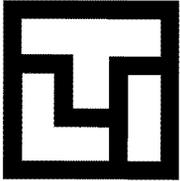


General



560 GOLDEN RIDGE ROAD, SUITE 130, GOLDEN, CO 80401

TECHLAW INC.

PHONE: (303) 763-7188
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September 19, 2003

Ms. Carl Will
State of New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East
Building 1
Santa Fe, New Mexico 87505-6303



Reference: Work Assignment No. 06110.150.0004; State of New Mexico Environment Department, Santa Fe, New Mexico; General Permit Support Contract; Research and Permitting Support for the Los Alamos National Laboratory, Subpart AA, BB and CC Research on Regulated Limits, Partial Task 4 Deliverable

Dear Mr. Will:

Enclosed please find the deliverable for the above-referenced work assignment. The deliverable consists of a partial deliverable regarding research into the Subparts AA, BB, and CC regulations, and the types of units that are regulated by these specific Subparts.

TechLaw has separated the two tasks addressed in Mr. Carl Will's technical directive (dated July 30, 2003) in order to expedite the delivery of this one task order.

In addition to providing the brief interpretation of the regulations in the attached deliverable, TechLaw provided NMED with a CD ROM which contained all known regulations, federal registers, EPA policy memos, guidance documents and recorded training courses which could be located pertaining to Subparts AA, BB, and CC. This CD ROM was sent directly to Mr. Carl Will on (insert date). We have referenced several of these documents in our memo. TechLaw hopes that the CD ROM with all the references for Subparts AA, BB, and CC is helpful to NMED.

As you can see from the amount of information on the CD ROM, the questions asked by NMED are not as simplistic as first envisioned. EPA Regulations pertaining to Subpart AA, BB, and CC have undergone numerous modifications, clarifications and re-drafts which in some cases have changed the types of units that are regulated, the effective dates of compliance, and the intent of EPA. In order to "un-muddy" the Subpart AA, BB, and CC waters, we have only addressed the very latest EPA implementations and interpretations of Subparts AA, BB, and CC.

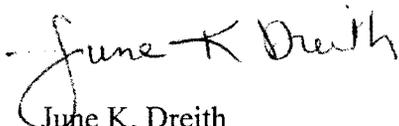


Mr. Carl Will
September 19, 2003
Page 2

This deliverable is formatted in Word. The deliverable was emailed to you and to Mr. David Cobrain, on September 19, 2003 at Carl_Will@nmenv.state.nm.us and David_Cobrain@nmenv.state.nm.us, respectively. A formalized hard (paper) copy of this deliverable will be sent via mail. If you have any questions, please call me at (303) 763-7188.

TechLaw expects the second part of the deliverable to be completed this upcoming week for submittal to NMED by September 26, 2003.

Sincerely,



June K. Dreith
Program Manager

Enclosure

cc: Mr. David Cobrain, NMED
Ms. Lee Winn, NMED
Denver Files

TASK 4 DELIVERABLE (PARTIAL)

**SUBPARTS AA, BB, AND CC RESEARCH ON
REGULATED UNITS, PARTIAL TASK 4 DELIVERABLE**

Submitted by:

**TechLaw, Inc.
560 Golden Ridge Road, Suite 130
Golden, CO 80401**

Submitted to:

**Mr. Carl Will
State of New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East
Building 1
Santa Fe, New Mexico 87505**

In response to:

Work Assignment No. 06110.150

September 2003

APPLICABILITY OF SUBPART AA, BB, CC

In a technical directive from Mr. Carl Will of the New Mexico Environment Department (NMED) dated July 30, 2003, the NMED requested an opinion from TechLaw addressing whether Subparts AA, BB, and CC air emission requirements can be imposed on locations that are not permitted units, such as satellite accumulative areas, less than 90 day units, generator sites, and on-site recycling units.

Since there is some variability in which units can be regulated under these subparts, TechLaw has chosen to address each subpart separately. While on the surface this seems to be a rather simple question, the regulations pertaining to these subparts have been modified, clarified, and re-drafted on several occasions during the initial passage of Phase I regulations on June 21, 1990, which regulates Subparts AA/BB, and the passage of Phase II regulation on December 6, 1994 which regulates Subpart CC.^{1,2} Some of the clarifications associated with Subparts AA/BB/CC have modified the intent of the regulations, compliance deadlines, as well as the units which are regulated. For this deliverable it is not TechLaw's intent re-evaluate all of the various past changes that have occurred, but to only address the present standards which are in effect.

Subpart AA (40 CFR §§264.1030 and 265.1030)

Subpart AA regulates process vents from the following equipment that processes hazardous waste with an annual average total organic concentration of greater than or equal to ten (10) parts per million per weight (ppmw):

- Distillation columns,
- Fractionation units,
- Thin film evaporator,
- Air strippers, and
- Steam strippers.

¹ The EPA issued the Phase I air regulations on June 21, 1990 [55 FEDERAL REGISTER (FR) 25454]. Phase I air rules regulated air emissions from certain process vents and equipment leaks as described in 40 CFR Parts 264 and Part 265, Subparts AA and BB. On December 8, 1997, revisions were made to the Subpart AA Rules [62 FR 64635-64671] to amend 40 CFR §§264.1030 and 265.1030 to exempt from requirements of Subpart CC any process vents at a facility where the facility owner or operator certifies that all of the process vents are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act (CAA) regulation codified in 40 CFR Part 60, Part 61 or Part 63.

² The Phase II air regulations were published on December 6, 1994 [59 FR 62896-62953] to control organic air emissions from certain tanks, surface impoundments and containers. These regulations are codified in 40 CFR Part 264 and Part 265, Subpart CC. The EPA published four documents to delay the effective date of the Subpart CC, rule. The first (60 FR 26828, May 19, 1995) revised the effective date of the standards to be December 6, 1995. The second (60 FR 56952, November 13, 1995) revised the effective date of the standards of June 6, 1996. The third (61 FR 28508, June 5, 1996) further postponed the effective date for the rule requirements until October 6, 1996, and the fourth (61 FR 59931, November 26, 1996) established the ultimate effective date of December 6, 1996. The EPA published Federal Register notices 61 FR 4903 (February 9, 1996) and 62 FR 64636 (December 8, 1997) to clarify amendments in the regulatory text of the final standards and to clarify certain language in the preamble.

The December 6, 1994 Final Rule set a final compliance date of December 8, 1997, by which all air emission control equipment must be operating. This final compliance deadline has remained unchanged since the December 6, 1994, Final Rule was published. The basis for the decision not to revise the compliance deadline is that EPA believes that many air pollution control devices can be installed and in operation within a relatively short time period (several months).

Since promulgation, modifications in the Subpart AA regulations indicate that the requirements only apply to these units which are subject to a permit. Therefore units, such as less than 90 days generator tank and containers, satellite accumulation areas (i.e. containers & tanks), are not subject to the Subpart AA regulators. In addition, recycling operations, such as distillation of hazardous waste at generator sites, are generally exempt from permitting. Hazardous waste recycling units that manage waste for longer than 90 days are the only recycling units regulated under Subpart AA, provided that other units exist on-site which subject the facility to the permitting requirement making of 40 CFR part 270. The practical effect is that Subpart AA generally only applies to Treatment, Storage, and Disposal Facilities (TSDFs), rendering the applicability of Subpart AA limited.³

Subpart BB (40 CFR §§264.1050 and 265.1050)

The Subpart BB requirements affect the following equipment, which contain or contact hazardous waste streams with equal or greater than ten percent (10%) by weight total organics:

- Pumps,
- Valves,
- Compressors,
- Pressure relief devices,
- Sampling connections,
- Open ended valves or lines,
- Flanges, and
- Other connectors.

Subpart BB applies to both TSDFs and to Large Quantity Generators (LQGs) that have on-site tanks and containers used to accumulate hazardous waste for less than 90 days prior to its transfer to a permitted TSDF. However, satellite accumulation areas (tanks and containers), conditionally exempt small quantity generators, and small quantity generators are not regulated. The Subpart BB standards apply to hazardous waste recycling units that manage waste for longer than 90 days, provided that there are other units that exist on-site that are subject to the permitting requirements of 40 CFR part 270.⁴

Subpart CC (40 CFR §§264.1080 and 225.1050)

Subpart CC requires air emissions controls be used for tanks, containers, surface impoundments, and miscellaneous units that manage hazardous waste containing an average organic concentration of greater than or equal to 500 ppmw at the point of waste origination.

³ RCRA Subpart AA, BB, and CC Regulations Body of Knowledge, U.S. EPA Region 4, RCRA Organic Air Emissions Training and Assistance, undated.

⁴ *RCRA Subpart AA, BB, and CC Regulations Body of Knowledge, U.S. EPA Region 4, RCRA Organic Air Emissions Training and Assistance, undated. (Section 2.6).*

In general, tanks, containers, and surface impoundments subject to either 40 CFR part 264 or part 265 are subject to the requirements. In addition, containers which have a capacity of less than or equal to 26.4 gallons are also exempt. Summarizing, those units regulated by Subpart CC are permitted TSDFs, interim status TSDFs, or less-than-90-day LQGs that manage hazardous waste and are not expressly exempt from the rule.

The following units that were mentioned in your technical directive are exempt from the Subpart CC regulations: hazardous waste recycling units, conditionally exempt small quantity generators, small quantity generators, and satellite accumulation units.⁵

⁵ *Subpart CC Air Emission Standards; Indiana Department of Environment Management OLQ General ID# 0064-01-SHW.*