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CLARIFICATION OF THE TEMPORARY AUTHORIZATION PROVISION OF 40 CFR
270.42(E)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

February 9, 1993

Mr. William J. Vore
ISPCI
515 West Greens Road, Suite 500
Houston, Texas 77067

Dear Mr. Vore,

Thank you for your letter of December 22, 1992, which asks for a clarification of the temporary authorization provision in 40 CFR 270.42(e). Specifically, you ask whether a temporary authorization request that would be classified as a Class 3 permit modification must meet all of the criteria for approval in 40 CFR 270.42(e) (3) (ii) (C) through (E), or just one of these criteria.

A temporary authorization request need not meet all of the criteria for approval in 40 CFR 270.42(e)(3)(ii)(C) through (E). The regulations at 40 CFR 270.42(e)(2)(i)(B) establish the requirements for a temporary authorization for any Class 3 modification. According to that section, a temporary authorization request must meet the criteria in 40 CFR 270.42(e)(3)(ii)(A) or (B) or, if the temporary authorization will also provide improved management of a hazardous waste already listed in the facility permit, the request must meet any one of the criteria in 40 CFR 270.42(e)(3)(ii)(C) through (E). These requirements are discussed in the preamble to the final Permit Modification rule published on September 28, 1988 (see 53 FR 37912, at 37920).

I hope that this reply adequately clarifies this provision. If you have any further questions, please call Wayne Roepe of my staff at (703) 308-8630.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste

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