

9441.1989(10)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 27 1989

Ronald B. L. Jones
Environmental Consulting
15 Hollow Road
Watertown, Connecticut 06795

Dear Mr. Jones:

This letter responds to your February 13, 1989 letter (and subsequent phone call) regarding the regulatory status of flue dust and metal hydroxide sludge under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Specifically, you request a clarification concerning the regulatory status of flue dust and metal hydroxide sludge being recycled by two different methods: 1) reclamation for metal content, and 2) use as a micronutrient in fertilizer.

It is my understanding that your client, a brass mill, generates two EP toxic characteristic waste sludges. These are: 1) a flue dust generated by an air pollution control device (defined as a "sludge" in 40 CFR 260.10), and 2) a metal hydroxide sludge generated by an on-site wastewater treatment unit. Neither waste is a RCRA listed hazardous waste and your client has concerns about the proper management for the characteristic hazardous wastes.

As the table at 40 CFR 261.2(c) states, a characteristic sludge is not a solid waste (and thus, not a hazardous waste) when reclaimed. This status applies at the point of generation (i.e., if the sludge is to be reclaimed, it is not a solid waste and, therefore, not regulated under RCRA Subtitle C, unless it is accumulated speculatively). You should note that section 261.2(f) requires the generator to document his/her claims that a certain material is not a solid waste.

On the other hand, the same table states that both listed and characteristic sludges that are placed on the land or incorporated into a product that is applied to the land (i.e., used in a manner constituting disposal) are solid wastes (and thus are hazardous wastes). As section 261.2(e)(2) states, even materials that are recycled by use or reuse as ingredients to make a product are solid wastes (and if applicable, hazardous wastes) when such recycling involves use constituting disposal. This status applies at the point of generation (and, thus, storage of the wastes prior to such use or reuse is subject to

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regulation under RCRA Subtitle C). [NOTE: For characteristic sludges, if the product placed on the land no longer exhibits a hazardous characteristic, the product would not be a hazardous waste (a solid waste derived from the treatment of characteristic hazardous waste, such that it no longer exhibits a characteristic, ceases to be a hazardous waste).]

You should also be aware that State and local regulations are also applicable, and may differ from Federal regulations. You should contact the State regulatory agency, as well as the appropriate EPA Regional office to determine the applicable regulations.

Should you require further information, you may call the RCRA Hotline at 1-800-424-9346, or Mitch Kidwell, of my staff, at (202) 475-8551.

Sincerely,

Original Document signed

Robert W. Dellinger
Chief
Waste Characterization Branch

RO 11412