

PPC 9451.1984(02)

RESPONSIBILITY OF GENERATOR IN HAZARDOUS WASTE
DETERMINATIONS

September 4, 1984

K. T. Allford
NL Treating Chemicals
NL Industries, Inc.
17402 Wallisville Rd.
P.O. Box 490
Channelview, TX 77530

Dear Ms. Allford:

I am writing in response to your July 24, 1984, request for application of the Resource Conservation and Recovery Act (RCRA) hazardous waste identification regulations as they apply to SULFA-CHECK spend slurry.

It is the responsibility of the person who generates a solid waste to determine whether the waste is a hazardous waste, following the procedures outlined in 40 CFR 262.11. First SULFA-CHECK is not excluded from regulation in §261.4. Second, determine whether SULFA-CHECK is a listed waste from 40 CFR 261 Subpart D, and, third, determine whether or not SULFA-CHECK is hazardous based on 40 CFR 261 Subpart C characteristics either by testing or applying knowledge. Steps 2 and 3 are elaborated on below.

Since it is spent, it is neither a §261.33(e) or (f) unused commercial chemical product, off-specification species, container, nor spill residue of those listed chemicals. You have probably eliminated the §261.31 and §261.32 source listings based on your knowledge of the waste.

The sample has a flash point of over 200 degree F, but the test procedure was not specified. Ordinarily, open cup tests (such as the Department of Transportation requires) will produce higher flash points than the closed cup tests required by EPA. You should determine what type of flash point protocol was used by the Chemical Research Laboratories.

If SULFA-CHECK is aqueous, it is not corrosive. If it is a nonaqueous liquid, the "quarter-inch" corrosivity test (or an equivalent method) outlined in 261.22 must be performed.

Although the RCRA regulations do not specify tests for reactivity, suggested cyanide and sulfide concentrations are less than 10 ppm, or roughly 10 mg/kg. You should ascertain the reactivity status of SULFA-CHECK.

In terms of EP toxicity criteria, your laboratory report does not indicate how the analysis was performed, and your enclosed analysis does not indicate concentrations of the pesticides produced by the EP toxicity procedure. You can probably conclude, based on the starting composition of SULFA-CHECK and the type of use it has, that none of the heavy metals or pesticides designated in the EP toxic test would be found in SULFA-CHECK.

You should not perform the determinations outlined in 40 CFR 261.11(a)(2) to classify your waste. The Administrator uses those criteria to designate solid wastes as hazardous waste. Thus, even if a solid waste met one of the criteria, it is not a hazardous waste until so designated by EPA.

I hope this overview of the hazardous waste determination clarifies the steps you must take in order to certify whether or not SULFA-CHECK is a RCRA hazardous waste. On the basis of what you wrote, SULFA-CHECK would not be a RCRA hazardous waste, but you will have to confirm this preliminary determination by reviewing the points I have raised. You can understand why the regulations (262.11) make it the generator's responsibility to determine whether their solid waste is hazardous, considering the many parameters involved.

As you may know, 44 States and territories have instituted hazardous waste programs that operate in lieu of RCRA. In those States, you will have to comply with State hazardous waste specifications, instead of the Federal standards. You should contact the appropriate State agency to acquire their regulatory standards. For a copy of the State hazardous waste agency addresses and phone numbers, and for a further discussion of your question, call the RCRA/Superfund Hotline at 800-424-9346.

Please do not hesitate to call me at (202) 382-4770 if the Hotline cannot clarify these issues for you.

Sincerely yours,

Alan S. Corson
Chief
Studies and Methods Branch