

PPC 9444.1980(03)

WASTES FROM STORAGE OF PETROLEUM PRODUCTS

NOV 17 1980

Mr. R. E. Hoyle
Manager, Operations
Koch Fuels, Inc.
P.O. Box 2338
Wichita, Kansas 67201

Dear Mr. Hoyle:

This is in response to your letter of September 11, 1980, requesting clarification of our RCRA hazardous waste management regulations relative to bottom sediments, water wastes and spilled material and mixtures resulting from storage of petroleum products. You ask whether these wastes are hazardous wastes by virtue of containing any of the constituents, such as benzene, listed in Appendix VIII of Part 261 of our regulation.

These wastes would only be hazardous waste if:

1. they are listed as hazardous wastes in §§261.31 or 261.32 of our regulations; or
2. they are mixtures that contain any of the hazardous wastes listed in §§261.331 or 261.32 of our regulations.
3. they exhibit any of the characteristics of hazardous wastes described in Subpart C of Part 261 of our regulations.

From the information provided in your letter, it appears that your wastes do not meet either of the first two criteria. Your letter does not provide sufficient information to make a judgment based on the third criterion.

Relative to your questions about Appendix VIII, that Appendix is only meant to be used by EPA in making judgments about listing wastes as hazardous wastes. It is not intended that the regulated community must use Appendix VIII to determine whether a waste is a

hazardous waste. Put in other words, a waste that contains an Appendix VIII constituent is only a hazardous waste because of this if EPA has listed the waste for this reason in §§261.31 or §261.32.

If your wastes contain any of the Appendix VIII constituents but these wastes are not listed in §§261.31 or 261.32, this does not necessarily mean that EPA has made a determination that these wastes are non-hazardous. It most likely means that we have not yet made a determination with respect to these wastes.

I hope I have clarified our regulations with respect to your questions. If I can of further assistance, please call me.

Sincerely yours,

Gary N. Dietrich
Associate Deputy Assistant Administrator
for Solid Waste