Permit

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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 20 1989

Mr. Robert H. Elliott, Jr.
Zerpol Corporation
1300 Schwab Road
Hatfield, Pennsylvania 19440

Dear Mr Elliott:

This letter is written in response to your correspondence of January 10, 1989, regarding the applicability of permit requirements under the Resource Conservation and Recovery Act (RCRA) to your zero discharge wastewater treatment system.

As I understand the Zerpol Zero Pollution System, industrial wastewater discharge to ground water, surface water and sewer systems is eliminated by a process that return treated water to the production area for reuse. You have previously confirmed that a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the Clean Waster Act (CWA) is not required for a zero discharge system. In your January 10, 1989 letter, you requested a statement from EPA confirming that a RCRA Part B permit is also not required for your system.

In responding to your letter, I am assuring that you are referring to an exemption from a RCRA Part B permit requirement based on the wastewater treatment unit exemption found at 40 CFR 264.1(g)(6) or 265.1(c)(10). There has been some confusion, which I will clarify, regarding the regulatory interface between the NPDES permit of the CWA and the exemption for wastewater treatment units at 40 CFR 264.1(g)(6) or 265.1(c)(10) of RCRA, particularly where zero discharge is involved. To understand this interface, it helps to note that one of the reasons for the wastewater treatment unit exemption is to avoid the overregulation of such units by requiring both a NPDES permit and a RCRA Part B permit for the same unit.

To qualify for the wastewater treatment unit exemption, one of the criteria which must be met is that the unit must be part of a wastewater treatment facility which is subject to regulation under either section 402 or 307(b) of the CWA. This means that the facility must have a NPDES permit under section

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402, be subject to an effluent guideline issued under sections 301 and 402 of the CWA, or be subject to the pretreatment requirements of 307(b) of the CWA (i.e., protection of human health and the environment is ensured by regulation under the CWA rather than RCRA).1 While it is true that a zero discharge system does not require a NPDES permit, the absence of this permit (or an applicable effluent guideline or pretreatment standard specifying zero discharge) necessitates a RCRA Part B permit. Otherwise, a wastewater unit treating hazardous wastes could escape regulations developed to ensure protection of human health and the environment. Although this approach may, at first, be viewed as a disincentive to developing zero discharge systems, a NPDES permit that specifies "zero discharge" may be the most appropriate alternative to a RCRA Part B permit in industries without zero discharge effluent guidelines, encouraging zero discharge systems while being consistent with the Agency's mandate to protect human health and the environment.

I should also respond to a statement you made in your request for confirmation that a RCRA Par B is not required. You asked EPA to send you a statement that a Part B permit is not required for a "completely closed loop system." I assume you are referring to the exemption for a totally enclosed treatment facility found at 40 CFR 264.1(g)(5) or 265.1(c)(9). As defined at 40 CFR 260.10, a totally enclosed treatment facility is one which is directly connected to an industrial process and which is constructed and operated in a manner which prevents the release of any hazardous waste, or any constituent thereof, into the environment during treatment. A zero discharge system under the CWA does not automatically qualify for this exemption. For example, a system that uses tanks without covers may not qualify because it would not restrict the escape of hazardous constituents to the air. However, I did not receive sufficient information on your system to evaluate it.

You should be aware that State environmental regulations are also applicable and that the State may regulate such facilities differently under the State program. Therefore, whether a RCRA Part B permit is required for your system may be determined by the appropriate State agency.

1 A point source discharge which is operating without a valid NPDES permit is also "subject to" section 402 of the CWA (albeit

in violation of that section).

Should you have any further questions, you may contact Robert Dellinger or Mitch Kidwell, of my staff, at (202) 475-8551.

Sincerely,

Original Document signed

Sylvia K. Lowrance, Director
Office of Solid Waste