

These comments were received in response to a request by MXI Environmental Services LLC to the Virginia DEP for clarification the use of a Hazardous Waste Manifest for shipment of House Hold Hazardous Waste into our Materials Recovery Facility.

-----Original Message-----

From: Frazier, Steven [mailto:sefrazier@deq.state.va.us]
Sent: Tuesday, March 11, 2003 4:27 PM
To: Terri Phillips; jatkins@mxiinc.com
Subject: RE: MXI

Terry and Joey,

I have read Joey's letter of December 2, 2002, and offer the following comments:

Household Hazardous Waste

In re: household hazardous waste (HHW) manifested by municipalities to MXI's Materials Recovery Facility (MRF), although Virginia's regulations do allow generators to voluntarily declare any waste to be a hazardous waste, this does not necessarily remove the exemption for HHW found under federal regulations at 40 CFR Part 261.4(b)(1) and incorporated by reference in the VHWMR. The fact that a uniform hazardous waste manifest may often be used solely for tracking purposes when managing such waste, while not entirely a proper application in a regulatory context, is an often observed industry practice. DEQ has recognized this practice without comment on its proper acceptability, but has always cautioned generators using manifests for HHW that it is in their best interest to make a comment and declaration to that effect in line 15 of the manifest to avoid possible confusion during inspections. Because the designated facility is subject to the solid waste regulations rather than RCRA Subtitle C, receipt of the manifested HHW and subsequent management is solely within the jurisdiction of the Virginia Solid Waste Management Regulations (VSWMR).

The position that only a RCRA TSDF can receive materials under a manifest is not entirely correct. Certain designated facilities can receive waste under a manifest if they are not required to have a RCRA permit for their operations (e.g. a POTW, or certain types of recycling facilities). HHW is specifically excluded from regulation as a hazardous waste but is regulated as a solid waste. Thus, a facility subject to the VSWMR may act as a solid waste designated facility to receive HHW in accordance with their permit, permit-by-rule, or operating under applicable regulatory exclusions, as appropriate. Again, although the use of a manifest is not entirely proper in the context of HHW, Virginia recognizes that it does not remove the inherent exemption applicable to HHW when shipped under a manifest as long as the HHW declaration is clearly stated.

Universal Waste

Universal Waste (UW) is a special subset of hazardous waste managed under the conditional exclusions established by 40 CFR Part 273, the Universal Waste Rule (UWR). UW is not required to be manifested under a uniform hazardous waste manifest, but again, this is an often observed industry practice. However, we do recommend that generators maintain appropriate documentation of their UW management and shipments to support a conditional

exemption demonstration as required by 40 CFR Part 261.2(f), and for that reason use of a manifest is often observed. Shipping and Tracking requirements for small quantity universal waste handlers may be found at 40 CFR Part 273.18 and 273.19, respectively, as incorporated by reference in the VHWMR. Large quantity universal waste handlers are required to maintain shipping and tracking requirements as specified in 40 CFR Part 273.38 and 273.39, respectively. As in the case of HHW, use of a manifest for UW will be confusing unless it is expressly stated in line 15 of the manifest why a manifest is being used. Designated facilities receiving UW as UW Handlers are a special category facility under RCRA Subtitle C subject to the full requirements of 40 CFR Part 273, and may operate without a RCRA Part B if they maintain compliance with Part 273 requirements.

I hope this helps and please let me know if you have any other questions.

Best regards, Steve

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