



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

MAR 02 2016

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Mr. Ethan Ware
Williams Mullen
1441 Main Street, Suite 1250
Columbia, South Carolina 29201

Dear Mr. Ware,

Thank you for your letter to the Assistant Administrator of the Office of Land and Emergency Response, Mathy Stanislaus, dated December 18, 2015. Your letter was forwarded to my office, the Office of Resource Conservation and Recovery for a response. In your letter, you ask whether the compacting and baling of characteristic hazardous waste air flow filters in a totally enclosed canister is considered treatment subject to the hazardous waste regulations and in particular permitting, if the purpose of the process is to prepare the filters for offsite disposal as a hazardous waste.

Per the definition in 40 CFR 260.10, "*treatment* is any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume."

Determinations of whether a particular process constitutes treatment are normally very site specific and we recommend you work with your state to discuss the particulars of your situation. However, based on the limited facts presented in your letter, the EPA believes the compacting and baling of the hazardous waste air filters meet the definition of treatment.

As you noted in your letter, and as stated in EPA correspondence (e.g., RCRA Online (RO) 12335), the definition of treatment is made of two parts: the change in the waste's character effected by treatment and the purpose of the change. While the Agency made a determination in RO 12335 that the Great Lakes Carbon Corporation process did not constitute treatment, the process described in your letter does not fit the description upon which we made the Great Lakes determination and differs significantly.

Your process of compacting and baling hazardous waste air filters in a totally enclosed canister constitutes treatment because the waste's physical characteristics are changed so as to reduce its volume, thus satisfying both parts of the definition of treatment.

The preamble to the March 24, 1986 final regulations for small quantity generators states that, "...no permitting would be required if a generator chooses to treat their hazardous waste in the generator's

accumulation tanks or containers in conformance with the requirements of Section 262.34 and J or I of Part 265” (See March 24, 1986, 51 FR 10168). This interpretation is reiterated and applicable to all small quantity and large quantity generators as clarified in numerous regulatory interpretations such as RO 11163, RO 12694, RO11310, and RO 11207. Treatment in other than tanks and containers (e.g., treatment in an incinerator or surface impoundments) would continue to require a permit. And, thermal treatment in generator tanks and containers, is not allowed.

Should the facility compacting and baling the hazardous waste air flow filters be able to conduct its treatment in conformance with 40 CFR 262.34 and the generator container and tank standards in 40 CFR Part 265 subparts I and J, then this treatment may be conducted without a RCRA permit.

Please note that this letter only discusses the federal RCRA hazardous waste regulations. Under section 3006 of RCRA, individual states can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. States that are authorized to implement the RCRA program have authority to promulgate regulations that are more stringent than the federal program. You should consult with the appropriate authorized state agency for any site-specific guidance. If you have any questions about the federal hazardous waste regulations discussed in this letter, please contact Jessica Young at 703-308-0026 or young.jessica@epa.gov.

Sincerely,



Barnes Johnson, Director
Office of Resource Conservation and Recovery

cc: Denise Housley- EPA R4
Joe Bowers- SCDHEC