

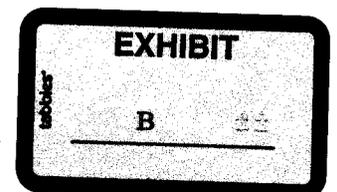
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS

| | | |
|--------------------------|---|-----------|
| MORTON F. DOROTHY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 05-49 |
| |) | |
| FLEX-N-GATE CORPORATION, |) | |
| an Illinois corporation, |) | |
| |) | |
| Respondent. |) | |

AFFIDAVIT OF ANTHONY RICE

Anthony Rice, being first duly sworn, deposes and states under oath, and if sworn as a witness, would testify, as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. I am employed by Flex-N-Gate Corporation ("Flex-N-Gate") as Plating Manager at the facility at issue in the above-captioned matter.
3. The diagram attached to Flex-N-Gate's Motion for Summary Judgment as to All Counts of Complainant's Complaint ("Motion for Complete Summary Judgment") as Exhibit A roughly illustrates the layout of the Electroplating Line at the Facility.
4. The tanks that make up the Electroplating Line are mounted on concrete piers above a sloped, coated concrete floor.
5. During the process of cleaning, plating, and rinsing, the bumpers are dipped into the first tank, raised up, moved into position above the next tank, dipped into that tank, etc.
6. When a bumper is removed from a tank, some amount of the solution which that tank contains remains on the bumper.



26. On August 5, 2004, the pipe from bulk storage to Tank No. 8 separated at the fitting located above the valve in the vertical portion of the pipe that is outside the tank, i.e., in pipe segment 2.

27. Flex-N-Gate has since determined that this separation occurred because improper adhesive had been used to join the pipe to the fitting.

28. The separation was not caused by a fire or explosion; the separation did not cause a fire or explosion; and no fire or explosion otherwise occurred in connection with the separation.

29. The separation allowed a small quantity of sulfuric acid that was in the portion of pipe segment 2 above the fitting, and potentially sulfuric acid contained in pipe segments 3 and 4, to be released to the Plating Room floor.

30. In addition, back siphoning could have occurred in this situation, which could have allowed some amount of the approximately 10% sulfuric acid solution contained in Tank No. 8 to be released to the floor as well.

31. However, an examination of Tank No. 8 after the pipe separation indicated that at most a small amount of solution from Tank No. 8 was back-siphoned and released to the floor.

32. At one time, a "day tank" was located in the Plating Room and used as Complainant describes in his Complaint.

33. Flex-N-Gate stopped using the day tank in this manner and re-plumbed the system to the arrangement described in Flex-N-Gate's Motion for Complete Summary Judgment in December 2001, more than 2 1/2 years before the separation of the pipe on August 5, 2004.

18. The Facility stores approximately 93% concentrated sulfuric acid in a bulk storage tank which is located in a different room at the Facility than the Plating Room.

19. Several pipes lead from this bulk storage tank to various other tanks at the Facility, including a pipe that leads from the bulk storage tank directly to Tank No. 8 in the Plating Room, which tank is part of the Electroplating Line.

20. Tank No. 8 is an open-top tank and contains a solution of approximately 10% sulfuric acid and 90% water.

21. Sulfuric acid is transferred from bulk storage to Tank No. 8 by means of a pump that is located at the bulk storage tank, which pump is controlled by a button located adjacent to Tank No. 8.

22. Near Tank No. 8, the pipe from bulk storage approaches Tank No. 8 traveling horizontally at a level lower than the top of the tank (pipe segment 1), then travels vertically to a level higher than the top of the tank (pipe segment 2), then travels horizontally to a position over the top of the tank (pipe segment 3), then descends vertically into the top of the tank (pipe segment 4).

23. A valve is located in pipe segment 2, which valve must be opened to allow material to be pumped from bulk storage to Tank No. 8.

24. A fitting is located above this valve.

25. The diagram attached to Flex-N-Gate's Motion for Complete Summary Judgment as Exhibit F roughly illustrates the arrangement of this pipe, the "pipe segments" noted above, and the location of the valve and fitting.

7. The Electroplating Line is engineered so that when bumpers are being moved from tank to tank, the solution that remains on the bumpers after removal from a tank may fall from the bumpers and land on the floor of the room in which the Line is located (hereinafter "Plating Room").

8. This process is intentional.

9. The floor of the Plating Room is coated with epoxy and is sloped towards the center of the room, where two concrete "pits" are located in the floor.

10. The purpose of the slope of the floor is to direct the solution which falls from the bumpers and lands on the floor into the "pits" in the center of the floor.

11. The purpose of the coating on the floor is to make the floor impervious to the materials that fall on it so that such materials are directed into the "pits" rather than soaking into the floor.

12. At least part of the floor is hosed down each shift in order to wash any material that has fallen onto the floor into the "pits."

13. A pump is located at each "pit," which pumps are used to transfer solution that falls onto the floor into piping which leads to equipment in which wastewater from the Facility is treated.

14. These pumps do not run continuously.

15. Rather, a level indicator in each pit automatically actuates each pump when the material in the pit reaches a pre-determined level.

16. This normally occurs several times each day.

17. Thus, the longest period of time that material which falls to the floor would remain in the pit normally would be a few hours.

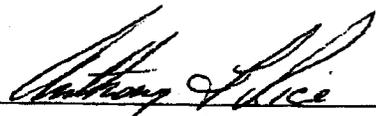
34. On August 5, 2004, the day tank, while still present in the Plating Room (it since has been removed completely) did not contain any substance of any kind, and the separation of the pipe did not "empt[y] the day tank," as Complainant alleges in paragraph 11 of Count VI of his Complaint.

35. The pump that is used to transfer sulfuric acid from bulk storage to Tank No. 8 was not operating when the pipe separated.

36. Thus, sulfuric acid was not pumped from bulk storage through the separation in the pipe and onto the floor.

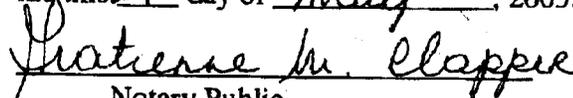
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER AFFLANT SAYETH NOT.



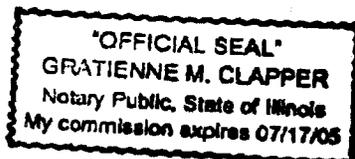
Anthony Rice

Subscribed and sworn to before me this 27 day of May, 2005.



Notary Public

GWST:003/Fi/Affidavit of Anthony Rice - Complete MSJ



13. The wastewater that the Facility discharges to the UCSD includes wastewater from the Plating Room floor.

14. Flex-N-Gate discharges to the UCSD pursuant to an authorization that UCSD issued to Flex-N-Gate, a copy of which authorization is attached to Flex-N-Gate's Motion for Complete Summary Judgment as Exhibit I.

15. The sludge that the Facility's Wastewater Treatment Equipment generates is a hazardous waste as defined in 35 Ill. Adm. Code § 721.103.

16. The Facility's wastewater treatment sludge "has not been excluded from the lists in Subpart D of this Part under 35 Ill. Adm. Code 720.120 and 720.122."

17. This Facility's Wastewater Treatment Equipment:

- (a) is stationary;
- (b) is "designed to contain an accumulation of hazardous waste," i.e., the F006 sludge that the treatment of the wastewater creates;
- (c) is "constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic)," in this case, Fiberglass Reinforced Plastic and steel; and,
- (d) these "nonearthen materials . . . provide structural support."

18. When wastewater treatment sludge is initially generated at the Facility, it is located inside the Facility Wastewater Treatment Equipment.

19. The only equipment at the Facility to which "includes pH adjustment, reduction of hexavalent chromium . . . , and precipitation of a nickel and chromium hydroxide sludge" is the Facility's WWTU.

20. By the terms "sludge drying unit"/"unit[] for drying . . . hazardous waste sludge," Complainant is referring to the Sludge Dryer that was part of the Facility's

5. The sludge dryer referenced in that table was removed from the Facility in March 2005.

6. All of this equipment (hereinafter "Wastewater Treatment Equipment") is located on-site, within the boundaries of the Facility.

7. The diagram attached to Flex-N-Gate's Motion for Complete Summary Judgment as Exhibit D roughly illustrates the layout of the wastewater treatment system.

8. Following treatment in the Wastewater Treatment Equipment, liquids are discharged to a Publicly Owned Treatment Works ("POTW") operated by the Cities of Champaign and Urbana, Illinois ("UCSD").

9. Following dewatering, sludge is placed into a satellite accumulation container in preparation for placement into 90-day accumulation containers, where it is accumulated before it is shipped off-site for recycling.

10. The document attached to Flex-N-Gate's Motion for Complete Summary Judgment as Exhibit E is a true and accurate copy of a manifest by which Flex-N-Gate has had such sludge transported off-site recycling.

11. While the wastewater treatment sludge is located inside the equipment that is used to treat the Facility's wastewater, Flex-N-Gate considers the sludge to be exempt from RCRA pursuant to 35 Ill. Admin. Code § 703.123(e).

12. Pursuant to 35 Ill. Admin. Code §§ 703.123(a) and 722.134(a), Flex-N-Gate accumulates each hazardous wastestream identified in the table set forth on page 9 of Flex-N-Gate's Motion for Complete Summary Judgment on-site in containers before shipping the waste off-site for treatment, storage or disposal.

WWTU prior to March 2005, and/or the Filter Press, which are/were used to dewater sludge produced in the WWTU; this is the only equipment at the Facility used to dry "sludge."

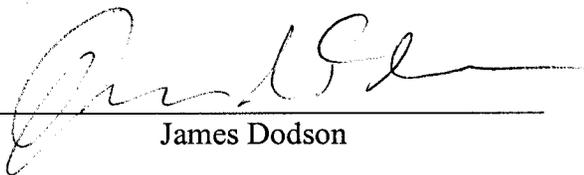
21. By the terms "sludge storage unit"/"unit for . . . storing hazardous waste sludge," Complainant is referring to the tank used to store sludge before dewatering and/or the satellite accumulation container into which sludge is placed after dewatering.

22. The Facility has a RCRA contingency plan.

23. Flex-N-Gate prepared this contingency plan because it manages some of the hazardous waste generated at the Facility pursuant to the accumulation provision of 35 Ill. Admin. Code § 722.134(a).

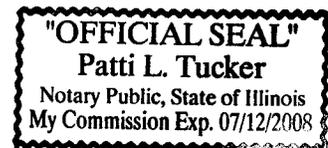
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER AFFIANT SAYETH NOT.

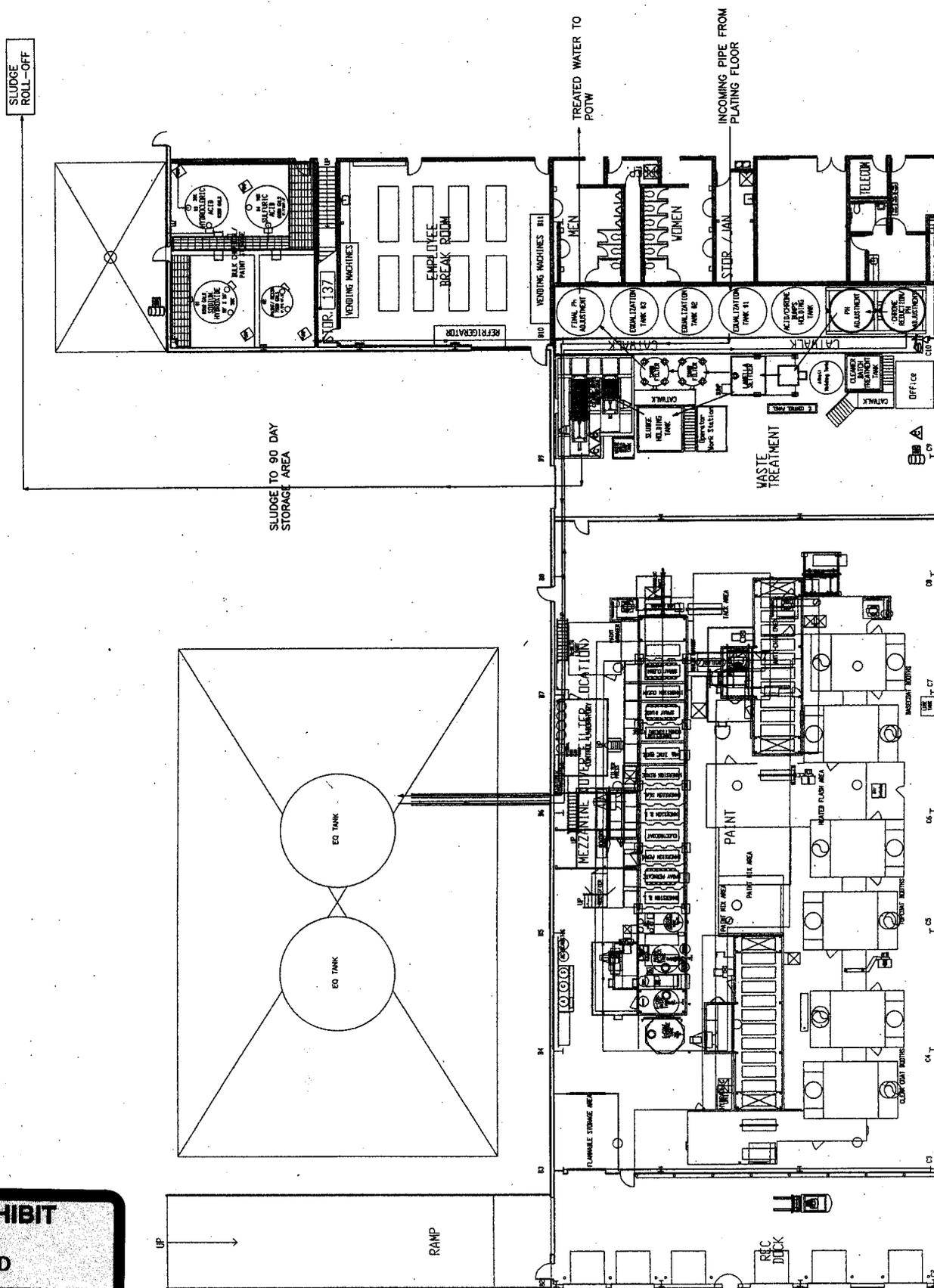
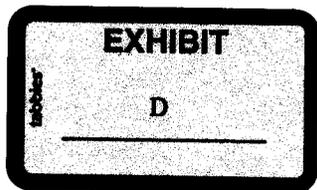

James Dodson

Subscribed and sworn to before
me this 27th day of May, 2005.

Notary Public



GWST:003/Fil/Affidavit of James Dodson – Complete MSJ





STATE OF ILLINOIS

ENVIRONMENTAL PROTECTION AGENCY DIVISION OF LAND POLLUTION CONTROL

P.O. BOX 19276 SPRINGFIELD, ILLINOIS 62794-9276 (217) 782-6761

FOR SHIPMENT OF HAZARDOUS AND SPECIAL WASTE

State Form LPC 62 8/81 IL532-0610

EPA Form 8700-22 (Rev. 6-89)

Form Approved. OMB No. 2050-0039

PLEASE TYPE (Form designed for use on elite (12-pitch) typewriter.)

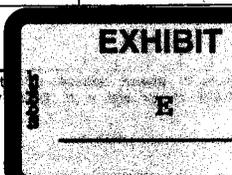
| | | | | | | | |
|--|--|---|--|--|--------------------|--|-------------|
| UNIFORM HAZARDOUS WASTE MANIFEST | | 1. Generator's US EPA ID No. ILR000061853 | | Manifest Document No. 12804 | 2. Page 1 of 1 | Information in the shaded areas is not required by Federal law, but is required by Illinois law. | |
| 3. Generator's Name and Mailing Address Guardian West P.O. Box 877 Urbana, IL 61803 | | Location If Different 601 Guardian Drive Urbana, IL 61801 | | A. Illinois Manifest Document Number IL10109149 | | FEE PAID IF APPLICABLE | |
| 4. *24 HOUR EMERGENCY AND SPILL ASSISTANCE NUMBERS* 800-424-9300 | | 6. US EPA ID Number NJD054126164 | | B. Generator's ID Number 0191055145 | | C. Transporter's ID Number 019071304 | |
| 5. Transporter 1 Company Name Freehold Cartage, Inc. | | 7. Transporter 2 Company Name | | D. Transporter's Phone 782-462-1001 | | E. Transporter's ID Number | |
| 9. Designated Facility Name and Site Address AGMET Metals, Inc. 7800 Medusa St. Oakwood Village, OH 44146 | | 10. US EPA ID Number OHD986976348 | | F. Facility's IL ID Number | | G. Facility's Phone 440-339-7400 | |
| 11. US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number) | | | | 12. Containers No. | 13. Total Quantity | 14. Unit Wt/Vol | Waste No. |
| a. RQ, Hazardous Waste, Solid, n.o.s., 9, NA 3077, PG III (F006) | | | | XX | 1 CM | XX | 30 Y |
| b. | | | | | | | |
| c. | | | | | | | |
| d. | | | | | | | |
| J. Additional Description for Materials Listed Above F006 Wastewater treatment sludge G326/7-6064/508037/22000 | | | | K. Handling Codes for Wastes Listed Above V= yards | | | |
| 15. Special Handling Instructions and Additional Information ERG # 171 Generators Non-emergency phone 217-278-2355 | | | | | | | |
| 16. GENERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations. If I am a large quantity generator, I certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and that I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment; OR, if I am a small quantity generator, I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford. | | | | | | | |
| Printed/Typed Name Bruce Humphries | | | | Signature | | Date 07/12/05 | |
| 17. Transporter 1 Acknowledgement of Receipt of Materials Printed/Typed Name LEIGH FEYE | | | | Signature | | Date 07/12/05 | |
| 18. Transporter 2 Acknowledgement of Receipt of Materials Printed/Typed Name | | | | Signature | | Date | |
| 19. Discrepancy Indication Space | | | | | | | |
| 20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in item 19. Printed/Typed Name LEIGH FEYE on behalf of | | | | | | Date | |

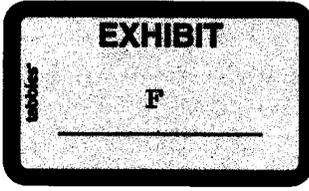
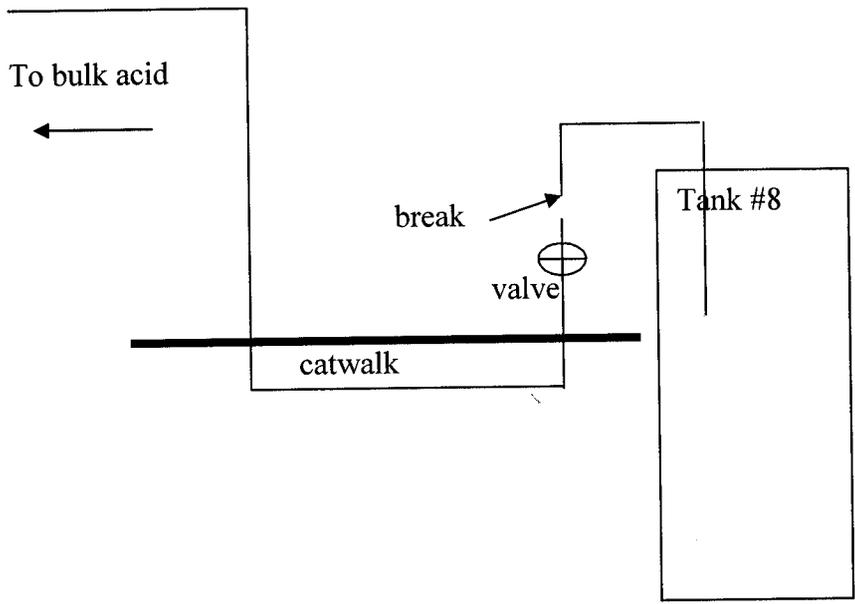
GENERATOR

TRANSPORTER

FACILITY

This Agency is authorized to require, pursuant to Illinois Revised Statutes, Chapter 111 1/2, Section 1004 and 1024 that this information be submitted to the Agency. Failure to do so may result in a civil penalty against the owner of the waste to exceed \$25,000 per day of violation. Penalties of this information may include a fine of up to \$25,000 per day of violation and imprisonment up to 5 years. This form has been approved by the Forms Management Center.





COPY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|--------------------------|---|---------------|
| MORTON F. DOROTHY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB No. 05-49 |
| |) | (Enforcement) |
| FLEX-N-GATE CORPORATION, |) | |
| an Illinois corporation, |) | |
| |) | |
| Respondent. |) | |

**FLEX-N-GATE CORPORATION'S
ANSWERS TO COMPLAINANT'S INTERROGATORIES**

NOW COMES Respondent, FLEX-N-GATE CORPORATION ("Flex-N-Gate"), by and through its attorneys, HODGE DWYER ZEMAN, pursuant to 35 Ill. Admin. Code § 101.620, and for its Answers to Complainant's Interrogatories, states as follows:

1. List any witnesses respondent intends to call at hearing, including name, address, phone number, and whether the witness is to testify as an expert witness.

ANSWER: Flex-N-Gate has not yet determined what witnesses, if any, it intends to call at hearing. Flex-N-Gate will supplement its response to this Interrogatory pursuant to 35 Ill. Admin. Code § 101.616(h) at such time that it makes such determination.

2. List any documentary or physical evidence respondent intends to introduce at hearing.

ANSWER: Flex-N-Gate has not yet determined what documentary or physical evidence, if any, it intends to introduce at hearing. Flex-N-Gate will supplement its response to this Interrogatory pursuant to 35 Ill. Admin. Code § 101.616(h) at such time that it makes such determination.

3. By which provisions has respondent, prior to August 5, 2004, claimed exemption from the RCRA permit requirement for the Guardian West facility?

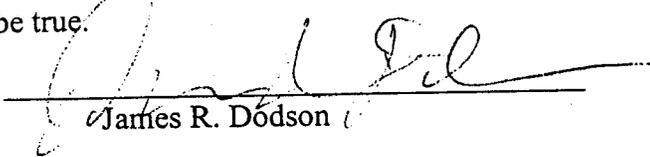
ANSWER: First, the Guardian West facility which is the subject of this action ("Facility") has "claimed exemption from the RCRA permit requirement" for any

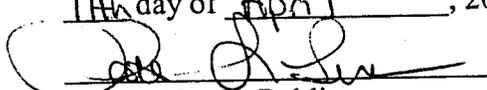
EXHIBIT
G

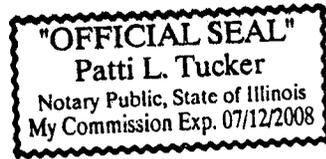
VERIFICATION

STATE OF ILLINOIS)
) SS.
COUNTY OF St. Clair)

James R. Dodson, being first duly sworn on oath, deposes and states, under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, that the statements set forth above in response to Complainant's Interrogatories Nos. 1-3, 5-8, 13, 21, 23, 34 and 36 are true and correct, except as to matters herein stated to be on information and belief, and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.


James R. Dodson

Subscribed and sworn to before me this
11th day of April, 2005.

Notary Public



material contained in the Facility's wastewater treatment unit pursuant to the "wastewater treatment unit exemption" contained in 35 Ill. Admin. Code 703.123(e).

Second, the Facility has "claimed exemption from the RCRA permit requirement" for certain other wastestreams which it sends off-site for treatment, storage or disposal pursuant to 35 Ill. Admin. Code 703.123(a). Those wastestreams are.

| Wastestream (Flex-N-Gate Description) | RCRA Classification |
|---|---|
| flush solvent | D001 for flammability. |
| wastewater treatment sludge | F006 is a listed waste |
| chromic acid | D007 for chromium, D002 for corrosive, D008 for lead |
| paint | D001 for flammability |
| chrom. solids like concrete with chromic acid | D007 for chromium |
| solvent rags | D001 for flammability |
| barium sludge | D002 for corrosive, D007 for chromium, D005 for barium, D008 for lead |
| aerosols | D001 for flammability |
| chrome rags | D007 for chromium |
| Tanks #1, #3, #4 | D002 for corrosive, D007 for chromium |
| chrom. contaminated solids-PPE | D002 for corrosive, D007 for chromium |

4. Has respondent had any laboratory analyses performed on the liquid, sludge or debris under the plating line? Provide the results of such analyses.

ANSWER: Flex-N-Gate has not had any laboratory analysis performed on any material located "under the plating line."

5. Has respondent had any laboratory analyses performed on the influent into what respondent refers to as the "wastewater treatment unit" receiving "wastewater" from the plating area? Provide the results of such analyses.

Respectfully submitted, and, as to
objections,

FLEX-N-GATE CORPORATION,

Respondent,

By: 
One of Its Attorneys

Dated: April 14, 2005

Thomas G. Safley
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

GWST:003/Fil/Answers to Interrogatories



www.epa

Rod R. Blagoje

Public Notices

Public Notice

NPDES Permit No. IL0031500
Notice No. RJH:03040301.dlk

Public Notice Beginning Date: May 9, 2003

Public Notice Ending Date: June 9, 2003

National Pollutant Discharge Elimination System (NPDES) Permit Program

PUBLIC NOTICE/FACT SHEET

of

Draft Modified NPDES Permit to Discharge into Waters of the State

Public Notice/Fact Sheet Issued By:

Illinois EPA
Division of Water Pollution Control
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-782-0610

Name and Address of Discharger:

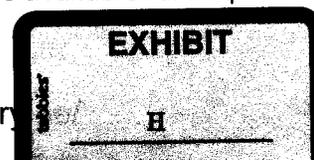
Urbana Champaign Sanitary District
Post Office Box 669
Urbana, Illinois 61803

Name and Address of Facility:

Urbana Champaign SD NE STP
1100 East University Avenue
Urbana, Illinois
(Champaign County)

The Illinois Environmental Protection Agency (IEPA) has made a tentative determination to modify a NPDES Permit to discharge into the waters of the state and has prepared a draft modified Permit and associated fact sheet for the above named discharger. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice/Fact Sheet. All comments on the draft modified Permit and requests for hearing must be received by the IEPA by U.S. Mail, carrier mail or hand delivered by the Public Notice Ending Date. Interested persons are invited to submit written comments on the draft modified Permit to the IEPA at the above address. Commentors shall provide his or her name and address and the nature of the issues proposed to be raised and the evidence proposed to be presented with regards to those issues. Commentors may include a request for public hearing. Persons submitting comments and/or requests for public hearing shall also send a copy of such comments or requests to the Permit applicant. The NPDES Permit and notice numbers must appear on each comment page.

The modification request, engineer's review notes including load limit calculations, Public Notice/Fact Sheet, draft Permit, comments received, and other documents are available for inspection and may be



ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

Public Notice/Fact Sheet -- Page 3 -- NPDES Permit No. IL0031500

This Permit contains an authorization to treat and discharge excess flow as follows:

Discharge Number and Name: 002 Excess Flow Outfall

| Parameter | | CONCENTRATION LIMITS mg/L | | Regulation |
|-------------------|---|---------------------------|-----------------|----------------|
| | | Daily Maximum | Monthly Average | |
| BOD ₅ | | | * | 40 CFR 133.102 |
| Suspended Solids | | | * | 40 CFR 133.102 |
| Fecal Coliform | Shall not exceed a geometric mean of 200 per 100 mL nor shall more than 10% of the samples during the month exceed 400 per 100 mL | | | 35 IAC 304.121 |
| pH | Shall be in the range of 6 to 9 Standard Units | | | 35 IAC 304.125 |
| Chlorine Residual | | 3.0 | | 35 IAC 302.208 |

*Concentration Limits (L) shall be determined as follows:

$$L = -15/23(D) + 49.565$$

Where: D = number of days of discharge per month
L = monthly average effluent limitation in mg/L

Discharge Number and Name: 003 Flood Protection Overflow (when the receiving stream is above elevation 700.50)

Load limits computed based on a design average flow (DAF) of 17.3 MGD (design maximum flow (DMF) of 34.6.

The effluent of the above discharge(s) shall be monitored and limited at all times as follows:

| Parameter | LOAD LIMITS lbs/day* DAF (DMF) | | | CONCENTRATION LIMITS mg/L | | | Regulation |
|-------------------|--|----------------|------------------|---------------------------|----------------|---------------|---------------------------------|
| | Monthly Average | Weekly Average | Daily Maximum | Monthly Average | Weekly Average | Daily Maximum | |
| CBOD ₅ | 1,443 (2,886) | | 2,886 (5,771) | 10 | | 20 | 35 IAC 304.120 40 CFR133.102 |
| Suspended Solids | 1,731 (3,463) | | 3,463 (6,926) | 12 | | 24 | 35 IAC 304.120 40 CFR133.102 |
| pH | Shall be in the range of 6 to 9 Standard Units | | | | | | 35 IAC 304.125 |
| Chlorine Residual | | | | | | 0.05 | 35 IAC 302.208 |
| Ammonia Nitrogen: | | | | | | | |
| March | 303 (606) | 765 (1,529) | 1,385 (2,770) | 2.1 | 5.3 | 9.6 | 35 IAC 355 and |
| April-October | 216 (433) | | 433 (866) | 1.5 | | 3.0 | 35 IAC 302 |
| Nov.-Feb. | 346 (693) | | 693 (1,385) | 2.4 | | 4.8 | |

*Load Limits are calculated by using the formula: $8.34 \times (\text{Design Average and/or Maximum Flow in MGD}) \times (\text{Applicable Concentration in mg/L})$.

ELECTRONIC FILING, RECEIVED, CLERK'S OFFICE, MAY 27, 2005

Public Notice/Fact Sheet -- Page 2 -- NPDES Permit No. IL0031500

Application is made for the existing discharges which are located in Champaign County, Illinois. The following information identifies the discharge point, receiving stream and stream classifications:

| Outfall | Receiving Stream | Latitude | Longitude | Stream Classification | Biological Stream Characterization |
|---------|------------------------------|-------------------|------------------|-----------------------|------------------------------------|
| 001 | Saline Branch Drainage Ditch | 40° 07' 11" North | 88° 11' 29" West | General Use | B |
| 002 | Saline Branch Drainage Ditch | 40° 07' 11" North | 88° 11' 46" West | General Use | B |
| 003 | Saline Branch Drainage Ditch | 40° 07' 11" North | 88° 11' 27" West | General Use | B |

To assist you further in identifying the location of the discharge(s) please see the attached map.

Discharge Number and Name: 001 STP Outfall

Load limits computed based on a design average flow (DAF) of 17.3 MGD (design maximum flow (DMF) of 34.6 MGD).

The effluent of the above discharge(s) shall be monitored and limited at all times as follows:

| Parameter | LOAD LIMITS lbs/day* | | | CONCENTRATION LIMITS mg/L | | | Regulation |
|-------------------|--|----------------|------------------|---------------------------|----------------|---------------|----------------------------------|
| | Monthly Average | Weekly Average | Daily Maximum | Monthly Average | Weekly Average | Daily Maximum | |
| CBOD ₅ | 1,443 (2,886) | | 2,886 (5,771) | 10 | | 20 | 35 IAC 304.120 40 CFR 133.102 |
| Suspended Solids | 1,731 (3,463) | | 3,463 (6,926) | 12 | | 24 | 35 IAC 304.120 40 CFR 133.102 |
| pH | Shall be in the range of 6 to 9 Standard Units | | | | | | 35 IAC 304.125 |
| Chlorine Residual | | | | | | 0.05 | 35 IAC 302.208 |
| Ammonia Nitrogen: | | | | | | | |
| March | 303 (606) | 765 (1,529) | 1,385 (2,770) | 2.1 | 5.3 | 9.6 | 35 IAC 355 and 35 IAC 302 |
| April-October | 216 (433) | | 433 (866) | 1.5 | | 3.0 | |
| Nov.-Feb. | 346 (693) | | 693 (1,385) | 2.4 | | 4.8 | |

*Load Limits are calculated by using the formula: $8.34 \times (\text{Design Average and/or Maximum Flow in MGD}) \times (\text{Applicable Concentration in mg/L})$.

FACT SHEET

NPDES Permit No. IL0031500
Notice No. RJH:03040301.dlk

National Pollutant Discharge Elimination System (NPDES)
Permit Program

PUBLIC NOTICE/FACT SHEET

of
Draft Modified NPDES Permit to Discharge into Waters of the State

Name and Address of Discharger:

Urbana Champaign Sanitary District
Post Office Box 669
Urbana, Illinois 61803

Name and Address of Facility:

Urbana Champaign SD NE STP
1100 East University Avenue
Urbana, Illinois
(Champaign County)

The following water quality and effluent standards and limitations were applied to the discharge:

Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board and the Clean Water Act were applied in determining the applicable standards, limitations and conditions contained in the draft Permit.

The applicant is engaged in treating domestic and industrial wastewater for the City of Champaign, the City of Urbana and tributary areas of Champaign County.

The length of the Permit is approximately 5 years.

The main discharge number is 001. The seven day once in ten year low flow (7Q10) of the receiving stream, Saline Branch Drainage Ditch, is 0 cfs.

The stream segment, BPJC-06, receiving the discharge from outfalls 001, 002 and 003 is on the 303 (d) list of impaired waters.

The following parameters have been identified as the pollutants causing impairment.

Potential Pollutants

Nutrients, phosphorus, nitrates, pathogens, organic enrichment

Potential Contributors

Municipal point sources, urban runoff/storm sewers, hydrologic/habitat modification, channelization, habitat modification, streambank modification/destabilization

The design average flow (DAF) for the facility is 17.3 million gallons per day (MGD) and the design maximum flow (DMF) for the facility is 34.6 MGD. Treatment consists of primary treatment, trickling filters, activated sludge, secondary clarification, nitrification, sand filtration, sludge thickening, anaerobic digestion, sludge dewatering, land application of sludge.

This treatment works has an approved pretreatment program. There are 3 noncategorical SIUs and 2 CIUs.

This Modified NPDES Permit does not increase the facility's DAF, DMF, concentration limits, and/or load limits.

The IEPA will accept comments on the following draft modifications to the Permit:

1. Ammonia Nitrogen limits were modified to reflect the current water quality standards.
2. Special Condition 16 has been removed.

copied at the IEPA between 9:30 a.m. and 3:30 p.m. Monday through Friday when scheduled by the interested person.

If written comments or requests indicates a significant degree of public interest in the draft modified Permit, the permitting authority may, at its discretion, hold a public hearing. Public notice will be given 45 days before any public hearing. Response to comments will be provided when the final Permit is issued.

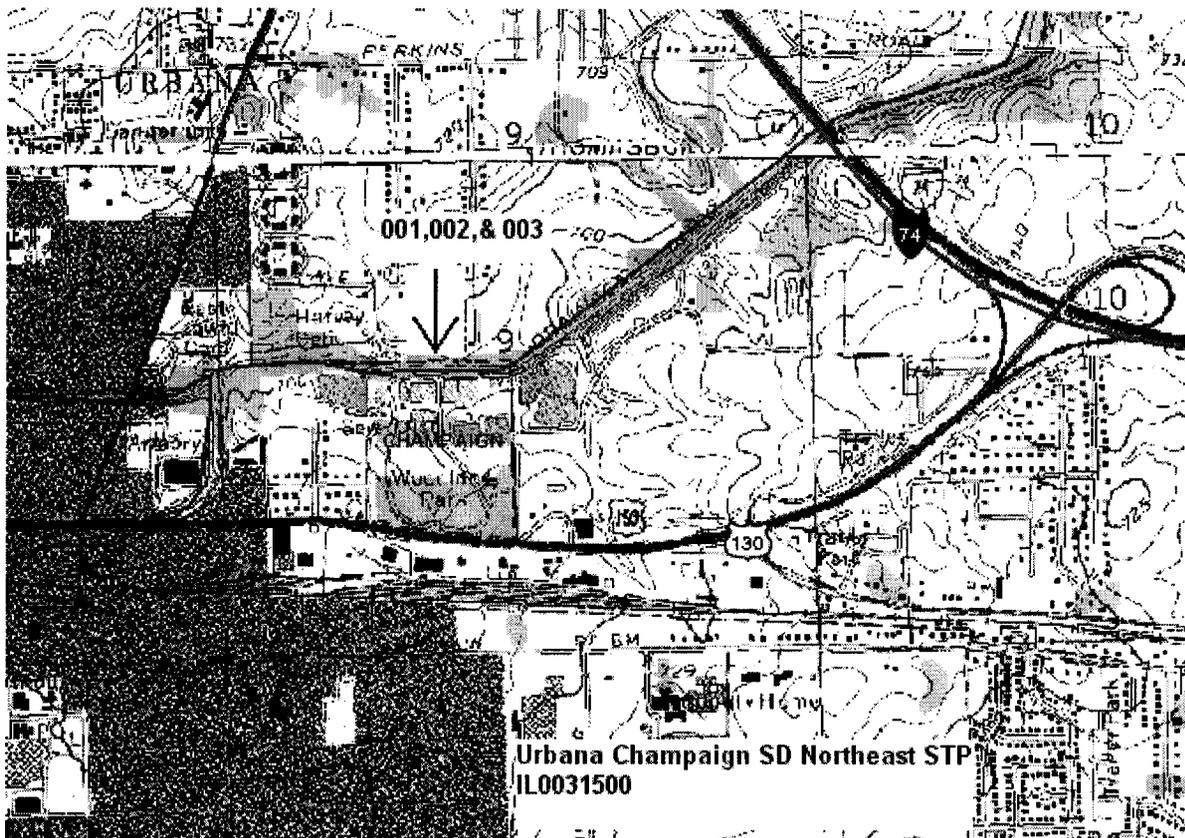
For further information, please call Ralph Hahn at 217-782-0610.

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Public Notice/Fact Sheet -- Page 4 -- NPDES Permit No. IL0031500

This draft Permit also contains the following requirements as special conditions:

1. Reopening of this Permit to include different final effluent limitations.
2. Operation of the facility by or under the supervision of a certified operator.
3. Submission of the operational data in a specified form and at a required frequency at any time during the effective term of this Permit.
4. More frequent monitoring requirement without Public Notice in the event of operational, maintenance or other problems resulting in possible effluent deterioration.
5. Prohibition against causing or contributing to violations of water quality standards.
6. Effluent sampling point location.
7. Controlling the sources of infiltration and inflow into the sewer system.
8. A requirement to monitor and a limit of 0.05 mg/L for residual chlorine when it is used.
9. The Permittee implements and administers an industrial pretreatment program pursuant to 40 CFR [403.
10. Burden reduction.
11. Submission of annual fiscal data.
12. A requirement for biomonitoring of the effluent.
13. Submission of semi annual reports indicating the quantities of sludge generated and disposed.
14. Recording the monitoring results on Discharge Monitoring Report Forms using one such form for each outfall each month and submitting the forms to IEPA each month.
15. Storm Water Pollution Prevention Plan (SWPPP)





URBANA & CHAMPAIGN SANITARY DISTRICT
INDUSTRIAL WASTEWATER DISCHARGE PERMIT
Permit Number 2004-01

SECTION ONE - GENERAL

Name: Guardian West
SIC Code: 3714 NAICS Code: 336370
Facility Address: 1306 E. University Avenue, Urbana 61802

The above referenced User is hereby authorized to discharge wastewater to the Urbana & Champaign Sanitary District subject to said User's compliance with the terms and conditions in this permit.

Effective Date: March 1, 2004
Expiration Date: February 28, 2009

Recommended For Approval:

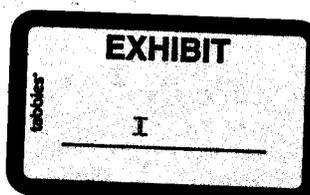
Bruce R. Butler
Bruce R. Butler, CHMM
Pretreatment Coordinator

2-24-04
(Date)

Approval:

G. Tim Bachman
G. Tim Bachman, P. E.
Director of Waste Treatment Operations

2-24-04
(Date)



SECTION FOUR - REPORTING REQUIREMENTS (CONT)

3. If sampling indicates a violation, the User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District within 30 days after becoming aware of the violation, except the User is not required to resample if the District performs sampling at the User at a frequency of at least once per month; or, the District performs sampling at the User between the time when the User performs its initial sampling and the time when the User receives the results of this sampling. Note that additional resampling may be necessary to avoid significant noncompliance as defined in Section 825 of UCSD ordinance 600.
4. In the event the type, quality, or volume of wastewater discharged by the User is expected to materially and substantially change as reasonably determined by the User or the District, the User shall give a thirty (30) day notice in writing to the District and shall make a new application to the District prior to said change. The User shall not materially and substantially change the type, quality or volume of its wastewater beyond that allowed by this permit without prior approval of the District.

SECTION FIVE - STANDARD CONDITIONS

1. The Industrial User shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, or correspondence relating to monitoring, sampling and chemical analysis made by or in behalf of the User in connection with its discharge. Such information shall include but not be limited to the date, exact place, method and time of sampling and the name of the person or persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques/methods used; and, the results of such analyses.
2. The Industrial User shall, after reasonable notification by the District, allow the District, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency, or their representatives, exhibiting proper credentials and identification, to enter upon the premises of the User, at all reasonable hours, for the purposes of inspection, sampling, or records inspection. any time the Industrial User is discharging wastewater to the sanitary sewer.
3. No User shall increase the use of potable or process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this permit.

SECTION THREE - MONITORING (Cont)

6. All analyses required by this permit shall be performed either by an independent District approved laboratory or by the User's own laboratory facility and staff. If the User wishes to use their own laboratory facility and staff, the District must certify the laboratory prior to accepting any results.
7. Flow shall be monitored with continuous readout and recording capabilities and submitted on a monthly basis unless otherwise approved by the District. Flow measuring equipment shall be calibrated at least annually and records of such calibration shall be available for District inspection.
7. The Total Toxic Organics (TTO) monitoring requirements may be waived upon submittal of the appropriately signed certification statement and a solvent management plan as specified in 40 CFR Part 433.12.

SECTION FOUR - REPORTING REQUIREMENTS

1. All test results required in Section 3 of this permit shall be summarized on report forms approved by the District. The monthly sampling results shall be submitted once a month prior to the 15th day of the following month. The semi-annual results shall be submitted as soon as they become available, prior to June 30 and December 31.
2. User shall notify the District immediately upon any discharge of compatible or incompatible pollutants which causes a violation of the User's Discharge Permit or a violation of the District's Sewer Use Ordinance Number 600. In no case shall this notification exceed 24 hours from when the User became aware of the violation. The notification shall include:
 1. Name of caller
 2. Type of discharge
 3. Location and time of discharge
 4. Concentration and volume.

Formal written notification discussing circumstances and remedies shall be submitted to the District within fifteen (15) days of the incident. The written notification shall be in accordance with Section 513 of the District's Sewer Use Ordinance Number 600. The User's authorized representative shall sign the written notification. A District form is available for this notification.

SECTION TWO - DISCHARGE LIMITATIONS (CONT)

3. A discharged waste shall contain no floatable fats, oils or grease of any origin.
4. The wastewater discharger shall comply with all applicable requirements of Section 502 of the District's Sewer Use Ordinance Number 600.
5. An exception to the mercury concentration required in Section 2 above shall be allowed if all of the conditions specified in Section 307.1102 (c) of 35 ILL. Adm. Code are met. In such cases, the limit shall be 0.003 mg/l.

SECTION THREE - MONITORING

1. Samples taken as a requirement of this permit shall be representative of daily operations. Samples shall be collected, preserved and analyzed in accordance with the requirements prescribed in 40 CFR Part 136 and amendments thereto.
2. The User shall be required to operate and maintain a sampling station. The sampling station shall contain the necessary equipment to gather a 24-hour composite sample. It shall be accessible to District personnel at all times. The sampling station shall be located on the discharge line from the final pH adjustment/backwash holding tank.
3. The User shall be required to sample and analyze for cyanide (total), copper (total), nickel (total), chromium (total), zinc (total), lead (total), cadmium (total), silver (total) and total toxic organics (TTO) twice per month. The samples shall be a 24-hour composite of the wastewater discharged for all the pollutants except cyanide, which shall be a grab sample.
4. The User shall be required to monitor pH on a continuous basis. The daily maximum and daily minimum pH shall be recorded and submitted with the monthly reporting form required in Section 4.
5. The User shall be required to sample and analyze for BOD, TSS, Total FOG, Non-Polar FOG, and all the pollutants listed in Section 2.B semi-annually. The sample shall be a 24-hour composite of the wastewater discharged for all the pollutants except hexavalent chromium, cyanide, Total FOG, and Non-Polar FOG which shall be a grab sample.

SECTION TWO - DISCHARGE LIMITATIONS

1. The discharger, by nature of its industrial process, is subject to the discharge regulations of the metal finishing point source category as described in 40 CFR Part 433 Subpart A. Section 506 of the District's Sewer Use Ordinance Number 600 incorporates the National Categorical Pretreatment Standards by reference. The categorical discharge limits, if more stringent than the limitations imposed under Ordinance Number 600, supersede the ordinance limits and are enforceable by the authority of said Ordinance.
2. The wastewater discharger shall comply with the following discharge limitations. The limits are as shown except for Total FOG, non-polar FOG, and pH, which are applicable at all times.

| | Pollutant | Monthly average mg/l | Daily maximum mg/l | Minimum detection limit mg/l |
|-----|-----------------------|----------------------|--------------------|------------------------------|
| 1. | Total Arsenic | 0.1 | 0.2 | 0.05 |
| 2. | Total Cadmium | 0.04 | 0.08 | 0.005 |
| 3. | Chromium (Hex) (grab) | 0.3 | 0.6 | 0.01 |
| 4. | Total Chromium | 1.71 | 2.77 | 0.01 |
| 5. | Total Copper | 1.5 | 3.0 | 0.01 |
| 6. | Total Cyanide (grab) | 0.65 | 1.20 | 0.01 |
| 7. | Total Lead | 0.43 | 0.69 | 0.05 |
| 8. | Total Mercury | 0.0005 | 0.001 | 0.0002 |
| 9. | Total Nickel | 2.38 | 3.98 | 0.02 |
| 10. | Total Selenium | 0.04 | 0.08 | 0.02 |
| 11. | Total Silver | 0.1 | 0.2 | 0.01 |
| 12. | Total Zinc | 1.48 | 2.61 | 0.05 |
| 13. | Total Toxic Organics | N.A. | 2.13 | |
| 14. | BOD ₅ | 400 | 800 | |
| 15. | TSS | 500 | 1000 | |
| 16. | Total FOG (grab) | 100 | | |
| 17. | Non-Polar FOG (grab) | 50 | | |
| 18. | pH range (grab) | 6.0 - 10.0 | | |

No 24-hour composite sample shall exceed the daily maximum. The average of all the 24-hour composite samples in a month shall not exceed the monthly average. Excluding Hex Chrome, Total Cyanide, pH, Total and Non-polar FOG, no grab sample shall exceed five (5) times the monthly average.

SECTION FIVE - STANDARD CONDITIONS (CONT)

4. The permit issued to the Industrial User by the District may be revoked when, after inspection, monitoring or analysis it is determined that the discharge of wastewater to the sanitary sewer is in violation of Federal, State, or local laws, ordinances, or regulations. Additionally, falsification or intentional misrepresentation of data or statements pertaining to the permit application or any other required reporting form, shall be cause for permit revocation.
5. Except for information determined to be confidential under Section 736 of the District's Sewer Use Ordinance Number 600, this permit and all information pertaining to this permit shall be available for public inspection at the District's office.
6. Waste generated by the User that is not discharged to the District's sewers shall be disposed in accordance with Section 405 of the Clean Water Act, Subtitles C and D of the Resource Conservation and Recovery Act, or any other applicable local, state and federal laws.
7. Wastewater discharge permits are issued to a specific user for a specific operation and are not assigned to another use or transferable to any location without the prior written approval of the District. Sale of a User shall obligate the purchaser to seek prior written approval of the District for continued discharge to the sewer system.
8. The District shall notify a User One Hundred and Eighty (180) days prior to the expiration date of the User's permit. Within Ninety (90) days of the notification, the User shall reapply for reissuance of the permit on a form provided by the District.
9. The permit issued to the Industrial User may be subject to modification during the term of the permit, as limitations or requirements in the District's ordinance are changed. The User shall be notified of any changes in the permit thirty (30) days prior to the effective date of the change.
10. The Urbana & Champaign Sanitary District Sewer Use Ordinance Number 600 is the legal authority for this permit and the District's pretreatment program.
11. Any User who fails to comply with an order of the Board of Trustees or who has failed to comply with any provision of the District's Sewer User Ordinance Number 600 and the orders, rules, and regulations and permits issued thereunder, shall be subject to the penalties and costs set forth in Article XI of Ordinance Number 600.

CALL CENTER QUESTIONS & ANSWERS

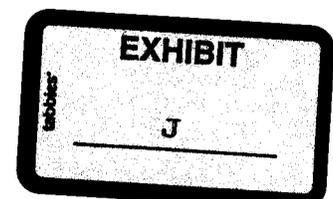
RCRA

1. Requirements for Characteristic Sludge Removed from a Wastewater Treatment Unit

A facility manages characteristic wastewater in an on-site wastewater treatment unit (WWTU) regulated by the Clean Water Act (CWA). The WWTU is exempt from the RCRA requirements for permitted and interim status treatment, storage, and disposal facilities in 40 CFR Parts 264 and 265 and the permitting requirements in §270.1(c)(2)(v). During treatment, the facility generates wastewater effluent and characteristic nonwastewater sludge. The wastewater effluent is discharged to a publicly owned treatment works (POTW) through a public sewer, while the sludge is removed, collected, and stored before land disposal. How is the characteristic nonwastewater sludge regulated? Will land disposal restrictions (LDR) requirements apply to the sludge?

Treatment sludge generated from the management of characteristic wastewaters in a WWTU must be managed as hazardous once removed from the tank if it exhibits a characteristic of hazardous waste (66 FR 27266, 27272; May 16, 2001). Therefore, the sludge will be subject to full Subtitle C regulation, including all applicable hazardous waste management standards such as on-site storage standards and off-site transportation requirements. In addition, hazardous sludges removed from CWA treatment trains and subsequently land disposed are subject to the LDR requirements (55 FR 22520, 22657; June 1, 1990).

If the nonwastewater sludge does not exhibit a characteristic of hazardous waste when it is removed from the tank, then it is no longer subject to the requirements of Subtitle C, but LDR requirements may still apply (§261.3(d)(1)). Sludge generated during the treatment of a wastewater that results in a change from wastewater to nonwastewater is considered a change in treatability group. A change in treatability group for a characteristic treatment residual is a new point of generation for LDR purposes (64 FR 25408, 25411; May 11, 1999). If the sludge has undergone a change in treatability group and is no longer characteristic, then it is not a RCRA hazardous waste, and the generator would not need to comply with the LDR requirements in Part 268.





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REQUIREMENTS FOR CHARACTERISTIC SLUDGE REMOVED FROM A WASTEWATER TREATMENT UNIT

RCRA Online Number:

14718

Date:

06/01/2004

To:

NA

From:

NA

Organization of Recipient:

NA

Description:

A treatment sludge from characteristic wastewaters in a WWTU must be managed as hazardous once it is removed from tank if it exhibits a characteristic. Such waste is subject to on-site storage, transportation, and LDR requirements. If a nonwastewater sludge does not exhibit a characteristic it is not subject to Subtitle C, but LDR may still apply. Treatment of a wastewater that results in a change to nonwastewater may be a change in treatability group and a new point of generation. If there has been a change in treatability group and the waste is no longer characteristic, LDR requirements do not apply.

Regulatory Citation(s) :

264.1(g)(6), 265.1(c)(10), 270.1(c)(2)(v) [EXIT disclaimer >](#)

Statutory Citation(s):

NA Read US Code 42, Chapter 82 [EXIT disclaimer >](#)

Topic(s):

Characteristic Wastes; Land Disposal Restrictions; Permits and Permitting

Approximate Number of Hardcopy Pages:

1

EPA Publication Number:

EPA530-R-04-003f

RPPC Number (if applicable):

NA

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FAXBACK 13003
9432.1987(08)

SLUDGE DEHYDRATION EQUIPMENT AS A WASTEWATER TREATMENT UNIT

AUG 3 1987

Mr. Dic Olsen, Sales Manager
Fenton Company, Inc.
1608 N. Beckley
Lancaster, Texas 75134

Dear Mr. Olsen:

Thank you for your letter of June 30, 1987, in which you requested information on the regulatory status of sludge dehydration equipment which is part of a wastewater treatment facility.

Your understanding of the requirements contained in 40 CFR 270.1(c)(v) is correct. Sludge dehydration equipment that is part of a wastewater treatment system is excluded from the need to obtain a RCRA permit provided the equipment meets the definition of wastewater treatment unit as defined in 40 CFR 260.10, and actually is used to evaporate water from the sludge.

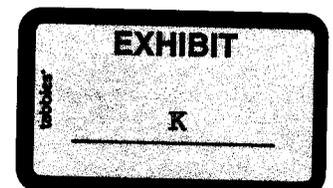
It is important to note that the exclusion provided by 270.1(c)(2)(v) does not apply to conventional incinerators. Such devices are subject to Subpart O of Parts 264 or 265 even when part of a wastewater system.

I must caution you that various State have requirements that are different from the Federal standards. Under their own authorities, States can establish requirements that are more stringent than the Federal requirements. In this instance, the owner or operator is required to comply with the more restrictive requirements. Thus, I encourage you to contact an appropriate State official to determine what the requirements will be for a specific unit.

-2-

If you have any further questions regarding the Federal requirements, please contact Mary Cunningham of my staff at (202) 382-7935.

Sincerely,



Original Document signed

Marcia E. Williams
Director
Office of Solid Waste

cc: Mary Cunningham
Steve Silverman, Esq.

bcc: R. Holloway
B. Weddle
S. Rudzinski
R. Dellinger
M. Hale
G. Garland
D. Perla



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Title:

SLUDGE DEHYDRATION EQUIPMENT AS A WASTEWATER TREATMENT UNIT

RCRA Online Number:

13003

Date:

08/03/1987

To:

Olsen

From:

Williams

Organization of Recipient:

Fenton Company, Inc.

Description:

Sludge dehydration equipment that is part of a wastewater treatment system is exempt from permitting if the equipment meets the definition of a wastewater treatment unit (WWTU) and is used to evaporate water from sludge. The exemption does not apply to incinerators.

Regulatory Citation(s) :

260.10, 264.1(g)(6), 265.1(c)(10), 270.1(c)(2) [EXIT disclaimer >](#)

Statutory Citation(s):

NA Read US Code 42, Chapter 82 [EXIT disclaimer >](#)

Topic(s):

Burning; Combustion of Hazardous Waste; Incineration; Hazardous Waste; Permits and Permitting; Treatment; TSDFs

Approximate Number of Hardcopy

2

Pages:

EPA Publication Number:

NA

RPPC Number (if applicable):

9432.1987(08)

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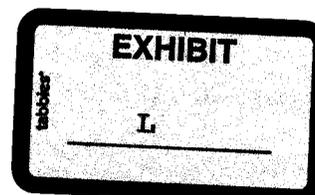
RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

MAY 84

A. RCRA

1. Can a tanklike portable filter press used in a wastewater treatment facility be excluded from regulation if the filter press meets all of the 260.10 criteria under "wastewater treatment unit" despite the fact it is not a stationary device?

Yes; the filter press would be excluded from regulation by 265.1(c)(10) and 264.1(g)(6) as a wastewater treatment unit.





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Title:

FILTER PRESS IN WASTEWATER TREATMENT UNIT,
EXCLUSION FOR

RCRA Online Number:

12220

Date:

05/01/1984

To:

NA

From:

NA

Organization of Recipient:

NA

Description:

A tank-like portable filter press used in a wastewater treatment facility is excluded from regulation if the filter press meets the 260.10 criteria for a wastewater treatment unit (WWTU).

Regulatory Citation(s) :

260.10, 264.1(g)(6), 265.1(c)(10), 270.1(c)(2) [EXIT disclaimer >](#)

Statutory Citation(s):

NA Read US Code 42, Chapter 82 [EXIT disclaimer >](#)

Topic(s):

Hazardous Waste; Permits and Permitting; Tanks; Treatment; TSDFs

Approximate Number of Hardcopy

1

Pages:

EPA Publication Number:

530-SW-84-017E

RPPC Number (if applicable):

9432.1984(04)

OSW Policy:

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PPC 9451.1996(08)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

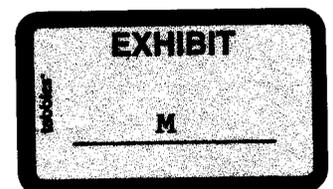
SEP 23 1996

Philip Kircher
Director of Government Sales
RGF Environmental Systems, Inc.
3875 Fiscal Court
West Palm Beach, FL 33404

Dear Mr. Kircher:

Thank you for your letter of July 9, 1996 concerning the applicability of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations to your chemical flocculation unit, the "Split-O-Mat," when used to treat wash water from C-130 aircraft engines. As you discussed with Charlotte Mooney, of my staff, at the federal level we can explain how the federal regulations might apply to your unit, and what criteria you (and/or the generator of a hazardous waste) should use to determine which federal regulations would apply.

However, most state environmental agencies are authorized to implement the RCRA hazardous waste program, and the states' regulations, rather than the federal regulations, apply in authorized states. State hazardous waste regulations must be at least equivalent to the federal regulations, but may also be more stringent. Because authorized states implement and enforce their own hazardous waste programs, authorized states generally make decisions about how the regulations apply to specific facilities within the states. Therefore, you (and/or the generator of the hazardous waste) should work with the appropriate state agency to determine how the hazardous waste regulations of a particular state would apply to the specifics of any particular installation of your equipment. Since many of the state hazardous waste regulations are similar to the federal regulations, the following



should check with the appropriate state agencies to determine the specific requirements that may be applicable in those states. If you have further questions, please contact Charlotte Mooney, at (703) 308-7025.

Sincerely,

David Bussard, Director
Hazardous Waste Identification Division

Footnotes:

1 The term "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. (40 CFR 260.10)

2 The term "container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled. (40 CFR 260.10)

Enclosures

accumulation unit and therefore subject to 40 CFR 262.34. This provision exempts generator accumulation tanks and containers from RCRA permitting as long as they are managed in compliance with certain requirements. Thus, this provision could apply if it were determined that the wastewater treatment unit exclusion did not cover some of your units because they were considered to be containers (see Footnote 2), rather than tanks. The 40 CFR 262.34 requirements include general standards for generators, accumulation time limits, and specific design and management requirements for each type of accumulation unit (e.g., tank or container). Since the military sites you are working with are generators of hazardous waste, it is likely that they are already in compliance with the general standards for generators. If that is the case, they would only need to revise their procedures for compliance with the general standards as necessary to address the new treatment activity, to meet the accumulation time limits, and to comply with the specific design and management requirements for the unit itself (e.g., compliance with Subpart I of Part 265 for containers).

The discussion above assumes that facilities using your unit are already regulated large quantity generators of hazardous waste (greater than 1,000 kilograms of hazardous waste per month). It is also possible, however, that such a facility might be a "small quantity generator" or a "conditionally exempt small quantity generator," in which case less stringent requirements would apply. I have enclosed copies of two documents that summarize the federal hazardous waste regulations for each of these generator categories.

You should also be aware that if the treatment sludge generated in your unit exhibits characteristics of hazardous waste, including the toxicity characteristic for cadmium, the waste must be managed as a hazardous waste. Finally, there may be requirements under the land disposal restrictions program (40 CFR Part 268) that would apply to the treatment sludge or to the original wash water. Additional information about the hazardous waste regulations can be found in the enclosed documents, and by calling our RCRA Hotline at (800) 424-9346. The Hotline can explain the federal regulations in detail, and can also provide contacts at the various state agencies to find out about state regulations.

I hope this information concerning the federal regulations is useful. You (and/or the generator of the hazardous waste)

discussion of the federal regulations should help you become familiar with some of the possible regulatory requirements.

Based on the information you provided, it appears there are several ways your unit might be regulated under the federal hazardous waste regulations. In general, treatment (see Footnote 1) of hazardous waste is subject to the RCRA hazardous waste regulations. Thus, assuming the cadmium contaminated wash water you describe exhibits the hazardous waste characteristic of toxicity, treatment of that waste would generally require a hazardous waste treatment permit. However, there are several exceptions that may apply to your unit.

First, it appears likely that your unit would meet the wastewater treatment unit exemption of 40 CFR 264.1(g)(6), which exempts treatment units from RCRA permitting if they meet the definition of wastewater treatment unit. This definition is found in 40 CFR 260.10 and reads as follows:

"Wastewater treatment unit" means a device which:

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

To determine whether your unit would meet this definition, at each location you should determine whether the facility is subject to section 402 or 307(b) of the Clean Water Act (National Pollutant Discharge Elimination System permitting and pretreatment standards, respectively), and whether the unit meets the definition of tank. "Tank" is defined in 40 CFR 260.10 as "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." Whether or not your unit meets the definition of tank will depend on the specifics of each situation, and where questions arise, is a determination that should be made by the appropriate state.

Second, your unit may also be considered a generator



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- 
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- 
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- 
Advanced Search
- 
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Title: APPLICABILITY OF RCRA REGULATIONS TO CHEMICAL FLOCCULATION UNITS WHEN USED TO TREAT WASH WATER FROM AIRCRAFT ENGINES

RCRA Online Number: 14104

Date: 09/23/1996

To: Kircher

From: Bussard

Organization of Recipient: RGF Environmental Systems, Inc.

Description: A chemical flocculation unit treating cadmium contaminated wash water requires a hazardous waste treatment permit, unless the unit meets an exemption. If the unit is a tank meeting the definition of a wastewater treatment unit (WWTU), or a tank or container regulated as a generator accumulation unit, the unit is exempt from permitting. Treatment sludge generated in the unit must be managed as a hazardous waste if it exhibits a characteristic. Land disposal restrictions (LDR) apply to the treatment sludge and the original wash water.

Regulatory Citation(s) : 260.10, 262.34, 264.1(g)(6), 265.1(c)(10), 268.1, 270.1(c)(2)

Statutory Citation(s): NA Read US Code 42, Chapter 82 [EXIT disclaimer >](#)

Topic(s): Containers; Disposal; Generators; Hazardous Waste; Permits and Permitting; Land Disposal Restrictions; Large Quantity Generators (LQG); Petitions; Storage; Tanks; Treatment; TSDFs

Approximate Number of Hardcopy Pages: 4

EPA Publication Number: NA

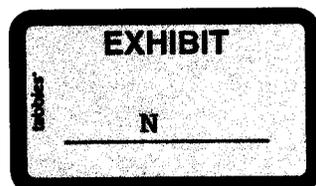
RPPC Number (if applicable): 9451.1996(08)

OSW Policy: No

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QUESTION: Is a storage tank for sludge considered part of the wastewater treatment tank exclusion if the sludge is piped from the wastewater treatment tanks to the storage tank?

ANSWER: Any tank that is part of a wastewater treatment system subject to regulation under either Section 402 or 307 (b) if the Clean Water Act is excluded from regulation under 265.1(c)(10). Thus, a tank that is part of the wastewater treatment system is excluded even if that tank does not have an effluent discharge. The definition applicable to this situation is found in 260.10 "Wastewater treatment unit," paragraph (2).





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Title: STORAGE TANKS THAT ARE PART OF WASTEWATER TREATMENT SYSTEM ARE EXCLUDED

RCRA Online Number: 12190

Date: 03/01/1984

To: NA

From: NA

Organization of Recipient: NA

Description: A tank storing sludge piped from a wastewater treatment unit (WWTU) qualifies for the WWTU exemption, even if the storage tank does not discharge under CWA standards.

Regulatory Citation(s) : [260.10](#), [264.1\(g\)\(6\)](#), [265.1\(c\)\(10\)](#), [270.1\(c\)\(2\)](#) [EXIT disclaimer >](#)

Statutory Citation(s): [NA Read US Code 42, Chapter 82](#) [EXIT disclaimer >](#)

Topic(s): Hazardous Waste; Permits and Permitting; Storage; Tanks; Treatment; TSDFs

Approximate Number of Hardcopy Pages: 1

EPA Publication Number: 530-SW-84-017C

RPPC Number (if applicable): NA

OSW Policy: No

Faxback 11408

9471.1989(01)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 20 1989

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

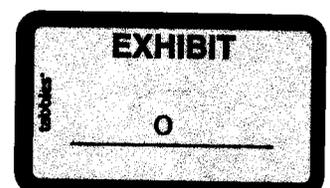
Dear Mr Elliott:

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



-3-

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

□

-2-

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 Part 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).



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Title: PERMIT REQUIREMENTS FOR ZERO WASTEWATER TREATMENT SYSTEM

RCRA Online Number: 11408

Date: 03/20/1989

To: Elliott

From: Lowrance

Organization of Recipient: Zerpol Corp.

Description: A "zero discharge" wastewater system must have NPDES permit, applicable effluent guideline, or pretreatment standard specifying zero discharge to qualify as wastewater treatment unit (WWTU). A zero discharge system returning all treated water to production avoids CWA rules but does not automatically qualify for the totally enclosed treatment unit (TETU) exemption. A wastewater treatment system using open tanks and not restricting escape of contaminant to air is not a TETU. Illegal discharge of hazardous waste to river may be "subject to" CWA and eligible for industrial discharge exclusion, although discharge is a CWA violation subject to EPA enforcement action.

Regulatory Citation(s) : [260.10](#), [261.4\(a\)\(2\)](#), [264.1\(g\)\(5\)](#), [264.1\(g\)\(6\)](#), [265.1\(c\)\(9\)](#), [265.1\(c\)\(10\)](#), [270.1\(c\)\(2\)](#) [EXIT disclaimer](#)

Statutory Citation(s): [NA Read US Code 42, Chapter 82](#) [EXIT disclaimer](#)

Topic(s): Exclusions (RCRA); Hazardous Waste; Permits and Permitting; Tanks; Treatment; TSDFs

Approximate Number of Hardcopy Pages: 3

EPA Publication Number: NA

RPPC Number (if applicable): 9471.1989(01)

OSW Policy: Yes

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MORTON F. DOROTHY,)
)
Complainant,)
)
v.) PCB 05-49
)
FLEX-N-GATE CORPORATION,)
an Illinois corporation,)
)
Respondent.)

AFFIDAVIT OF JAMES R. DODSON

James R. Dodson, being first duly sworn, deposes and states under oath, and if sworn as a witness, would testify, as follows:

1. I have personal knowledge of the matters set forth in this affidavit.
2. I am employed as Corporate Environmental Director for Flex-N-Gate Corporation ("Flex-N-Gate").
3. I have reviewed Complainant's Motion to Join Agency as Party in Interest and to Extend Time to Respond to Motion to Dismiss ("Motion to Join Agency"), and Complainant's Motion to Accept for Hearing and for Expedited Discovery, filed in this matter, and make the following statements in response thereto.
4. At the facility in question in this matter, Flex-N-Gate produces several different wastestreams, some of which are "hazardous" under RCRA.
5. However, Flex-N-Gate relies on exemptions from RCRA permitting requirements with regard to each of its wastestreams that is "hazardous."
6. Specifically, Flex-N-Gate relies on different exemptions for different wastestreams, as appropriate depending on the circumstances.



7. For example, some wastestreams that Flex-N-Gate produces are treated by what Flex-N-Gate considers to be a “wastewater treatment unit” under RCRA, and thus, Flex-N-Gate considers this activity to be exempt from RCRA permitting requirements.

8. Other wastestreams that Flex-N-Gate produces are stored on-site for less than 90 days and then shipped off-site for disposal, and Flex-N-Gate considers this activity to be exempt from RCRA permitting requirements under 35 Ill. Admin. Code § 722.134(a).

9. Thus, Flex-N-Gate does not now claim, nor has it ever claimed, “that the facility operated” pursuant to just one exemption from RCRA permitting requirements (“Sections 703.123(a) and 722.143(a)” or otherwise), as Complainant alleges in paragraph one his Motion to Join Agency.

10. Likewise, Flex-N-Gate does not now claim, nor has it ever claimed, “that the facility is exempt from the RCRA permit requirements based on the . . . ‘wastewater treatment unit’ exclusion[.],” as Complainant alleges in paragraph five of his Motion to Join Agency.

11. Rather, Flex-N-Gate always has considered different wastestreams at the facility at issue to be exempt from RCRA permitting requirements under different exemptions to those requirements.

12. With regard to the wastestream at issue in this case, Flex-N-Gate has never claimed to the Illinois Environmental Protection Agency (“Illinois EPA”) or to anyone else that its actions relating to such wastestream are exempt from RCRA permitting requirements “pursuant [to] Sections 703.123(a) and 722.134(a).”

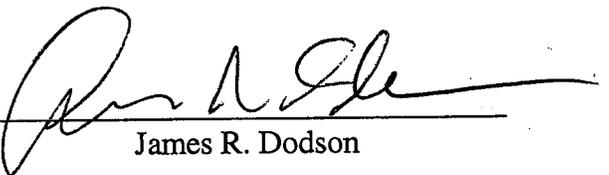
13. Rather, Flex-N-Gate always has considered its actions relating to this wastestream to be exempt from RCRA permitting requirements under the Wastewater Treatment Unit Exemption, and has never claimed otherwise to the Illinois EPA.

14. Further, it is Flex-N-Gate's understanding that the Illinois EPA, if it has not formally determined that Flex-N-Gate's position on this issue is correct, at least understands this to be Flex-N-Gate's position.

15. Flex-N-Gate takes Complainant's lawsuit, and Flex-N-Gate's obligation to preserve documents related to Complainant's allegations in that lawsuit, very seriously, and Flex-N-Gate denies that it would, in any circumstance, alter or destroy documents as Complainant alleges in his Motion to Accept for Hearing and for Expedited Discovery.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

FURTHER AFFIANT SAYETH NOT.


James R. Dodson

Subscribed and sworn to before
me this 29th day of OCTOBER, 2004.


Notary Public

**YVONNE R WAIT
NOTARY PUBLIC STATE OF INDIANA
FOUNTAIN COUNTY
MY COMMISSION EXP. SEPT 23, 2009**