

August 15, 1997

D.J. Rapp, President  
Waste Transfer Technology  
7108 Red Barn Road  
Crystal Lake, IL 60012

Dear Mr. Rapp:

This letter is in response to your inquiry of June 16, 1997 describing a process used to collect and treat spent abrasive wastes generated by industries which use abrasive blasting processes to clean or remove surface coatings from metals. You describe the spent abrasive wastes as characteristically hazardous for toxicity (heavy metals constituents), because the abrasives are mixed with the metal coatings being removed (e.g., lead paint). Your letter asks our view as to whether the device used in your treatment process meets the 90-day generator accumulation provisions of 40 CFR 262.34, thereby exempting the unit from RCRA permitting requirements.

The process you describe in your letter uses a vacuum system that collects and conveys spent abrasive wastes through a system of ducting leading to a containment device. During conveyance of the wastes, additives, such as enhanced Portland cement and other proprietary silicate materials, are introduced into the ducting to treat the wastes by stabilizing the toxic metals. The mixing of wastes and additives is achieved by turbulent flow within the device. Treated wastes exit the device into a containment unit and are tested using the toxicity characteristic leaching procedure (TCLP) to demonstrate they are no longer characteristically hazardous for toxicity.

You ask about the applicability of '262.34 to your device, allowing accumulation of wastes for up to 90 days without a permit or without having interim status. If wastes are treated in a separate treatment unit (other than a unit in conformance with the requirements of ' 262.34), a permit or interim status would generally be required, unless the unit is otherwise exempt from permitting. The answer depends on the exact configuration of the unit. However, based upon the facts as we understand them from your letter, your device does not appear to resemble either a tank or a container, which

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typically is designed to accumulate or hold wastes, but appears to be a unit that treats wastes between the point of collection and the point of accumulation. If this is the case, the device could be a regulated treatment unit subject to permitting under the part 264 miscellaneous unit (subpart X) standards.

Because the question of whether your device is a 90-day generator accumulation device depends upon site-specific facts, the final determination as to the device's status should be made on a site-specific basis by the appropriate regulatory authority in the state where the device is operated. Please keep in mind that RCRA authorized states may have more stringent requirements than the federal program. We, therefore, recommend that owners or operators using the treatment process you describe contact their appropriate state regulatory agency to determine whether any additional requirements apply.

Furthermore, please note that treated wastes must continue to pass the TCLP until the time of disposal to remain excluded from hazardous waste regulation. In other words, if treated abrasive waste passes the test when initially tested, but is later retested and found to exhibit the characteristic, it becomes regulated hazardous waste. Also, any applicable land disposal restrictions requirements (see 40 CFR part 268) for characteristic wastes must be met before the wastes are land disposed. Please be aware that generators may be held liable under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for any environmental damages caused by the release of a hazardous material into the environment. CERCLA liability is independent of any hazardous waste determination that may be made.

Thank you for the opportunity to respond to your inquiry. If you have any further questions, please contact Jeff Gaines of my staff at (703) 308-8655.

Sincerely,

Sonya Sasseville, Acting Chief  
Permits Branch (5303W)  
Office of Solid Waste

cc: Steve Heare, PSPD  
Frank McAlister, PSPD  
Chris Rhyne, PSPD

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