

9441.1985(20)

June 5, 1985

MEMORANDUM

SUBJECT: Use/Reuse Exemption as Applied to Spent Pickle Liquor

FROM: John Skinner, Director
Office of Solid Waste

TO: James H. Scarbrough, Chief
Residuals Management Branch
Region IV

This memo is in response to your memorandum dated May 10, regarding the use/reuse exclusion as it relates to spent pickle liquor that is used as a wastewater conditioner. In particular, U.S. Steel uses spent pickle liquor as a substitute for ferric chloride (as a wastewater conditioner) and adds it to their wastewater treatment system; however, the Region and the State of Alabama question whether the use/reuse exclusion applies if the spent pickle liquor is discharged to a wastewater that is contained in an open unlined ditch. Furthermore, you expect the build-up of EP sludge/precipitate on the bottom of the unit. You question whether you can regulate the unit as a hazardous waste surface impoundment.

While we agree with your conclusion that you can regulate the unit as a hazardous waste impoundment, we do not agree with the logic that led you to that conclusion. The sludge that forms in the impoundment is a solid waste and if it is hazardous (i.e., exhibits one or more of the characteristics of hazardous waste), it is subject to regulation; thus, the impoundment would be subject to hazardous waste control.

However, we do not agree with your logic concerning the use/reuse exclusion. The January 4 regulations (and preamble) to these regulations indicates that spent pickle liquor that is used as a wastewater conditioner is considered to be covered under the use/reuse exclusion, provided that the material is not speculatively accumulated. See, for example, Part I, Section III.B. (Secondary Materials That Are Not Solid Wastes), pg. 619 and Part II, Section II.N. (Section 261.2(e): Secondary Materials That Are Not Solid Wastes When Recycled), pg. 637. We also address this point indirectly in footnote 15 (pg. 628) where it states:

"We note, however that we do not consider secondary materials that are used as wastewater conditioners to be within the scope of this provision (use constituting disposal provision). The activity is not similar to land disposal because the secondary material is chemically combined as part of a conditioning process and is subsumed as an ingredient in the conditioned water."

We, therefore, cannot agree with you (or the State of Alabama) that this activity constitutes land disposal (under the Federal program). Rather, the January 4 rules indicate that the spent pickle liquor (if beneficially used as a wastewater conditioner) would be excluded from control under RCRA. However, as indicated above, the impoundment would still be regulated if it contains a characteristic hazardous waste or any other listed hazardous waste. Please give Matthew A. Straus a call if you have any further questions.