

SEP 15, 1986

Mr. John B. Slemmer  
Environmental Manager  
SolidTek Systems Inc.  
5371 Cook load  
P.O. Box 888  
Morrow, Georgia 30260

Dear Mr. Slemmer:

Thank you for your letter of July 23, 1986, concerning various aspects of the definition of hazardous waste. Let me respond to your questions in the order you have posed them.

With respect to your questions on the "mixture rule," you are correct in stating that a facility may treat hazardous wastes that are listed in 40 CFR 261.31, 261.32, and 261.33 solely because they exhibit a characteristic by combining them with solid wastes or reagents to produce a new mixture.\* Although the current wording of 40 CFR 261.3(a)(iii) provides that if such a mixture no longer exhibits the characteristic for which it was listed, then it is no longer a hazardous waste, I must advise you that the Agency may propose to amend this provision in order to reconcile it with the new delisting requirements in the Hazardous and Solid Waste Amendments (HSWA) to RCRA. Those requirements, contained in section 3001(f), state that as part of the delisting procedures the Agency must consider factors other than those for which the waste was originally listed. Consequently, we believe that 261.3(a)(iii) may be in conflict with this section of HSWA.

Regarding your questions on waste codes, the best advice that I can offer you is to employ those codes that are applicable. In the toluene example, waste code F005 would apply (toluene comes under F005, not F002). As far as the xylene example is concerned, the correct code is D001 since the paint is not commercial chemical product (CCP) xylene, nor is it a spent xylene. It is, as I understand, unused paint that is being discarded. Since discarded paint is not listed, only the characteristic would apply.

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\*It should be noted that a generator may perform treatment in its own accumulation tanks or containers provided that the tank or container is operated strictly in accordance with Section 262.34 (see enclosed letter).

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Concerning your final question on categorizing mixtures of compounds listed in subpart D under 261.33, the mixture in your example, osmium tetroxide and pyridine, is not a hazardous waste essentially for the reason that you provide in a., i.e., the CCP list only applies to pure grade, technical grade, and formulations that contain sole active ingredients; the osmium tetroxide and pyridine combination **is** none of these.

If you have any additional questions on defining or categorizing hazardous waste do not hesitate to contact me at (202) 382-4766.

Sincerely,

Matt Straus  
Chief  
Rate Characterization  
Branch