

Manufacturing Process Unit Exemption/RCRA: U.S. EPA Environmental Appeals Board Addresses Applicability Question



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10/07/2022

The United States Environmental Protection Agency (“EPA”) Environmental Appeals Board (“EAB”) issued an August 15th decision interpreting the Resource Conservation and Recovery Act (“RCRA”) term “manufacturing process unit” (“MPU”) in a September 22nd Order styled:

Order Granting Respondent’s Motion for Accelerated Decision/Order Denying Complainant’s Motion for Accelerated Decision/Initial Decision (“Order”)

See *In the Matter of ISP Freetown Fine Chemicals, Inc.*, EPA Docket No. RCRA-01-2018-0062.

The importance of the term MPU is that it, under appropriate circumstances, can constitute an exemption from certain provisions of the RCRA regulations.

The *Order* upheld an August 15th decision of an EPA Administrative Law Judge granting ISP Freetown Fine Chemicals, Inc.’s, (“ISP”) Motion for Accelerated Decision which argued that certain receiver tanks were exempted from the RCRA regulations under the MPU exemption. EAB in turn rejected EPA’s Motion for Accelerated Decision which argued for a narrower interpretation of the MPU exemption.

The facts and analysis from the ALJ’s decision are discussed in a previous blog post found [here](#).

The receiver tanks at issue were used to distill chemical products and constituted ignitable hazardous waste storage tanks. ISP had argued that the receiver tanks are components of the distillation units which are explicitly identified as an example of a unit covered by the exemption. The ALJ agreed that the receiver tanks were part of its distillation units and because they are part of its manufacturing process, were exempt under the MPU exemption.

A copy of the EAB decision can be downloaded [here](#).