I

Your memo of May 31, 1984, is one of several requests for guidance that OSW has received from the Regions since the wastewater treatment exemption was promulgated on November 17, 1980.

As you have noted, one of the problem areas in the implementation of the exemption is the definition of "wastewater." In 1981, we provided a general definition of wastewater. (See John Lehman's memo of July 31, 1981, to Richard Boynton, Region I.) Recently, we were asked to determine whether leachate constitutes wastewater. (See Donald White's memo of May 22, 1984, to Jonathan Josephs, Region II.) Now your memo presents a similar request regarding contaminated groundwater.

We are currently conducting a study of the wastewater treatment exemption. One goal of this project is to formulate a definition of "wastewater" as guidance for use by the Regions in implementing the exemption. The study will be completed in a few months. In addition, OGC is now re-examining certain aspects of the wastewater treatment exemption that are addressed in the two cited memos.

The case in question, the IBM groundwater treatment system at Essex Junction, Vermont, involves some of these issues that are now under study. Therefore, we cannot provide a definitive answer to your question until our deliberations are complete. We are working to resolve these issues as quickly as possible and will keep you informed of our progress.

If you want to discuss these studies further, contact Donald White at 382-7917.

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FROM: Dennis Huebner, Director
State Waste Programs Branch, Region I

TO: John Skinner, Director Office of Solid Waste

The purpose of this memo is to advise you of Region I's position on the issue which is described below. Given the potential impact of this issue on the RCRA/Superfund interface, your comments on Region I's position would be appreciated.

ISSUE

Is the wastewater treatment unit exemption applicable to a groundwater treatment system?

BACKGROUND

In accordance with the Phase II Memorandum of Agreement, EPA is providing permit assistance to the Vermont Agency of Environmental Conservation (VT AEC) for the IBM Essex Junction Vermont's Part B application. EPA's permit assistance is defined in terms of the Federal universe. The review of this application has raised the question as to whether or not a Federal RCRA permit would be needed for a groundwater treatment system. Some of the facts pertinent to this situation are as follows:

- Prior to 1979 IBM at their Essex Junction facility experienced three sources of groundwater contamination - incoming chemical tank leaks, waste tank leaks, and spills and leaks within the manufacturing area.
- The groundwater is currently contaminated with perchloroethylene, trichloroethylene, and xylene. These wastes are contained in 40 CFR 261 Subpart D's list of hazardous waste and list of commercial chemical product.

- IBM treats the xylene containing wastes at their industrial treatment plant which has a NPDES permit. The groundwater containing perchloroethylene and trichloroethylene is treated at the groundwater treatment system, which consists of tank storage and carbon adsorption. IBM has a NPDES permit for the groundwater treatment system.
- The groundwater treatment system will be permitted by VT AEC.

DISCUSSION

Certain owners/operators are exempt from the 40 CFR 264 requirements. The question in this situation is the applicability of the wastewater treatment unit exemption to a groundwater treatment system with an NPDES permit. 40 CFP 260.10 defines a wastewater treatment unit as follows:

1. Is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act; and
2. Receives and treats or stores an influent wastewater which is a hazardous waste as defined in 261.3 of this chapter, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in 261.3 of this chapter, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in 261.3 of this chapter; and
3. Meets the definition of tank in 260.10 of this chapter.

A tank is defined as follows:

“Tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

The groundwater treatment system in question clearly meets the definition of items 1 and 3. The outstanding issue in item 2 is whether or not contaminated groundwater is a wastewater. EPA Region I has requested from Headquarters clarification on the definition of a wastewater. currently there is no EPA Headquarter’s guidance on the definition of a wastewater.

REGION I POSITION

The Region believes that a broad definition of a wastewater should be made. This is necessary to prevent regulation of a groundwater treatment system under both the NPDES and RCRA program. Region I feels that the contaminated groundwater is a wastewater and that the wastewater treatment exemption is applicable to a groundwater treatment system with a NPDES permit.

