



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

FEB 18 2004

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Robert A. Barkholz, P.E., Associate
Malcolm Pirnie, Inc.
1500 Abbott Road
Suite 210
East Lansing, Michigan 48823

Dear Mr. Barkholz:

I am writing in response to your letter of January 22, 2004, requesting guidance on the RCRA "P" and "U" hazardous waste codes. You asked if the "P" and "U" codes apply for certain discarded, damaged or unsold commercial lawn fertilizers mixed with insecticides or herbicides. In the letter you provided several scenarios, and questioned whether the insecticide/herbicide ingredients are considered to be the sole active ingredients.

An unused commercial chemical product, when discarded, may carry a "P" or "U" hazardous waste code if it contains a chemical listed in §231.33(e) or 261.33(f), respectively, as the sole active ingredient.¹ In other words, the listings in §261.33 do not include chemical mixtures where the listed chemical is not the sole active ingredient, regardless of whether only one or more active ingredients are present. Note that "sole active ingredient" means the active ingredient is the only chemically active component that performs the function of the product.

More specifically, when a formulated product has more than one chemical or compound as an active ingredient, the presence of a "P" or "U" chemical substance in the formulation does not render the product, when discarded, a P- or U- listed hazardous waste. Based on the limited information on the commercial lawn fertilizers described in your letter, it appears the insecticides/herbicides in those fertilizers are not the sole active ingredients, because the fertilizer components (typically nitrogen, phosphorous and potassium compounds) perform the function of the product as well, i.e., perform as active ingredients. Therefore, such lawn fertilizer products are not P- or U- listed hazardous wastes once discarded.

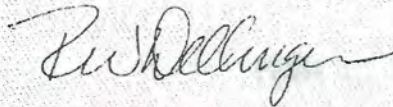
Nevertheless, as you also noted, such discarded fertilizer products still need to be evaluated to determine if they exhibit any of the hazardous waste characteristics pursuant to §231.21 - 24. Furthermore, please be aware that States authorized to implement and

¹ Per "commercial chemical product or manufacturing chemical intermediate" defined in §231.33(d)[Comment].

enforce the RCRA programs can be more stringent than the Federal regulatory requirements under Section 3009 of RCRA. Consequently, you should contact the appropriate State authorities for the final determinations as to the status of specific waste materials in those States.

Thank you for your inquiry. If you have further questions concerning this matter, please feel free to call Chichang Chen of my staff at (703) 308-0441.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Dellinger".

Robert Dellinger, Acting Director
Hazardous Waste Identification Division
Office of Solid Waste