

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

APRIL 20, 1990

MEMORANDUM

SUBJECT: Classifying Mercury-containing Paints as Hazardous Wastes

FROM: Michele Anders, Chief
Review Section

TO: Rob Denny (H7507C)
Environmental Fate and Effects Division, OPP

Recently Becky Cuthbertson talked with you about some concerns OSW has regarding disposal of mercury-containing paints. We had seen a briefing paper that was used at a briefing for Linda Fisher on April 4. In the paper, there was a statement that mercury-containing paints were not expected to be hazardous wastes unless the mercury levels were above 540 parts per million.

After discussing this statement with technical staff here in the Waste Characterization Branch, we believe that the 540 ppm level stated in the briefing paper is too high. The hazardous waste regulations at 40 CFR 261.24 specify that wastes with a solids content of >0.5% are extracted with an acid solution to determine whether they are hazardous wastes; if the extract contains more than 0.2 mg/liter mercury, the waste is a hazardous waste. Since latex paint is a water-based paint, we are not sure what levels one would see in the extract, but we are quite certain that the levels would be in excess of 0.2 mg/liter. Thus we are quite sure the paint would be a hazardous waste when discarded.

The hazardous waste regulations have an exclusion for household hazardous waste (composed primarily of materials found in the wastes generated by consumers in their homes and generated by individuals on the premises of a residence - see the November 13, 1984 Federal Register notice at 49 FR 44978, attached). Thus homeowners who discard canceled mercury-containing paints would typically put them with other household trash, unless state or local regulations prevent them from doing so. (Paints are one of the common wastes brought to household hazardous waste collection days sponsored by municipalities.)

A business that discards mercury-containing paints, however, is fairly likely to run into RCRA Subtitle C regulations, unless it generates less than about 220 pounds of hazardous waste per month (meaning all hazardous waste, not just the mercury-containing paint). Even those businesses that generate less than 220 pounds per month may have state or local regulations bringing them into the RCRA system.

I just wanted to bring this facts to your attention as Linda Fisher prepares to make her decision on the mercury-containing paint issue. If you have any further questions, please contact Becky Cuthbertson at 475-9715.

cc: Susan Mooney

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