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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUL 3 1991

Mr. Theodore W. Lund  
Vice President  
C/P Utility Services Company, Inc.  
119 Sanford St.  
Hamden, CT 06514

Dear Mr. Lund:

This letter is in response to your May 20, 1991 letter to Mr. Alec McBride of my staff in which you requested information and responses to questions concerning the Toxicity Characteristic Leaching Procedure (TCLP) and lead paint removal debris.

Q: a. TCLP as a lead test method, is it applicable to paint residues?

A: The Toxicity Characteristic (TC) rule requires waste generators to determine whether constituent levels in their waste sample extract, or leachate, exceed specified levels. This determination can be based either on their knowledge of the processes from which the waste was generated or by application of the TCLP. The TCLP is not a test method specifically for lead-containing waste, however, solid waste containing hazardous constituents, such as lead, must be tested with the TCLP unless the generator has enough other knowledge to determine whether the waste is hazardous.

Q: b. What kind of sampling protocol should be used on drums, roll offs and containers of abrasive mixtures?

A: It is important that you collect samples from drums, roll offs, and containers of abrasive mixtures that are representative of the waste. EPA has general sources of guidance with respect to the development of a sampling plan. These include "Petitions to Delist Hazardous Waste - A Guidance Manual" (EPA/503-SW-85-003, April 1985) which discusses the concept of representative sampling (section 7.1) and sampling techniques for various sampling situations, such as how you would sample a waste contained in drums (section 7.31). Also see 40 CFR Part 261 Appendix I provision is applicable ?? treatment, storage, and disposal

EPA realizes that sampling is a complex procedure and the representativeness of the sample is critical to the accuracy of the waste characterization. Therefore, we strongly recommend that you contact the EPA Regional office for your area and the state and local regulatory agencies for additional information or clarification on the appropriate sampling protocol for your specific situations.

Q: c. Can on-site stabilization be done for these special bridge projects throughout a state without establishing a TSD facility?

A: Yes. Based on the above scenario and under the federal hazardous waste regulations, on-site stabilization can be conducted without establishing a TSD facility. EPA allows for limited on-site accumulation or storage by a generator, regardless of whether the hazardous waste is treated or not treated, without the need of a permit or interim status (90 days for generators of 1000 kg/mo or more of total hazardous waste and 180 (270 if waste will be transported 200 miles or more from site of generation) days for generators of more than 100 but less than 1000 kg/mo of total hazardous waste) (see 55 FR 10168, March 24, 1986). In addition, generators (in this case C/P Utility Services would be the generator) must comply with all applicable Subtitle C requirements. For example, on-site hazardous waste stabilization or treatment processes must be conducted in accumulation tanks or containers in conformance with the requirements of § 262.34 and Subparts J or I of Part 265. Generators not in compliance with the above-prescribed requirements must comply with all applicable RCRA requirements as a TSD facility.

Q: d. Is it allowable to inject a percentage of iron shot into a mineral abrasive to mask the lead in a subsequent TCLP test?

A: The hazardous waste regulations do not restrict the use of ingredients for the purpose of preventing waste from exhibiting a hazardous characteristic. In fact, this could be a desirable process change to make the waste less hazardous. However, in this case, we understand that introducing iron to the abrasive-only temporarily prevents lead from leaching from the waste, so it "masks" the lead, but does not really change the character of the waste. If your clients choose to do this, they should be aware of two points:

1) If the waste passes the TCLP initially, but then fails later prior to disposal, the waste is hazardous, subject to all applicable hazardous waste rules.

2) If the waste passes the TCLP and is disposed of as non-hazardous waste, the generator may, nonetheless, be held liable under CERCLA for any environmental damages caused by release of the lead into the environment.

Q: e. Can the State DOT choose a central collection point to accumulate waste from several projects?

A: Yes. If the State DOT determines that it is necessary that a central collection point to accumulate waste from several projects be established (e.g., in order to eliminate transportation or traffic impediments), and the waste is hazardous, prior to movement of the waste from each site (i.e., "several projects") to a central collection point, generators are required under the Federal hazardous waste regulations to prepare a manifest. In addition, a transporter must not transport hazardous waste without having received an EPA identification number from the EPA Regional Administrator. Furthermore, a transporter must store manifested shipments of hazardous waste in containers meeting the requirements of § 262.30 at the transfer facility (i.e., "a central collection point to accumulate waste") for a period of ten days or less in order to avoid regulation as a TSD facility for storage of those wastes (see 40 CFR 262.20, 263.11-.12).

I hope the responses to your questions are of assistance. Of course, state and local agencies may have regulations that are more stringent and would thus, as a practical matter, supersede the Federal regulations. Furthermore, the answers to the questions you raised are likely to vary from site to site and from state to state depending on the particular situation and the particular state's regulations. Therefore, I suggest that you contact the state waste management agency where specific paint removal activities are planned for relevant requirements and regulatory interpretations. In addition, you may want to contact the local EPA regional office, particularly if you plan on activities within states which do not have approved hazardous waste management programs.

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If you have any further questions, please contact  
Daryl Moore of my staff at (202) 475-6721.

Sincerely yours,

David A. Bussard  
Director  
Characterization and Assessment Division

cc: Carrie Wehling, OGC  
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RCRA/Superfund Hotline  
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