



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

FEB 26 1998

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Harold L. Dye, Jr.  
Administrator  
Hazardous Waste Program  
Maryland Department of the Environment  
2500 Broening Highway  
Baltimore, MD 21224

Dear Mr. Dye:

Thank you for your letter of January 5, 1998 regarding a petition you received from the Potomac Electric Power Company (PEPCO) seeking to take advantage of the exclusion for trivalent chrome from toxicity characteristic (TC) regulation under RCRA (40 CFR 261.4(b)(6)). PEPCO generates a chrome-bearing wastewater at one of their Maryland facilities, and ships the wastewater for treatment to the E. I. du Pont Chambers Works facility in Deepwater, New Jersey. du Pont treats the wastewater, discharging the treated water (under NPDES) and generating a chrome-bearing filter cake, which is disposed in an on-site landfill. PEPCO believes the wastewater will satisfy the 3-part criteria described in the October 30, 1980 Federal Register which created the exclusion.

Because neither Maryland nor New Jersey are authorized to administer the federal TC rules, the wastes in question are federally regulated hazardous waste. Therefore, a rulemaking petition to take advantage of the trivalent chrome exclusion would need to be submitted to EPA for review and approval. The three part test involves generation and management of the trivalent chrome-bearing waste in a non-oxidizing environment. This is described in the October 30, 1980 Federal Register. Also, the filter cake generated by du Pont would be considered a newly generated waste. Presumably this waste also fails the chrome TC level. E.I. du Pont would also need to submit a petition to claim the trivalent chrome exclusion. A joint petition from both PEPCO and du Pont would be the simplest approach.

Presumably PEPCO and du Pont would also need to submit petitions (or follow other state administrative processes) to Maryland and New Jersey, respectively, to be excluded from any state regulations that parallel the TC rules.



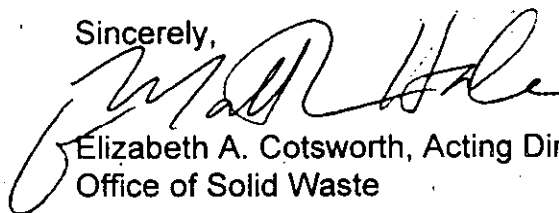
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On receipt of such a petition, the Agency would evaluate and respond to it in the Federal Register with a proposed rule, in coordination with EPA Regions 2 and 3, and Maryland and New Jersey state regulators. A complete description of the waste generated and its management will be critical to making a determination about the applicability of the exclusion. This should include a detailed description of the non-oxidizing conditions of generation and management of the waste.

I hope this addresses your immediate questions about the trivalent chrome exclusion in relation to PEPCO's wastewater; we will review and evaluate the detailed data when we have a full package from PEPCO and du Pont. Please contact my office or call Gregory Helms of my staff at 703-308-8845 if you have additional questions.

Sincerely,



Elizabeth A. Cotsworth, Acting Director  
Office of Solid Waste

Ms. Denise Campbell, PEPCO

MDE

MARYLAND DEPARTMENT OF THE ENVIRONMENT  
2500 Broening Highway • Baltimore, Maryland 21224  
(410) 631-3000

Control Hazard  
by EMRAD ✓

Parris N. Glendening  
Governor

Jane T. Nishida  
Secretary

January 5, 1998

received  
1/9/98 myc.

Ms. Elizabeth Cotsworth  
Acting Director  
Office of Solid Waste (5301W)  
401 M Street, SW  
Washington, DC 20460

Dear Ms. Cotsworth:

The Maryland Department of the Environment has received a petition from the Potomac Electric Power Company (PEPCO) to amend the State's hazardous waste regulations to regulate chromium-containing wastewaters from the cleaning of boilers that exhibit the characteristic of toxicity as a solid waste which is not a hazardous waste. Specifically, PEPCO is requesting that the Code of Maryland Regulations (COMAR) 26.13.02.04-1A(10)(b) be amended to include these wastewaters. The federal analog to this State regulation is 40 CFR 261.4(b)(6)(ii).

We are writing to you for a clarification of the criterion found at 40 CFR 261.1(b)(6)(i)(C) that the chromium-containing waste be managed in a non-oxidizing environment. We have received the October 30, 1980 Federal Register notice in which the exclusion initially appeared. Information on page 72036 of the notice indicates that waste management in a non-oxidizing environment primarily means management in a landfill. Our question is whether waste management in an alternative unit such as a wastewater treatment unit is also acceptable if the petitioner can demonstrate that a non-oxidizing environment is present throughout the management process.

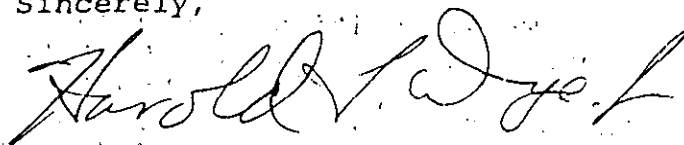
PEPCO maintains that the boiler cleaning wastewater is hazardous solely due to the presence of chromium above the regulatory level of 5.0 mg/l based on the Toxicity Characteristic Leaching Procedure (TCLP), and that nearly all of this chromium is in the trivalent rather than the hexavalent form. PEPCO has submitted information to us to support its claim that the wastewater meets the three criteria of COMAR 26.13.02.04-1(10)(a), also found in 40 CFR 261.4(b)(6)(i), for exclusion of the wastewater from classification as a hazardous waste. This information includes copies of hazardous waste manifests, material safety data sheets for the boiler cleaning chemicals, and analytical chemical data on samples of various boiler cleaning wastewaters.

Ms. Elizabeth Cotsworth  
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PEPCO now ships this wastewater to the E.I. du Pont Chambers Works in Deepwater, New Jersey. Manifest data indicates that the wastewater is primarily aqueous and contains a maximum of 25 ppm chromium, as well as up to 6% diammonium salts. Wastewater treatment includes the precipitation of chromium with lime to form a metal hydroxide-containing sludge, which is subsequently dewatered, pressed into a filter cake, and placed in an on-site landfill. The Hazardous Waste Program received a letter dated November 3, 1997 from the du Pont facility in Deepwater stating that treatment does not oxidize trivalent chromium to hexavalent chromium. Based upon the information provided to us, and on considerations of chemical equilibrium, it would appear to be unlikely that the trivalent chromium would oxidize under these conditions. If PEPCO's and du Pont's assertions are correct, would this waste stream be eligible for exemption under 40 CFR 261.4(b)(6)(ii), or is there a more restrictive interpretation of the phrase "nonoxidizing environment" in 40 CFR 261.1(b)(6)(i)(C)?

If you have any questions concerning this correspondence, please telephone Mr. Edward Hammerberg, Chief, Regulations/Permitting Division, at (410) 631-3345.

Sincerely,



Harold L. Dye, Jr., Administrator  
Hazardous Waste Program

HLD:GES:trb

cc: Mr. Richard W. Collins  
Mr. Edward Hammerberg  
Ms. Denise Campbell  
Ms. Ginny Sells