

Terri Zick, CHMM
CTI & Associates, Inc.
12482 Emerson Drive
Brighton, MI 48116

Dear Ms. Zick:

Thank you for your e-mail of September 9, 2003, to James Michael of the Environmental Protection Agency (EPA) in which you ask for a regulatory clarification regarding the applicability of the F006 classification to wastes generated from the chemical etching of magnesium.

In your e-mail, you stated that you believe the wastes generated from the chemical etching of magnesium fall outside the definition of the F006 listing. You base this view on the fact that the chemical etching does not occur on a common or precious metal as defined in the listing background document (11/14/80) and the development document for proposed and existing source pretreatment standards for the electroplating industry (EPA, 2/78).

The applicability of a Resource Conservation and Recovery Act (RCRA) hazardous waste listing is determined in the first instance by the regulatory language. The F006 listing covers wastewater treatment sludges from certain electroplating operations. The listing applies to chemical etching, among other activities, and only excludes the chemical etching of aluminum. Magnesium etching is not excluded from the F006 listing. In a December 2, 1986, Federal Register notice, EPA further interpreted the F006 language to apply to "common and precious metals," but this interpretation applied only in certain instances, and did not affect chemical etching. Specifically, EPA's interpretative rule at 51 FR 43351 (December 2, 1986) states, "The F006 listing is (and always has been) therefore, inclusive of wastewater treatment sludges from only the following processes: (1) Common and precious metals electroplating, except tin, zinc (segregated basis), aluminum, and zinc-aluminum plating on carbon steel; (2) anodizing, except sulfuric acid anodizing of aluminum; (3) chemical etching and milling, except when performed on aluminum; and (4) cleaning and stripping, except when associated with tin, zinc, and aluminum plating on carbon steel." Thus, while the scope of electroplating processes is limited to common and precious metals with the exceptions as noted above, there are no such limitations for the remaining processes (anodizing, chemical etching and milling, and cleaning and stripping). Therefore, there is no exception for specific metal types from the listing for any of the remaining processes. Thus, wastewater treatment sludges generated from chemical etching of magnesium are subject to the F006 listing.

We appreciate your concern that the background listing document didn't specifically mention the chemical etching of magnesium. However, EPA's listings are defined by the regulatory language, and background documents don't necessarily catalogue every waste material that fits within that definition. In those situations where processes aren't specifically mentioned, EPA follows the straight reading of the regulations.

You indicated that analysis of the wastewater treatment sludge does not show the constituents of concern for the F006 listing. If you believe that the wastewater treatment sludge does not contain any of the constituents of concern for the F006 listing, you may be eligible for a "delisting." Delisting is the procedure by which you can remove a waste from a hazardous waste listing. Since the State of Michigan is not authorized to make delisting decisions, you will need to work with EPA Region 5 if you wish to explore this option. The Regional contact for delisting is Judy Kleiman. Judy can be reached at (312) 886-1482.

If you have any additional questions, please contact James Michael of my staff at (703) 308-8610.

Sincerely,

Robert Dellinger, Director
Hazardous Waste Identification Division

cc: James Michael, HWID, OSW
Judy Kleiman, Region 5, USEPA
Jack Schinderle, Michigan DEQ

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