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Agency

Solid Waste and
Emergency Response
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Index of Selected OSW Correspondence

EPA Office of Solid Waste

Updated as of December 1995

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

FEB 26 1996

MEMORANDUM

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

SUBJECT: OSW's Fax-Back Service

FROM: Michael Shapiro, Director
Office of Solid Waste

TO: RCRA National Policy Directors, EPA Regions I-X
State Solid and Hazardous Waste Directors

To facilitate access to OSW guidance regarding RCRA regulations, we have implemented a fax-back system to distribute over 900 OSW letters or memoranda, as well as recent Environmental Fact Sheets and newsletters. The attached "Index to Selected OSW Correspondence" provides summaries of the correspondence available through the fax-back system.

The Index was designed as a research tool for identifying EPA policy statements about specific RCRA issues, and will be updated on an annual basis. The Index references each letter or memorandum under the appropriate Code of Federal Regulations (CFR) citation(s). To receive a copy of a memorandum from this Index, note the five-digit fax-back numbered referenced in the Index, dial 202-651-2060 from a fax machine and follow the prompts (see attached instructions).

Users of the Index should note that the referenced letters and memoranda are not by any means a complete representation of the guidance available from EPA on RCRA issues. Users should always consult other sources of information such as the CFR, the Federal Register, Monthly Hotline Reports, EPA guidance documents, and the RCRA Permit Policy Compendium to ensure complete research.

Additional copies of the "Index of Selected Correspondence" can be ordered through the National Technical Information Service at 703-487-4650. The order number is PB96-129 069. The Index will also be made available on EPA's public access server via the Internet.

For more information about this index, the correspondence it references, or about any RCRA regulatory issue, please contact the RCRA/Superfund/EPCRA Hotline at 1-800-424-9346 or 703-412-9810 (within the Washington, DC area). For the hearing-impaired, the TDD number is 1-800-553-7672.

Attachments

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OFFICE OF SOLID WASTE
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Introduction to the Fax-on-Demand Service:
OSW's fax-on-demand service is a publicly-accessible service which enables users to receive Selected Office of Solid Waste Correspondence (SOC), selected Environmental Fact Sheets, and selected newsletters. Users can access the fax-on-demand system 24 hours a day and request up to three documents at one time.

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INDEX OF SELECTED OSW CORRESPONDENCE
TABLE OF CONTENTS

INTRODUCTION AND DISCLAIMER vii

ACRONYMS AND ABBREVIATIONS viii

RCRA SUBTITLE D: MISCELLANEOUS ISSUES

Applicability 1
Future Regulations 1
Imports/Exports 1
Municipal Solid Waste Landfill Criteria 2
Municipal Solid Waste Landfill Remediation 2
Recycling Grants 2
Solid Waste and Municipal Solid Waste Combustion 2

RCRA SUBTITLE C: MISCELLANEOUS ISSUES

Enforcement
§3007 4
§3009 4
RCRA Implementation Issues 4
RCRA/NEPA Interface 4
RCRA/Superfund Interface 5
Strategy for Hazardous Waste Minimization and Combustion 6

PART 259: MEDICAL WASTE

General 8

PART 260: HAZARDOUS WASTE MANAGEMENT SYSTEM

SUBPART B: DEFINITIONS
260.10: Definitions
Boiler/Industrial Furnace 17
Container 17
Designated Facility 17
Disposal 18
Elementary Neutralization Units 19
Generator 19
Incinerator 20
Individual Generation Site 20
On-site 20
Representative Sample 21
Sludge 21
Storage 24
Totally Enclosed Treatment Unit 24
Transportation 25
Treatment 25
Wastewater Treatment Unit 29
260.11: Test Methods/References 33

SUBPART C: RULEMAKING PETITIONS
260.20: General 33
260.22: Delisting 33
260.30 and 260.31 Variances from Solid Waste Classification ... 36

PART 261: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

GENERAL WASTE IDENTIFICATION AND APPLICABILITY ISSUES
Active Management 38
Point of Generation 39

SUBPART A: GENERAL
261.1(b): 261.2 Does Not Apply to Nonhazardous Materials 41
261.1(c): Definitions of Terms
By-product/Co-product 42
Commercial Chemical Products 46
Reclamation 46
Scrap Metal 48
Speculative Accumulation 51
Spent Material 51
Use/Reuse 57
261.2: General Definition of Solid Waste Issues
Contained Gases 57
Continued Use of Products vs. Solid Waste Recycling 58
Miscellaneous 60
Sham Recycling 61
261.2(a)&(b): Discarded and Abandoned 63
261.2(c)(1): Use Constituting Disposal 66
261.2(c)(2): Use as a Fuel 71
261.2(c)(3): Reclamation 74
By-products Destined for Reclamation 74
Commercial Chemical Products Destined for Reclamation ... 77
Scrap Metal Destined for Reclamation 80
Sludges Destined for Reclamation 81

Spent Materials Destined for Reclamation 84
261.2(c)(4): Speculative Accumulation 88
261.2(d): Inherently Waste-like Materials 89
261.2(e): Use/Reuse 89
261.2(f): Documentation of Recycling Claims 97

261.3(a): Mixture Rule 98
Product Carryover vs. Hazardous Waste Mixture 102
261.3(a)(2)(iii): Mixtures Involving Wastes Listed Solely For Characteristics 104
261.3(a)(2)(iv): Exempt Mixtures 106
261.3(a)(2)(iv)(A)&(B): Spent Solvents 107
261.3(a)(2)(iv)(D): *De Minimis* Losses of Commercial Chemical Products 108
261.3(a)(2)(iv)(E): Toxic Wastes from Laboratories Not > 1% 108
261.3(a)(2)(iv)(F): Exemption for K157 Carbamate Wastewaters 109
261.3(c)&(d): Derived-from Rule 109
261.3(c)(2)(i): Products Reclaimed from Hazardous Wastes Are Not Wastes 114
261.3(c)(2)(ii): Derived-from Rule Exemptions 117
261.3(f): Contained-in Policy/Rule 118

261.4(a): Materials Not Solid Wastes
261.4(a)(1): Domestic Sewage 122
261.4(a)(2): Industrial Wastewater Discharges 123
261.4(a)(4): Nuclear Materials 124
261.4(a)(7): Sulfuric Acid 124
261.4(a)(8): Closed-loop Reclamation 125
261.4(a)(10): Coke By-products 125
261.4(a)(12): Recovered Oil 126
261.4(b): Solid Wastes Not Hazardous Wastes
261.4(b)(1): Household Hazardous Waste 126
261.4(b)(4): Coal/Fossil Fuel Combustion Wastes 130
261.4(b)(5): Oil and Gas Exploration and Production Wastes 131
261.4(b)(6): Tanning Industry Wastes 131
261.4(b)(7): Mining and Mineral Processing Wastes 132
261.4(b)(8): Cement Kiln Dust 132
261.4(b)(9): Treated Wood Products 133
261.4(b)(10): Petroleum-contaminated Media and Debris 133
261.4(b)(11): Injected Groundwater 134
261.4(b)(13): Non-terne Plated Used Oil Filters 134
261.4(c): Manufacturing Process Units/Product Vessels 134
261.4(d): Samples Exclusion 135
261.4(e)&(f): Treatability Studies Exclusion 136
261.5: Conditionally Exempt Small Quantity Generators 136
261.5(c)&(d): Counting 138
261.6(a)(2): Recyclable Materials Subject to Part 266 141
261.6(a)(3): Conditionally Exempt Wastes 144
261.6(a)(3)(ii): Used Batteries Sent for Regeneration 145
261.6(a)(3)(iii): Scrap Metal that is Recycled 146
261.6(a)(3)(iv)-(vii): Fuels from Refining Oil-bearing Hazardous Waste 150
261.6(a)(4): Used Oil that is Recycled 150
261.6(b): Generators and Transporters of Recycled Materials 151
261.6(c): Recyclers and Storers of Recyclable Materials 152

261.7: Empty Containers 157
261.8: TSCA-regulated PCB Wastes 160

SUBPART B: CRITERIA FOR IDENTIFYING AND LISTING HAZARDOUS WASTE
261.11: Criteria For Listing 160

SUBPART C: CHARACTERISTIC WASTES
Aerosol Cans 161
Batteries 162
Dioxin Wastes 162
Foundry Sand 165
Lead Based Paint Wastes 165
Manufactured Gas Plant Wastes 166
Mercury-containing/Fluorescent Lamps 166
Municipal Solid Waste Combustion Ash 167
Paint 167
Pesticides 169
Scintillation Cocktails/Radioactive Waste 170
Solvent Rags 171
Spent Carbon 173
Treated Wood 174
X-Ray Film 174
Other 175
261.21: Ignitable Wastes 178
261.22: Corrosive Wastes 180
261.23: Reactive Wastes 182
261.24: Toxicity Characteristic/Extraction Procedure Wastes 184

SUBPART D: LISTED WASTES
General 191

262.31: F-listed Wastes....191
F001-F005: General....192
F001-F005: Solvent Carryover....192
F001-F005: Solvent Ingredients in Paint Not Listed....192
F001-F005: Solvent Percentages Before Use....194
F001-F005: Solvent Use....196
F002....197
F003....201
F005....203
F006-F009: Current Electroplating Operations Definition..203
F006-F009: Electroplating Operations Definition (Not Current)....206
F006-F009: F006 Exclusions....207
F006-F009: F006 Sludges....208
F006-F009: F007, F008, F009....210
F010, F011, F012: Heat-Treating Wastes....211
F017, F018....211
F019: Conversion Coating Sludges....211
F020-F023, F026-F028: Dioxin Wastes....213
F032, F034, and F035: Wood Preserving Wates....216
F037 and F038: Petroleum Refining Wastes....216

261.32: K-listed Wastes
K001: Wood Preservation....217
K009-K136: Organic Chemicals....218
K031-K126: Pesticides....218
K044-K136: Explosives....219
K048-K052: Petroleum Refining....219
K060, K087, K141-K145, K147, K148: Coking....221
K061 and K062: Iron and Steel....221
K064: Primary Copper....223
K069 and K100: Secondary Lead....223
K078-K082: Paint Wastes....224
K086: Ink Formulation....224
K088: Primary Aluminum....224
K090 and K091: Ferroalloys....225
K156, K157, K158, K159, K160, K161: Carbamates....225

261.33: P- and U-listed Wastes
Discarded....225
General....227
Sole Active Ingredient....228
Technical Grade....230
Used/Unused....230
261.33(e): P-listed Wastes....233
261.33(f): U-listed Wastes....234

PART 261 APPENDICES

APPENDIX I: REPRESENTATIVE SAMPLING METHODS....237

APPENDIX III: CHEMICAL ANALYSIS TEST METHODS....237

APPENDIX VII: BASIS FOR LISTING HAZARDOUS WASTES....237

APPENDIX VIII: HAZARDOUS CONSTITUENTS....238

PART 262: GENERATOR STANDARDS

Cogenerators....239
Federal Hazardous Waste Generator Notification Policy....240
Generation....240
Liability....241
Ships as Generators....242
Who Is Generator of Treatment Residue....244

SUBPART A: GENERAL
262.10: Applicability....244
262.11: Hazardous Waste Determination....245
262.12: Identification Numbers....250

SUBPART B: THE MANIFEST
262.20: General Requirements....251
262.23: Use of the Manifest....253

SUBPART C: PRE-TRANSPORT REQUIRMENTS
262.30: Packaging....256
262.31: Labeling....257
262.32: Marking....257
262.34: Accumulation Time....257
262.34(c): Satellite Accumulation....264

SUBPART D: RECORDKEEPING AND REPORTING
262.41: Biennial Report....265

SUBPART E: EXPORTS OF HAZARDOUS WASTE....265

SUBPART F: IMPORTS OF HAZARDOUS WASTE....268

SUBPART G: FARMERS 270

PART 262 APPENDICES

APPENDIX: THE MANIFEST 271

PART 263: TRANSPORTERS

SUBPART A: GENERAL
263.10: Scope 272
263.11: Identification Numbers 273
263.12: Transfer Facilities 273

SUBPART B: THE MANIFEST AND RECORDKEEPING
263.20: The Manifest System 275
263.21: Compliance with the Manifest 276

SUBPART C: HAZARDOUS WASTE DISCHARGES 276
263.30: Immediate Action 276
263.31: Discharge Clean Up 276

PART 264/265: STANDARDS FOR PERMITTED/INTERIM STATUS FACILITIES

SUBPART A: GENERAL
264.1/265.1: Applicability 278
264.13/265.13: Waste Analysis 279

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING 279

SUBPART F: GROUNDWATER MONITORING 279

SUBPART G: CLOSURE 280

SUBPART I: CONTAINERS 281

SUBPART J: TANK SYSTEMS 281

SUBPART K: SURFACE IMPOUNDMENTS 282

SUBPART N: LANDFILLS 282

SUBPART O: INCINERATORS 282

SUBPART S: CORRECTIVE ACTION 284

SUBPART W: DRIP PADS 286

SUBPARTS X AND P: MISCELLANEOUS UNITS/THERMAL TREATMENT UNITS 287

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS 287

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT TANKS 287

SUBPART DD: CONTAINMENT BUILDINGS 287

PART 266: HAZARDOUS WASTE RECYCLING

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL 289

SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY 293

SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY 295

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED 297

SUBPART H: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY/BOILERS AND INDUSTRIAL FURNACES 298

PART 268: LAND DISPOSAL RESTRICTIONS

SUBPART A: GENERAL 303
268.3: Dilution Prohibition 305
268.4: Treatment in Surface Impoundment Exemption 306
268.5: Procedures for Case-by-Case Extensions to an Effective Date 306
268.6: No-migration Variances 307
268.7: Waste Analysis, Notification, and Recordkeeping 307
268.9: Notification for Characteristic Wastes 308
Listed Code Operating in Lieu of Characteristic Code 308
Notification for Wastes that Cease to Exhibit Characteristics 309

SUBPART C: PROHIBITIONS ON LAND DISPOSAL
268.30: Solvent Wastes....309
268.32: California List....310
268.33: First Third Wastes....311
268.35: Third Third Wastes....311

SUBPART D: TREATMENT STANDARDS
268.40-268.43: Waste Code-Specific Treatment Standards....312
Corrections to Treatment Standards....313
Differing Treatment Standards for Single Waste Constituent (§268.40(c))....313
F001-F005 Spent Solvent Treatment Standards....313
Specified Technology Treatment Standards....313
268.45: Alternative Debris Treatment Standards....314
268.48: Universal Treatment Standards....315

PART 268 APPENDICES

APPENDIX III: LIST OF HALOGENATED ORGANIC COMPOUNDS REGULATED UNDER §268.32....316

PART 270: HAZARDOUS WASTE PERMITS

General....317

PART 271: AUTHORIZATION OF STATE PROGRAMS

General....321

PART 273: STANDARDS FOR UNIVERSAL WASTES/ SPECIAL COLLECTION SYSTEM WASTES

General....322

PART 279: USED OIL MANAGEMENT STANDARDS

General....323

SUBPART A: DEFINITIONS....325

SUBPART B: APPLICABILITY....326

SUBPART C: GENERATORS....327

SUBPART D: COLLECTION CENTERS AND AGGREGATION POINTS....327

SUBPART E: TRANSPORTERS AND TRANSFER FACILITIES....328

SUBPART F: PROCESSORS AND REREFINERS....328

SUBPART G: BURNERS OF OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY....329

SUBPART I: USE AS DUST SUPPRESSANT AND DISPOSAL OF USED OIL....329

INTRODUCTION AND DISCLAIMER

This document is an index of selected Office of Solid Waste (OSW) correspondence that has been developed by the staff of EPA's RCRA/UST, Superfund, and EPCRA Hotline for use as a research tool about RCRA issues. Booz-Allen and Hamilton Inc. operates the Hotline under contract 68-W0-0039 to EPA. The following paragraphs explain the purpose, uses, and limitations of the index.

This index organizes summaries of over 900 letters and memoranda issued by OSW. Addressed primarily to persons in the regulated community as well as state and Regional regulators, the correspondence represents past EPA interpretations of the RCRA regulations governing management of solid, hazardous, and medical wastes.

This document and the summaries it contains are not intended to serve as statements of EPA policy. The index should not be cited or quoted and cannot be relied upon to create any substantive or procedural rights enforceable by any party in litigation with the United States. Rather, the index is a research tool enabling readers to identify EPA policy statements about specific RCRA issues.

Some of the correspondence referenced in this index may no longer reflect EPA's current regulations or policies. Whenever possible, the index indicates this. Users of the index should also note that the letters and memoranda referenced in this document are not by any means a complete representation of the guidance available from EPA on RCRA issues. These letters are not intended to replace or supersede the regulations. Users should always consult other sources of information such as the Code of Federal Regulations, the *Federal Register*, *Monthly Hotline Reports*, EPA guidance documents, and the *RCRA Permit Policy Compendium* to ensure complete research.

This document is designed for use by readers familiar with the federal RCRA program and the relevant regulations. The index's organization parallels that of 40 CFR Parts 258 to 279. The document indexes each letter or memorandum under the appropriate CFR citation (or citations) which the letter or memorandum clarifies.

For more information about this index, about the correspondence it references, or about any RCRA regulatory issue, please call the Hotline at the numbers listed below.

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Once readers identify correspondence of interest by using the index, they may contact the Hotline at the telephone number provided above for information about the multiple means of obtaining copies of the desired letters or memoranda. One means of obtaining these memos is through the EPA Fax-On-Demand system. To receive a fax copy of a memorandum from this index, note the five-digit FaxBack number referenced in the index, dial (202) 651-2060 from a fax machine, and follow the prompts.

ACRONYMS AND ABBREVIATIONS

AEA	Atomic Energy Act
AMC	American Mining Congress
AOC	Area of Contamination
API	American Petroleum Institute
ARAR	Applicable, Relevant, and Appropriate
ASTM	American Society Test Methods
BIF	Boilers and Industrial Furnaces
CA	Corrective Action
CAMU	Corrective Action Management Unit
CAS	Chemical Abstract Service
CCP	Commercial Chemical Product
CDC	Center for Disease Control
CDD	Chlorinated Dibenzo-para-dioxin
CDF	Chlorinated Dibenzofuran
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CESQG	Conditionally Exempt Small Quantity Generator
CFC	Chlorofluorocarbon
CKD	Cement Kiln Dust
CWA	Clean Water Act
DDT	Dichloro Diphenyl Trichloroethane
DIY	Do-It-Yourself
DOE	Department of Energy
DOT	Department of Transportation
E&P	Oil and Gas Exploration and Production
EAF	Electric Arc Furnace
ENU	Elementary Neutralization Unit
EP	Extraction Procedure
EPA	Environmental Protection Agency
FFCA	Federal Facility Compliance Act
First Third	First of Three Congressionally Mandated LDR Rulemakings
GW	Groundwater
HHW	Household Hazardous Waste
HOC	Halogenated Organic Compound
HTMR	High Temperature Metals Recovery
HW	Hazardous Waste
HWIR	Hazardous Waste Identification Rule
ID	Identification
Implementing Agency	State or Regional Office
LBP	Lead Based Paint
LDR	Land Disposal Restriction
LOIS	Loss of Interim Status
LQG	Large Quantity Generators
MARPOL	International Convention for the Prevention of Pollution from Ships
MCL	Maximum Contaminant Level
MRQ	Monthly Report Question
MSW	Municipal Solid Waste
MSWLF	Municipal Solid Waste Landfill
MTR	Minimum Technical Requirements
MW	Medical Waste
MWC	Municipal Waste Combustion
NCP	National Contingency Plan
NCV	National Capacity Variance
NPL	National Priorities List
NRC	Nuclear Regulatory Commission
OB/OD	Open Burning/Open Detonation
ORD	Office of Research and Development
OSHA	Occupational Safety and Health Administration
OSW	Office of Solid Waste
PCB	Polychorinated Biphenyls
PCP	Pentachlorophenol
PFT	Paint Filter Liquids Test
PIC	Product of Incomplete Combustion
POHC	Principal Organic Hazardous Constituent
QA/QC	Quality Assurance/Quality Control
RCRA	Resource Conservation Recovery Act
RMW	Regulated Medical Waste

RPPC	RCRA Permit Policy Compendium
Second Third	Second of Three Congressionally Mandated LDR Rulemakings
SIC	Standard Industrial Code
SQG	Small Quantity Generator
SW	Solid Waste
SW-846	Test Methods for Evaluating Physical/Chemical Methods
SWMU	Solid Waste Management Unit
TC	Toxicity Characteristic
TCDD	Tetrachlorodibenzo-p-dioxins
TCE	Trichloroethylene
TCLP	Toxicity Characteristic Leaching Procedure
Third Third	Third of Three Congressionally Mandated LDR Rulemakings
TOC	Total Organic Carbon
TSCA	Toxic Substances Control Act
TSDF	Treatment, Storage, and Disposal Facility
TSS	Total Suspended Solids
UO	Used Oil
USPS	United States Postal Service
UST	Underground Storage Tank
UTS	Universal Treatment Standards
WWTU	Wastewater Treatment Unit

RCRA SUBTITLE D
SUBTITLE D: MISCELLANEOUS ISSUES

Applicability

3/7/95	Friedman	to Hill	Region I	RCRA Subtitle D regulations (Part 257 open dumping rules and Part 258 MSWLF) may not apply to household waste disposed on residential property (i.e., in backyards)	Pages: 6 FaxBack: 11898

Future Regulations

11/8/91	Clay	to Van Putten	National Wildlife Federation	no additional regulations will be promulgated under Subtitle D for landfills and surface impoundments receiving dioxin-containing sludge from chlorine and chlorine derivative bleached pulp and paper mills	Pages: 10 FaxBack: 11652

Imports / Exports

9/14/89	Barnes	to Grieder	EPA HQ	EPA estimates of quantities of SW exported for disposal or recycling	Pages: 4 FaxBack: 11469
2/16/90	Lowrance	to Sutherland	Lomax Development Corp.	as of February 1990, EPA has no authority to control export of MSW to foreign countries; new requirements for MSW exports predicted as result of Basel Convention and pending legislation	Pages: 2 FaxBack: 11493

MSWLF Criteria

4/5/95	Shapiro	to	Waste Management Division Directors	Regions I-X	April 9, 1997, is new deadline for MSWLFs to obtain financial assurance; delay will allow development of local government and corporate financial test mechanisms	Pages: 2 FaxBack: 11902

MSWLF Remediation

7/10/85	Skinner	to	Suska	Baltimore City Health Dept.	closed MSWLF suspected of containing HW is subject to CA if facility on which landfill is located requires permit or if facility has interim status or should have had interim status; closed MSWLF still subject to CERCLA	Pages: 3 FaxBack: 11089

Recycling Grants

12/10/93	Weddle	to	Colleagues	EPA HQ and Regions	Jobs Through Recycling Initiative and EPA's plans to provide grants to SW Recycling and Reuse Business Assistance Centers (RBACs) and Recycling Economic Development Advocates (REDAs)	Pages: 3 FaxBack: 11799

SW And MSW Combustion

7/2/87	Williams	to	Wolman	EnerGroup, Inc.	SW incinerators are regulated by states in accordance with general EPA guidelines in 40 CFR Part 240; HW regulations do not govern burning of nonhazardous waste	Pages: 2 FaxBack: 11263
3/22/95	Laws	to	Regional Administrators	Regions I-X	ash from waste-to-energy facilities burning MSW no longer exempt from Subtitle C if it exhibits characteristics; revised deadlines and enforcement priorities for implementation of MSW combustion ash Supreme Court decision	Pages: 6 FaxBack: 11901

RCRA SUBTITLE C
SUBTITLE C: MISCELLANEOUS ISSUES

Enforcement

§3007

4/2/81	Lehman	to Arnold	Dow Chemical U.S.A.	EPA information gathering authority granted under RCRA §3007 extends to collection of economic data	Pages: 1 FaxBack: 11009

§3009

6/23/95	Shapiro	to Downey	Downey Chandler, Inc.	RCRA §3009 prohibits state governments or other political subdivisions from imposing regulations less stringent than federal RCRA Subtitle C rules on the same matter	Pages: 3 FaxBack: 11908

RCRA Implementation Issues

2/10/92	Clay	to Reilly	EPA HQ	overview of RCRA Subtitle C reform initiatives growing out of President's "90-day Review of Regulations;" concentration-based exemptions, UTS, post-closure permitting, remediation reforms	Pages: 35 FaxBack: 11665

RCRA / NEPA Interface

3/22/79	Rogers	to Plehn	EPA HQ	when promulgating RCRA rulemakings, EPA is exempt from National Environmental Policy Act (NEPA) requirement to prepare separate environmental impact statements (EIS) for every "major federal action significantly affecting" the environment	Pages: 8 FaxBack: 11001

RCRA / Superfund Interface

8/21/87	Longest	to Directors	Regions I-X	nothing precludes closed MSWLF from being placed on CERCLA NPL even if EPA cannot document that landfill received HW in past	Pages: 2 FaxBack: 11282
6/26/89	Cannon	to Simon	RI Division of Family Health	RCRA Subtitle C regulations are applicable at CERCLA cleanups; testing or applying knowledge of contaminated soils from CERCLA sites dictates whether soil is handled as HW ineligible for disposal in MSW landfill	Pages: 3 FaxBack: 11436
1/3/90	Clay	to Mineta	U.S. House of Representatives	Technical Assistance Grants (TAGs) already granted to communities near CERCLA sites may continue when sites are deferred to RCRA Subtitle C oversight prior to final cleanup	Pages: 2 FaxBack: 11484
2/2/90	Clay	to Zelikson	Region IX	Technical Assistance Grants (TAGs) already granted to communities near CERCLA sites may continue when sites are deferred to RCRA Subtitle C oversight prior to final cleanup	Pages: 3 FaxBack: 11487
7/11/90	Clay	to Wassersug and Mulkey	Region III	RCRA CA can be used at CERCLA NPL sites; §3008(h) actions at NPL sites need not comply with NCP remedy selection requirements; relationship between RCRA corrective action and CERCLA NPL deletion and deferral; CERCLA five year review at RCRA CA sites	Pages: 3 FaxBack: 11540

5/9/94	Laws	to	Waste Management Division Directors	Regions I-X	Combustion Strategy impact on HW incineration at CERCLA cleanups; HW combustion remains appropriate remedy at many sites; Combustion Strategy is not an ARAR since not legally enforceable, but is regarded as a TBC ("To Be Considered") at Superfund sites	Pages: 5 FaxBack: 11834
9/29/94	Perry	to	Salfi	Booz•Allen & Hamilton	disposal of fluorescent lamps in HW landfill is exempt from CERCLA reporting, but not liability or response provisions; disposal of fluorescent lamps or ballasts in Subtitle D landfill or TSCA landfill not exempt from CERCLA release reporting requirements	Pages: 5 FaxBack: 11878

Waste Minimization And Combustion Strategy

8/11/93	Browner	to	Dingell	U.S. House of Representatives	Combustion Strategy will not impact incinerators at CERCLA sites or ability of interim status units to continue burning HW; summary of risk assessment guidance; EPA examining its authority to enforce generator and TSDF waste minimization and certification requirements	Pages: 10 FaxBack: 11764
9/23/93	Denit	to	Waste Management Division Directors	Regions I-X	guidance on indirect exposure assessments for HW combustion sources: memo transmitting for review and comment EPA's draft addendum to 1990 ORD report, "Methodology for Assessing Health Risks Associated with Indirect Exposure to Combustor Emissions"	Pages: 3 FaxBack: 11773
3/16/94	Browner	to	Environmental Appeals Board	EPA HQ	interim status facilities may operate after denial of permit when denial appealed to Environmental Appeals Board (EAB); pursuant to Combustion Strategy, EAB directed to take final action within 90 days on appeals of interim status combustion facility permit denials	Pages: 2 FaxBack: 11817
4/4/94	Shapiro	to	Fortuna	Hazardous Waste Treatment Council	interim status is a statutory right when a facility meets all applicable standards; EPA cannot order BIFs that properly qualified for interim status to stop operating; to qualify for interim status, facility must be in existence on effective date of applicable rule	Pages: 12 FaxBack: 11825

5/5/94	Shapiro	to	Waste Management Division Directors	Regions I-X	memo transmitting latest revisions to implementation guidance for conducting risk assessments at RCRA HW combustion facilities pursuant to Combustion Strategy.	Pages: 2 FaxBack: 11833
5/9/94	Laws	to	Waste Management Division Directors	Regions I-X	Combustion Strategy impact on HW incineration at CERCLA cleanups; HW combustion remains appropriate remedy at many sites; Combustion Strategy is not an ARAR since not legally enforceable, but is regarded as a TBC ("To Be Considered") at CERCLA sites	Pages: 5 FaxBack: 11834
7/18/94	Shapiro	to	St. John	BKK Landfill	waste minimization and certification requirements apply to landfill which generates, and has RCRA Subtitle C treatment permit for, F039 leachate; no exemption from waste minimization certification for facilities generating HW from remedial activity	Pages: 2 FaxBack: 11855

259 MEDICAL WASTE

General

1/17/89	Petruska	to	Cunniff	EPA HQ	MW is a SW and is subject to Subtitle D regulation, or if hazardous, to Subtitle C; EPA is developing MW program pursuant to the Medical Waste Tracking Act; MW also covered by CWA, Ocean Dumping Act, and MARPOL (for plastics)	Pages: 1 FaxBack: 11391
2/3/89	Barnes	to	Simon	Region II	MW that is brought into a covered state is presumed to be subject to Part 259 unless transporter can document that the waste originated in a noncovered state	Pages: 1 FaxBack: 11394
2/17/89	Dellinger	to	Regions	Regions I-X	disposal of MW from Navy ships	Pages: 2 FaxBack: 11397
3/15/89	Zabinski	to	Citizen		EPA to establish a two-year MW demonstration tracking program; studies indicate low incidence of disease transmission due to environmental exposure to MW	Pages: 2 FaxBack: 11406
3/20/89	Petruska	to	Medical Waste Docket	EPA HQ	clarification of Part 259 coverage of body fluids (human blood and blood products, and human pathological waste)	Pages: 2 FaxBack: 11407

4/10/89	Lowrance	to Florini	Environmental Defense Fund	EPA rationale for regulating certain categories of MW pursuant to the Medical Waste Tracking Act of 1988, while excluding others	Pages: 5 FaxBack: 11417
4/27/89	Wehling	to Stoll	Freedman, Levy, Kroll and Simonds	ash from incinerating RMW is no longer subject to Part 259; lime and cement kilns may qualify as destination facility, treatment and destruction facility	Pages: 4 FaxBack: 11427
7/18/89	Cannon	to Wyden	U.S. House of Representatives	EPA's data sources for first interim Report to Congress; EPA strategy for evaluating the efficacy of demonstration program	Pages: 3 FaxBack: 11445
7/24/89	Barnes	to Hall	San-I-Pak Pacific	no compaction or mechanical stress allowed during loading, unloading, or transit; compaction is allowed during packaging	Pages: 2 FaxBack: 11448
7/31/89	Barnes and Bromm	to Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, first set (numbers 1-7: cotton swabs used in throat cultures; disposable specula; surgical dressings; defective unused syringes; compaction is not destruction; compaction during packaging is legitimate)	Pages: 6 FaxBack: 11450
8/28/89	Barnes	to Kniesly	Columbia University	using weight-averaging method to estimate quantity of RMW incinerated is acceptable for incinerator recordkeeping; records should indicate incinerated quantity, by weight	Pages: 2 FaxBack: 11463
9/5/89	Barnes and Bromm	to Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, second set (numbers 8-14: recordkeeping requirements, glass intravenous (i.v.) bottles; containers holding blood products; plastic i.v. bags; pleural fluid containers; discarded specimen container; disposable razors; feminine hygiene products; body parts)	Pages: 8 FaxBack: 11465

9/5/89	Barnes and Bromm	to	Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, second set (numbers 8-14: recordkeeping requirements, glass intravenous (i.v.) bottles; containers holding blood products; plastic i.v. bags; pleural fluid containers; discarded specimen container; disposable razors; feminine hygiene products; body parts)	Pages: 8 FaxBack: 11465
9/12/89	Barnes	to	Citizen		organs and blood processed into patient care materials or used in transplants are not discarded materials, and so are neither SW nor RMW	Pages: 2 FaxBack: 11467
10/17/89	Barnes	to	Farrington	Medical SafeTEC	generators must use the USPS registered mail return receipt requested system to qualify for the sharps mailing exemption; exemption applies to generators in covered states who generate less than 50 pounds/month and ship less than 50 pounds of RMW per shipment	Pages: 2 FaxBack: 11475
10/20/89	Denit	to	Waltman	Greater New York Hospital Association	hospital patient room waste is not generally RMW if segregated from RMW such as intravenous bags and items saturated with blood, unless patient is in isolation due to infection with highly communicable disease	Pages: 2 FaxBack: 11477
10/31/89	Barnes	to	Wood	National Syringe Disposal	applicability of Part 259 to waste pucks from syringe disposal system; only waste that has been treated and destroyed is no longer regulated MW	Pages: 3 FaxBack: 11478
11/2/89	Barnes and Bromm	to	Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, third set (numbers 15-23: highly communicable diseases such as smallpox, Lassa fever; no storage time limit; specimens from anatomy class; animal carcass exposed to zoonotic agent; body fluids; discarded catheter bag; MW from emergency health care)	Pages: 14 FaxBack: 11479
12/26/89	Barnes and Bromm	to	Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, fourth set (numbers 24-35: syringes in integral sheaths; compaction; stocks of infectious agents; preprinted tracking forms; no storage time limit; HW-MW mixture; RMW containing radioactive waste subject to NRC and Part 259)	Pages: 10 FaxBack: 11483

1/16/90	Barnes	to Spinosa	Mallinckrodt Medical, Inc.	radioactive decay is treatment of radioactive component of radiopharmaceutical but is not treatment of infectious portion; facility that recovers residual radiopharmaceutical materials is an intermediate handler	Pages: 2 FaxBack: 11485
2/1/90	Petruska	to Manzano	Abbott Puerto Rico Operations	autoclaving is legitimate treatment method but not legitimate destruction method; generators who treat and destroy on site must comply with Part 259 storage requirements prior to treatment/destruction; QA/QC procedures performed on test kits may generate RMW; microorganisms	Pages: 3 FaxBack: 11486
2/2/90	Barnes	to Confer	NJ DEP	breaking needle from syringe, removing nipple from syringe barrel, and separating plunger from syringe barrel are not adequate destruction methods	Pages: 2 FaxBack: 11488
2/27/90	Barnes	to Smith	Safe Way Disposal Systems	roll-off receptacles meet packaging requirements in §259.41(a), but do not meet container requirements for sharps and fluids (e.g., single secondary receptacle); each package must be labeled with shipment date; paperwork requirements	Pages: 2 FaxBack: 11495
2/27/90	Barnes	to Wilt	healthPak, Inc.	disposable dental instrument trays could be RWM if contaminated with human blood or isolation wastes; if trays are recycled to make a new product, they may be exempt at the point of recycling; generators of RMW that will be recycled must track items to recycling facility	Pages: 3 FaxBack: 11496
3/2/90	Barnes	to Lowrance	EPA HQ	state MW project-specific grant proposals (list of grants by state)	Pages: 7 FaxBack: 11498
3/5/90	Barnes and Bromm	to Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, fifth set (numbers 36-49: wastes from screening procedures; items used in preparation of corpses; artificial body parts; implants; radiopharmaceuticals may be dually regulated; syringes; culture dishes; contracting as a group; no definition of health-care facility	Pages: 15 FaxBack: 11499

4/12/90	Petruska	to Manzano	Abbott Puerto Rico Operations	autoclaving is treatment, not destruction; discarded test kits from QA/QC procedures containing biologicals or body fluids are RMW; almost all cultures/stocks from medical or pathological lab are RMW; infectious agents include certain CDC etiological agents	Pages: 3 FaxBack: 11505
4/16/90	Petruska	to Wilson	Medical SafeTEC	MW is subject to regulation until it has been both treated and destroyed; definition of destroyed MW	Pages: 2 FaxBack: 11506
4/20/90	Barnes	to Goldberg	Steptoe and Johnson	no EPA authority to approve and/or disapprove MW treatment technologies; MW that has been both treated and destroyed is no longer subject to tracking requirements; chemical disinfection followed by encapsulation in plastic bottle is insufficient	Pages: 3 FaxBack: 11509
4/20/90	Straus	to Roberts	Safe Way Disposal Systems, Inc.	Part 259 packaging requirements for sharps (Class 4) are performance standards; corrugated box may not meet all of the packaging requirements; objective is to ensure containment without leakage or release and to provide flexibility in meeting standards	Pages: 2 FaxBack: 11510
4/22/90	Barnes	to Confer	NJ DEP	regulated and non-regulated MW packaged together are subject to Part 259; segregation of wastes is encouraged, not required; MW generated during emergency medical services is RMW; SQG exemption; unused glass vacuum tubes are not RMW	Pages: 3 FaxBack: 11511
5/7/90	Barnes	to Krueger	Proctor and Gamble Co.	waste from treatment of incontinence not specifically designated as MW, may be regulated if contaminated with RMW	Pages: 4 FaxBack: 11514
5/9/90	Lowrance	to Watson	Oak Ridge National Lab	MW regulations exclude human corpses, remains, and anatomical parts that are intended for interment or cremation	Pages: 2 FaxBack: 11515

5/11/90	Barnes	to Terpstra	Scott Paper Co.	items used in the treatment of incontinency are not specifically listed as RMW; may be regulated if contaminated with blood or other regulated body fluids; or if contaminated with fluids from humans with highly communicable diseases	Pages: 2 FaxBack: 11516
6/18/90	Petruska	to Boyland	Recovery Corp. of America	general packaging and labeling requirements for treated v. untreated MW; transporter exemption when mailing sharps through USPS	Pages: 3 FaxBack: 11525
6/21/90	Bromm	to Datt	American Farm Bureau Federation	wastes generated during agricultural activities (e.g., treatment of animals and production or testing of biologicals) which meet the definition of RMW are subject to Part 259	Pages: 2 FaxBack: 11528
6/21/90	Bromm	to Alampi	NJ Veterinary Medical Association	animal carcass suspected of harboring infectious disease (e.g., rabies) is RMW when disposed	Pages: 2 FaxBack: 11529
6/24/90	Wilson	to Anderson	HEMOX, Inc.	OSHA jurisdiction over MW management within facilities v. EPA jurisdiction over disposal; EPA has established performance standards for leak- and puncture-resistant containers, rather than test methods	Pages: 2 FaxBack: 11530
7/2/90	Petruska	to Sabbagh	Sollatek Corp.	EPA does not have the authority to approve medical treatment technologies and does not endorse specific commercial products; containment and/or management of MW at point of generation is regulated by OSHA	Pages: 1 FaxBack: 11534
7/10/90	Bussard	to Nazario	Caribbean Bioresearch, Inc.	testing of medical products (e.g., biologicals such as vaccines and cultures, and pharmaceuticals such as antibiotics and eye drops) may generate RMW; compaction is not destruction; liquid wastes disposed through the sewer are not subject to Part 259; certain cytotoxic drugs are listed HW	Pages: 4 FaxBack: 11536

7/11/90	Bussard	to Panik	American Sterilizer Co.	Part 259 does not contain MW disposal standards; encapsulation does not meet destruction requirement	Pages: 2 FaxBack: 11538
7/11/90	Bussard	to Figueroa	Abbott Laboratories	wastes from the production or testing of diagnostic test kits and pharmaceuticals that contain biologicals or body fluids are RMW	Pages: 2 FaxBack: 11539
7/17/90	Bussard	to Grieco	Medical and Hazardous Waste Management	EPA cannot approve procedure for splitting load of RMW; transporter must deliver entire quantity of RMW to (1) the intermediate handler or destination facility listed on the tracking form or (2) the next transporter	Pages: 2 FaxBack: 11542
8/8/90	Barnes	to Krueger	Proctor and Gamble Co.	waste from treatment of incontinence is not specifically designated as MW, but may be regulated when contaminated with blood or other regulated body fluids	Pages: 2 FaxBack: 11548
9/5/90	Bussard	to Teringo	PDMP, Inc.	RMW packaging requirements; needle sheath for used sharps does not meet Part 259 definition of container	Pages: 2 FaxBack: 11555
9/7/90	Bussard	to Cordero	Syntex (F.P.), Inc.	autoclaving is treatment but not destruction of RMW; autoclaved RMW is still subject to Part 259 requirements until destroyed; QC procedures performed on medical products could produce RMW	Pages: 2 FaxBack: 11556
9/7/90	Bussard	to Fisher	NY County Medical Society	generator definition; multiple MW generators at one site are individually liable; if such wastes are commingled, generators could be jointly and severally liable; SQG are eligible for certain exemptions	Pages: 2 FaxBack: 11557

9/7/90	Bussard	to Diamond	Wave Energy Systems, Inc.	medical and disinfectant waste mixture should first be evaluated against HW criteria; used and unused sharps are RMW; definitions of treated and destroyed; crushing is not destruction	Pages: 3 FaxBack: 11558
9/13/90	Wilson	to Troy	WMI Medical Services, Inc.	transporters who carry MW from covered states must notify EPA; notification of discrepancies in addressee's semi-annual MW transporter report	Pages: 2 FaxBack: 11560
9/20/90	Bussard and Bromm	to Medical Waste Contacts	Regions, States, and Territories	MW Qs and As, sixth set (numbers 50-63: federal v. state v. local MW regulations; generator v. transporter responsibility for pretransport requirements; no semiannual report, notification for generators and destination facilities; no permit for MW disposal facility)	Pages: 18 FaxBack: 11562
5/17/91	Bussard	to Citizen		guidance on disposal of MW generated during home childbirth	Pages: 2 FaxBack: 11607
7/2/91	Lowrance	to Cohen	U.S. Senate	treatment methods for used syringes; no federal regulation of MW for states not participating in demonstration program	Pages: 1 FaxBack: 11623
8/16/91	Lowrance	to Grandy	U.S. House of Representatives	small generators of MW allowed to ship sharps via USPS; USPS requirements for packaging and identifying MW	Pages: 3 FaxBack: 11634
11/14/91	Bussard	to Spitz	Multidyne Medical Waste Management, Inc.	no federal regulations prohibiting importation of MW; enactment of legislation implementing the Basel Convention could change status of imported MW	Pages: 2 FaxBack: 11654

6/12/92	Petruska	to Turnbach	Turnbach and Warren, P.C.	two-year pilot program has expired, EPA does not currently regulate disposal of MW; USPS and DOT jurisdiction over mailing and packaging of MW	Pages: 2 FaxBack: 11672
11/6/92	Wilson	to Division of Environmental Health	World Health Organization	questionnaire on hospital waste management; 24-page overview of MW regulation and management in U.S.	Pages: 25 FaxBack: 11709
2/4/93	Lowrance	to Heim	City of San Diego Waste Management Dept.	containers holding sharps (i.e., syringes and needles) cannot be recycled	Pages: 2 FaxBack: 11725
10/5/93	Denit	to Karter	Resource Recovery Systems, Inc.	EPA to update "Disposal Tips for Home Health Care" to emphasize that containers in which sharps are disposed cannot be recycled	Pages: 2 FaxBack: 11778
8/9/94	Bussard	to Honohan	BFI Medical Waste Systems	MW not regulated under RCRA unless characteristic or listed; notification and consent for import or export not required for MW under RCRA unless characteristic or listed	Pages: 1 FaxBack: 11864
11/15/94	Petruska	to Citizen		Clean Air Act standards for MW incinerators (New Source Performance Standards and Emissions Guidelines) expected to be proposed 2/95; DOT regulation of MW and materials infectious to animals expected to be effective 10/1/95	Pages: 2 FaxBack: 11888

260 HAZARDOUS WASTE MANAGEMENT SYSTEM

SUBPART B DEFINITIONS

260.10

Definitions

Boiler / Industrial Furnace

4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	gas-fired thermal oxidizer is incinerator subject to Subpart O until finalization of proposed BIF rule; at that time gas-fired thermal oxidizer will be industrial furnace subject to Part 266, Subpart D BIF standards; EPA adds units to definition of industrial furnace on case-by-case-basis	Pages: 22 FaxBack: 11342
6/2/93	Lowrance	to Owens	Borden Chemicals and Plastic	Valorization of Chlorinated Residuals unit is halogen acid furnace (HAF) and thus is industrial furnace subject to BIF rules; EPA designates all hazardous material fed to HAFs as inherently waste-like, since HAFs necessarily destroy toxics in addition to recovering materials or energy recovery	Pages: 6 FaxBack: 11751

Container

7/13/89	Lowrance	to Ullrich	Region V	portable roll-off boxes satisfy the container definition under §260.10 and may be used as satellite accumulation containers as long as quantity limits, time limits, and other conditions of §262.34(c) are met	Pages: 2 FaxBack: 11442
10/30/90	Lowrance	to Duprey	Region VIII	generally, used automotive oil filters are not containers because they are designed to filter particulates from oil, not to store oil; automotive oil filters can not be empty containers under §261.7 (see also §261.4(b)(13))	Pages: 3 FaxBack: 11566

Designated Facility

4/1/85	Gray	to Munger	Hawaiian Electric Co., Inc.	tank holding but not treating HW prior to off-site transfer is not WWTU but could be generator accumulation unit; off-site WWTU can only receive HW if qualifies as designated facility (permitted or interim status); WWTU exemption does not attach to waste removed from unit	Pages: 4 FaxBack: 11066

2/24/87	Williams	to Sparta	Environmental Technology Southeast	facilities with exempt WWTUs usually do not qualify as designated facilities and cannot accept manifested waste from off site; POTW with permit-by-rule is designated facility; designated facility means facility that is permitted, interim status, or subject to regulations of §261.6(c)(2)	Pages: 2 FaxBack: 11221

Disposal

8/17/83	Skinner	to Devine	Region IV	disposal is final step in process of handling HW, in contrast with storage, which is an on-going process and always implies there will be future management of waste after storage period is over	Pages: 2 FaxBack: 11029
7/22/87	Williams	to Feigner	Region X	in addition to being prohibited as "open burning," burning HW in unlined pit during fire training exercise is HW disposal and is illegal unless facility is properly permitted or qualifies for interim status	Pages: 3 FaxBack: 11267
9/6/88	Lowrance	to Magee	IN Dept. of Environmental Management	firing of ammunition at shooting ranges is not SW disposal; placement on ground is normal use of ordnance or munitions; interpretation applies to spent cartridges and unexploded bullets that fall to ground during shooting exercise (see also 9/24/92 letter, Clay to Hair)	Pages: 2 FaxBack: 11368
10/28/88	Weil	to Gabel	Region II	HW removed from disposal units and placed in different land based units during remediation activities must meet LDR treatment standards for all applicable waste codes	Pages: 1 FaxBack: 11376
6/11/92	Lowrance	to Green	Piper and Marbury	excavating and redepositing hazardous soils within AOC during trenching or other non-RCRA related construction is not generation, treatment, storage, or disposal of HW and triggers no RCRA requirements, including LDR and generator rules	Pages: 2 FaxBack: 11671

4/6/94	Bussard	to DuBoff	Winston and Strawn	only activities qualifying as land disposal trigger disposal facility permitting and LDR; thus disposal unit standards (MTR) and LDR do not apply when HW in inactive unit is removed on one-time basis, treated in situ, capped in place, or moved within AOC	Pages: 2 FaxBack: 11826

Elementary Neutralization Unit

8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	ENU can include series of connected tanks as well as flumes, gutters, pipes, and open channels that meet expansive definition of tank	Pages: 5 FaxBack: 11173
8/15/90	Lowrance	to Hopkins	OR DEQ	exempt ENU can't treat waste that is both corrosive and otherwise hazardous due to listing or other characteristics; some units qualify as both exempt WWTUs and ENUs; HW sludges removed from ENU are subject to full regulation; F006 sludge can be generated in exempt ENU	Pages: 4 FaxBack: 11551
7/21/92	Bussard	to Brott	MN Pollution Control Agency	Region determines whether floor sump that collects HW after point of generation and conveys it to treatment unit is exempt as ancillary equipment connected to WWTU or ENU	Pages: 1 FaxBack: 11680

Generator

10/11/88	Regas	to Guerry	Collier, Shannon, Rill and Scott	under EPA's cogenerator policy, either Navy personnel or contractors meeting definition of generator may perform Part 262 duties including obtaining EPA ID numbers, signing manifest certification, packaging waste, keeping records, and reporting	Pages: 3 FaxBack: 11372
8/10/95	Petruska	to Chirigos	Industrial Painters Coalition	during LBP abatement, both property owner and contractor may qualify as generators responsible for RCRA compliance; cogenerator policy in 45 *FR* 72024; 10/30/80, applies to many cases other than those specified in *Federal Register* where waste is generated by more than one party	Pages: 2 FaxBack: 11913

Incinerator

9/19/94	McAlister	to Steger	ID Dept. of Health and Welfare	demilitarization and munitions popping furnaces are regulated as incinerators; HW controlled flame combustion units must by definition be boilers, industrial furnaces, or incinerators	Pages: 2 FaxBack: 11873

Individual Generation Site

8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	generators are defined both by person and by site; each Bureau of Alcohol, Tobacco, and Firearms (BATF) field office or storage locker area where explosive material becomes a HW is an individual generation site requiring its own EPA ID number	Pages: 4 FaxBack: 11363
12/3/90	Clay	to Hekman	U.S. Navy	both contractor generating HW in repair of Navy ship and Navy owning ship are cogenerators; cogenerators must mutually decide who assumes generator responsibilities; cogenerators operating at same site normally use same EPA ID number assigned to that site	Pages: 5 FaxBack: 11571
11/4/94	Shapiro	to Johnson	U.S. House of Representatives	definition of individual generation site; university facilities on separate city blocks or divided by public roads are each individual generation sites; if access between facilities is possible without traveling along public road, facilities qualify as one site	Pages: 2 FaxBack: 11884
8/22/95	Petruska	to Kuszaj	Ogletree, Keakins, Nash, Smoak & Stewart	two autonomous divisions of same company operating on individual generation site are not separate generators; EPA expects each generator site to have one ID number; requests for multiple ID numbers for one generation site are evaluated on case-by-case basis by region or state	Pages: 2 FaxBack: 11916

On-site

8/15/89	Barnes	to Bider	Trans World Airlines, Inc.	EPA generally issues one EPA ID number to each unique site; on site definition may help in deciding whether facility constitutes more than one site for purposes of assigning ID numbers (see also 9/83 MRQ)	Pages: 2 FaxBack: 11456

7/28/93	Petruska	to Eggenberger	U.S. Defense Logistics Agency	waste remains on site if its movement does not involve traveling along public right of way; waste remains on-site even if movement involves traveling directly across public right of way; Part 279 UO transporter standards do not apply to on-site movement of UO	Pages: 2 FaxBack: 11762

Representative Sample

12/4/86	Williams	to Stringham	Region V	representative sampling of waste piles should entail dividing waste pile into quadrants; each quadrant should be sampled using a two-dimensional grid, and a random vertical core sample collected; references "Petitions to Delist Hazardous Waste" guidance manual	Pages: 3 FaxBack: 11201
6/22/95	Petruska	to Roberts	Maintenance Engineering	testing only one spent fluorescent tube to determine if all waste lamps generated at site exhibit characteristics is not representative sampling; selection of randomly chosen bulbs is more appropriate; Chapter 9 of SW-846 provides guidance on developing representative sampling plans	Pages: 2 FaxBack: 11907

Sludge

7/10/85	Skinner	to Suska	Baltimore City Health Dept.	spent activated charcoal or carbon is normally considered a spent material; if part of a pollution control system, it would be defined as a sludge	Pages: 3 FaxBack: 11089
7/17/85	Skinner	to Scarbrough	Region IV	since any pollution abatement technique such as land treatment, disposal, or storage of a wastewater will invariably form a sludge, F- and K-listed sludges can be formed in situations where wastewaters are stored or disposed (i.e., not specifically treated)	Pages: 1 FaxBack: 11095
3/20/86	Jenkins	to Straus	EPA HQ	any wastewater management inevitably generates wastewater treatment sludges (i.e., F006, K001); to prove that wastewater management has created sludge, need only show that unit or soil after contact with wastewater is physically or chemically different from virgin unit or soil	Pages: 9 FaxBack: 11139

4/2/86	Williams	to Wassersug	Region III	spent carbon is normally considered a spent material unless it results from pollution control, in which case it is considered a sludge	Pages: 6 FaxBack: 11143
1/6/87	Straus	to Dufficy	National Association of Photographic Manufacturers, Inc.	residue in silver recovery units (including steel wool cartridges, electrolytic recovery cells, and ion exchange resins) used to treat photographic wastewater could qualify as sludge; such characteristic sludges sent for reclamation are not SW (see also Part 266, Subpart F)	Pages: 12 FaxBack: 11210
5/5/87	Abrams	to Duncan	Compliance Recycling Industries	filters as well as anionic and cationic ion exchange resins used to remove pollutants from electroplating rinsewater meet the definition of sludges and are F006, even if not characteristic	Pages: 8 FaxBack: 11244
7/28/87	Straus	to Schiffman	NJ DEP	any residual such as ion exchange canisters from treating electroplating wastewaters for pollution control meets sludge definition and is F006	Pages: 4 FaxBack: 11269
3/27/89	Dellinger	to Jones	Environmental Consulting	flue dust generated by air pollution control device in brass mill is characteristic sludge; metal hydroxide sludge generated in wastewater treatment unit at brass mill is characteristic sludge	Pages: 2 FaxBack: 11412
8/15/90	Lowrance	to Hopkins	OR DEQ	wastewater treatment sludge is any material that precipitates or otherwise is separated from wastewater during treatment; F006 sludge can be generated in exempt ENU	Pages: 4 FaxBack: 11551
6/10/94	Petruska	to Maguire	Maguire and Strickland Refining, Inc.	residues contained in silver recovery units used to treat wastewater would be considered sludges; silver recovery units are classified as a sludges if used for pollution control; 1/6/87 letter, Straus to Dufficy reflects current policy	Pages: 1 FaxBack: 11927

7/21/94	Bussard	to Weisjahn	U.S. Filter Recovery Services, Inc.	sludge definition tied to type of unit in which waste is generated, not disposition of treated effluent or intent of processing; act of filtering contaminants from wastewater is pollution control and generates sludge, even if intent is to reclaim wastewater for reuse in production process	Pages: 2 FaxBack: 11857
10/5/94	Petruska	to Dufficy	National Association of Photographic Manufacturers, Inc.	materials generated from wastewater treatment are sludges, even if treatment is not undertaken to meet federal, state, or local discharge requirements; if silver recovery unit used to treat wastewater qualifies as a characteristic sludge, it is not a SW when reclaimed	Pages: 6 FaxBack: 11879
12/20/94	Petruska	to Monz	Updike, Kelly & Spellacy, P.C.	baghouse dust (sludge exhibiting characteristic) that is fed to electrolytic metals recovery process is not SW subject to RCRA Subtitle C regulation; baghouse dust is regulated as sludge since it is generated from air pollution control facility	Pages: 2 FaxBack: 11933
2/6/95	Shapiro	to Perkins	Williams & Anderson	dust collected in air filtration system is not sludge since filtration intended to recover dust, not control pollution; heating and distillation are considered reclamation processes; regulatory status of recycled acrylic plastic dust generated from plastic media blasting	Pages: 3 FaxBack: 11937
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	although dewatering is a form of reclamation, dried metal hydroxide solids in pellet powder from dewatering of electroplating wastewater meet sludge definition (and are F006); interpretation applies even if sludge sent for further reclamation	Pages: 3 FaxBack: 11910
8/4/95	Petruska	to Thompson	Eastman Kodak Co.	silver recovery units used to treat photo processing wastewaters are characteristic sludges and are not SW when destined for reclamation; interpretation applies regardless of whether sludge is produced as result of required or voluntary wastewater treatment	Pages: 1 FaxBack: 11912
8/10/95	Petruska	to McCoy	CPI Corp.	used silver-bearing photo fixer destined for reclamation is spent material and SW; silver recovery units destined for reclamation are characteristic sludges and not SW (see also 8/4/95 letter, Petruska to Thompson)	Pages: 2 FaxBack: 11914

Storage

8/17/83	Skinner	to Devine	Region IV	storage is on-going process and always implies there will be future management of waste after storage period is over; disposal is final step in process of handling HW	Pages: 2 FaxBack: 11029
3/27/89	Straus	to Johnson	SAFCO Environmental	HW fuel blending tanks are subject to storage regulations (not exempt recycling units); federal regulations do not specify an allowable holding time before off-loading a shipment of HW into the recycling process; some states may allow up to 24 hours before a storage permit is required	Pages: 2 FaxBack: 11411

Totally Enclosed Treatment Unit

3/3/81	Meissen	to Lindsey	EPA HQ	totally enclosed treatment unit (TETU) limited to tanks, pipes, tank-like equipment; exemption applies to unit, not effluent from TETU; TETU must be completely contained, present no potential for escape of constituents, and must be directly connected to industrial process	Pages: 10 FaxBack: 11008
7/10/81	Lindsey	to Noles	Triangle Resources Industries	totally enclosed treatment unit must preclude possibility of escape of hazardous constituents, even in cases of human or equipment failure; drum or container which could leak through overfilling does not qualify as totally enclosed treatment unit	Pages: 2 FaxBack: 11018
8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	treatment unit consisting of an open channel within an enclosed building is not eligible for totally enclosed treatment unit exemption	Pages: 5 FaxBack: 11173
3/20/89	Lowrance	to Elliott	Zerpol Corp.	"zero discharge" wastewater treatment system that returns all treated water to production process does not automatically qualify as totally enclosed treatment unit (TETU); wastewater treatment system using open tanks and not restricting escape of contaminant to air is not TETU	Pages: 3 FaxBack: 11408

Transportation

4/30/86	Williams	to Seraydarian	Region IX	since §260.10 definition of transportation does not include pipeline transport, Part 263 regulations do not apply to pipeline movement of HW; pipeline transport of HW is not forbidden by RCRA; CERCLA and RCRA cleanup authorities may apply to HW pipeline facilities	Pages: 3 FaxBack: 11148

Treatment

7/10/81	Lindsey	to Noles	Triangle Resources Industries	solidifying liquid HW by pouring it into a container already containing inert sorbents is HW treatment (amended by §264.1(g)(10))	Pages: 2 FaxBack: 11018
7/28/81	Lehman	to Johnson	Oil-Dri Corp. of America	use of absorbents for spill control not regulated as treatment due to §264.1(g)(8) immediate response exemption; use of absorbents to solidify HW in other contexts is regulated treatment (SUPERCEDED: see §264.1(g)(10))	Pages: 2 FaxBack: 11019
1/23/85	Horner	to Citizen		owner of waste, sample collector, and laboratory may be generator of lab samples; testing to identify the composition or characteristics of a sample is not treatment; waste is excluded from Subtitle C regulation if it meets sample provisions of §261.4(d)	Pages: 5 FaxBack: 11053
8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	pouring characteristic HW into industrial sewer drain pipe in which HW mixes with wastewaters is not HW treatment because dilution is incidental to drain pipe's primary purpose of conveyance	Pages: 5 FaxBack: 11173
12/2/86	Straus	to Hayes	Hogan and Hartson	reclamation of spent solvents at generator facilities is HW treatment, but is exempt from regulation under §261.6(c); spent solvents are subject to generator accumulation regulations prior to reclamation	Pages: 3 FaxBack: 11200

8/19/87	Williams	to Manthey	SW Incorporation	combining different HW in same tank truck for transport purposes is not regulated as HW treatment	Pages: 3 FaxBack: 11281
11/30/87	Porter	to McGuire	U.S. Dept. of Treasury	detonation of reactive (D003) waste is considered a form of thermal treatment	Pages: 2 FaxBack: 11305
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	destruction of explosive wastes by OB/OD is thermal treatment that must be conducted at TSDF in compliance with Parts 264, 265, and 270; if destruction conducted under court order or direction of U.S. Attorney's office, RCRA not automatically waived	Pages: 4 FaxBack: 11363
9/1/88	Lowrance	to Whitman	SWInc.	Region is in best position to determine if depressurizing aerosol cans meets definition of treatment	Pages: 2 FaxBack: 11367
3/10/89	Barnes	to Cothern	U.S. Dept. of Air Force	solidification or stabilization of HW with concrete is HW treatment and may trigger permitting requirements	Pages: 3 FaxBack: 11403
3/31/89	Lowrance	to Williams	Defense Logistics Agency	whether venting and/or puncturing aerosol cans constitutes treatment per §260.10 is under review; in meantime, consult Regional guidance or take conservative approach that it does constitute treatment	Pages: 2 FaxBack: 11414
4/14/89	Dellinger	to Rovers	C.T. Male Associates, P.C.	volatilization qualifies as treatment under §260.10 definition	Pages: 2 FaxBack: 11418

4/19/89	Dellinger	to Pendleton	K.A. Pendleton Co., Inc.	stabilizing F006 compounds prior to thermal drying is HW treatment; permit not needed if unit is exempt under §270.1(c)(2) or if treatment occurs in generator accumulation units in compliance with §262.34; permit is required if thermal treatment of HW is involved	Pages: 1 FaxBack: 11422
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	sham recycling is actually type of HW treatment called recycling in attempt to evade regulation; criteria to be used in deciding whether processing of secondary material is legitimate recycling or sham recycling and regulated HW treatment	Pages: 5 FaxBack: 11426
9/12/89	Petruska	to Citizen		puncturing, shredding, or crushing non-empty aerosol cans may meet definition of HW treatment; appropriate EPA Region or authorized state is in the best position to make this determination	Pages: 1 FaxBack: 11466
3/1/90	Lowrance	to Jaekels	GSX Government Services, Inc.	bulking or consolidating HW shipments for transportation purposes may not be treatment subject to permitting; mixing different HW to produce fuel is regulated fuel blending subject to permitting; implementing agency ultimately decides if activity is or is not regulated HW treatment	Pages: 2 FaxBack: 11497
5/21/91	Lowrance	to Nowak	Compacting Technologies International	compacting HW in steel drum is generally treatment if it changes physical, chemical, biological character or composition of waste or reduces it in volume; compacting in generator accumulation containers would not require permit	Pages: 2 FaxBack: 11609
6/21/91	Lowrance	to Constantelos	Safety-Kleen	deliberate mixing of HW and absorbents to render waste nonhazardous may be treatment subject to permitting (see also §§264.1(g)(10)) and 268.3)	Pages: 3 FaxBack: 11619
6/11/92	Lowrance	to Green	Piper and Marbury	excavating and redepositing hazardous soils within AOC during trenching or other non-RCRA related construction is not generation, treatment, storage, or disposal of HW and triggers no requirements, including LDR and generator rules	Pages: 2 FaxBack: 11671

6/24/92	Bussard	to Nash	Attorney at Law	whether the processing of aerosol cans constitutes treatment or recycling is a determination made by each Region on a case-by-case basis	Pages: 1 FaxBack: 11674
9/4/92	Lowrance	to MacBeth	Sidley and Austin	mixing sawdust with HW prior to incineration is part of incineration treatment train and is generally considered regulated treatment	Pages: 2 FaxBack: 11694
11/5/92	Lowrance	to Northup	Convenient Automotive Services, Inc.	UO and mineral spirits mixture is UO if mixture is not ignitable; tank in which UO and ignitable HW are mixed is subject to Part 279 and §262.34; tank must be labeled with words "used oil"; mixing may be treatment (see also 60 *FR* 55202; 10/30/95)	Pages: 2 FaxBack: 11708
4/30/93	Lowrance	to Dodgion	NV Dept. of Conservation and Natural Resources	recycling is normally considered a form of HW treatment that is exempt from regulation	Pages: 2 FaxBack: 11745
4/6/94	Bussard	to DuBoff	Winston and Strawn	remediation activities involving HW treatment, including in situ treatment, trigger permitting of unit; whether particular type of in situ stabilization is treatment is site-specific determination; movement of wastes within AOC may not be disposal, but could be regulated treatment	Pages: 2 FaxBack: 11826
6/3/94	Shapiro	to Kastner	Bryan Cave	removing contaminants from an intact building is waste generation, not treatment	Pages: 2 FaxBack: 11841
10/7/94	Shapiro	to Trafton	Recovery Express	processing (cutting, chopping, shredding, grinding) of LBP waste is treatment; processing of LBP waste not subject to regulation if part of legitimate recycling; storage of LBP before or after exempt processing is regulated; recycling is exempt form of HW treatment	Pages: 2 FaxBack: 11880

11/8/94	Shapiro	to Kotlinski	CleanHarbors Environmental Services, Inc.	if gravity separates HW fuel into aqueous and organic phases during storage, mixing phases together again is not treatment; decanting two phases or portions of fuel is treatment; as-generated heating value of fuels no longer affects legality of blending them prior to burning in BIFs	Pages: 4 FaxBack: 11885

Wastewater Treatment Unit

7/31/81	Lehman	to Boynton	EPA HQ	off site facility can be WWTU if it is a designated facility; actual permit or effluent limit not needed for discharge to be subject to CWA; WW does not include concentrated chemicals or nonaqueous waste (e.g. presses, filters, and sumps) are WWTUs	Pages: 2 FaxBack: 11020
5/22/84	White	to Josephs	Region II	tanks that produce no effluent as direct result of CWA requirements (i.e., zero dischargers) can qualify as exempt WWTUs	Pages: 3 FaxBack: 11036
6/27/84	Skinner	to Huebner	Region I	state or Region must determine applicability of WWTU definition to GW treatment tank; no EPA definition of wastewater for purposes of WWTU exemption (see also 2/11/91, letter Lowrance to Mahoney and 6/2/93, letter Lowrance to Phillips)	Pages: 3 FaxBack: 11038
7/19/84	Gray	to White	EPA HQ	if tank treats wastewater to comply with POTW pretreatment requirements, tank is "subject" to §307(b) of CWA and eligible for WWTU exemption even if treated wastewater is actually delivered to POTW by truck	Pages: 2 FaxBack: 11039
9/7/84	White	to Reuter	IN Division of Land Pollution Control	states or Regions determine applicability of WWTU exemption to leachate treatment tank; no EPA definition of wastewater for purposes of WWTU exemption (see also 2/11/91 letter, Lowrance to Mahoney and 6/2/93 letter, Lowrance to Phillips)	Pages: 1 FaxBack: 11041

9/10/84	White	to Horwitz	Region III	states or Regions determine applicability of WWTU exemption to leachate treatment tank; no EPA definition of wastewater for purposes of WWTU exemption (see also 2/11/91 letter, Lowrance to Mahoney and 6/2/93 letter, Lowrance to Phillips)	Pages: 1 FaxBack: 11042
12/26/84	Skinner	to Scarbrough	Region IV	WWTU definition does not require tanks at facility to be connected; wastewater can be piped, trucked, otherwise conveyed between components of WWTU	Pages: 4 FaxBack: 11050
4/1/85	Gray	to Munger	Hawaiian Electric Co., Inc.	tank holding but not treating HW prior to off-site transfer is not WWTU but could be generator accumulation unit; off-site WWTU can only receive HW if it is a designated facility (permitted or interim status facility); WWTU exemption does not attach to waste removed from unit	Pages: 4 FaxBack: 11066
12/24/85	Williams	to Davis	Region VI	for purposes of WWTU exemption, tanks can include sumps, presses, filters, sludge dryers, or other equipment; sludge dryer can be exempt WWTU, although HW sludges removed from dryer are subject to full regulation	Pages: 2 FaxBack: 11118
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	sumps that meet definition of tank can be exempt WWTUs; surface impoundments holding HW are not WWTUs and are always regulated	Pages: 3 FaxBack: 11134
3/12/86	Porter	to Philipp	Water Management, Inc.	for purposes of WWTU exemption, tanks can include sumps, presses, filters, sludge dryers, or other equipment; RCRA does not regulate volatilization from exempt WWTUs; sludge dryer unit with no CWA discharge can be WWTU if attached to other tanks with CWA discharge	Pages: 3 FaxBack: 11136
8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	WWTU can include series of connected tanks, flumes, gutters, pipes, and open channels are defined tanks; wastewater for purposes of WWTU is water with a few percent contaminants (SUPERCEDED: see 2/11/91 letter, Lowrance to Mahoney and 6/2/93 letter, Lowrance to Phillips)	Pages: 5 FaxBack: 11173

2/24/87	Williams	to Sparta	Environmental Technology Southeast	facilities with exempt WWTUs usually do not qualify as designated facilities and cannot accept manifested off-site waste; POTW with permit-by-rule is designated facility; designated facility means a facility that is permitted, interim status, or subject to §261.6(c)(2)	Pages: 2 FaxBack: 11221
10/27/88	Lowrance	to Wagoner	Region VII	tanks with no discharge because effluent is recycled or otherwise handled can't qualify as WWTUs; tanks that have eliminated discharge of effluent as direct result of CWA rules and limits (zero dischargers) can qualify as WWTUs	Pages: 3 FaxBack: 11374
11/2/88	Lowrance	to Taritas	Environmental Technology Corp.	§262.34 unit permit exemption not relevant to WWTUs, which are already exempt (see also 2/95 MRQ); for WWTU exemption, WW is < 1% TOC and less than 1% TSS (SUPERCEDED: see also 2/11/91 letter, Lowrance to Mahoney and 6/2/93 letter, Lowrance to Phillips)	Pages: 3 FaxBack: 11379
3/20/89	Lowrance	to Elliot	Zerpol Corp.	"zero discharge" wastewater system must have NPDES permit, applicable effluent guideline, or pretreatment standard specifying zero discharge to qualify as WWTU; zero discharge system returning all treated water to production avoids CWA rules but is not WWTU	Pages: 3 FaxBack: 11408
6/1/90	Bussard	to Mulligan	Chemical Manufacturers Association	WWTU applicability to connected tanks located at different properties; tanks at different facilities that ultimately discharge to same CWA outfall can all qualify as WWTUs if each facility or tank and its effluent is identified or controlled by NPDES permit or other CWA effluent limit	Pages: 4 FaxBack: 11519
8/15/90	Lowrance	to Hopkins	OR DEQ	EPA definition of wastewater pertains only to LDR; containers cannot be exempt WWTUs; tank holding HW prior to off-site disposal not WWTU; HW sludges removed from WWTU are subject to full regulation; some units can be both exempt WWTUs and ENUs	Pages: 4 FaxBack: 11551
9/20/90	Lowrance	to Fox	Heritage Remediation/Engineering, Inc.	tank treating or storing either wastewater or wastewater treatment sludge can be WWTU; tank treating HW from off site can be WWTU but facility must be designated facility to accept manifested HW; only tanks and ancillary equipment can be WWTUs	Pages: 9 FaxBack: 11561

2/11/91	Lowrance	to Mahoney	Heritage Environmental Services, Inc.	states and Regions determine what is wastewater for purposes of WWTU exemption, since EPA has not defined term; authorized states' interpretations of WWTU definition and other regulations may be more stringent than EPA interpretations	Pages: 2 FaxBack: 11582
7/21/92	Bussard	to Brott	MN Pollution Control Agency	Region determines whether floor sump that collects HW after point of generation and conveys HW to treatment unit is exempt as ancillary equipment connected to WWTU or ENU	Pages: 1 FaxBack: 11680
6/2/93	Lowrance	to Fisher	International Fabricare Institute	evaporator units at dry cleaners which have eliminated CWA discharges due to concern over sewer leaks are generally WWTUs (see also 10/22/93 letter, Weddle to Wolf); WWTU exemption applies only to tanks handling wastewater, not concentrated wastes like free-phase perchloroethylene	Pages: 2 FaxBack: 11749
6/2/93	Lowrance	to Phillips	Air Quality Laboratories	evaporator units at dry cleaners that have eliminated CWA discharges due to concern over sewer leaks are generally WWTUs (see also 10/22/93 letter, Weddle to Wolf); WWTU exemption applies only to tanks handling wastewater, not concentrated wastes like free-phase perchloroethylene	Pages: 2 FaxBack: 11752
10/22/93	Weddle	to Wolf	Institute for Research and Technical Assistance	EPA statement in 6/2/93 letters, Lowrance to Phillips and Lowrance to Fisher that evaporation units at dry cleaners which do not discharge wastewaters pursuant to CWA are WWTUs is specific to particular situation; unit receiving concentrated wastes is generally not WWTU	Pages: 2 FaxBack: 11788
5/9/94	Bussard	to Mauro	U.S. Navy	tanks meeting all three parts of the WWTU definition in §260.10 are exempt from permitting requirements	Pages: 17 FaxBack: 11835
6/2/94	Petruska	to Margiotta	Kleen-Rite, Inc.	treatment unit that evaporates dry-cleaning wastewater by atomizing or misting liquid into ambient air could qualify as WWTU (see also 6/2/93 letter, Lowrance to Fisher); OSW does not certify, endorse, or approve specific technologies	Pages: 2 FaxBack: 11840

260.11

Test Methods / References

10/12/93	Fordham	to Schrader	Millsaps College	clarification on performance of PFT; PFT designed to verify that sorbed wastes do not contain free liquids for purpose of HW landfill regulations; PFT not designed to evaluate performance of one absorbent relative to other sorbents	Pages: 3 FaxBack: 11784

SUBPART C RULEMAKING PETITIONS

260.20

General

4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	persons may petition EPA to add new types of units to industrial furnace definition; Dow Chemical's petition caused EPA to include halogen acid furnaces (HAFs) to industrial furnace definition	Pages: 22 FaxBack: 11342

260.22

Delisting

4/3/84	Skinner	to Hazardous Waste Permit Branch Chiefs	Region I-X	Appendix VIII constituents to be used for petroleum waste delistings and land treatment permit applications; original "Skinner List" (SUPERCEDED: see 11/94 MRQ)	Pages: 12 FaxBack: 11034
11/13/84	Maid	to Triplett	Mountain View Fabricating	examples of data necessary for EPA to consider F006 delisting petition; required data include description of raw material used, manufacturing process, disposal methods, personnel qualifications, sampling, and constituent analyses	Pages: 3 FaxBack: 11043

4/29/85	McGraw	to Wallop	U.S. Senate	most wastes were listed for toxicity per §261.11(a)(3), but presence of constituent(s) for which waste was listed is not the sole criterion for delisting; presence of other constituents influences delisting determinations	Pages: 10 FaxBack: 11073
7/15/85	Maid	to Ramsey	KS Dept. of Health and Environment	sampling frequencies and general information (raw materials, production process, constituent analyses, volumes etc.) required to characterize new waste stream for delisting petition	Pages: 2 FaxBack: 11092
10/7/85	Straus	to Fox	Jones, Day, Reavis and Pogue	delisting decisions must consider all constituents for which waste was originally listed, as well as additional factors and constituents not involved in original listing; applies to all listed wastes, including those listed solely for exhibiting a characteristic	Pages: 2 FaxBack: 11106
10/23/85	Porter	to Panicucci	LAN Associate	delisted waste is not subject to RCRA Subtitle C regulation, but generator could still be liable under CERCLA for damage to the environment; revocation of delisting decision will not affect status of previously delisted and disposed waste	Pages: 2 FaxBack: 11110
11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	waste pickle liquor not eligible for delisting if characteristic; petitioners have option of withdrawing petition rather than having EPA publish denial in *Federal Register*	Pages: 3 FaxBack: 11112
1/6/86	Williams	to Regions	Regions I-X	"temporary" delistings expire 11/8/86; "informal" delistings involve EPA telling petitioner of intent to grant delisting via letter, but never publishing *Federal Register* notice (SUPERCEDED: see 6/17/87 letter, Williams to Regions)	Pages: 2 FaxBack: 11120
1/7/86	Straus	to Rose	Region VI	delisting criteria include sliding regulatory scale dictating variable consitituent levels depending on volume of waste involved; in delisting waste, EPA considers whether waste contains constituents for which it was originally listed as well as additional constituents and factors	Pages: 2 FaxBack: 11121

2/24/86	Williams	to Regions	Regions I-X	"temporary" delistings expire 11/8/86; "informal" delistings involve letter telling petitioner of intent to grant delisting, but never publishing *Federal Register* notice; informal delistings not legally effective; units handling informally delisted wastes subject to full regulation	Pages: 2 FaxBack: 11133
3/20/86	Jenkins	to Straus	EPA HQ	contaminant concentrations are not relevant to determining whether a waste is F006, K001, or another listed HW; if waste matches listing description but does not deserve regulation, delisting or rulemaking is necessary to deregulate waste	Pages: 9 FaxBack: 11139
10/3/89	Scarberry	to Cerar	Squires, Sanders and Dempsey	EPA will not remove listed waste from regulation based solely on whether or not waste exhibits TC; in making delisting decisions, EPA considers whether waste meets any of criteria for which it was originally listed, as well as additional constituents and factors	Pages: 5 FaxBack: 11472
5/24/90	Kayser	to Sherman	U.S. Dept. of Army	change in HW treatment process may produce new wastestream not covered by delisting petition granted in past; as a result, delisting may be reevaluated using new health-based levels and other current delisting criteria	Pages: 2 FaxBack: 11518
6/14/90	Barnes	to Petitioner		notification to petitioners that, after finalization of TC rule, TCLP data will be required in all delisting petitions instead of EP data	Pages: 3 FaxBack: 11522
2/12/91	Kayser	to Howard	MI DNR	once state is authorized for delisting program, EPA loses authority to delist wastes in that state and transfers all outstanding petitions to state agency; EPA delisting decisions have no effect on HW management in state authorized for delistings, unless waste leaves state	Pages: 3 FaxBack: 11583
12/20/91	Lowrance	to Citizen		EPA not required to hold public hearing on delisting petitions; as of 1991, EPA has never held delisting hearings; proposed delistings must be published in *Federal Register*; EPA does not designate specific disposal sites for delisted wastes, but assumes disposal in unlined SW landfill	Pages: 3 FaxBack: 11660

12/30/91	Chaudhari	to Bates	XENIUM Fiberglass Corp.	delisting process generally takes two years; at minimum, delisting petition requires sampling plan, selection of constituents of concern, and analysis of total and leachable constituent concentrations	Pages: 8 FaxBack: 11661
3/22/94	Shapiro	to Nebrich	Waste Technology Services, Inc.	when evaluating delistings (i.e., delistings for wastes listed solely for characteristics), EPA may evaluate additional constituents or factors other than those for which waste was originally listed; similar logic applies to soils containing wastes listed solely for characteristics	Pages: 2 FaxBack: 11819

260.30 & 260.31

Variances From Solid Waste Classification

10/29/85	Straus	to Norwood	Olin Chemicals	spent alkaline etchant that is reclaimed and then used as feedstock in manufacture of new etchant not eligible for variance from SW definition; after reclamation, etchant destined for use as raw material to produce new etchant is no longer SW and not subject to regulation	Pages: 2 FaxBack: 11111
4/6/88	Lowrance	to Grant	Tomar Services, Inc.	smelting wastewater treatment sludges to recover metals is reclamation; listed sludges that have been dried and are destined for further reclamation (smelting) are partially reclaimed and are SW, unless variance from SW definition for partially-reclaimed materials is obtained	Pages: 8 FaxBack: 11338
8/26/88	Lowrance	to Waste Management Division Directors	Region I-X	lead plates and "groups" removed from lead acid batteries at smelting facilities that are awaiting further reclamation in smelter are generally SW; such partially-reclaimed lead plates at smelters are eligible for variance from SW definition	Pages: 27 FaxBack: 11364
10/18/90	Petruska	to Docket	EPA HQ	variances from the definition of SW are evaluated on a case-by-case basis; vast majority of used refrigerants destined for reclamation would not qualify for a variance from the definition of SW (SUPERCEDED: see §261.4(b)(12))	Pages: 3 FaxBack: 11565

2/13/91	Lowrance	to Ploch	CT DEP	used batteries that are partially reclaimed but need further reclamation are generally SW; facilities may use variance procedures to claim that partially reclaimed batteries are not SW	Pages: 3 FaxBack: 11584
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	smelting F006 sludge to recover metals is reclamation, not direct use or reuse; sludge is SW and HW prior to reclamation unless variance from definition of SW for partially-reclaimed wastes needing further reclamation is obtained (§260.30(c))	Pages: 3 FaxBack: 11910

261 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

GENERAL WASTE IDENTIFICATION AND APPLICABILITY ISSUES

Active Management

8/17/83	Skinner	to Devine	Region IV	if placement of HW in land-based units prior to 11/19/80 constitutes storage, which implies future management, facility is subject to interim status; if HW was placed in units prior to 11/19/80 for final disposal, facility never subject to RCRA Subtitle C	Pages: 2 FaxBack: 11029
1/23/86	Williams	to Stringham	Region V	lake or harbor sediments contaminated by an exempt point source discharge are subject to RCRA only when excavated or dredged and if they exhibit a characteristic; sediments contaminated by illegal discharge and excavated could be regulated as listed via contained-in policy	Pages: 9 FaxBack: 11125
10/28/88	Weil	to Gabel	Region II	HW removed from disposal units and placed in different land-based units during remediation activities must meet Part 268 LDR treatment standards for all applicable waste codes	Pages: 1 FaxBack: 11376
6/26/89	Cannon	to Simon	RI Division of Family Health	if contaminated soil is removed from a site, generator must determine if soil contains HW by testing and/or applying knowledge; in absence of specific cleanup order, soil left in place is not subject to RCRA Subtitle C requirements, including testing	Pages: 3 FaxBack: 11436
8/11/89	Lowrance	to Constantelos	Region V	sediments contaminated as result of legal CWA discharges to surface waters are only subject to RCRA Subtitle C regulation if they exhibit characteristics and if they are excavated	Pages: 1 FaxBack: 11455

6/11/92	Lowrance	to Green	Piper and Marbury	excavating and redepositing hazardous soils within AOC during trenching or other non-RCRA related construction is not generation, treatment, storage, or disposal of HW and triggers no requirements, including LDR and generator rules	Pages: 2 FaxBack: 11671
4/6/94	Bussard	to DuBoff	Winston and Strawn	units that became inactive prior to effective date of applicable RCRA rules not subject to Subtitle C unless wastes actively managed within unit; one-time removal of waste from such units not active management; units may be subject to RCRA cleanup as SWMUs or under §7003	Pages: 2 FaxBack: 11826
3/7/95	Friedman	to Hill	Region I	covering soil containing HW with sod, mulch, or gravel does not constitute generation, treatment, or disposal of HW and triggers no Subtitle C obligations	Pages: 6 FaxBack: 11898

Point Of Generation

7/17/85	Skinner	to Scarbrough	Region IV	since any pollution abatement technique such as land treatment, disposal, or storage of a wastewater will invariably form a sludge, F- and K-listed sludges can be formed in situations where wastewaters are stored or disposed (i.e., not specifically treated)	Pages: 1 FaxBack: 11095
7/15/86	Straus	to Harvey	Occupational Medical Services	vapors from degreasing operations using Freon 113, TCE, and methylene chloride are not SW until adsorbed into carbon (vapors are not contained gases); therefore, F002 listing does not apply and spent carbon canister is not HW via mixture rule, although it could be characteristic	Pages: 2 FaxBack: 11166
5/20/87	Straus	to Russell	Russel Resources, Inc.	pickle liquor destined for reclamation becomes spent material (and SW and HW) as soon as it is removed from pickling line	Pages: 5 FaxBack: 11250

7/30/87	Williams	to Feigner	Region X	each ATON unit service area (landbased or tender vehicle) is a point of generation subject to applicable generator standards; satellite accumulation area provisions do not apply to ATON service locations (see also FFCA)	Pages: 9 FaxBack: 11270
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	explosive materials stored as legal evidence by court or Bureau of Alcohol, Tobacco, and Firearms (BATF) becomes waste (i.e., is generated) when court or BATF no longer has use for the explosives as evidence	Pages: 4 FaxBack: 11363
4/21/89	Lowrance	to Axtell	Smith and Schnacke	HW is considered generated when it is first produced or first becomes subject to regulation, not when generator first analyzes waste; failure to properly analyze, label, and accumulate waste does not exempt waste from regulation	Pages: 2 FaxBack: 11424
3/8/91	Lowrance	to Leopold	Region VI	TC sludges generated in surface impoundments receiving nonhazardous influent are SW and HW; regulations apply not only when surface impoundment is cleaned or closed, but as soon as sludge is generated (sludges are generated at moment of deposition at bottom of unit)	Pages: 6 FaxBack: 11588
5/16/91	Lowrance	to Schulz	Pharmaceutical Services, Inc.	unused pharmaceuticals returned to manufacturer (reverse distribution system) are not yet discarded because decision has not been made whether they are to be reused, reclaimed, or approriately disposed; returned products are not SW until decision has been made to discard	Pages: 2 FaxBack: 11606
7/31/91	Lowrance	to Wallace	Region VIII	pulp and paper mill wastes should be sampled at outlet from bleach plant (point of generation), prior to commingling (mixing) with other wastestreams, to determine whether they exhibit the TC for chloroform, D022	Pages: 7 FaxBack: 11631
2/23/93	Lowrance	to Redington	Monsanto Co.	clarification of phrases "at or near point of generation" and "under control of operator. . ."	Pages: 3 FaxBack: 11728

8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	ships destined for scrap, their structure, and necessary on-board operating materials are not discarded or wastes while vessels remain intact because those materials continue to serve a useful purpose; removal of material intended for discard from ship's structure is point of generation	Pages: 13 FaxBack: 11862
9/28/94	Bussard	to Green	Applied Environmental Services, Inc.	mercury switches are considered spent as soon as removed from service, not when sent from field location to central evaluation point (unlike CCPs); mercury switch sent for further use as a relay or switch is continued use of product, thus never becomes a SW; generator's responsibility to make this decision	Pages: 2 FaxBack: 11876
3/8/95	Shapiro	to Richter	American Foundrymen's Society	foundry sands normally become wastes when sand mold is broken at "shakeout table" and sand is separated from metal castings (molded metal products); if sand is destined for reclamation rather than direct reuse, sand is spent material and SW from this point forward	Pages: 10 FaxBack: 11900
3/22/95	Laws	to Administrators	Regions I-X	ash from waste-to-energy facilities burning MSW must be evaluated for characteristics at point ash leaves resource recovery facility making mixing of bottom and fly ash prior to HW determination impossible in some cases	Pages: 6 FaxBack: 11901
10/19/95	Kidwell	to Lively	TDJ Group, Inc.	particulate emissions from foundry production unit are not SW until collected in and removed from baghouse; if emissions derive from waste management, particulate may be SW triggering RCRA Subtitle C prior to collection in baghouse	Pages: 2 FaxBack: 11921

SUBPART A GENERAL

261.1(b)

261.2 Does Not Apply To Nonhazardous Materials

2/13/85	Skinner	to Merrigan	Madison Industries, Inc.	only those secondary materials that are hazardous (i.e., listed or characteristic) are subject to RCRA Subtitle C regulation; nonhazardous scrap metal is not subject to Subtitle C regulation	Pages: 3 FaxBack: 11057

3/21/85	McGraw	to Baucus	U.S. Senate	EPA's authority to regulate recycled materials is limited solely to those materials that are hazardous (i.e., that are listed or characteristic); definition of SW rules do not apply to nonhazardous materials (e.g., nonhazardous scrap, paper, textiles, and rubber)	Pages: 3 FaxBack: 11003
5/9/85	McGraw	to Seiberling	U.S. House of Representatives	HW recycling regulations do not apply to materials (such as nonhazardous scrap, paper, textiles, or rubber) that are not otherwise HW and that are recycled	Pages: 4 FaxBack: 11074

261.1(c)

Definitions Of Terms

By-product / Co-product

6/6/85	Straus	to Bzura	Madison Industries, Inc.	brass dross skimmings are by-products, not scrap metal	Pages: 3 FaxBack: 11083
8/13/85	Straus	to Gowen	TX Instruments, Inc.	solder drosses are by-products; spent material v. by-product; examples of spent materials are spent solvents, spent acids, spent pickle liquor, spent catalysts, and spent lead-acid batteries; examples of by-products are distillation residues, slags, dross, and tank bottoms	Pages: 2 FaxBack: 11101
6/25/87	Straus	to Martin	Preservation Products, Inc.	co-product v. by-product; co-products are not SW; co-products are produced intentionally and ordinarily used in existing state as commodities; hydrochloric acid produced from hydrogen chloride gas in manufacture of PCP is a co-product, not F021	Pages: 7 FaxBack: 11260
10/16/87	Williams	to Retallick	DE Dept. of Natural Resources and Environmental Control	thermal oxidation and hydrodechlorination are considered reclamation activities; distillation bottoms ("polychlor material") from the production of chlorinated benzenes are by-products (see also 4/21/88 letter, Lowrance to Sinibaldi)	Pages: 4 FaxBack: 11297

4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	distillation or fractionation column bottoms from production of chlorobenzene (K085) are by-products; by-product v. co-product; although bottoms may have economic value, if they must be further processed before use, they can't be co-products	Pages: 22 FaxBack: 11342
6/6/88	Barnes	to Tribble	American Cyanamid Co.	whether spent sulfuric acid is considered a spent material, co-product, or by-product, is dependent on how it is recycled; used sulfuric acid produced by sulfonation, alkylation, and dehydration reactions may be regulated as by-product or co-product, rather than spent material	Pages: 9 FaxBack: 11352
2/7/89	Lowrance	to Gallaher	Allied Aircraft Sales, Inc.	aluminum dross is a by-product; if the use of dross in the manufacture of cement yields distinct components as separate end products, it is considered reclamation	Pages: 4 FaxBack: 11395
4/2/89	Dellinger	to Truitt	Schmeltzer, Aptaker and Sheppard, P.C.	particles of chrome-coated zinc and charcoal from metal galvanizing are by-products; dewatering is reclamation	Pages: 2 FaxBack: 11415
4/5/89	Barnes	to Bzura	Old Bridge Chemicals	"drove" generated by the brass industry is neither spent material nor sludge (provided it is not derived from a pollution control device), but rather co-product or a by-product; some components of drove may meet definition of scrap metal	Pages: 2 FaxBack: 11416
7/20/89	Kidwell	to Douglas	Electrum Recovery Works, Inc.	solder skimmings are by-products, not scrap metal; regulatory definition of scrap metal is not based on the value of the material or the process by which it is reclaimed, but rather on the material's physical appearance and previous use	Pages: 2 FaxBack: 11446
9/20/90	Lowrance	to Fox	Heritage Remediation/Engineering, Inc.	tank bottoms from fuel storage are CCPs and not SW when used in fuels; tank bottoms from refining process units are by-products and SW when destined for use in fuels; refinery by-product destined for use in lubricant is SW only if listed HW	Pages: 9 FaxBack: 11561

12/5/90	Bussard	to Wright	Bathgate, Wegener, Wouters, and Newmann	solder skimmings are by-products, not scrap metal; EPA considers solder skimmings to be more closely identified with the term "drosses" than the term "turnings"	Pages: 2 FaxBack: 11572
3/19/91	Bussard	to Pierson	U.S. Dept. of Justice	by-product v. spent material (solder dross skimmings); description of how "drosses" are typically generated (SUPERCEDED: see 8/28/92 letter, Guimond to Vaille)	Pages: 2 FaxBack: 11591
6/21/91	Bussard	to Pierson	Assistant U.S. Attorney	by-product v. spent material; solder skimmings "drosses" are classified either as by-products or spent materials depending on how they are generated; EPA further studying issue (see also 8/28/92 letter, Guimond to Vaille)	Pages: 3 FaxBack: 11617
11/27/91	Clay	to Stanga	American Electronics Association	until further study is completed, EPA will continue to treat solder drosses generated by soldering printed circuit boards as by-products, rather than spent materials (see also 8/28/92 letter, Guimond to Vaille)	Pages: 3 FaxBack: 11655
12/3/91	Clay	to Krajewski	Beveridge and Diamond	clarification that 11/27/91 letter, Clay to Stanga applied only to solder dross from printed circuit board manufacturing; status of solder dross from other industries remains as stated in 50 *FR* 614; 1/4/85, and 1986 recycling guidance (see also 8/28/92 letter, Guimond to Vaille)	Pages: 1 FaxBack: 11656
7/9/92	Lowrance	to Chambers	McKenna and Cuneo	coal tar distillate marketed for fuel use is a co-product	Pages: 2 FaxBack: 11677
8/26/92	Lowrance	to Waste Management Division Directors	Regions I-X	unprocessed, spent printed circuit boards qualify for scrap metal exclusion as generated; residuals from processing of spent circuit boards (e.g., shredded pieces, sweeps, ash, fluff, or baghouse dust) may not qualify as scrap metal, but instead may be spent materials, by-products, or sludges	Pages: 3 FaxBack: 11689

8/28/92	Guimond	to Vaille	Region IX	all solder dross (skimmings) qualify as by-products	Pages: 1 FaxBack: 11691
6/2/93	Denit	to Chambers	McKenna and Cuneo	by-product v. co-product; material that must be further processed is considered a by-product; disulfide oil used in the manufacture of sulfuric acid is a by-product, and not a SW when reclaimed	Pages: 2 FaxBack: 11750
8/4/93	Petruska	to Farmer	Region IV	plastic chips from spent lead-acid batteries are spent materials, not by-products; EPA has viewed by-product category as a catch-all including most materials that aren't spent materials or sludges; category may include materials that aren't generated from production processes	Pages: 3 FaxBack: 11763
11/4/93	Weddle	to Ferguson	TX Natural Resource Conservation Commission	light hydrocarbon wastestreams generated in production of a primary product may be either by-product or co-product, depending on site-specific factors; factors relevant in determining whether a material is a product or a waste; discussion of clean fuels	Pages: 3 FaxBack: 11793
11/10/93	Petruska	to Lambert	Westvaco Corp.	light hydrocarbon wastestreams generated in the production of a primary product that are used as fuel enhancers may be either by-products or co-products, depending on site-specific factors (see also 11/4/93 letter, Weddle to Ferguson)	Pages: 5 FaxBack: 11795
11/10/93	Petruska	to Robinson	Catalyst Resources, Inc.	classification of toluene and hexane steam fuel additive as a by-product v. co-product (see also 11/4/93 letter, Weddle to Ferguson); regulatory status of clean fuels	Pages: 5 FaxBack: 11796
11/10/93	Petruska	to Stillmun	FMC Corp.	regulatory status of quench hexane used as a commercial gasoline blending additive; regulation of fuels containing recovered light hydrocarbons as products or wastes (see also 11/4/93 letter, Weddle to Ferguson)	Pages: 5 FaxBack: 11797

1/31/95	Shapiro	to Gelber	U.S. Dept of Justice	distillate material (LX-830) derived from petroleum and coal tar naptha feedstocks meets the definition of co-product (i.e. not a SW or HW); product specification and management of LX-830 are determining factors in classifying the material as a co-product, rather than a by-product	Pages: 3 FaxBack: 11936

Commercial Chemical Products

3/19/86	Williams	to Citizen		mixtures of gas and water or oil and water are not regulated when reclaimed to produce fuels because they are considered off-specification CCPs normally used as fuels; virgin gas incinerated to recover energy is not SW since gas is typically burned as a fuel	Pages: 6 FaxBack: 11138
6/14/91	Clay	to Buchman	Conoco, Inc.	mixture of petroleum fuel product and water is off-specification CCP and not SW when destined for reclamation; if mixture is result of intentional mixing or purposeful nonseparation of product and hazardous wastewater to avoid regulation, mixture may be SW	Pages: 6 FaxBack: 11615

Reclamation

7/16/85	Skinner	to Seraydarian	Region IX	spent pickle liquor (K062) is spent material and SW when sent for reclamation; recovery of ferrous chloride from spent pickle liquor is reclamation; fact that waste may be beneficially used after reclamation does not affect its status as SW before and while being reclaimed	Pages: 2 FaxBack: 11093
12/4/86	Williams	to Stringham	Region V	processing (briquetting, crushing, repackaging) refractory bricks does not recover material values and so is not reclamation; bricks processed in this manner may still qualify for direct reuse exemption; if direct reuse exemption applies, status as spent material or by-product irrelevant	Pages: 3 FaxBack: 11201
7/31/87	Williams	to Kertcher	Region V	briquetting is not reclamation, even when briquetting includes the addition of binding material (e.g., flue dust briquetted with sodium silicate binder)	Pages: 4 FaxBack: 11271

10/16/87	Williams	to Retallick	DE Dept. of Natural Resources and Environmental Control	thermal oxidation and hydrodechlorination are considered reclamation activities; distillation bottoms ("polychlor material") from the production of chlorinated benzenes are by-products (see also 4/21/88 letter, Lowrance to Sinibaldi)	Pages: 4 FaxBack: 11297
4/6/88	Lowrance	to Grant	Tomar Services, Inc.	smelting wastewater treatment sludges to recover metals is reclamation; listed sludges that have been dried and are destined for further reclamation (smelting) are partially reclaimed and are S, unless variance from SW definition for partially-reclaimed materials available	Pages: 8 FaxBack: 11338
2/7/89	Lowrance	to Gallaher	Allied Aircraft Sales, Inc.	aluminum dross is a by-product; if the use of dross in the manufacture of cement yields distinct components as separate end products, it is considered reclamation	Pages: 4 FaxBack: 11395
4/2/89	Dellinger	to Truitt	Schmeltzer, Aptaker and Sheppard, P.C.	particles of chrome-coated zinc and charcoal from metal galvanizing are by-products; dewatering is reclamation	Pages: 2 FaxBack: 11415
7/31/89	Barnes	to Haake	McDonnell Douglas	reprocessing off-specification jet fuel to make new fuel product is reclamation rather than use or reuse as ingredient in industrial process; off-specification jet fuel to be made into new fuel product is CCP being reclaimed for intended purpose and is not SW	Pages: 2 FaxBack: 11449
7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	used photo fixer that is removed for processing as a result of contamination is a spent material; if used fixer is sold for further use, it is not a spent material, but continued use of a product; electrolytic treatment filtration, and fortifying of fixer solution is reclamation	Pages: 3 FaxBack: 11541
10/18/90	Petruska	to Docket	EPA HQ	reclamation can include activities ranging from simple filtration to reinsertion into a refrigerant manufacturing unit; used refrigerants are spent materials, not CCPs or by-products; the term used in EPA's definition of spent material carries its ordinary, plain language meaning	Pages: 3 FaxBack: 11565

3/4/91	Lowrance	to Svanda	MN Pollution Control Agency	EPA draws clear distinction between regeneration (processing to remove contaminants in a way that restores original product) and materials recovery (processing to recover usable material values as end products); smelting is not regeneration	Pages: 3 FaxBack: 11586
2/6/95	Shapiro	to Perkins	Williams & Anderson	dust collected in air filtration system is not sludge since filtration intended to recover dust, not control pollution; heating and distillation are considered reclamation processes; regulatory status of recycled acrylic plastic dust generated from plastic media blasting	Pages: 3 FaxBack: 11937
3/8/95	Shapiro	to Richter	American Foundrymen's Society	screening foundry sand to remove bits and pieces of metal, clumps of sand, and other residuals is reclamation; foundry sands destined for reclamation are spent materials and SW; reclamation is generally exempt from regulation unless thermal treatment is involved	Pages: 10 FaxBack: 11900
6/23/95	Shapiro	to Downey	Downey Chandler, Inc.	liquid ion exchange technology traditionally used to remove metal contaminants from wastewater prior to discharge, but can also qualify as exempt recycling process when used to recover metals from wastewater; explanation of ion exchange wastewater treatment technology	Pages: 3 FaxBack: 11908
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	use or reuse v. reclamation; dried metal hydroxide pellets that are sent to smelter to recover metals are reclaimed, not directly used or reused, because distinct components of material are recovered as separate end products	Pages: 3 FaxBack: 11910

Scrap Metal

6/6/85	Straus	to Bzura	Madison Industries, Inc.	brass dross skimmings are by-products, not scrap metal	Pages: 3 FaxBack: 11083

8/9/85	Straus	to Lead	General Battery Corp.	industrial steel battery cases and lead plates from which the acid and lead components have been removed are scrap metal; mixtures of scrap metal (battery cases) and regulated recyclable materials (lead oxides) must be managed as HW when sent for reclamation	Pages: 3 FaxBack: 11100
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	metal torpedo components that are sent for decontamination are considered scrap metal	Pages: 3 FaxBack: 11134
10/20/86	Straus	to Morford	Stoel, Rives, Boley, Praser, and Wyse	zinc bar, nickle plate, cadmium plate, and steel scrap removed from alkaline batteries are scrap metal; mixtures of scrap metal (metal plates) removed from spent lead-acid battery and non-scrap metal (lead oxide sludge) is not scrap metal	Pages: 7 FaxBack: 11184
11/19/86	Straus	to Straume	U.S. Air Force	buttons, eyeglass frames, uniform insignia, and electronic scrap, if not scrap metal, are considered spent materials; if recycled to recover precious metal content, they are subject to regulation under Part 266, Subpart F	Pages: 11 FaxBack: 11197
5/2/88	Lowrance	to Harkin	U.S. Senate	EPA's regulatory definition of scrap metal; metal parts, when recycled, are not subject to Subtitle C regulation	Pages: 2 FaxBack: 11347
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	wastes (bits of metal, lead sulfates, lead carbonates, plastic battery chips) derived from spent materials (batteries) are, themselves, spent materials; bits and pieces of lead metal from batteries could meet the definition of scrap metal	Pages: 9 FaxBack: 11383
4/5/89	Barnes	to Bzura	Old Bridge Chemicals	"drove" generated by the brass industry is neither spent material nor sludge (provided it is not derived from a pollution control device), but rather co-product or a by-product; some components of drove may meet definition of scrap metal	Pages: 2 FaxBack: 11416

6/6/89	Cannon	to Goodling	U.S. House of Representatives	discarded automotive parts and electronic devices may meet definition of scrap metal; circuit boards with relatively small amounts of metal are not scrap metal; these materials can be spent materials if not scrap metal	Pages: 2 FaxBack: 11432
7/20/89	Kidwell	to Douglas	Electrum Recovery Works, Inc.	solder skimmings are by-products, not scrap metal; regulatory definition of scrap metal is not based on the value of the material or the process by which it is reclaimed, but rather on the material's physical appearance and previous use	Pages: 2 FaxBack: 11446
10/30/90	Lowrance	to Duprey	Region VIII	automotive oil filter from which UO is removed qualifies as scrap metal and is exempt when destined for recycling; undrained or uncrushed used oil filters generally contain too much oil to qualify for scrap metal exemption (see also §261.4(b)(13))	Pages: 3 FaxBack: 11566
8/26/92	Lowrance	to Waste Management Division Directors	Regions I-X	unprocessed, spent printed circuit boards qualify for scrap metal exclusion as generated; residuals from processing of spent circuit boards (e.g., shredded pieces, sweeps, ash, fluff, or baghouse dust) may not qualify as scrap metal, but instead may be spent materials, by-products, or sludges	Pages: 3 FaxBack: 11689
11/10/92	Lowrance	to Burke	Rode and Qualey	spent photoconductor drums taken from photocopying machines meet the definitions of spent material and scrap metal	Pages: 2 FaxBack: 11710
1/4/93	Shapiro	to Campbell	Katec Inc.	steel aerosol cans qualify as scrap metal if they do not contain a significant amount of liquid (e.g., cans that have been punctured and drained)	Pages: 1 FaxBack: 11718
10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	steel aerosol can qualifies as scrap metal if it does not contain significant liquids (i.e., is fully drained) and is therefore exempt from regulation when sent for recycling; emptying steel aerosol can by puncturing and draining may be exempt as step in recycling can as scrap metal	Pages: 3 FaxBack: 11780

10/7/93	Denit	to Crawford	Steel Recycling Institute	steel aerosol can qualifies as scrap metal if it does not contain significant liquids (i.e., is fully drained) and is therefore exempt from regulation when sent for recycling; emptying steel aerosol can by puncturing and draining may be exempt as step in recycling can as scrap metal	Pages: 3 FaxBack: 11782
8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	materials from dismantled ship that are to be recycled are likely to qualify as scrap metal	Pages: 13 FaxBack: 11862
9/21/94	Brandes	to Downing	Fidelity Chemical Products Corp.	determination of whether steel wool qualifies as scrap metal should be made by implementing agency	Pages: 3 FaxBack: 11930

Speculative Accumulation

5/26/88	Barnes	to Ford	Stauffer Chemical Co.	clarification of definition of speculative accumulation	Pages: 3 FaxBack: 11351

Spent Material

7/10/85	Skinner	to Suska	Baltimore City Health Dept.	spent activated charcoal or carbon is normally considered a spent material; if part of a pollution control system, it would be defined as a sludge	Pages: 3 FaxBack: 11089
7/16/85	Skinner	to Seraydarian	Region IX	spent pickle liquor (K062) is spent material and SW and HW when sent for reclamation; recovery of ferrous chloride from spent pickle liquor is reclamation; fact that waste may be beneficially used after reclamation does not affect its status as SW before and while being reclaimed	Pages: 2 FaxBack: 11093

8/9/85	Straus	to Hudson	U.S. Navy	propulsion fuel remaining in torpedo (after firing) that is contaminated with saltwater is a CCP, thus not a SW when sent for reclamation; contaminated propulsion fuel is not a spent material since any fuel that is spent (or used) would no longer exist	Pages: 2 FaxBack: 11099
8/13/85	Straus	to Gowen	TX Instruments, Inc.	solder drosses are by-products; spent material v. by-product; examples of spent materials are spent solvents, spent acids, spent pickle liquor, spent catalysts, and spent lead-acid batteries; examples of by-products are distillation residues, slags, dross, and tank bottoms	Pages: 2 FaxBack: 11101
10/1/85	Straus	to Waite	Boeing Computer Services	lubricating oil and unused fuel mixture used to remove excess fuel from fuel cells is spent material, not off-specification CCP since mixture is used as a solvent	Pages: 2 FaxBack: 11105
11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	waste pickle liquor from steel finishing (K062) is spent material	Pages: 3 FaxBack: 11112
1/6/86	Straus	to Robbins	Kohler Co.	foundry sands are spent materials (i.e., materials which have been used and are no longer fit for use without being regenerated, reclaimed, or otherwise reprocessed) and SW when reclaimed	Pages: 2 FaxBack: 11119
1/21/86	Straus	to Goldsmith	D.F. Goldsmith Chemical and Metal Corp.	free-flowing, 99% pure mercury is not SW; metals that are suitable for direct use, or that only need to be refined to be usable are products, not wastes; any electrical switches, instruments, scrap batteries, or other spent materials from which such pure mercury will be reclaimed are SW	Pages: 2 FaxBack: 11123
2/4/86	Straus	to Dufficy	National Association of Photographic Manufacturers, Inc.	even if they are not contaminated, used photographic film and paper removed from service and destined for recycling are spent materials; unless such wastes exhibit characteristics, classification as spent materials is irrelevant	Pages: 2 FaxBack: 11127

4/2/86	Williams	to Wassersug	Region III	spent carbon is normally considered a spent material unless it results from pollution control, in which case it is considered a sludge	Pages: 6 FaxBack: 11143
5/20/86	Straus	to Guptill	MO Hospital Association	used x-ray film is spent material	Pages: 2 FaxBack: 11156
11/6/86	Straus	to Bzura	Old Bridge Chemicals, Inc.	spent etchants are spent materials	Pages: 6 FaxBack: 11192
11/19/86	Straus	to Straume	U.S. Air Force	buttons, eyeglass frames, uniform insignia, and electronic scrap, if not scrap metal, are considered spent materials; if recycled to recover precious metal content, they are subject to regulation under Part 266, Subpart F	Pages: 11 FaxBack: 11197
5/20/87	Straus	to Russell	Russel Resources, Inc.	spent pickle liquor is a spent material; whether the spent pickle liquor can continue to be used does not affect its regulatory status if the pickle liquor will be regenerated before reuse; pickle liquor that is reused without prior reclamation may qualify for §261.2(e) exemption from SW definition	Pages: 5 FaxBack: 11250
4/25/88	Barnes	to Geary	Bio-Ecological Services, Inc.	antineoplastic drugs that has been diluted with water or saline solution are not considered a spent material because it has not been used for its intended function, nor is it contaminated; excess portions of unused antineoplastic drugs that have been diluted are SW when discarded	Pages: 4 FaxBack: 11343
6/6/88	Barnes	to Tribble	American Cyanamid Co.	whether spent sulfuric acid is considered a spent material, co-product, or by-product, is dependent on how it is recycled; used sulfuric acid produced by sulfonation, alkylation, and dehydration reactions may be regulated as by-product or co-product, rather than spent material	Pages: 9 FaxBack: 11352

7/21/88	Lowrance	to Turner	Racon Refrigerants	refrigerant contaminated through use is spent material if it must be reclaimed prior to reuse; contamination may occur because atmospheric moisture condenses, lubricating oil is released into refrigerator, or high temperatures form hydrochloric acid (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355
8/9/88	Barnes	to Tribble	American Cyanamid Co.	sulfuric acid from chlorine dehydration that is too dilute for reuse without further processing may meet the definition of spent material	Pages: 2 FaxBack: 11361
10/27/88	Lowrance	to Wagoner	Region VII	listed rinsewater destined for filtering and reuse is a spent material and SW prior to reclamation; EPA generally does not consider treated wastewater to be reclaimed "product;" in certain cases, treated wastewater that is legitimately reused is considered "reclaimed" and loses SW status	Pages: 3 FaxBack: 11374
11/2/88	Dellinger	to Stone	GSX Chemical Services	if mercury-containing thermometers have been used, they are considered spent materials when destined for reclamation	Pages: 3 FaxBack: 11378
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	wastes (bits of metal, lead sulfates, lead carbonates, plastic battery chips) derived from spent materials (batteries) are, themselves, spent materials; bits and pieces of lead metal from batteries could meet the definition of scrap metal	Pages: 9 FaxBack: 11383
12/7/88	Lowrance	to Stapleton	Stapleton Company	filter cake from treatment of plating wastewaters is more likely to qualify as a sludge than cake from treatment of spent plating baths, which would be a spent material when destined for reclamation	Pages: 6 FaxBack: 11385
4/14/89	Cochran	to Oleszko	HazMat Environmental Group, Inc.	ignitron tube containing mercury is spent material, not a CCP; purity of the mercury within the tube is not a consideration when determining whether the ignitron tube itself meets the definition of spent material (the tube is what becomes spent)	Pages: 2 FaxBack: 11419

5/23/90	Lowrance	to Bergeson	Fox, Weinberg, and Bennett	batteries are spent if they have been used and can no longer be used for the purpose for which they were produced; batteries do not have to be contaminated in order to be considered spent; if it is not known whether the battery is reusable, it would be prudent to consider the battery spent	Pages: 3 FaxBack: 11517
7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	used photo fixer that is removed for processing as a result of contamination is a spent material; if used fixer is sold for further use, it is not a spent material, but continued use of a product; electrolytic treatment filtration, and fortifying of fixer solution is reclamation	Pages: 3 FaxBack: 11541
10/18/90	Petruska	to Docket	EPA HQ	reclamation can include activities ranging from simple filtration to reinsertion into a refrigerant manufacturing unit; used refrigerants are spent materials, not CCPs or by-products; the term used in EPA's definition of spent material carries its ordinary, plain language meaning	Pages: 3 FaxBack: 11565
2/13/91	Lowrance	to Ploch	CT DEP	unused batteries are CCPs and not SW when destined for reclamation; used batteries are spent materials and SW when destined for reclamation; variance may be used to show that partially reclaimed used batteries are not SW (see also §261.6(a)(3)(ii))	Pages: 3 FaxBack: 11584
8/26/92	Lowrance	to Waste Management Division Directors	Regions I-X	unprocessed, spent printed circuit boards qualify for scrap metal exclusion as generated; residuals from processing of spent circuit boards (e.g., shredded pieces, sweeps, ash, fluff, or baghouse dust) may not qualify as scrap metal, but instead may be spent materials, by-products, or sludges	Pages: 3 FaxBack: 11689
11/10/92	Lowrance	to Burke	Rode and Qualey	spent photoconductor drums taken from photocopying machines meet the definitions of spent material and scrap metal	Pages: 2 FaxBack: 11710
8/4/93	Petruska	to Farmer	Region IV	plastic chips from spent lead-acid batteries are spent materials, not by-products; EPA has viewed "by-product" category as a catch-all including most materials that aren't spent materials or sludges; category may include materials that aren't generated from production processes	Pages: 3 FaxBack: 11763

10/22/93	Weddle	to Clutter	Marathon Power Technologies	used nickel-cadmium batteries can no longer be used for the purpose for which they were produced are spent materials; spent materials are SW when reclaimed	Pages: 2 FaxBack: 11789
3/24/94	Shapiro	to Davis	Region VI	mercuric chloride catalyst used in production process is a spent material when taken out of service, regardless of contamination; "contamination" refers to any impurity, factor, or circumstance which causes a material to be taken out of service for reprocessing, regardless of contamination	Pages: 2 FaxBack: 11821
6/10/94	Petruska	to Habeeb	Albright & Habeeb	PCE that is periodically drained from closed-loop drycleaning solvent reclamation system, stored temporarily, and reintroduced into system may be spent material or product, depending on level of contamination and where PCE is being reintroduced into the system	Pages: 2 FaxBack: 11926
7/29/94	Bussard	to Sahler	NY Gas Group	natural gas regulators that contain mercury are best classified as spent materials; any quantity of liquid mercury, other than trace amounts attached to a material, precludes designation as scrap metal	Pages: 2 FaxBack: 11860
8/30/94	Bussard	to Woods	Ashland Chemical Co.	"spent material" doesn't include materials reused for original purpose, provided they aren't reclaimed/reprocessed prior to reuse; determining factor not whether material is marketable but whether it is reused in manner consistent with its original use without prior reclamation	Pages: 2 FaxBack: 11868
9/28/94	Bussard	to Green	Applied Environmental Services, Inc.	mercury switch taken out of service and sent for reclamation is spent material; mercury switch sent for further use as relay or switch is not a SW because of continued use as a product; determination of spent v. further use must be made by generator when switch taken out of service	Pages: 2 FaxBack: 11876
3/8/95	Shapiro	to Richter	American Foundrymen's Society	foundry sands are spent materials at point sand mold is broken and sand is separated from metal casting (molded metal product); screening foundry sand to remove metal fines and other residuals is reclamation; foundry sands sent for reclamation are spent materials and SW	Pages: 10 FaxBack: 11900

8/10/95	Petruska	to McCoy	CPI Corp.	used silver-bearing photo fixer destined for reclamation is spent material and SW; silver recovery units destined for reclamation are characteristic sludges and not SW (see also 8/4/95 letter, Petruska to Thompson)	Pages: 2 FaxBack: 11914
9/14/95	Petruska	to Wlodarczak	GNB Battery Technologies	unused off-specification lead plates from lead-acid battery production (i.e., nonlisted CCP) are not SW when reclaimed; if plates are used, they are spent materials and are SW when reclaimed	Pages: 1 FaxBack: 11917

Use / Reuse

12/4/86	Williams	to Stringham	Region V	processing (briquetting, crushing, repackaging) refractory bricks does not recover material values and so is not reclamation; bricks processed in this manner may still qualify for direct reuse exemption; if direct reuse exemption applies, status as spent material or by-product irrelevant	Pages: 3 FaxBack: 11201
5/20/87	Straus	to Russell	Russel Resources, Inc.	spent pickle liquor is a spent-material; whether the spent pickle liquor can continue to be used does not affect its regulatory status if the pickle liquor will be regenerated before reuse; pickle liquor that is reused without prior reclamation may qualify for §261.2(e) exemption from SW definition	Pages: 5 FaxBack: 11250
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	use or reuse v. reclamation; dried metal hydroxide pellets that are sent to smelter to recover metals are reclaimed, not directly used or reused, because distinct components of material are recovered as separate end products	Pages: 3 FaxBack: 11910

261.2

General Definition Of Solid Waste Issues

Contained Gases

7/15/86	Straus	to Harvey	Occupational Medical Services	vapors from degreasing operations using Freon 113, TCE, and methylene chloride are not SW until adsorbed into carbon (vapors are not contained gases); therefore, F002 listing does not apply and spent carbon canister is not HW via mixture rule, although it could be characteristic	Pages: 2 FaxBack: 11166

5/18/87	Straus	to Burchett	Clean Crop	EPA continues to regulate listed HW even when it is contained in another material, such as spent carbon; unused Phorate pesticide which volatilizes into air during production and is captured in carbon filters is P094 HW	Pages: 3 FaxBack: 11248
6/17/87	Straus	to Ng	Region II	methanol volatilizing from pharmaceutical production is not SW; once captured in carbon and condensed, methanol carries F003 listings and renders carbon listed; removal of F003 from carbon is exempt recycling (SUPERCEDED; see 7/15/86 letter, Straus to Harvey)	Pages: 4 FaxBack: 11255
8/11/92	Denit	to Guinyard	Region VI	off-gases from resource recovery kilns are regulated under RCRA Subtitle C if they originate from HW treatment	Pages: 5 FaxBack: 11684
10/19/95	Kidwell	to Lively	TDJ Group, Inc.	particulate emissions from foundry production unit are not SW until removed from baghouse, at which point HW determination is made; if emissions derive from waste management, particulate may be SW and HW triggering RCRA Subtitle C prior to collection in baghouse	Pages: 2 FaxBack: 11921

Continued Use Of Product vs. Solid Waste Recycling

6/24/87	Straus	to Bello	Northspur	used lead-acid batteries are not wastes until they have served intended purpose or become spent; RCRA Subtitle C does not apply to company selling or giving away batteries, provided batteries are used for intended purpose and no reclamation occurs; company must document legitimacy	Pages: 2 FaxBack: 11258
2/14/90	Lowrance	to Feulner	CIBA - GEIGY Corp.	cancelled unused pesticide is SW if it is abandoned, is intended to be abandoned, or is intended for use as fuel; if company can find valid market for pesticide (unlikely because use has been banned), may not be product in continued use and not SW; handler retains burden of proof	Pages: 3 FaxBack: 11492

7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	used photo fixer that is removed for processing as a result of contamination is a spent material; if used fixer is sold for further use, it is not a spent material, but continued use of a product; electrolytic treatment filtration, and fortifying of fixer solution is reclamation	Pages: 3 FaxBack: 11541
10/18/90	Petruska	to Docket	EPA HQ	used refrigerant directly reused as a refrigerent is merely continued use of a CCP and not a SW	Pages: 3 FaxBack: 11565
3/19/91	Bussard	to Duncan	Appropriate Technologies II, Inc.	used mercury that is 99% pure is considered product rather than SW because it is pure enough to require only minor refining, rather than substantial reclamation, in order to be usable	Pages: 1 FaxBack: 11590
5/16/91	Lowrance	to Schulz	Pharmaceutical Services, Inc.	unused pharmaceuticals returned to manufacturer (reverse distribution system) are not yet discarded because decision has not been made whether they are to be reused, reclaimed, or approriately disposed; returned products are not SW until decision has been made to discard	Pages: 2 FaxBack: 11606
8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	ships destined for scrap, their structure, and necessary on-board operating materials are not discarded or wastes while vessels remain intact because those materials continue to serve a useful purpose; removal of material intended for discard from ship's structure is point of generation	Pages: 13 FaxBack: 11862
8/30/94	Bussard	to Woods	Ashland Chemical Co.	reuse of a product for its original intended purpose without intervening reclamation or reprocessing is not waste management, but rather continued use of a product	Pages: 2 FaxBack: 11868
9/28/94	Bussard	to Green	Applied Environmental Services, Inc.	mercury switch sent for further use as a relay or switch is continued use of product, thus it never becomes a SW; whether used mercury switch is spent or directly reusable must be determined when removed from service, not after shipment from field location to central evaluation point	Pages: 2 FaxBack: 11876

10/5/94	Petruska	to Dufficy	National Association of Photographic Manufacturers, Inc.	metals suitable for direct reuse, or that only need minor refining to be usable, are products; 98% pure silver flake recovered from photoprocessing and sent to be refined to 99.99% purity is "commodity-like" and is not SW	Pages: 6 FaxBack: 11879

Miscellaneous

3/21/85	McGraw	to Baucus	U.S. Senate	it is within RCRA Subtitle C jurisdiction, and consistent with Congressional intent, for EPA to regulate certain materials being recycled or held for recycling, as SW and HW	Pages: 3 FaxBack: 11063
5/9/85	McGraw	to Seiberling	U.S. House of Representatives	EPA's approach in 50 *FR* 614; 1/4/85, for regulating certain secondary materials being recycled (or held for recycling) is consistent with Congressional intent	Pages: 4 FaxBack: 11074
4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	whether material is or is not SW depends on the disposition, or intended disposition, of the material	Pages: 22 FaxBack: 11342
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	determining RCRA Subtitle C regulations applicable to any recycling operation involves two questions: (1) deciding whether recycling is legitimate or sham (2) if the recycling is legitimate, deciding whether activity is a type of recycling regulated under §§261.2 and/or 261.6	Pages: 5 FaxBack: 11426
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	SW that are also HW are subject to regulation from point of generation through recycling; when burned for energy recovery or used in manner constituting disposal, products produced from HW may still be wastes and subject to Part 266, Subparts C or H	Pages: 2 FaxBack: 11886

Sham Recycling

2/7/89	Lowrance	to	Gallaher	Allied Aircraft Sales, Inc.	using aluminum dross sludges containing high concentrations of heavy metals in the manufacture of cement is sham recycling	Pages: 4 FaxBack: 11395
4/26/89	Lowrance	to	HW Management Division Directors	Regions I-X	sham recycling is actually type of HW treatment called recycling in attempt to evade regulation; criteria to be used in deciding whether processing of secondary material is legitimate recycling or regulated HW treatment and sham recycling	Pages: 5 FaxBack: 11426
8/23/89	Lowrance	to	Philipp	Enviroscience, Inc.	in order for slag residue derived from processing of F006 and destined for use in aggregate to qualify as legitimately recycled, slag must be analogous to normal feedstock it is replacing; technical feasibility of using slag as substitute does not mean slag recycling is legitimate; state or Region determines legitimacy of recycling on a site-specific basis	Pages: 3 FaxBack: 11461
2/13/90	Lowrance	to	Duprey	Region VIII	to determine whether processing of K061 is legitimate recycling or treatment, one must consider whether the hazardous constituents are being legitimately used (e.g., as valid ingredients in cement product) or are they being treated or disposed by incorporation into the product	Pages: 13 FaxBack: 11491
2/15/91	Bussard	to	Blake	Swidler and Berlin	use of hazardous wastewater as ingredient (quenchwater and slurry water) in cement production may be regulated treatment, not exempt recycling; determination of sham v. legitimate use based on whether hazardous constituents in wastewater are necessary to production process	Pages: 2 FaxBack: 11585
6/14/91	Clay	to	Buchman	Conoco, Inc.	mixture of petroleum fuel product and water is off-specification CCP and not SW when destined for reclamation; if mixture is result of intentional mixing or purposeful nonseparation of product and hazardous wastewater to avoid regulation, mixture may be SW	Pages: 6 FaxBack: 11615

6/20/91	Lowrance	to Hohman	Region I	contaminated soils used in asphalt batching that contain hazardous constituents in significantly higher concentrations than that of analogous raw materials may be considered sham recycling; criteria for evaluating whether a waste is legitimately being recycled	Pages: 6 FaxBack: 11616
6/21/91	Bussard	to Young	Whiteman, Osterman, and Hanna	whether reclamation of baghouse dust is sham or legitimate depends on whether lead and cadmium concentrations are significantly greater in the baghouse dust than in raw materials normally used	Pages: 5 FaxBack: 11618
12/30/91	Chaudhari	to Bates	XENIUM Fiberglass Corp.	classification of waste as legitimately used, reused, recycled, or reclaimed is generator's responsibility; such determinations are not made by EPA through petition process but by regulated entities as part of self-administered regulatory program subject to state oversight	Pages: 8 FaxBack: 11661
12/30/91	Chaudhari	to Bates	XENIUM Fiberglass Corp.	classification of a waste as beneficially used, reused, or legitimately recycled or reclaimed is the generator's responsibility; such determinations are not part of EPA petition process but part of self-administered regulatory program subject only to state oversight	Pages: 8 FaxBack: 11661
2/23/93	Lowrance	to Kaul	NY DEC	reclamation of CCPs that recovers only minimal amount of material of questionable value may be more similar to waste management than legitimate recycling	Pages: 3 FaxBack: 11726
4/15/94	Shapiro	to Kinne	Interstate Natural Gas Association of America	although off-specification fuels such as natural gas condensate are usually not SW when burned for energy recovery, sale or use of low evergy value condensate as motor fuel or fuel additive may constitute sham burning for energy recovery	Pages: 2 FaxBack: 11831
7/14/94	Petruska	to Philipp	Enviroscience, Inc.	EPA Headquarters does not generally make regulatory decisions concerning the legitimacy of specific recycling operations; these issues are decided on a site-specific basis; sham recycling is a site-specific issue	Pages: 1 FaxBack: 11852

11/8/94	Shapiro	to Kotlinski	CleanHarbors Environmental Services, Inc.	1991 BIF rules superceded sham recycling policy for HW fuels; wastes can be blended irrespective of their heating values, but EPA considers product to be waste-derived if furnace burns HW fuels with heating values less than 5000 Btu/lb, unless facility demonstrates legitimate energy recovery	Pages: 4 FaxBack: 11885

261.2(a)&(b)

Discarded & Abandoned

5/13/81	Corson	to Wittmer	Merck, Sharp & Dohme	CCPs are not SW until a decision is made to discard them; pharmaceutical chemicals (U245) becomes HW at point decision made to discard (after returned to manufacturer)	Pages: 4 FaxBack: 11012
7/1/85	Straus	to Quinlan	Evans, Kitchel, and Jenckes, P.C.	abandoned means thrown away; secondary materials that are bona fide products (used as ingredients or substitutes) are not SW when temporarily stored on the land, unless speculatively accumulated; if material escapes storage unit, may be disposal (i.e., material a SW)	Pages: 2 FaxBack: 11087
7/22/85	Skinner	to Hathaway	Region VI	pesticide residue left on an aircraft used to spray pesticide is not a discarded CCP because it has been used; pesticide released into the environment as a result of use (see also 12/15/92 letter, Lowrance to Rodriguez)	Pages: 2 FaxBack: 11096
12/13/85	Williams	to Seraydarian	Region IX	pesticide residue remaining on pesticide application aircraft is considered used and not discarded CCP because it has been deposited as part of its use; pesticide residue remaining in spray tanks has not been used and is CCP	Pages: 2 FaxBack: 11115
5/12/86	Williams	to Blackburn	Travenol Laboratories, Inc.	exclusion from the definition of SW in §261.2(e) applies retroactively to deionization acid that has always been beneficially recycled	Pages: 10 FaxBack: 11154

6/3/86	Williams	to Wagoner	Region VII	CCPs listed in §261.33 or exhibiting characteristics that are spilled in warehouse are subject to RCRA Subtitle C regulation unless immediately cleaned up	Pages: 5 FaxBack: 11161
11/19/86	Straus	to Straume	U.S. Air Force	materials burned in incinerator or other thermal device, other than BIFs, are "abandoned" by being burned or incinerated; any materials or energy recovery that occurs is considered ancillary to the purpose of the unit (i.e., burning for destruction)	Pages: 11 FaxBack: 11197
11/30/87	Porter	to McGuire	U.S. Dept. of Treasury	detonation of seized explosives will constitute discard (they are not to be used for original purpose); seized explosives must be managed as SW and potentially HW from the moment the decision is made to destroy the explosives	Pages: 2 FaxBack: 11305
3/22/88	Lowrance	to Simpson	Associated Technologies, Inc.	asphalt that is buried in a trench is disposed, and therefore a SW; asphalt that is used as a commodity (e.g., for paving roads) is not regulated under the HW regulations; product asphalt that contains HW as ingredient may be subject to RCRA Subtitle C regulation	Pages: 2 FaxBack: 11335
5/3/88	Lowrance	to Wayland	EPA HQ	in order for CCPs (pesticides) to be subject to regulation as P- or U-listed HW, they must be discarded or intended for discard; materials are "discarded" when they are abandoned, when applied to the land, or when used to produce a fuel	Pages: 6 FaxBack: 11348
5/26/88	Barnes	to Ford	Stauffer Chemical Co.	materials (spent sulfuric acid) that are accumulated in land-based units and that leach into the ground are considered "disposed" if not recovered	Pages: 3 FaxBack: 11351
9/6/88	Lowrance	to Magee	IN Dept. of Environmental Management	firing of ammunition at shooting ranges is not SW disposal; placement on ground is normal use of ordnance or munitions; interpretation applies to spent cartridges and unexploded bullets that fall to ground during shooting exercise (see also 9/24/92 letter, Clay to Hair)	Pages: 2 FaxBack: 11368

9/19/88	Carra	to	Hazardous Waste Branch Chiefs	Regions I-X	dropping munitions on land and detonating bombs is not discard and is not regulated because it is normal pattern of use; unexploded ordnance or bullets removed from firing range and sent for destruction via OB/OD are waste subject to regulation	Pages: 4 FaxBack: 11370
9/19/88	Carra	to	Hazardous Waste Branch Chiefs	Regions I-X	use of off-specification fuel (i.e., jet fuel, kerosene, gasoline) to burn planes during fire training exercise is normal product use and not subject to regulation; soil contamination resulting from such unregulated burning may later be subject to federal cleanup authorities	Pages: 4 FaxBack: 11370
2/22/89	Cochran	to	O'Day	Packard Instrument Co.	CCP (Ultima-Gold) becomes discarded by being abandoned (e.g., burned or incinerated) or sent for recycling (e.g., burned for energy recovery or reclaimed); a CCP that is abandoned is a SW, while a CCP being reclaimed is not a SW	Pages: 3 FaxBack: 11398
3/28/89	Cochran	to	Sule	Electrolytic Manganese Co.	RCRA Subtitle C regulation may apply to electrolytic manganese dioxide that is disposed	Pages: 2 FaxBack: 11413
2/14/90	Lowrance	to	Feulner	CIBA-GEIGY Corp.	cancelled pesticides are SW if they have been discarded or are intended for discard (by being abandoned) or used as a fuel; if the company can find a valid market, pesticides may not be SW because of their continued use as products; generator maintains burden of proof	Pages: 3 FaxBack: 11492
3/8/91	Lowrance	to	Leopold	Region VI	TC sludges generated in surface impoundments are SW (discarded by being abandoned); sludges are SW subject to regulation not only when surface impoundment is cleaned or closed, but when sludge is generated (sludges are generated at moment of deposition at bottom of unit)	Pages: 6 FaxBack: 11588
5/16/91	Lowrance	to	Schulz	Pharmaceutical Services, Inc.	unused pharmaceuticals returned to manufacturer (reverse distribution system) are not yet discarded because decision has not been made whether they are to be reused, reclaimed, or approriately disposed; returned products are not SW until decision has been made to discard	Pages: 2 FaxBack: 11606

11/25/92	Denit	to Bozaan	Groundwater Technology	recovered free product that is to be discarded instead of used in its normal manner is a SW; listed wastes and CCPs that are reclaimed are not SW except when used as fuels (unless they are themselves fuels)	Pages: 4 FaxBack: 11713
8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	ships destined for scrap, their structure, and necessary on-board operating materials are not discarded while vessels remain intact because those materials continue to serve a useful purpose; removal of material intended for discard from ship's structure is point of generation	Pages: 13 FaxBack: 11862
10/19/95	Kidwell	to Lively	TDJ Group, Inc.	particulate emissions from foundry production unit are not SW until collected in and removed from baghouse, at which point HW determination is made; if emissions derive from waste management, particulate may be SW triggering RCRA Subtitle C prior to collection in baghouse and	Pages: 2 FaxBack: 11921

261.2(c)(1)

Use Constituting Disposal

6/5/85	Skinner	to Scarbrough	Region IV	spent pickle liquor that is directly used or reused as a wastewater conditioner (ferric chloride substitute) is not a SW provided the material is not speculatively accumulated; use as a water conditioner is not used in a manner that constitutes disposal	Pages: 3 FaxBack: 11081
6/6/85	Straus	to Bzura	Madison Industries, Inc.	any secondary material (i.e., by-product, spent material, sludge, CCP, or scrap metal) placed on land or incorporated into product that is placed on land is a SW; oxide material sent to foreign or domestic fertilizer company (either directly or through a processor) must be manifested	Pages: 3 FaxBack: 11083
11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	waste pickle liquor (K062) used as ingredient in fertilizer is SW used in a manner constituting disposal; fertilizer product derived from K062 is regulated under Part 266, Subpart C; if produced for general public's use, product is exempt under §266.20(b) (SUPERCEDED: see §266.20(b))	Pages: 3 FaxBack: 11112

11/25/85	Straus	to Mahoney	Bridgeport Brass Corp.	zinc oxide dust (characteristic sludge) that is processed to make a fertilizer placed on the land is used in a manner constituting disposal; characteristic sludges are not SW when reclaimed	Pages: 2 FaxBack: 11113
1/22/86	Straus	to Andrews	Industrial and Agricultural Chemicals, Inc.	materials incorporated into products that are placed on the land are SW, may be HW; corrosive spent copper sulfate bath used as ingredient in fertilizer is SW and HW; fertilizer derived from characteristic HW not regulated after characteristic removed (SUPERCEDED: see §266.20(b))	Pages: 2 FaxBack: 11124
8/21/86	Straus	to Meyers	The Fertilizer Institute	K061 HW (emission control dust or sludge from primary production of steel in EAFs) destined for use as fertilizer ingredient is subject to use constituting disposal regulations of Part 266, Subpart C	Pages: 3 FaxBack: 11174
9/29/86	Claussen	to Warren	Warren, Goldberg, Berman and Lubitz	chlordane that has been applied to the land as a pesticide is not a SW because it has been applied to the land in its normal, intended pattern of use; when soil contaminated with chlordane is excavated, the soil is hazardous only if it exhibits a characteristic	Pages: 1 FaxBack: 11182
10/20/86	Straus	to Horner	Albright and Wilson, Inc.	36% phosphoric acid used as a wastewater conditioner is not a SW; if 36% phosphoric acid is used to produce a fertilizer, it is not a SW provided it is purer in acid content and no more contaminated than virgin phosphoric acid that is typically used; generator maintains burden of proof	Pages: 2 FaxBack: 11185
8/12/87	Straus	to Citizen		zinc oxide sludge used to make fertilizer is used in a manner constituting disposal; if sludge is reclaimed for metals recovery and fertilizer use, it is subject to the more stringent use constituting disposal regulations when recycled	Pages: 2 FaxBack: 11275
8/12/87	Williams	to Cox	AL Dept. of Environmental Management	zinc oxide (sludge) used to make fertilizer is a SW (use constituting disposal); sludge that is reclaimed for metals recovery and fertilizer use is subject to the more stringent use constituting disposal regulations when recycled	Pages: 2 FaxBack: 11276

9/9/87	Williams	to Levin	Velsicol Chemical Corp.	listed CCPs (chlordane and heptachlor pesticides) are products, not SW or HW when applied to land in manner consistent with their normal use; spilled pesticides are considered discarded and can be P- or U-listed HW	Pages: 6 FaxBack: 11291
6/6/88	Barnes	to Tribble	American Cyanamid Co.	under certain conditions (e.g., when producing a fuel or a fertilizer) materials that are used as ingredients in manufacturing new products or as substitutes for commercial products are still SW and HW	Pages: 9 FaxBack: 11352
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	slag material resulting from the reclamation of K061 that is used as aggregate in sub-base course or sand material is a SW if used to produce a product that is placed on the land	Pages: 11 FaxBack: 11353
8/9/88	Barnes	to Tribble	American Cyanamid Co.	spent sulfuric acid reused as fertilizer ingredient is considered SW and HW subject to Part 266, Subpart C	Pages: 2 FaxBack: 11361
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	acid components, sulfates, lead carbonates, and plastic chips removed from spent lead-acid batteries that are used to produce fertilizer are examples of recyclable materials used in a manner constituting disposal and are subject to Part 266, Subpart C	Pages: 9 FaxBack: 11383
12/7/88	Lowrance	to Stapleton	Stapleton Company	plating waste (calcium phosphite and calcium sulfate) sent to be recycled into fertilizer product is SW and HW subject to Part 266, Subpart C	Pages: 6 FaxBack: 11385
2/7/89	Lowrance	to Gallaher	Allied Aircraft Sales, Inc.	characteristically hazardous secondary material (dross by-product) used in the formation of a waste-derived product is a SW and HW and is regulated under Part 266, Subpart C until formation of the product (see also §266.20(b))	Pages: 4 FaxBack: 11395

3/27/89	Dellinger	to Jones	Environmental Consulting	characteristic or listed sludges are considered SW at point of generation if destined to be placed on the land or incorporated into products that will be placed on the land; interpretation applies even if sludges are directly reused as ingredients in products destined for land placement	Pages: 2 FaxBack: 11412
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	F006 destined for use as an ingredient in aggregate, cement, or other products to be placed on the land is regulated as HW from point of generation forward; products containing F006 that will be placed on the land are regulated SW and HW until §266.20(b) is satisfied	Pages: 5 FaxBack: 11426
9/12/89	Straus	to Ullrich	Region V	even if material reclaimed from K062 can serve as effective subsititute for CCP, it must meet LDR treatment standards prior to placement on the land; iron sulfate by-product used as an effective substitute for CCP, becomes unregulated product unless it is to be used on the land	Pages: 6 FaxBack: 11468
2/13/90	Lowrance	to Duprey	Region VIII	K061 used as ingredient in cement is a SW because cement is considered to be a product that is typically applied to the land, and subject to Part 266, Subpart C; legitimacy of use of K061 as an ingredient must be demonstrated	Pages: 13 FaxBack: 11491
8/13/90	Lowrance	to Citizen		restrictions on use of UO as dust suppressant (SUPERCEDED: see Part 279)	Pages: 1 FaxBack: 11549
6/20/91	Lowrance	to Hohman	Region I	soil contaminated with crude oil that is used in asphalt batching is a SW since used in a manner constituting disposal, unless crude oil is a normal ingredient in asphalt batching; soil may be exempt under §261.4(b)(10)	Pages: 6 FaxBack: 11616
6/21/91	Bussard	to Young	Whiteman, Osterman, and Hanna	baghouse dust, when used as a product or when reclaimed into a product that is placed on the land is a SW; products reclaimed from K061 that are not placed on land are no longer wastes; legitimacy of recycling operation must be examined	Pages: 5 FaxBack: 11618

10/11/91	Lowrance	to Bates	AR Dept. of Pollution Control and Ecology	characteristic sludge used to make fertilizer is SW, even if it is first sent to facility for lead reclamation; SW determination for recycled material is made at point of generation and must account for entire recycling process, not only the first step	Pages: 8 FaxBack: 11644
10/11/91	Lowrance	to Kaul	NY DEC	characteristic sludge used to make fertilizer is SW, even if it is first sent to facility for lead reclamation; SW determination for recycled material is made at point of generation and must account for entire recycling process, not only the first step	Pages: 4 FaxBack: 11645
10/31/91	Silverman	to Redington	Monsanto Co.	phosphoric acid from aluminum anodizing is not a SW when used in fertilizer manufacturing	Pages: 10 FaxBack: 11651
6/17/92	Bussard	to Cope	Industrial Compliance	whether use of soil as landfill liner cover constitutes use in a manner constituting disposal is a site-specific determination that must be made at the Regional level	Pages: 1 FaxBack: 11673
9/24/92	Clay	to Hair	National Wildlife Federation	firing of ammunition at shooting ranges is not waste disposal; interpretation applies to expended cartridges and target fragments that fall to ground during shooting; cleanup of site can be required by RCRA §§7002 and 7003 when imminent hazard exists	Pages: 2 FaxBack: 11700
9/23/93	Denit	to Jones	Environmental Consulting	flue dust used in the production of a commercial fertilizer is a characteristic sludge used in a manner constituting disposal and is a SW; SW determination made at point of generation	Pages: 2 FaxBack: 11774
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	secondary materials that are used in a manner constituting disposal, used to produce a fuel, or accumulated speculatively are SW	Pages: 2 FaxBack: 11886

12/19/94	Bussard	to DiBella	Metals Recycling Technologies Corp.	incorporating HW into animal feeds is generally not considered use constituting disposal	Pages: 2 FaxBack: 11932

261.2(c)(2)

Use As A Fuel

3/19/86	Williams	to Citizen		mixtures of gas and water or oil and water are not regulated when burned as fuels because they are considered off-specification fuel CCPs; virgin gas incinerated to recover energy is not SW since gas is typically burned as a fuel	Pages: 6 FaxBack: 11138
6/9/87	Straus	to Hubbard	U.S. Dept. of Army	"red water" (K047) used as a fuel is a SW	Pages: 4 FaxBack: 11253
7/22/87	Williams	to Feigner	Region X	burning commercial fuels (e.g., kerosene, gasoline, and jet fuel) in open pit during fire training exercise is use of product, not waste management; open burning of other chemicals (UO and spent solvents) that are not commerical fuels is prohibited (and is also illegal HW disposal)	Pages: 3 FaxBack: 11267
8/31/87	Lowrance	to Gingold	Envirosure	determination of sham burning (recycling v. burning for destruction) is dependent on site-specific factors; blending of wastes with high and low Btu values does not change sham character of subsequent burning (see also Part 266, Subpart H)	Pages: 6 FaxBack: 11284
1/14/88	Williams	to Sylvestri	Versar, Inc.	mixture of sand and unused hexachloroethane destined for use in incinerator trial burn is SW; since unused CCP hexachloroethane is U131 when discarded, mixture is U131 HW	Pages: 2 FaxBack: 11320

7/31/88	Barnes	to Haake	McDonnell Douglas	unused off-specification jet fuel is CCP normally used as fuel and is not SW when reclaimed to produce new fuel	Pages: 2 FaxBack: 11360
7/31/89	Barnes	to Haake	McDonnell Douglas	off-specification jet fuel destined to be reclaimed into new fuel product is not SW because that is the material's original intended purpose	Pages: 2 FaxBack: 11449
2/14/90	Lowrance	to Feulner	CIBA - GEIGY Corp.	cancelled pesticide used as fuel is considered a SW	Pages: 3 FaxBack: 11492
9/20/90	Lowrance	to Fox	Heritage Remediation/Engineering, Inc.	tank bottoms from fuel storage are still CCPs and not SW when made into fuels; tank bottoms from refining process units are by-products and SW when destined for use in fuels; refinery by-product to be made into lubricant is SW only if listed HW (see also §§261.4(a)(12) and 261.6(a)(3))	Pages: 9 FaxBack: 11561
9/20/90	Lowrance	to Huber	Petroleum Marketers Association of America	spilled petroleum products reclaimed from contaminated soil and used to produce fuels are not SW	Pages: 2 FaxBack: 11563
7/9/92	Lowrance	to Chambers	McKenna and Cuneo	coal tar distillate marketed for fuel use is a co-product	Pages: 2 FaxBack: 11677
11/25/92	Denit	to Bozaan	Groundwater Technology	free product (e.g., gasoline) that is normally used as a fuel and is recovered from GW table after spill is not SW when reclaimed to make fuel	Pages: 4 FaxBack: 11713

12/30/92	Lowrance	to Bremer	Region V	propellant mixture of butane and propane removed from aerosol cans is not SW when burned for energy recovery because these propellants are normally used as fuels	Pages: 4 FaxBack: 11717
6/2/93	Denit	to Chambers	McKenna and Cuneo	disulfide oil (by-product) recycled as feedstock in sulfuric acid manufacture is unique in that it provides both material value (sulfur content) and fuel value; based on all factors, EPA has determined that disulfide oil recycled in this manner is not SW	Pages: 2 FaxBack: 11750
11/4/93	Weddle	to Ferguson	TX Natural Resource Conservation Commission	light hydrocarbon wastestreams generated in production of a primary product may be either by-product or co-product, depending on site-specific factors; by-products burned for energy recovery are SW, while co-products are not; discussion of "clean fuels"	Pages: 3 FaxBack: 11793
4/15/94	Shapiro	to Kinne	Interstate Natural Gas Association of America	off-specification fuels such as natural gas condensate are not SW when burned for energy recovery; clarification of sham burning for energy recovery; sale or use of low energy value condensate as a motor fuel or fuel additive may constitute sham burning for energy recovery	Pages: 2 FaxBack: 11831
7/11/94	Bussard	to Gable	WV Division of Environmental Protection	characteristic off-specification fuels (e.g., gasoline, kerosene, jet fuel, and diesel) are CCPs and are not SW when burned for energy recovery because they are fuels; §261.2(c)(2)(ii) applies to listed and characteristic CCPs; cleanup levels for spills of gasoline and other fuels are site-specific	Pages: 2 FaxBack: 11848
7/20/94	Shapiro	to Ferguson	TX Natural Resource Conservation Commission	heating value of secondary material inserted in sulfuric acid regeneration furnace determines if activity is excluded use or reuse, or burning for energy recovery subject to Part 266, Subpart H; generally, waste with heating value at or above 5000 Btu/lb is considered to be burned as a fuel	Pages: 3 FaxBack: 11856
11/4/94	Shapiro	to Hathcock	Laidlaw Environmental Services (Recovery), Inc.	blending of HW to increase heating value for use as fuel is not prohibited; HW with heating value less than 5000 Btu/lb burned for destruction, not energy recovery; resulting cement or aggregate is waste-derived product unless facility documents energy contribution of low Btu fuel	Pages: 2 FaxBack: 11883

11/8/94	Shapiro	to Kotlinski	CleanHarbors Environmental Services, Inc.	heating value of fuel no longer affects status of BIF, but may affect status of product created in BIF; if BIF uses fuel with heating value less than 5000 Btu/lb, product is derived from HW and is regulated if destined for land placement	Pages: 4 FaxBack: 11885
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	secondary materials that are used to produce a fuel burned for energy recovery, used in a manner constituting disposal, or accumulated speculatively are SW, regardless of whether the material is directly reused	Pages: 2 FaxBack: 11886
2/6/95	Petruska	to Osborne	United Beechcraft, Inc.	off-specification fuels (e.g. gasoline, kerosene, jet fuel, diesel) are not SW when burned for energy recovery because they are used for their intended purpose; manner in which fuels become off-specification generally not relevant	Pages: 2 FaxBack: 11938
5/25/95	Shapiro	to Spratlin	Region VII	"syngas" from gasification unit at Kansas petroleum refinery is fuel derived from F037, K022, and K051, but is not subject to RCRA Subtitle C regulation due to §261.6(a)(3)(iv) exemption for fuels created by refining oil-bearing HW during normal refinery operations	Pages: 2 FaxBack: 11905

261.2(c)(3)

Reclamation

5/6/93	Lowrance	to Rankin	Olin Chemicals	term "when" as used in §261.2 does not apply to moment in time when recycling occurs, but to point that material's ultimate disposition has been determined; materials that are not SW "when" reclaimed are exempt from point of generation forward	Pages: 3 FaxBack: 11747

By-products Destined For Reclamation

6/6/85	Straus	to Bzura	Madison Industries, Inc.	characteristically hazardous brass dross skimmings are by-products, not scrap metal, and thus not a SW when sent for reclamation, provided materials are not speculatively accumulated; applies to materials sent to both foreign and domestic reclamation facilities	Pages: 3 FaxBack: 11083

8/13/85	Straus	to Gowen	TX Instruments, Inc.	unlisted (characteristic) solder drosses are considered by-products (not spent materials), and thus are not SW when sent for reclamation	Pages: 2 FaxBack: 11101
4/2/86	Williams	to Wassersug	Region III	spent carbon that contains a characteristic sludge or by-product is not a SW when destined for reclamation; spent carbon that is defined as a spent material and that exhibits a characteristic of HW is a SW when reclaimed	Pages: 6 FaxBack: 11143
6/9/87	Straus	to Hubbard	U.S. Dept. of Army	any listed spent material, sludge, or by-product that is reclaimed and/or used as a fuel is considered a SW and HW; "red water" used as a fuel is a SW	Pages: 4 FaxBack: 11253
10/16/87	Williams	to Retallick	DE Dept. of Natural Resources and Environmental Control	listed distillation bottoms ("polychlor material") from the production of chlorinated benzenes are by-products and are SW when reclaimed by thermal oxidation or hydrodechlorination (see also 4/21/88 letter, Lowrance to Sinibaldi)	Pages: 4 FaxBack: 11297
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	when reclaiming various components of lead-acid batteries, some of the wastes (i.e., characteristic by-products, scrap metals, and sludges) are not SW when reclaimed; regulatory status of reclaimed battery components	Pages: 9 FaxBack: 11383
4/2/89	Dellinger	to Truitt		particles of chrome-coated zinc and charcoal (by-products) from galvanization process are not SW when reclaimed	Pages: 2 FaxBack: 11415
4/5/89	Barnes	to Bzura	Old Bridge Chemicals	characteristic "drove" (by-product) generated in brass industry is not SW when destined for reclamation	Pages: 2 FaxBack: 11416

7/20/89	Kidwell	to Douglas	Electrum Recovery Works, Inc.	characteristic by-products (solder skimmings) that are reclaimed are not SW	Pages: 2 FaxBack: 11446
12/5/90	Bussard	to Wright	Bathgate, Wegener, Wouters, and Newmann	non-listed (characteristic) by-products (solder skimmings) are not SW when reclaimed	Pages: 2 FaxBack: 11572
4/23/91	Lowrance	to Levy	Region I	applicability of LDR paperwork to recycled secondary materials depends on material's regulatory status; characteristic by-products and sludges that are reclaimed and scrap metal that is recycled are not subject to LDR paperwork, while spent materials being reclaimed are subject	Pages: 1 FaxBack: 11600
6/21/91	Bussard	to Pierson	Assistant U.S. Attorney	characteristic by-products are not SW when reclaimed; solder skimmings (drosses) are classified either as by-products or spent materials depending on how they are generated (see also 8/28/92 letter, Guimond to Vaille)	Pages: 3 FaxBack: 11617
11/27/91	Clay	to Stanga	American Electronics Association	until further study is completed , EPA will continue to treat solder drosses generated from soldering printed circuit boards as by-products, rather than spent materials; characteristic by-products are not SW when reclaimed (see also 8/28/92 letter, Guimond to Vaille)	Pages: 3 FaxBack: 11655
12/3/91	Clay	to Krajewski	Beveridge and Diamond	clarification that 11/27/91 letter, Clay to Stanga applied only to solder dross from printed circuit board manufacturing; status of solder dross from other industries remains as stated in 50 *FR* 614; 1/4/85, and 1986 recycling guidance (see also 8/28/92 letter, Guimond to Vaille)	Pages: 1 FaxBack: 11656
6/2/93	Denit	to Chambers	McKenna and Cuneo	disulfide oil (by-product) recycled as feedstock in sulfuric acid manufacture is unique in that it provides both material value (sulfur content) and fuel value; based on all factors, EPA has determined that disulfide oil recycled in this manner is not SW	Pages: 2 FaxBack: 11750

CCPs Destined For Reclamation

8/9/85	Straus	to Hudson	U.S. Navy	propulsion fuel remaining in torpedo (after firing) that is contaminated with saltwater is a CCP and not a spent material, and thus not a SW when sent for reclamation	Pages: 2 FaxBack: 11099
10/23/85	Straus	to Bassell	Lederle Laboratories	reclaimed methanol (99.5% purity) sent off site for further reclamation before use in manufacturing process is more product-like than waste-like, thus not a SW and need not be manifested; analogous to reclaimed metals that only have to be refined (see also 50 *FR* 634; 1/4/85)	Pages: 2 FaxBack: 11109
12/18/85	Straus	to Licht	Charles Licht Engineering Associates, Inc.	gold, silver, or other precious metals that are reclaimed from a SW or HW that are suitable for direct reuse or that only need refining before reuse are products, not wastes	Pages: 2 FaxBack: 11117
1/21/86	Straus	to Goldsmith	D.F. Goldsmith Chemical and Metal Corp.	free-flowing, 99 % pure mercury is not SW; metals that are suitable for direct use, or that only need to be refined to be usable are products, not wastes; any electrical switches, instruments, scrap batteries, or other spent materials from which such pure mercury will be reclaimed are SW	Pages: 2 FaxBack: 11123
3/19/86	Williams	to Citizen		mixtures of gas and water or oil and water are not regulated when reclaimed to produce fuels because they are considered off-specification CCPs normally used as fuels; virgin gas incinerated to recover energy is not SW since gas is typically burned as a fuel	Pages: 6 FaxBack: 11138
4/2/86	Straus	to Lataille	Mabbett, Capaccio, and Associates, Inc	unused off-specification and broken thermometers are CCPs and not SW when reclaimed; neither listed nor characteristic CCPs are SW when reclaimed	Pages: 1 FaxBack: 11142

4/28/86	Straus	to Walka	Region II	CCPs or mixtures of CCPs (e.g., methyl isocyanate and methylene chloride) reclaimed or used for intended purpose (e.g., in manufacturing process) are not SW, and not subject to regulation; mixture does not need to be manifested, receiving facility does not need a storage permit	Pages: 2 FaxBack: 11147
5/30/86	Straus	to Lawrence	Bethlehem Apparatus Co., Inc.	used mercury that is 99% pure and is destined for refining is not SW; used metals that are suitable for direct use or reuse, or that only need to be refined before use, are product and not SW	Pages: 1 FaxBack: 11159
7/31/88	Barnes	to Haake	McDonnell Douglas	unused off-specification jet fuel is CCP normally used as fuel and is not SW when reclaimed to produce new fuel	Pages: 2 FaxBack: 11360
11/2/88	Dellinger	to Stone	GSX Chemical Services	unused thermometer containing contaminated mercury is considered off-specification CCP and thus not SW when sent for reclamation; broken thermometer that has been used is spent material and SW when sent for reclamation	Pages: 3 FaxBack: 11378
2/13/91	Lowrance	to Ploch	CT DEP	unused batteries are CCPs and not SW when destined for reclamation; used batteries are spent materials and SW when destined for reclamation; variance may be used to show that partially reclaimed used batteries are not SW (see also 261.6(a)(3)(ii))	Pages: 3 FaxBack: 11584
3/19/91	Bussard	to Duncan	Appropriate Technologies II, Inc.	used mercury that is 99% pure is considered product rather than SW because it is pure enough to require only minor refining, rather than substantial reclamation, in order to be useable	Pages: 1 FaxBack: 11590
6/14/91	Clay	to Buchman	Conoco, Inc.	mixture of petroleum fuel product and water is off-specification CCP and not SW when destined for reclamation; if mixture is result of intentional mixing or purposeful nonseparation of product and hazardous wastewater to avoid regulation, mixture may be SW	Pages: 6 FaxBack: 11615

4/23/92	Lowrance	to Allerton	TRW Vehicle Safety Systems, Inc.	undeployed airbag inflators that fail quality control program are off-specification CCPs and are not SW when reclaimed	Pages: 2 FaxBack: 11666
2/23/93	Lowrance	to Kaul	NY DEC	EPA interprets nonlisted CCPs to include all types of unused commercial products that exhibit HW characteristics, even if these products are not commonly considered chemicals (e.g., circuit boards, batteries, etc.); unlisted CCPs sent for reclamation are not SW	Pages: 3 FaxBack: 11726
3/30/94	Bussard	to Nebrich	Waste Technology Services, Inc.	in general, wastes destined for reclamation (distillation) prior to use as ingredients are not eligible for direct reuse exemption; metals suitable for direct use or that only have to be refined (rather than reclaimed) to be usable are products, not SW	Pages: 3 FaxBack: 11823
9/14/94	Bussard	to Morishita	Environmental Agency (Japan)	purity of phosphorus oxychloride remaining in bubbler canister indicates chemical is "unused;" bubble canister is unused CCP being reclaimed and so is not a SW	Pages: 1 FaxBack: 11871
9/28/94	Bussard	to Green	Applied Environmental Services, Inc.	mercury switches taken out of service and reclaimed are spent materials and SW, regardless of potential for further use; off-specification CCPs (pharmaceuticals) returned to manufacturer are not SW until discarded	Pages: 2 FaxBack: 11876
12/13/94	Petruska	to Murdoch	Murdoch Consultation Service	unused batteries sent for reclamation are CCPs being reclaimed, and so are not SW	Pages: 3 FaxBack: 11891
9/14/95	Petruska	to Wlodarczak	GNB Battery Technologies	unused off-specification lead plates from lead-acid battery production (i.e., nonlisted CCP) are not SW when reclaimed; if plates are used, they are spent materials and are SW when reclaimed	Pages: 1 FaxBack: 11917

Scrap Metal Destined For Reclamation

2/13/85	Skinner	to Merrigan	Madison Industries, Inc.	EPA has legal authority to regulate hazardous scrap metal destined for recycling under Subtitle C and does classify it as SW; pending further study, scrap metal is exempt from regulatory control when sent for reclamation	Pages: 3 FaxBack: 11057
8/9/85	Straus	to Lead	General Battery Corp.	mixtures of scrap metal (lead plates or battery cases) and other regulated recyclable materials (lead oxides) must be managed as HW when sent for reclamation	Pages: 3 FaxBack: 11100
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	when reclaiming various components of lead-acid batteries, some of the wastes (i.e., characteristic by-products, scrap metals, and sludges) are not SW when reclaimed; regulatory status of reclaimed battery components	Pages: 9 FaxBack: 11383
10/30/90	Lowrance	to Duprey	Region VIII	as long as UO removed from filter is to be recycled, crushing oil filter to remove used oil falls within used oil recycling exemption of §§261.2(a)(2) and (a)(3) (SUPERCEDED: see §§261.6(a)(4) and 279.10(c))	Pages: 3 FaxBack: 11566
9/26/91	Lowrance	to Schaeffer	American Trucking Associations	no HW determination necessary for oil filters destined for scrap metal recycling (see also §261.4(b)(13)); nonetheless, crushed oil filters are unlikely to exhibit TC	Pages: 2 FaxBack: 11643
9/21/94	Brandes	to Downing	Fidelity Chemical Products Corp.	determination of whether steel wool qualifies as scrap metal should be made by implementing agency	Pages: 3 FaxBack: 11930

Sludges Destined For Reclamation

11/25/85	Straus	to Mahoney	Bridgeport Brass Corp.	characteristic sludges are not SW when reclaimed	Pages: 2 FaxBack: 11113
4/2/86	Williams	to Wassersug	Region III	spent carbon that contains a characteristic sludge or by-product is not a SW when destined for reclamation; spent carbon that is defined as a spent material and that exhibits a characteristic of HW is a SW when reclaimed	Pages: 6 FaxBack: 11143
1/6/87	Straus	to Duffiey	National Association of Photographic Manufacturers, Inc.	residue in silver recovery units (including steel wool cartridges, electrolytic recovery cells, and ion exchange resins) used to treat photographic wastewater could qualify as sludge; such characteristic sludges sent for reclamation are not SW (see also Part 266, Subpart F)	Pages: 12 FaxBack: 11210
6/9/87	Straus	to Hubbard	U.S. Dept. of Army	any listed spent material, sludge, or by-product that is reclaimed and/or used as a fuel is considered a SW and HW; "red water" used as a fuel is a SW	Pages: 4 FaxBack: 11253
8/12/87	Straus	to Citizen		reclaimed zinc oxide sludge that is used to produce zinc sulfate is not a SW; if any material recovered from the zinc oxide dust is sent for fertilizer use, the sludge is a SW and HW subject to §§261.6(b) and (c)	Pages: 2 FaxBack: 11275
8/12/87	Williams	to Cox	AL Dept. of Environmental Management	reclaimed zinc oxide sludge that is used to produce zinc sulfate is not a SW; if any material recovered from the zinc oxide dust is sent for fertilizer use, the sludge is a SW and HW subject to §§261.6(b) and (c)	Pages: 2 FaxBack: 11276

4/6/88	Lowrance	to Grant	Tomar Services, Inc.	smelting sludges to recover metals is reclamation; listed sludges destined for smelting are SW and HW; characteristic sludges destined for smelting are not SW; listed sludges that have been dried and are destined for smelting are partially reclaimed and are SW unless variance is obtained	Pages: 8 FaxBack: 11338
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	K061 that is reclaimed is a SW and HW; reclamation process itself is not regulated; mixture may cease to be a SW as soon as it enters the load cell reactor where the reclamation is taking place	Pages: 11 FaxBack: 11353
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	when reclaiming various components of lead-acid batteries, some of the wastes (i.e., characteristic by-products, scrap metals, and sludges) are not SW when reclaimed; regulatory status of reclaimed battery components	Pages: 9 FaxBack: 11383
12/7/88	Lowrance	to Stapleton	Stapleton Company	filter cake destined for reclamation that qualifies as a sludge and exhibits a characteristic is not a SW; listed sludge cake is a SW when destined for reclamation; if cake is a spent material it is a SW when destined for reclamation in all cases	Pages: 6 FaxBack: 11385
3/27/89	Dellinger	to Jones	Environmental Consulting	characteristic sludges from air and water pollution control devices are not SW from point of generation forward if sludges are destined for reclamation in a manner not involving placement on land; generator must document claim that sludge is excluded from SW definition	Pages: 2 FaxBack: 11412
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	F006 destined for metals recovery smelter is regulated HW until it enters reclamation unit; smelting or recovering metals from F006 is not subject to regulation (see also Part 266, Subpart H); slag residue is F006 via derived-from rule unless Bevill exclusion applies (see also §261.3(c)(2)(ii))	Pages: 5 FaxBack: 11426
4/23/91	Lowrance	to Levy	Region I	applicability of LDR paperwork to recycled secondary materials depends on material's regulatory status; characteristic by-products and sludges that are reclaimed and scrap metal that is recycled are not subject to LDR paperwork, while spent materials being reclaimed are subject	Pages: 1 FaxBack: 11600

4/29/93	Lowrance	to	Werbicki	Agmet Resource Recovery	characteristic sludge (i.e., silver-containing wastewater treatment sludge) is not SW when reclaimed; definition of when reclaimed from 1/6/87 letter, Straus to Dufficy is still current; secondary materials that are SW and HW when sent for silver recovery are subject to Part 266, Subpart F requirements	Pages: 2 FaxBack: 11744
2/28/94	Shapiro	to	Donovan	Disposal Control Service, Inc.	spent photographic fixer solution is a spent material, subject to regulation as precious metal when reclaimed; silver-bearing sludge precipitated from spent fixer is a newly generated waste that is not a SW when reclaimed, and so is not subject to Part 266, Subpart F	Pages: 3 FaxBack: 11814
10/5/94	Petruska	to	Dufficy	National Association of Photographic Manufacturers, Inc.	if silver recovery unit that is used to treat wastewater qualifies as a characteristic sludge, it is not a SW when destined for reclamation	Pages: 6 FaxBack: 11879
12/19/94	Bussard	to	DiBella	Metals Recycling Technologies Corp.	zinc oxide produced from recycling K061 can be a product no longer subject to RCRA or, in cases where it will be further refined to make zinc, a partially-reclaimed listed sludge and a HW subject to regulation	Pages: 2 FaxBack: 11932
12/20/94	Petruska	to	Monz	Updike, Kelly & Spellacy, P.C.	baghouse dust (sludge exhibiting characteristic) that is fed to electrolytic metals recovery process is not SW subject to RCRA Subtitle C regulation; baghouse dust is regulated as sludge since it is generated from air pollution control facility	Pages: 2 FaxBack: 11933
6/30/95	Bussard	to	Crim	Miller, Canfield, Paddock and Stone, P.L.C.	smelting F006 sludge to recover metals is reclamation, not direct use or reuse; sludge is SW and HW prior to reclamation unless variance from definition of SW for partially-reclaimed wastes needing further reclamation (§260.30(c)) is obtained	Pages: 3 FaxBack: 11910
8/4/95	Petruska	to	Thompson	Eastman Kodak Co.	silver recovery units used to treat photo processing wastewaters are characteristic sludges, and so are not SW and are not subject to Part 266, Subpart F when sent for reclamation	Pages: 1 FaxBack: 11912

8/10/95	Petruska	to McCoy	CPI Corp.	used silver-bearing photo fixer destined for reclamation is a spent material and SW; silver recovery units destined for reclamation are characteristic sludges and not SW (see also 8/4/95 letter, Petruska to Thompson)	Pages: 2 FaxBack: 11914

Spent Materials Destined For Reclamation

7/16/85	Skinner	to Seraydarian	Region IX	spent pickle liquor (K062) is spent material and SW when sent for reclamation; recovery of ferrous chloride from spent pickle liquor is reclamation; fact that waste may be beneficially used after reclamation does not affect its status as SW before and while being reclaimed	Pages: 2 FaxBack: 11093
10/29/85	Straus	to Norwood	Olin Chemicals	spent alkaline etchant is spent material and SW when reclaimed, and is not eligible for variance from SW definition; material reclaimed from etchant and used as raw material to produce new etchant is no longer SW and is not subject to regulation	Pages: 2 FaxBack: 11111
1/6/86	Straus	to Robbins	Kohler Co.	foundry sands are spent materials and SW when reclaimed; once regenerated, foundry sands are no longer SW and thus are no longer subject to regulation	Pages: 2 FaxBack: 11119
4/2/86	Williams	to Wassersug	Region III	spent carbon that contains a characteristic sludge or by-product is not a SW when destined for reclamation; spent carbon that is defined as a spent material and that exhibits a characteristic of HW is a SW when reclaimed	Pages: 6 FaxBack: 11143
11/6/86	Straus	to Bzura	Old Bridge Chemicals, Inc.	used etchant destined for processing to produce copper sulfate solution is spent material destined for reclamation and is SW	Pages: 6 FaxBack: 11192

12/4/86	Williams	to Stringham	Region V	refractory bricks that are processed (i.e., crushed, ground, sized, and packaged) before use as an ingredient in an industrial process are not SW; such processing activities are not considered reclamation, and the bricks are eligible for the §261.2(e) exemption from SW definition	Pages: 3 FaxBack: 11201
5/20/87	Straus	to Russell	Russel Resources, Inc.	regulatory status of spent K062 pickle liquor (spent material) destined for reclamation is the same whether pickle liquor is sent off site or kept on site for reclamation; spent pickle liquor directly reused without prior regeneration is not a SW per §261.2(e)	Pages: 5 FaxBack: 11250
6/9/87	Straus	to Hubbard	U.S. Dept. of Army	any listed spent material, sludge, or by-product that is reclaimed and/or used as a fuel is considered a SW and HW; "red water" used as a fuel is a SW	Pages: 4 FaxBack: 11253
7/21/88	Lowrance	to Turner	Racon Refrigerants	spent materials (e.g., refrigerants that have become contaminated through use) that are reclaimed are SW; cylinders containing used refrigerants to be reclaimed are SW regardless of whether or not material has been tested to determine if direct reuse is possible (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355
10/27/88	Lowrance	to Wagoner	Region VII	listed rinsewater destined for filtering and reuse is a spent material and SW prior to reclamation; EPA generally does not consider treated wastewater to be reclaimed "product;" in certain cases, treated wastewater that is legitimately reused is considered "reclaimed" and loses SW status	Pages: 3 FaxBack: 11374
11/2/88	Dellinger	to Stone	GSX Chemical Services	unused thermometer containing contaminated mercury is considered off-specification CCP and thus not SW when sent for reclamation; broken thermometer that has been used is spent material and SW when sent for reclamation	Pages: 3 FaxBack: 11378
4/14/89	Cochran	to Oleszko	HazMat Environmental Group, Inc.	used ignitron tubes sent off site for mercury reclamation are spent materials and SW; if mercury is removed from the tube on site and only mercury is sent for direct reuse or further refining, mercury is product and not SW	Pages: 2 FaxBack: 11419

6/6/89	Cannon	to Goodling	U.S. House of Representatives	used automotive parts and electronic devices which do not meet definition of scrap metal are spent materials subject to regulation as SW prior to reclamation	Pages: 2 FaxBack: 11432
9/12/89	Straus	to Ullrich	Region V	K062 that is reclaimed is not eligible for exclusion in §261.4(a)(7) because this activity does not involve the production of virgin sulfuric acid; K062 is a spent material and a SW when reclaimed	Pages: 6 FaxBack: 11468
7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	used photographic fixer solution that is spent for customer's purposes is a SW when reclaimed, even though it could be used by another person; electrolytic treatment filtration, and fortifying of fixer solution are considered reclamation	Pages: 3 FaxBack: 11541
8/1/90	Bussard	to Farley	McGuire, Woods, Battle, and Boothe	EPA generally does not consider treated wastewater to be reclaimed product; in certain cases, treated wastewater that is legitimately reused is considered reclaimed and loses SW status	Pages: 10 FaxBack: 11546
10/18/90	Petruska	to Docket	EPA HQ	used refrigerant (spent material) is a SW when reclaimed; simple filtration is considered reclamation (SUPERCEDED: see §261.4(b)(12))	Pages: 3 FaxBack: 11565
2/13/91	Lowrance	to Ploch	CT DEP	unused batteries are CCPs and not SW when destined for reclamation; used batteries are spent materials and SW when destined for reclamation; variance may be used to show that partially reclaimed used batteries are not SW (see also 261.6(a)(3)(ii))	Pages: 3 FaxBack: 11584
4/23/91	Lowrance	to Levy	Region I	applicability of LDR paperwork to recycled secondary materials depends on material's regulatory status; characteristic by-products and sludges that are reclaimed and scrap metal that is recycled are not subject to LDR paperwork, while spent materials being reclaimed are subject	Pages: 1 FaxBack: 11600

2/28/94	Shapiro	to	Donovan	Disposal Control Service, Inc.	spent photographic fixer solution is a spent material, subject to regulation as precious metal when reclaimed; silver-bearing sludge precipitated from spent fixer is a newly generated waste that is not a SW when reclaimed, and so is not subject to Part 266, Subpart F	Pages: 3 FaxBack: 11814
3/24/94	Shapiro	to	Davis	Region VI	mercuric chloride catalyst taken out of service is a spent material when taken out of service, regardless of contamination, and is thus a SW when sent for reclamation; clarification of spent material	Pages: 2 FaxBack: 11821
3/24/94	Shapiro	to	Hazardous Waste Management Division Directors	Regions I-X	clarification of when a secondary material is a spent material; definition of contamination; materials such as used lead-acid batteries, solvents, and mercury thermostats and switches are spent materials when they go for reclamation, even if they can still be used for their original purpose	Pages: 4 FaxBack: 11822
3/31/94	Petruska	to	Schwinn	Region IX	clarification of when a secondary material is a spent material; definition of contamination; materials such as used lead-acid batteries, solvents, and mercury thermostats and switches are spent materials when they go for reclamation, even if they can still be used for their original purpose	Pages: 5 FaxBack: 11824
7/29/94	Bussard	to	Sahler	NY Gas Group	natural gas regulators that contain mercury are spent materials, and are SW when sent for reclamation; used natural gas regulators may qualify as scrap metal once mercury and other liquids have been removed	Pages: 2 FaxBack: 11860
9/28/94	Bussard	to	Green	Applied Environmental Services, Inc.	mercury switches taken out of service and reclaimed are spent materials and SW, regardless of potential for further use; off-specification CCPs (pharmaceuticals) returned to manufacturer are not SW until discarded	Pages: 2 FaxBack: 11876
11/9/94	Bussard	to	Kulkarni	Quantum Tech, L.L.C.	listed secondary materials sent for reclamation are SW and HW; spent materials that are reclaimed are SW, subject to RCRA Subtitle C regulation; whether hazardous secondary materials are "reclaimed" or "reused as ingredients" is a case-specific determination	Pages: 2 FaxBack: 11886

3/8/95	Shapiro	to Richter	American Foundrymen's Society	screening foundry sand to remove bits and pieces of metal, clumps of sand, and other residuals is reclamation; foundry sands destined for reclamation are spent materials and SW; reclamation is exempt from regulation unless thermal treatment is involved	Pages: 10 FaxBack: 11900
8/10/95	Petruska	to McCoy	CPI Corp.	used silver-bearing photo fixer destined for reclamation is a spent material and SW; silver recovery units destined for reclamation are characteristic sludges and not SW (see also 8/4/95 letter, Petruska to Thompson)	Pages: 2 FaxBack: 11914
9/14/95	Petruska	to Wlodarczak	GNB Battery Technologies	unused off-specification lead plates from lead-acid battery production (i.e., nonlisted CCP) are not SW when reclaimed; if plates are used, they are spent materials and are SW when reclaimed	Pages: 1 FaxBack: 11917

261.2(c)(4)
Speculative Accumulation

12/4/86	Williams	to Stringham	Region V	spent refractory bricks used as ingredients in production of new bricks are not SW unless speculatively accumulated	Pages: 3 FaxBack: 11201
7/31/87	Williams	to Kertcher	Region V	storage of flue dust (K061) that qualifies for the §261.2(e)(1)(i) use or reuse exemption from the definition of SW is not regulated provided the flue dust is not speculatively accumulated	Pages: 4 FaxBack: 11271
5/26/88	Barnes	to Ford	Stauffer Chemical Co.	spent sulfuric acid which is speculatively accumulated does not qualify for the exclusion in §261.4(a)(7), and thus is a SW; materials accumulated in land-based units may leach into the ground, and thus be considered disposed	Pages: 3 FaxBack: 11351

10/19/89	Abrams	to Williams	U.S. Air Force	speculative accumulation does not apply to spent lead-acid batteries that are to be reclaimed or any other material that is already defined as SW (see also 8/95 MRQ)	Pages: 2 FaxBack: 11476
5/6/93	Lowrance	to Rankin	Olin Chemicals	secondary materials that are excluded from definition of SW based on claims of recyling will no longer be exempt if materials are accumulated speculatively prior to recycling; respondants must be able to document claims of legitmate recycling in accordance with §261.2(f)	Pages: 3 FaxBack: 11747
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	secondary materials accumulated speculatively, used to produce a fuel, or used in a manner constituting disposal are SW	Pages: 2 FaxBack: 11886

261.2(d)

Inherently Waste-like Materials

4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	due to health risks they pose, EPA intends to designate all materials introduced into halogen acid furnaces (HAFs) as "inherently waste-like" even if materials are used as ingredients in manner otherwise eligible for §261.2(e) direct use or reuse exemption	Pages: 22 FaxBack: 11342
6/2/93	Lowrance	to Owens	Borden Chemicals and Plastic	EPA designates all hazardous material fed to halogen acid furnaces (HAF) as inherently waste-like, since HAFs necessarily destroy toxics in addition to recovering materials or energy recovery; Valorization of Chlorinated Residuals unit is a HAF and thus is industrial furnace subject to BIF rules	Pages: 6 FaxBack: 11751

261.2(e)

Use / Reuse

2/13/85	Straus	to Bzura	Madison Industries, Inc.	baghouse flue dust and zinc oxide sludge are not SW when used as raw materials in the manufacture of zinc chemicals provided they are not speculatively accumulated or used in a product that is placed on the land; characteristic sludges reclaimed to recover zinc are not SW	Pages: 1 FaxBack: 11056
6/5/85	Skinner	to Scarbrough	Region IV	spent pickle liquor that is directly used or reused as a wastewater conditioner (ferric chloride substitute) is not a SW provided the material is not speculatively accumulated; use as a water conditioner is not used in a manner constituting disposal	Pages: 3 FaxBack: 11081
6/6/85	Straus	to Bzura	Madison Industries, Inc.	material used or reused as an ingredient in a product is not a SW, provided the material is not speculatively accumulated, used to produce a fuel, or used in a manner constituting disposal	Pages: 3 FaxBack: 11083
7/1/85	Straus	to Quinlan	Evans, Kitchel, and Jenckes, P.C.	secondary materials that are bona fide products (used as ingredients/ substitutes) are not SW when temporarily stored on the land, unless accumulated speculatively; "abandoned" means thrown away; leakage from temporary storage unit could be disposal, making the material a SW	Pages: 2 FaxBack: 11087
7/16/85	Skinner	to Seraydarian	Region IX	use of spent pickle liquor in the production of ferric chloride is not eligible for use or reuse exclusion in §261.2(e) because spent pickle liquor is first being reclaimed; recovery of usable ferrous chloride from spent pickle liquor is considered reclamation	Pages: 2 FaxBack: 11093
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	metal torpedo components which must be decontaminated before reuse are not exempt under §261.2(e), because they must first be regenerated before reuse; instead, such components are scrap metal, which is exempt from regulation when sent for reclamation	Pages: 3 FaxBack: 11134

5/12/86	Williams	to Blackburn	Travenol Laboratories, Inc.	corrosive materials (deionization acid) that are beneficially reused as effective substitutes for a virgin material are not SW; retroactive application of exclusions from the definition of SW	Pages: 10 FaxBack: 11154
8/18/86	Straus	to Andrews	Industrial and Agricultural Chemicals, Inc.	spent pickle liquor that is used or reused as defined in §261.1(c)(5) is not a SW	Pages: 1 FaxBack: 11171
10/20/86	Straus	to Horner	Albright and Wilson, Inc.	phosphoric acid reused as a wastewater conditioner is not a SW	Pages: 2 FaxBack: 11185
11/6/86	Straus	to Bzura	Old Bridge Chemicals, Inc.	spent etchants (copper chloride and copper ammonium chloride) that are reused as raw materials in the manufacture of various copper salts are not SW, provided no reclamation occurs before reuse	Pages: 6 FaxBack: 11192
12/4/86	Williams	to Stringham	Region V	spent refractory bricks reused to make new bricks are not SW unless speculatively accumulated; processing (briquetting, crushing, repackaging) that does not recover material values is not reclamation; if direct reuse exemption applies, status as spent material or by-product irrelevant	Pages: 3 FaxBack: 11201
3/31/87	Straus	to Miner	Region V	spent pickle liquor (K062) reused as neutralizer may not qualify for direct reuse exemption from SW definition depending on several site-specific factors; spent pickle liquor stored without being used for neutralization is clearly SW	Pages: 3 FaxBack: 11232
5/20/87	Straus	to Russell	Russel Resources, Inc.	pickle liquor is not a SW when reused without prior regeneration and when used as an effective substitute for a CCP	Pages: 5 FaxBack: 11250

6/9/87	Straus	to Hubbard	U.S. Dept. of Army	"red water" (K047) that is recycled does not qualify for use or reuse exclusion because sodium sulfite is recovered from the red water before it is reused; using red water as a fuel renders it ineligible for the use or reuse exclusion	Pages: 4 FaxBack: 11253
7/31/87	Williams	to Kertcher	Region V	flue dust (K061) mixed with sodium silicate binder and pressed into briquettes is not SW if directly reused in steel production process provided no reclamation takes place (briquetting is not reclamation)	Pages: 4 FaxBack: 11271
9/4/87	Williams	to Kertcher	EPA HQ	coal tar decanter sludge (K087) used to produce coke does not qualify for §261.2(e)(1)(iii) exemption because it is used to produce a fuel	Pages: 5 FaxBack: 11290
9/15/87	Scarberry	to Taylor	Region VI	spent acid used as a flocculant in irrigation water is directly used as water conditioner and is not SW	Pages: 1 FaxBack: 11293
3/22/88	Lowrance	to Bzura	Old Bridge Chemicals, Inc.	copper chloride and copper ammonium chloride byproducts that are directly used (i.e., without prior reclamation) in the production of copper sulfate and copper hydroxide are not SW if material is not speculatively accumulated and if activity is legitimate recycling	Pages: 2 FaxBack: 11334
4/6/88	Lowrance	to Grant	Tomar Services, Inc.	smelting wastewater treatment sludges to recover metals is reclamation; sludges destined for smelting not eligible for §261.2(e) reuse exemption; listed sludges (F006) destined for smelting are SW and HW; characteristic sludges destined for smelting are not SW	Pages: 8 FaxBack: 11338
4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	chlorinated by-product reused as ingredient in chlorinated feedstocks and muriatic acid is not SW provided no burning, reclamation, disposal, or speculative accumulation is involved (SUPERCEDED: see 56 *FR* 7134; 2/21/91)	Pages: 22 FaxBack: 11342

6/6/88	Barnes	to Tribble	American Cyanamid Co.	hazardous secondary materials (spent sulfuric acid) used as ingredients in production of new products, or as substitutes for commercial products are not SW; under certain conditions (e.g., when producing a fuel or a fertilizer) materials are still SW and HW	Pages: 9 FaxBack: 11352
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	K061 run through a process associated with primary steel production may not be a SW provided it is returned to the original process from which it was generated, it is not accumulated speculatively, and it is not used to produce a product that is placed on the land or burned for energy recovery	Pages: 11 FaxBack: 11353
7/31/88	Barnes	to Haake	McDonnell Douglas	using off-specification jet fuel to produce new fuel is reclamation of CCP, not direct use or reuse; such CCPs are not SW when destined for incorporation into fuels, as this is their original intended purpose	Pages: 2 FaxBack: 11360
8/9/88	Barnes	to Tribble	American Cyanamid Co.	if secondary use of sulfuric acid has the same purpose as primary use (e.g., once-used sulfuric acid can be directly reused in same or another alkylation reaction), the once-used sulfuric acid may be exempt from definition of SW under §261.2(e)	Pages: 2 FaxBack: 11361
2/7/89	Lowrance	to Gallaher	Allied Aircraft Sales, Inc.	aluminum dross reused in manufacture of cement is not a SW if it is not reclaimed, if it is an effective substitute, and if the product formed is not placed on the land; if cement will be placed on the land, material will be SW and HW subject to Part 266, Subpart C; discussion of sham recycling	Pages: 4 FaxBack: 11395
3/27/89	Dellinger	to Jones	Environmental Consulting	characteristic sludge directly used or reused to make fertilizer or other product destined for land placement is not eligible for §261.2(e) exemption from definition of SW; such sludges destined to be used in manner that constitutes disposal are SW from point of generation forward	Pages: 2 FaxBack: 11412
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	F006 destined for direct reuse as ingredient in aggregate, cement, or other products to be placed on land is a HW and subject to Part 266, Subpart C unless 266.20(b) is satisfied; F006 is not SW or HW if directly reused as legitimate ingredient in product not placed on land	Pages: 5 FaxBack: 11426

6/16/89	Straus	to Lodick	North Coast Associates, Inc.	spent abrasives from sandblasting used as an ingredient in Portland cement are SW because they are used to produce a product that "will be, or is likely to be, placed on the land"	Pages: 2 FaxBack: 11433
7/31/89	Barnes	to Haake	McDonnell Douglas	reprocessing of off-specification jet fuel is reclamation rather than use as an ingredient in an industrial process; off-specification jet fuel that is processed to produce product fuel is not a SW because burning is its intended purpose	Pages: 2 FaxBack: 11449
8/23/89	Lowrance	to Philipp	Enviroscience, Inc.	in order for slag residue derived from processing of F006 and destined for use in aggregate to qualify as legitimately recycled, slag must be analogous to normal feedstock it is replacing; technical feasibility of using slag as substitute does not mean slag recycling is necessarily legitimate	Pages: 3 FaxBack: 11461
9/12/89	Straus	to Ullrich	Region V	K062 that is being reclaimed before reuse is not eligible for §261.2(e) exclusion from the definition of SW; exclusion also does not apply if use or reuse activity involves use constituting disposal	Pages: 6 FaxBack: 11468
2/13/90	Lowrance	to Duprey	Region VIII	K061 is not eligible for direct use or reuse exemption and is a SW when used as an ingredient in the manufacture of cement because cement is a product that is typically applied to the land	Pages: 13 FaxBack: 11491
7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	"continued use" of used photographic fixer solution	Pages: 3 FaxBack: 11541
8/1/90	Bussard	to Farley	McGuire, Woods, Battle, and Boothe	EPA generally does not consider treated wastewater to be reclaimed "product;" in certain cases, treated wastewater that is legitimately reused loses SW status	Pages: 10 FaxBack: 11546

8/13/90	Lowrance	to Citizen		restrictions on use of UO as dust suppressant (SUPERCEDED: see §279.12(b))	Pages: 1 FaxBack: 11549
12/21/90	Bussard	to Bouse	Pacific Basin Resources	K048-K052 filter cake used as ingredient in cement is a SW and HW because it is used to produce a product that is applied to the land; sham recycling discussion	Pages: 3 FaxBack: 11573
2/15/91	Bussard	to Blake	Swidler and Berlin	use of hazardous wastewater as ingredient (quenchwater and slurry water) in cement production may be regulated treatment, not exempt recycling; determination of sham v. legitimate use based on whether hazardous constituents in wastewater are necessary to production process	Pages: 2 FaxBack: 11585
6/5/91	Lowrance	to Duprey	Region VIII	characteristic UO used as a substitute ingredient for diesel in ANFO explosive may be sham recycling; if UO is not a legitimate ingredient, mixing with ammonium nitrate is treatment, and the mixture, when exploded, may be subject to OB/OD regulations of §265.382	Pages: 3 FaxBack: 11613
6/21/91	Bussard	to Young	Whiteman, Osterman, and Hanna	baghouse dust, when used as a product or as an ingredient in a product that is placed on the land, is a SW and is not eligible for §261.2(e) exclusion; legitimacy of recycling operation must be examined	Pages: 5 FaxBack: 11618
7/23/92	Bussard	to Duprey	Region VIII	rinsewater from aluminum anodizing reused as source of phosphorous in fertilizer manufacture is not a SW if it is purer in acid content, and no more contaminated than virgin phosphoric acid that would normally be used (see also 6/4/86 letter, Silverman to McCaskill)	Pages: 1 FaxBack: 11682
12/1/92	Denit	to Guerry	Collier, Shannon, Rill and Scott	EAF dust (K061) used as ingredient in grit for abrasive blasting, roofing granules, or ceramics is not SW as long as dust is not used in a manner that constitutes disposal	Pages: 2 FaxBack: 11714

3/30/94	Bussard	to Nebrich	Waste Technology Services, Inc.	metals suitable for direct use or that only need refining are products, not wastes; waste going for reclamation (distillation) prior to use as ingredient would not qualify for direct reuse exemption	Pages: 3 FaxBack: 11823
7/11/94	Petruska	to Amour	Amour Hydro Press, Inc.	outdated resins qualifying as off-specification CCPs are not SW when reclaimed or directly reused as feedstock in industrial process	Pages: 2 FaxBack: 11849
7/20/94	Shapiro	to Ferguson	TX Natural Resource Conservation Commission	heating value of secondary material inserted in sulfuric acid regeneration furnace determines if activity is excluded use or reuse, or burning for energy recovery subject to Part 266, Subpart H; generally, waste with heating value at or above 5000 Btu/lb is considered to be burned as a fuel	Pages: 3 FaxBack: 11856
10/5/94	Petruska	to Dufficy	National Association of Photographic Manufacturers, Inc.	used metals suitable for direct reuse or that only need refining to be usable are not SW; 98% pure silver flake recovered from photo processing and sent to be refined to 99.99% purity is commodity-like and is not SW	Pages: 6 FaxBack: 11879
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	secondary materials used as ingredients are excluded from definition of SW at point of generation, thus any subsequent management is not subject to regulation under Subtitle C; whether hazardous secondary material is reclaimed or used as an ingredient is case-specific	Pages: 2 FaxBack: 11886
3/8/95	Shapiro	to Richter	American Foundrymen's Society	spent foundry sand destined for direct reuse as fluxing agent in primary copper smelting is not SW; screening foundry sand to remove metal pieces and other residuals is reclamation; sand destined for reclamation is spent material and SW	Pages: 10 FaxBack: 11900
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	smelting F006 sludge to recover metals is reclamation, not direct use or reuse; dewatered F006 sludge is SW and HW prior to reclamation unless variance from definition of SW for partially-reclaimed wastes needing further reclamation (§260.30(c)) is obtained	Pages: 3 FaxBack: 11910

261.2(f)

Documentation Of Recycling Claims

4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	even if recycled waste is exempt from definition of SW and RCRA Subtitle C regulation under §261.2, generator must be able to provide supporting documentation according to §261.2(f)	Pages: 22 FaxBack: 11342
3/27/89	Dellinger	to Jones	Environmental Consulting	generator must document claim that characteristic sludges from air and water pollution control devices destined for reclamation are not SW from point of generation forward	Pages: 2 FaxBack: 11412
8/23/89	Lowrance	to Philipp	Enviroscience, Inc.	all persons claiming that materials being recycled are not SW must be able to document in enforcement actions that there is a known (not potential) market for the recycled material	Pages: 3 FaxBack: 11461
5/23/90	Lowrance	to Bergeson	Fox, Weinberg, and Bennett	persons maintaining that used batteries destined for recycling are not SW must be able to document claims according to §261.2(f)	Pages: 3 FaxBack: 11517
11/25/92	Denit	to Bozaan	Groundwater Technology	generalized assertion that material is being recycled may not satisfy requirement to document claims that material is exempt from definition of SW	Pages: 4 FaxBack: 11713
2/23/93	Lowrance	to Kaul	NY DEC	persons claiming that nonlisted CCP being reclaimed is not SW retain burden of proving that recycling is legitimate	Pages: 3 FaxBack: 11726

5/6/93	Lowrance	to Rankin	Olin Chemicals	generators and recyclers who claim that material to be reclaimed is not a SW must be able to document legitimacy of all claims in the event of an enforcement inquiry	Pages: 3 FaxBack: 11747
4/18/94	Petruska	to Preheim	Mineral Bureau, Inc.	generator retains burden of proof when claiming imported material is not SW or is conditionally exempt from regulation	Pages: 1 FaxBack: 11832

261.3(a)

Mixture Rule

11/18/80	Dietrich	to Reynolds	Gold Mist, Inc.	mixture created by rinsing listed CCP from container with washwater is HW via mixture rule; container rinsewater is SW because it is discarded	Pages: 1 FaxBack: 11004
4/10/84	Skinner	to Wagoner	Region VII	regulatory status of precipitation runoff from active and inactive HW management units; distinctions between precipitation runoff and mixtures of precipitation with HW or HW leachate (see also state or Region on their implementation of precipitation runoff exemption)	Pages: 7 FaxBack: 11035
4/29/85	McGraw	to Wallop	U.S. Senate	mixing HW with nonhazardous waste does not mean resulting mixture is nonhazardous; diluting HW with large volume of nonhazardous diluent is generally not reasonable treatment option (see also §268.3)	Pages: 10 FaxBack: 11073
6/10/85	Claussen	to SW Branch Chief	Region V	EPA uncertain about applicability of mixture and derived-from rules to petroleum refinery wastewater ponds involving listed HW (SUPERCEDED: see 8/23/85 letter, Skinner to Regions and 7/5/91 letter, Lowrance to Waste Management Division Directors)	Pages: 6 FaxBack: 11084

7/22/85	Skinner	to Hathaway	Region VI	pesticide residue left on an aircraft used to apply the pesticide is not a discarded CCP because it has been used (it has been released into the environment as a result of use) (see also 12/15/92 letter, Lowrance to Rodriguez)	Pages: 2 FaxBack: 11096
8/23/85	Skinner	to Regions	Regions I-X	mixture rule would apply to mixture in a wastewater treatment system of wastewater and a waste which is derived-from a listed petroleum HW; supernatant from proper dewatering of listed petroleum wastewater treatment sludge may not be HW via derived-from rule	Pages: 14 FaxBack: 11102
12/13/85	Williams	to Seraydarian	Region IX	airplane washwater is not a HW via the mixture rule because pesticide residue left on aircraft is not a discarded CCP (it is considered used) and therefore not a listed HW; washwaters may be HW if characteristic	Pages: 2 FaxBack: 11115
1/23/86	Williams	to Stringham	Region V	sediments in lakes and harbors contaminated with waste illegally discharged to surface waters are not HW via the mixture rule because sediments not normally SW; sediments could be regulated as listed HW via contained-in policy; unpermitted discharge can be illegal HW disposal	Pages: 9 FaxBack: 11125
4/23/86	Williams	to Devine	Region IV	water used to transport listed spent activated carbon to treatment process may not be HW via mixture rule or contained-in policy if Part 261, Appendix VIII constituents have not desorbed into water from carbon and if carbon solids are not discharged with water	Pages: 2 FaxBack: 11146
4/30/86	Williams	to Wagoner	Region VII	EPA is considering an exemption for scrap metal mixed with UO (see see also §§261.4(b)(13) and 279.10(c))	Pages: 2 FaxBack: 11150
5/30/86	Williams	to Rambo	National Pest Control Association, Inc.	truck and service vehicle wash rinsewater contaminated with pesticide residue from ground application of the pesticide is not HW via the mixture rule; the rinsewater is HW only if it exhibits a characteristic (see also 7/22/85 letter, Skinner to Hathaway)	Pages: 2 FaxBack: 11160

7/3/86	Williams	to Lardieri	Scott Paper Co.	disposable or reusable rags and wipers are HW if used to clean up characteristic HW and they exhibit a characteristic or if used to clean up listed waste, and are subject to Subtitle C when destined for disposal or laundering (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions)	Pages: 4 FaxBack: 11165
8/22/86	Straus	to Mandel	Jenner and Block	hydraulic equipment contaminated with UO during quality control testing conducted prior to sale and distribution is not subject to the mixture rule because the equipment is a product and not a SW	Pages: 1 FaxBack: 11175
8/28/86	Williams	to Zellmer	WI DNR	EPA is considering petition to exempt solvent-contaminated, disposable, industrial wipers from the definition of HW under the mixture rule (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions)	Pages: 3 FaxBack: 11176
10/21/86	Straus	to Berry	Baker and Potts	if mixture of unused PCP formulation (F027) and used PCP formulation is spilled, disposed, or intended for disposal, mixture is F027 via mixture rule	Pages: 3 FaxBack: 11187
2/9/87	Williams	to Dietrich	ICF Technology	pallets, glassware, gloves, boots, coveralls, aprons, and rags contaminated with listed waste during use are not HW via mixture rule, but contain listed HW and must be managed as such until listed waste is removed (see also §268.45 and 2/14/94 letter, from Shapiro to Regions)	Pages: 15 FaxBack: 11219
2/19/87	Straus	to Hemker	QSource Engineering, Inc.	adding pure or commercial grade F-listed solvent to ink, paint, adhesive, or glue as ingredient does not trigger spent solvent HW listings; mixture of listed spent solvent HW and product destined for discard carries F-listings via mixture rule	Pages: 4 FaxBack: 11220
1/14/88	Williams	to Sylvestri	Versar, Inc.	mixture of sand and unused hexachloroethane destined for use in incinerator trial burn is SW; since unused CCP hexachloroethane is U131 when discarded, mixture is U131 HW	Pages: 2 FaxBack: 11320

10/27/88	Lowrance	to Wagoner	Region VII	rinsing nonempty containers that held P- or U-listed pesticide CCPs renders rinsate listed HW	Pages: 3 FaxBack: 11374
1/3/89	Lowrance	to Fields	EPA HQ	mixture rule does not apply to personal protective equipment (PPE) and clothing contaminated with HW because such articles are not SW when contaminated; PPE and clothing could be subject to HW regulation through contained-in policy	Pages: 2 FaxBack: 11387
6/19/89	Cannon	to Jorling	NY DEP	wastes that are listed due to mixture or derived-from rules can be made nonhazardous only by delisting; risk-based showing that waste no longer contains hazardous constituents can remove listing from contaminated media, but not process wastes mixed with or derived from HW	Pages: 3 FaxBack: 11434
8/2/89	Lowrance	to Uremovich	Terminal Technologies, Inc.	K049, K051, or K052 can only be generated at refinery, but residues from these wastes handled at off site location (bulk fuel terminal) are still listed; discharge of residuals from K049 storage to oil-water separator could make resulting sludge listed via derived-from and mixture rules	Pages: 2 FaxBack: 11453
8/11/89	Lowrance	to Constantelos	Region V	sediment from lakes and harbors contaminated with HW illegally discharged to surface waters is not HW via mixture rule because sediment is not SW; depending on circumstances sediment can be listed or characteristic HW via contained-in policy	Pages: 1 FaxBack: 11455
7/5/91	Lowrance	to Waste Management Division Directors	Regions I-X	petroleum wastewater separation sludges; liquid from which a listed sludge is generated is not itself a listed waste via the mixture rule unless the sludge is mixed with the liquid (e.g., sludge is scoured upon introduction of waste to the unit)	Pages: 9 FaxBack: 11626
3/7/95	Friedman	to Hill	Region I	HHW mixed with regulated HW no longer benefits from HHW exclusion and would be subject to all applicable Subtitle C regulations	Pages: 6 FaxBack: 11898

Product Carryover vs. Hazardous Waste Mixture

10/15/85	Poppiti	to Friedman	PA DNR	when parts (dies) are removed from salt bath and rinsed, salt bath residues that carry over from part to rinsewater are not F011 and do not render rinsewater listed via mixture rule	Pages: 1 FaxBack: 11107
11/7/86	Williams	to Winslow	Sandoz Crop Protection Corp.	F-listings and mixture rule generally do not apply to solvent-containing process wastewaters, which typically become contaminated with solvents before those solvents are "spent" and meet listing: mixtures of F001-F005 HW and wastewaters are typically listed via mixture rule	Pages: 6 FaxBack: 11193
11/24/86	LeBleu-Biswas	to Young	Whiteman, Osterman, and Hanna	carryover of cyanide-bearing plating and stripping solutions to rinsewater baths during normal electroplating process does not make rinsewater F007 or F009 via mixture rule; spent rinsewaters and listed spent baths mixed after removal from plating process are listed via mixture rule	Pages: 1 FaxBack: 11198
7/28/87	Straus	to Schiffman	NJ DEP	if drops of stripping or cleaning solution (F009 when spent) on a part are carried over to rinsewater during normal electroplating process, rinsewater is not considered F009 via mixture rule; sludges from treatment of rinsewater could be F006	Pages: 4 FaxBack: 11269
8/25/87	Straus	to Harer	CHEM-CLEAR	if metal parts are cleaned using solvent containing over 10% trichloroethylene (TCE) and then rinsed with caustic solution, traces of TCE remaining on part and carried over into rinse are not F-listed; caustic rinse is therefore not listed via mixture rule, but could be characteristic	Pages: 2 FaxBack: 11283
10/26/87	Williams	to Senna	International Flavors and Fragrances, Inc.	oil and trace solvents that remain in reactor vessel following washing with acetone, ethyl acetate, and xylene do not meet spent solvent definition; subsequent soap and water washout is process wastewater containing solvent constituents and is not F003 via mixture rule	Pages: 2 FaxBack: 11300

12/16/87	Williams	to Pace	Hogan and Hartson	toluene used as carrier in manufacturing is used as solvent and F-listed after it is spent and separated from product; however, when iron filter cake containing trace toluene levels is separated from product, solvent on cake is not F-listed and does not render cake listed via mixture rule	Pages: 7 FaxBack: 11311
4/7/88	Lowrance	to Wagoner	Region VII	carryover of cyanides from plating or cleaning bath to rinsewater during normal electroplating process does not render rinsewaters listed via mixture rule	Pages: 6 FaxBack: 11339
12/6/88	Barnes	to Moretta	Region V	F001-F005 solvents used as carriers, extractants, etc. are listed HW when separated from process in which they were used; but other wastestreams (e.g., extracted wastewaters) that picked up trace solvents during process are not F001-F005 or listed via mixture rule once separated from process	Pages: 2 FaxBack: 11384
6/28/89	Barnes	to Wilson	EPA HQ	when listed solvent is used to extract aqueous liquid from liquid product stream, solvent is listed when spent and removed from process; extracted aqueous wastestream which picked up trace amounts of solvent during extraction step is not F001-F005 or listed via mixture rule	Pages: 9 FaxBack: 11437
7/10/89	Barnes	to Belden	USPCI	if metal part is degreased in F001-F005 solvent and then ground with sand, resulting metal and sand waste containing traces of solvent is not F001-F005 or listed via mixture rule; metal and sand waste considered process waste contaminated with solvent that was not "spent"	Pages: 1 FaxBack: 11440
7/21/89	Barnes	to Schiffman	NJ DEP	when toluene is used as solvent in production process and toluene is recovered, trace quatities of toluene found in facility washwaters would not normally be F-listed spent solvent and would not render all facility wastewaters and wastewater sludges hazardous via mixture rule	Pages: 4 FaxBack: 11447
8/30/91	Lowrance	to Duprey	Region VIII	solvent carryover; when metal part is cleaned using F-listed solvent, then is air dried and blasted, blasting grit containing trace levels of solvent is not F001-F005 or listed via mixture rule; if solvent was used in excessive amounts during initial cleaning, solvent in grit could be F-listed	Pages: 12 FaxBack: 11638

10/20/92	Bussard	to Boyle	Region V	toluene used as reaction medium (to carry ingredients into production process) may be F005 HW when spent and separated from final product, but other wastes separated from final product that picked up trace solvents during process are not F001-F005 or listed via mixture rule	Pages: 2 FaxBack: 11703
6/1/94	Shapiro	to Hiley	Goodwin, Proctor, and Hoar	EPA has not established numerical levels for solvent contamination in nonhazardous manufacturing process wastes that trigger HW regulation; if listed solvent HW in any amount is mixed with other SW, mixture is listed (see also §261.3(a)(2)(iv) exemption)	Pages: 2 FaxBack: 11839

261.3(a)(2)(iii)
Mixtures Involving Wastes Listed Solely For Characteristics

10/7/85	Straus	to Fox	Jones, Day, Reavis and Pogue	mixture of SW and waste listed solely for characteristic is not HW if mixture (or ash from burning mixture) is not characteristic (see also §268.3)	Pages: 2 FaxBack: 11106
1/7/86	Straus	to Rose	Region VI	mixture of SW and HW listed solely for exhibiting characteristic is not HW if mixture does not exhibit characteristic (see also §§261.3(a)(2)(iii) and 268.3); mixture of SW and waste listed for reasons other than exhibiting a characteristic is HW via mixture rule until delisted	Pages: 2 FaxBack: 11121
3/21/86	Straus	to Jackson	Thorpe, Reed and Armstrong	mixture of characteristic waste or waste listed solely for exhibiting a characteristic and a SW is not hazardous if the mixture does not exhibit any of the characteristics of HW	Pages: 2 FaxBack: 11140
9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	mixture of SW and waste listed solely for exhibiting a characteristic is no longer HW under the mixture rule if mixture does not exhibit a characteristic of HW (see also §261.3(a)(2)(iii))	Pages: 2 FaxBack: 11180

1/27/87	Williams	to Didier	WI DNR	mixture of SW and waste listed solely for characteristic (F003) is no longer listed HW if it doesnot exhibit characteristics; such listed waste remains listed before mixing even if it exhibits no characteristics as generated	Pages: 4 FaxBack: 11213
3/3/87	Straus	to Hubbard	U.S. Dept. of Army	§261.3(a)(2)(iii) only applies to mixtures of SW and HW listed solely for a characteristic, not to residues from treating wastes listed for characteristic; mixture rule exemption applies to K045 mixed with SW before incineration, or K045-derived ash mixed with SW after incineration	Pages: 3 FaxBack: 11222
6/22/87	Straus	to Trainer	Aqua-Tech, Inc.	F003 still bottoms are derived from HW listed solely for characteristic; F003 is no longer listed if it is mixed with SW and mixture exhibits no HW characteristics; mixture rule does not specify what kind of SW can be used in such mixtures (see also §268.3)	Pages: 4 FaxBack: 11257
2/22/88	Denit	to Bobel	Region IX	mixture involving waste listed solely for characteristic is not HW if mixture not characteristic (see also §268.3); mixture of F001 and D001 should carry all applicable waste codes (unless mixture is no longer ignitable and no longer D001)	Pages: 6 FaxBack: 11327
4/14/88	Lowrance	to Meeks	U.S. Navy	stripped paint waste listed solely for exhibiting a characteristic (F003 used as a stripping compound) that is mixed with a SW is hazardous only if the mixture exhibits a characteristic	Pages: 8 FaxBack: 11340
11/4/88	Weil	to Ward	Omark Industries	K044 that no longer exhibits a characteristic when treated in wastewater treatment system is no longer K044, but must be designated as a HW if it exhibits another characteristic (see also §268.3 dilution rules)	Pages: 2 FaxBack: 11380
7/21/89	Barnes	to Schiffman	NJ DEP	mixture rule and mixture rule exemptions apply only when HW is generated and subsequently mixed with SW; if F003 HW is not ignitable when generated, it is still F003 until mixed with SW and qualifies for §261.3(a)(2)(iii) mixture rule exemption	Pages: 4 FaxBack: 11447

6/21/91	Lowrance	to Constantelos	Safety-Kleen	if absorbent is mixed with waste listed solely for characteristic, mixture is not HW if it does not exhibit characteristics (see also §268.3)	Pages: 3 FaxBack: 11619
12/30/91	Chaudhari	to Bates	XENIUM Fiberglass Corp.	delisting petition not necessary for waste which is no longer hazardous via exemption for mixtures of SW and HW listed solely for characteristic that are no longer characteristic (see also §268.3); generator responsible for demonstrating that exempt mixture remains nonhazardous	Pages: 8 FaxBack: 11661
11/4/92	Lowrance	to Noles	Four Seasons Industrial Services, Inc.	§261.3(a)(2)(iii) mixture rule exemption does not apply to nonignitable F003 that hasn not yet been mixed with SW; exemption does not apply to F003 mixed with soil; LDR still applies to F003 that has been rendered nonignitable or nonhazardous	Pages: 3 FaxBack: 11707
11/5/92	Lowrance	to Northup	Convenient Automotive Services, Inc.	mixture of UO and characteristic HW is managed as HW if mixture is characteristic; mixture of UO and HW listed solely for ignitability is regulated as UO if mixture is not ignitable (SUPERCEDED: see 10/16/95 letter, Shapiro to Waste Management Division Directors)	Pages: 2 FaxBack: 11708

261.3(a)(2)(iv)

Exempt Mixtures

8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	*de minimis* mixture rule exemption of §261.3(a)(2)(iv) applies only to mixtures involving listed HW; exemption does not affect mixtures involving characteristic HW	Pages: 5 FaxBack: 11173
4/14/88	Lowrance	to Meeks	U.S. Navy	no regulatory definition for WWTU headworks	Pages: 8 FaxBack: 11340

3/9/89	Lowrance	to Molchan	DE Dept. of Natural Resources and Environmental Control	unclear whether mixture exemptions in §261.3(a)(2)(iv) apply to intentional discharges of segregated spent solvents to storm sewers; EPA does not encourage intentional disposal of solvent wastes into storm sewer, even if all elements of exemption are met	Pages: 2 FaxBack: 11402
1/15/92	Lowrance	to Redd	Browning Ferris Industries, Inc.	mixture rule exemptions (§§261.3(a)(2)(iv)(A) - (E)) are oriented toward mixtures of wastewaters and listed wastes, not characteristic wastes; exemption does not apply until wastewater passes through headworks of WWTU	Pages: 4 FaxBack: 11662

261.3(a)(2)(iv)(A)&(B)
Spent Solvents

12/17/85	Straus	to Baise and Morse	Beverage and Diamond, P.C.	exemption applies to solvents incidentally discharged into wastewater system, not solvents or still bottoms purposefully discharged; incinerator scrubber water derived from listed solvent not eligible for exemption; exemption applies at wastewater treatment system's headworks	Pages: 2 FaxBack: 11116
11/7/86	Williams	to Winslow	Sandoz Crop Protection Corp.	mixture of listed F001-F005 spent solvent and wastewater causes mixture to be listed unless exemption for such mixtures in §§261.3(a)(2)(iv)(A) or (B) applies	Pages: 6 FaxBack: 11193
4/30/87	Straus	to Gray	IN Dept. of Environmental Management	once waste is discharged to wastewater, volume of discharged waste must be included in weekly calculation for exemption levels; calculation includes solvents discharged to wastewater which volatilized; calculation does not include any solvents not disposed to wastewater	Pages: 3 FaxBack: 11241
4/14/88	Lowrance	to Meeks	U.S. Navy	mixture rule contains exemption for wastewaters combined with solvents in certain concentrations; exemption applies at wastewater treatment or pretreatment system headworks	Pages: 8 FaxBack: 11340

6/10/91	Clay	to Schafer	U.S. Navy	solvent volume calculation for purposes of exclusion must use records of solvent consumption (e.g., invoices) to establish amount of solvent in wastewater, but may subtract solvent that does not flow into headworks; calculation must include solvents which volatalize during paint stripping	Pages: 2 FaxBack: 11614
6/10/94	Shapiro	to McLaughlin	Bond, Schoeneck & King	mixture rule exemption applies only to solvents incidentally discharged to wastewaters, not to solvents in "principle wastestreams" routed to wastewaters; scrubber water derived from listed solvent incineration is not eligible for mixture rule exemption	Pages: 2 FaxBack: 11845

261.3(a)(2)(iv)(D)
De Minimis Losses Of Commercial Chemical Products

4/14/88	Lowrance	to Meeks	U.S. Navy	mixture rule contains exemption for wastewaters combined with *de minimis* quantities of CCPs from manufacturing operations in which the CCPs are produced or used as raw materials	Pages: 8 FaxBack: 11340

261.3(a)(2)(iv)(E)
Toxic Wastes From Laboratories Not > 1%

4/14/88	Lowrance	to Meeks	U.S. Navy	mixture rule contains exemption for wastewaters mingled with laboratory wastes in certain concentrations; exemption applies at wastewater treatment or pretreatment system headworks	Pages: 8 FaxBack: 11340
1/15/92	Lowrance	to Redd	Browning Ferris Industries, Inc.	laboratory wastewaters contaminated with listed wastes which are toxic (T) are exempt if mixture, after passing through the system headworks, does not exceed concentration specified in exemption	Pages: 4 FaxBack: 11662

2/23/93	Lowrance	to Perry	Frito-Lay, Inc.	exemption applies only to listed wastes such as unused chloroform (U044) discharged in lab sinks or drains; one of two concentration criteria must be met to qualify and calculation is based on total quantity of listed HW from lab operation; LDR recordkeeping may apply pursuant to §268.7(a)	Pages: 6 FaxBack: 11727

261.3(a)(2)(iv)(F)

Exemption For K157 Carbamate Wastewaters

8/3/95	Bussard	to Steinberg	Morgan, Lewis & Bockius	calculation for §261.3(a)(2)(iv)(F) exemption for K157 carbamate wastes must account for all constituents not reacted, destroyed, or recovered, including amount volatilized; compliance point (where volatilization is evaluated) is the point of generation prior to mixing with other wastes	Pages: 3 FaxBack: 11911

261.3(c)&(d)

Derived-from Rule

6/10/85	Claussen	to SW Branch Chief	Region V	EPA uncertain about applicability of mixture and derived-from rules to petroleum refinery wastewater ponds involving listed HW (SUPERCEDED: see 8/23/85, memo from Skinner to Regions and 7/5/91, memo from Lowrance to Waste Management Division Directors)	Pages: 6 FaxBack: 11084
7/5/85	Skinner	to Huebner	Region I	most lab wastes are not listed (even if they contain dioxins) and are HW only if characteristic; nevertheless, unused portions of HW being analyzed in lab and any residue derived from HW being analyzed in lab is subject to full regulation when discarded (see also §§261.4(d), (e), and(f))	Pages: 2 FaxBack: 11088
7/23/85	Bellin	to Hagan	Wright State University	mere presence of dioxin constituents in laboratory wastes (such as stock solutions, clean up materials, and chromatographic columns) does not make wastes subject to F-listings for dioxin wastes; however, unused HW samples or residues from their analysis are still HW	Pages: 1 FaxBack: 11097

8/23/85	Skinner	to Regions	Regions I-X	aqueous supernatant from proper dewatering of listed petroleum wastewater treatment sludge may not be HW via derived-from rule if it is chemically equivalent to influent refinery wastewater from which sludge was initially generated	Pages: 14 FaxBack: 11102
1/16/86	Straus	to Slemmer	Solid Tek Systems, Inc.	residue from treatment of listed waste retains listing via the derived-from rule; residue from treatment of characteristic waste is regulated only if residue exhibits characteristic	Pages: 2 FaxBack: 11122
12/12/86	Williams	to Stringham	Region V	treatment residues from listed wastes that are shipped to POTW by means other than public sewers (and therefore not exempt under §261.4(a)(1) domestic sewage exclusion) are not excluded from regulation and retain listings via the derived-from rule	Pages: 2 FaxBack: 11204
2/9/87	Williams	to Dietrich	ICF Technology	residue from incineration of F020 (or other acute F-listed HW) retains listing and must be handled as acute HW; proposed F029 listing (never finalized) would have regulated certain residues from incineration of acute F-listed HW as toxic listed waste	Pages: 15 FaxBack: 11219
3/3/87	Straus	to Hubbard	U.S. Dept. of Army	residue from the incineration of K045 still carries the listed waste code even though the ash does not exhibit the characteristic of reactivity; mixture of ash and SW is exempt under mixture rule if mixture does not exhibit a characteristic (see also §§261.3(a)(2)(iii) and 261.3(d)(1))	Pages: 3 FaxBack: 11222
3/6/87	Straus	to Skoufis	Anscott Chemical Industries, Inc.	perchloroethylene (PCE) condensed and recovered during normal fabric drying in drycleaning machine is solvent-containing process waste, not F-listed HW; PCE condensate from distillation or steam stripping of spent filter cartridges is HW since it is derived from F002 drycleaning HW	Pages: 3 FaxBack: 11224
5/5/87	Abrams	to Duncan	Compliance Recycling Industries	waste generated during regeneration of F006 ion exchange resins or sludges is F006 waste via the derived-from rule (except for recovered metal that is sold as product)	Pages: 8 FaxBack: 11244

6/22/87	Straus	to Trainer	Aqua-Tech, Inc.	still bottoms generated from distillation of F003 spent solvent are HW via derived-from rule, regardless of characteristics; bottoms are no longer listed once they are mixed with SW and mixture exhibits no HW characteristics (see also §268.3)	Pages: 4 FaxBack: 11257
8/31/87	Lowrance	to Gingold	Envirosure	listed waste treatment residue retains listing of original waste	Pages: 6 FaxBack: 11284
10/26/87	Williams	to Senna	International Flavors and Fragrances, Inc.	residues generated from treating a D001 ignitable waste (e.g., spent reactor vessel washout water) remain hazardous as long as they exhibit a characteristic	Pages: 2 FaxBack: 11300
1/14/88	Williams	to Sylvestri	Versar, Inc.	ash derived from burning a mixture of sand and hexachloroethane (U131) in an incinerator trial burn carries the U131 waste code via the derived-from rule	Pages: 2 FaxBack: 11320
2/11/88	Williams	to Heinze	AJH Environmental Consulting, Inc.	if spent F-listed solvents pass through pipeline and pipeline filter, spent filter is HW via derived-from rule until or unless it is delisted; if filter contains discarded P- or U-listed CCP solvent, filter is regulated as HW until it no longer contains hazardous constituents	Pages: 4 FaxBack: 11325
2/24/88	Denit	to Bouchard	Centre de Recherche Industrielle du Quebec	residue from extracting chromium and nickel from K061 is still K061 via derived-from rule, unless delisted (see also §261.3(c)(2)(ii)(C))	Pages: 4 FaxBack: 11328
3/11/88	Denit	to Becker	EPA HQ	air filters, scrubber water, and ash from incinerating F020 carry F020 listing; wastes derived from F020 are acute HW and subject to special standards for dioxin wastes, unless delisted; media and debris from dismantling of incinerator are also F020 (via "contained-in" policy)	Pages: 3 FaxBack: 11332

7/28/88	Lowrance	to	Waste Management Division Directors	Region I-X	SW derived from the treatment, storage, or disposal of a HW is itself a HW until it meets the criteria of §261.3(d)	Pages: 2 FaxBack: 11356
10/27/88	Lowrance	to	Greenberg	Browning-Ferris Industries	residuals from treatment of characteristic waste (or waste listed solely for characteristic) are HW via derived-from rule only if characteristic (see also 7/5/89 letter, Lowrance to Greenberg); residuals from treatment of listed solvent-characteristic solvent mixtures retain listing	Pages: 3 FaxBack: 11375
4/14/89	Dellinger	to	Rovers	C.T. Male Associates, P.C.	filter material used in treatment of F001-contaminated GW is subject to regulation since media contains F001; derived-from rule does not apply and delisting is not needed, but media must be handled as HW until handler demonstrates that it no longer contains F001	Pages: 2 FaxBack: 11418
4/18/89	Lowrance	to	Boyd	Sidley and Austin	spent solvent still bottoms removed from exempt distillation unit carry listing derived from original solvent HW	Pages: 2 FaxBack: 11420
4/26/89	Lowrance	to	HW Management Division Directors	Regions I-X	slag residue from smelter used to recover metals from F006 is HW via derived-from rule; Bevill exemption could apply if slag is "indigenous waste" (see also §261.3(c)(2)(ii))	Pages: 5 FaxBack: 11426
6/19/89	Cannon	to	Jorling	NY DEP	wastes that are listed due to mixture or derived-from rules can be made nonhazardous only by delisting; risk-based showing that waste no longer contains hazardous constituents can remove listing from contaminated media, but not process wastes mixed with or derived from HW	Pages: 3 FaxBack: 11434
8/2/89	Lowrance	to	Uremovich	Terminal Technologies, Inc.	K049, K051, or K052 can only be generated at refinery, but residues from these wastes handled at off site location (bulk fuel terminal) are still listed; discharge of residuals from K049 storage to oil-water separator could make resulting sludge listed via derived-from and mixture rules	Pages: 2 FaxBack: 11453

9/12/89	Straus	to Ullrich	Region V	non-product residues derived from K062 reclamation are still K062	Pages: 6 FaxBack: 11468
3/7/90	Barnes	to Stone	GSX Chemical Services	all residues, such as scrubber water, from the burning of a listed HW carry the listed waste code via the derived-from rule	Pages: 3 FaxBack: 11500
8/5/91	Lowrance	to Waste Management Division Directors	Regions I-X	slags and drosses from secondary lead smelting where K069 is used as a feedstock are not listed via the derived-from rule; such smelting residues may be HW if characteristic; indigenous principle for recycled furnace wastes	Pages: 2 FaxBack: 11632
9/4/92	Lowrance	to MacBeth	Sidley and Austin	mixtures of HW and absorbent or sawdust may be HW via derived-from rule; absorbing or mixing listed HW with sawdust does not make waste nonlisted	Pages: 2 FaxBack: 11694
3/5/93	Denit	to Swanberg	Separation and Recovery Systems	effluent from petroleum recovery process that accepts HW K048-K051 that is returned to wastewater treatment system is not derived from listed waste if chemically equivalent to non-listed influent that originally produced listed waste (see 8/23/85 memo, Skinner to Regions)	Pages: 3 FaxBack: 11732
7/28/93	Denit	to Igli	Chemical Waste Management, Inc.	incinerator ash and other residues from treatment of P-listed acute HW remain P-listed and acutely hazardous; containers holding such P-listed residues must be made empty by triple rinsing	Pages: 2 FaxBack: 11761
6/1/94	Shapiro	to Hiley	Goodwin, Proctor, and Hoar	EPA has not established numerical levels of solvent contamination in manufacturing process wastes that trigger HW regulation; material which is listed or derived from a listed waste is itself a listed waste until delisted or excluded	Pages: 2 FaxBack: 11839

7/15/94	Brandes	to Tease	Hubbard-Hall, Inc.	wastes that exhibit characteristic at point of generation may be subject to Part 268 requirements even if they do not exhibit a characteristic at point of disposal (§261.3(d)(1))	Pages: 2 FaxBack: 11854
11/4/94	Shapiro	to Hathcock	Laidlaw Environmental Services (Recovery), Inc.	product derived from burning listed HW with heating value under 5000 Btu/lb is HW if facility can't document that legitimate energy recovery is occurring	Pages: 2 FaxBack: 11883
5/25/95	Shapiro	to Spratlin	Region VII	"syngas" from gasification unit at Kansas petroleum refinery is fuel derived from F037, K022, and K051, but is not subject to RCRA Subtitle C regulation due to §261.6(a)(3)(iv) exemption for fuels created by refining oil-bearing HW during normal refinery operations	Pages: 2 FaxBack: 11905
10/19/95	Kidwell	to Lively	TDJ Group, Inc.	particulate emissions from foundry production unit are not SW until collected in and removed from baghouse, at which point HW determination is made; if emissions derive from waste management, particulate may be SW triggering RCRA Subtitle C prior to collection in baghouse and	Pages: 2 FaxBack: 11921

261.3(c)(2)(i)

Products Reclaimed From Hazardous Wastes Are Not Wastes

10/23/85	Straus	to Bassell	Lederle Laboratories	HW spent methanol solvent which is reclaimed to 99.5% purity and is then sent off site for use has become a product reclaimed from HW and therefore is not subject to manifesting or other Subtitle C regulations	Pages: 2 FaxBack: 11109
12/18/85	Straus	to Licht	Charles Licht Engineering Associates, Inc.	gold, silver, or other reclaimed precious metals that are derived from HW and which are suitable for direct use (or only have to be refined to be useable) are products, not wastes, pursuant to the derived-from rule (§261.3(c)(2))	Pages: 2 FaxBack: 11117

1/6/86	Straus	to Robbins	Kohler Co.	spent foundry sands which have been regenerated or reclaimed are products and no longer SW, even if they are shipped off site for coating before use	Pages: 2 FaxBack: 11119
1/22/86	Straus	to Andrews	Industrial and Agricultural Chemicals, Inc.	fertilizer product derived from characteristic HW is no longer subject to Subtitle C regulation once characteristics are removed (see also §§261.3(d)(1) and 266.20(b))	Pages: 2 FaxBack: 11124
11/19/86	Straus	to Straume	U.S. Air Force	commercial products reclaimed from HW are not longer SW and are not subject to Subtitle C regulation; silver recovery cartridges (or other HW being recycled) which need further processing are still SW, not products (see also 8/4/95 letter, Petruska to Thompson)	Pages: 11 FaxBack: 11197
1/25/88	Williams	to Greaves	EPA HQ	partially reclaimed SW which must be reclaimed further before it can be used as product is still SW and is potentially HW; explanation of exemption from derived-from rule for residues from processing of K061, K062, or F006 in HTMR devices	Pages: 4 FaxBack: 11322
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	zinc-rich metal oxide, if processed completely enough, may no longer be a SW per §261.3(c)(2); the same material, if burned or placed on the land, remains a HW because it is derived from the treatment of a listed waste	Pages: 11 FaxBack: 11353
10/27/88	Lowrance	to Wagoner	Region VII	EPA generally does not consider treated wastewater to be reclaimed "product;" in certain cases, treated wastewater that is legitimately reused is considered "reclaimed" and loses SW status; listed rinsewater destined for filtering and reuse is a spent material and SW prior to reclamation	Pages: 3 FaxBack: 11374
12/7/88	Lowrance	to Stapleton	Stapleton Company	partially reclaimed waste which only needs further refining before it can be beneficially used may be a product, not a waste; in other cases, partially reclaimed material may be SW eligible for variance in §260.30	Pages: 6 FaxBack: 11385

3/27/89	Dellinger	to Jones	Environmental Consulting	if product destined for placement on land includes characteristic sludges as ingredient, product is subject to Subtitle C regulation until it no longer exhibits characteristics (see also §268.9)	Pages: 2 FaxBack: 11412
9/12/89	Straus	to Ullrich	Region V	even if material reclaimed from K062 can serve as effective subsititute for CCP, it must meet LDR treatment standards prior to placement on the land; iron sulfate by-product used as an effective substitute for CCP becomes unregulated product unless it is to be used on the land	Pages: 6 FaxBack: 11468
8/1/90	Bussard	to Farley	McGuire, Woods, Battle, and Boothe	EPA generally does not consider treated wastewater to be reclaimed product; in certain cases, treated wastewater that is legitimately reused is considered reclaimed and loses SW status	Pages: 10 FaxBack: 11546
8/19/94	Bussard	to DiBella	Metals Recycling Technologies Corp.	HW secondary materials sent for thermal treatment at smelters remain HW until reclamation is complete; materials that have been reclaimed not a waste; metal-bearing material that is 92-99% metal that only needs refining is fully reclaimed	Pages: 2 FaxBack: 11929
11/9/94	Bussard	to Kulkarni	Quantum Tech, L.L.C.	if hazardous secondary material is used to produce a product burned for energy recovery or used in a manner constituting disposal, product may still be HW	Pages: 2 FaxBack: 11886
12/19/94	Bussard	to DiBella	Metals Recycling Technologies Corp.	zinc oxide produced from recycling K061 can be a product no longer subject to RCRA or, in cases where it will be further refined to make zinc, a partially reclaimed listed sludge and a HW subject to regulation	Pages: 2 FaxBack: 11932

261.3(c)(2)(ii)

Derived-from Rule Exemptions

4/10/84	Skinner	to Wagoner	Region VII	regulatory status of precipitation runoff from active and inactive HW management units; distinctions between precipitation runoff and mixtures of precipitation with HW or HW leachate (see also state or Region on their implementation of precipitation runoff exemption)	Pages: 7 FaxBack: 11035
4/10/85	McGraw	to Satterfield	American Hot Dip Galvanizers Association, Inc.	lime-stabilized waste pickle liquor sludge from steel finishing is not K062 unless it exhibits a characteristic of HW	Pages: 4 FaxBack: 11068
5/21/85	Straus	to Sanderson	Region VII	exclusion for lime-stabilized waste pickle liquor (K062) applies to industries with SIC codes 331 and 332; suggestions for determining facility's primary SIC code	Pages: 10 FaxBack: 11078
1/28/87	Straus	to Friedman	PA DNR	exemption applies to lime-stabilized waste pickle liquor (K062) whether or not the spent pickle liquor has been mixed with other nonlisted process wastes generated by the iron and steel industry	Pages: 1 FaxBack: 11215
7/13/87	Straus	to McCoy	Pfizer, Inc.	lime-ammonia stabilized iron oxide sludge generated from the stabilization of spent pickle liquor (K062) is exempt under the lime-stabilized waste pickle liquor sludge exemption	Pages: 7 FaxBack: 11264
9/2/87	Straus	to McDonnell	Waste Management of IL, Inc.	lime-stabilized waste pickle liquor (K062) is exempt from derived-from rule and is no longer listed; stabilization of K062 is treatment and may require permit	Pages: 4 FaxBack: 11286

10/23/87	Williams	to McLaughlin	SCS Engineers	supernatant generated during lime stabilization of spent pickle liquor (K062) is derived from K062; only the lime-stabilized waste pickle liquor sludge (LSWPLS) is exempt under §261.3(c)(2)(ii); surface impoundment holding supernatant from LSWPLS generation is subject to RCRA Subtitle C regulation	Pages: 2 FaxBack: 11299
12/28/87	Williams	to Wilkinson	The Breslube Group	by narrowing K062 listing, EPA narrowed exemption for lime-stabilized waste pickle liquor sludge (LSWPLS); exemption does not apply if K062 treated with other listed wastes; if treated with other nonhazardous or characteristic wastes, sludge is hazardous only if characteristic	Pages: 4 FaxBack: 11313
1/25/88	Williams	to Greaves	EPA HQ	partially reclaimed SW which must be reclaimed further before it can be used as product is still SW and is potentially HW; explanation of exemption from derived-from rule for residues from processing of K061, K062, or F006 in HTMR devices	Pages: 4 FaxBack: 11322
6/19/90	Cessar	to Bowman	PA DNR	lime-stabilized K062 pickle liquor is not exempt from derived-from rule if characteristic; to qualify for exemption, waste pickle liquor must be stabilized at iron and steel manufacturer; lime stabilization at a commerical TSDF does not qualify	Pages: 2 FaxBack: 11526

261.3(f)

Contained-in Policy / Rule

12/26/84	Skinner	to Scarbrough	Region IV	collected GW that has been contaminated with listed or characteristic waste is regulated as HW	Pages: 1 FaxBack: 11051
1/23/86	Williams	to Stringham	Region V	sediments in lakes and harbors contaminated with waste illegally discharged to surface waters can be regulated as listed HW via the contained-in policy; sediments not HW via mixture rule because sediments not normally SW; unpermitted discharge is illegal disposal	Pages: 9 FaxBack: 11125

3/3/86	Straus	to Warren	Eder Associates	spent carbon used to treat GW contaminated by spill of product PCP formulation is acute HW F027; under other circumstances, carbon is not regulated (see also §§261.24 and 261.31: F032)	Pages: 1 FaxBack: 11135
4/1/86	Straus	to Fry	BASF Corp.	no permit needed for carbon adsorption system used to treat GW that does not contain a listed waste and does not exhibit a characteristic	Pages: 1 FaxBack: 11141
4/2/86	Williams	to Wassersug	Region III	spent carbon can be regulated if contains listed or characteristic HW; units regenerating HW carbon are exempt recycling units (SUPERCEDED: see 56 *FR* 7134; 2/21/91)	Pages: 6 FaxBack: 11143
4/23/86	Williams	to Devine	Region IV	water used to transport listed spent activated carbon to treatment process may not be HW via mixture rule or contained-in policy if Part 261, Appendix VIII constituents have not desorbed into water from carbon and if carbon solids are not discharged with water	Pages: 2 FaxBack: 11146
7/3/86	Williams	to Lardieri	Scott Paper Co.	disposable or reusable rags and wipers are HW if they are used to clean up characteristic HW and they exhibit a characteristic or if used to clean up listed waste; such wipers are regulated when destined either for disposal or laundering (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions)	Pages: 4 FaxBack: 11165
9/29/86	Claussen	to Warren	Warren, Goldberg, Berman and Lubitz	if chlordane (U036) is applied to land during normal pesticide use, listings do not apply to chlordane-contaminated soil that is excavated, although soil may be regulated as HW if characteristic	Pages: 1 FaxBack: 11182
11/13/86	Williams	to Tobin	Region IV	GW is not SW and thus is not subject to mixture rule; collected GW which contains HW leachate must be handled as if it were HW until it is treated such that it no longer contains the HW	Pages: 2 FaxBack: 11195

12/12/86	Williams	to Cooper	Waste-Tech Services, Inc.	spent fluidized bed media used in treating HW and contaminated with HW is not subject to mixture and derived-from rules, but is regulated under contained-in policy (i.e., bed media is regulated as HW as long as it contains the HW)	Pages: 2 FaxBack: 11205
2/9/87	Williams	to Dietrich	ICF Technology	pallets, glassware, gloves, boots, coveralls, aprons, and rags contaminated with listed waste during use are not HW via mixture rule, but contain listed HW and must be managed as such until listed waste is removed (see also §268.45 and 2/14/94 letter, from Shapiro to Regions)	Pages: 15 FaxBack: 11219
4/8/87	Straus	to Seiler	WA Dept. of Ecology	soil contaminated with certain spilled unused pesticides (2,4,5-T; Simazine; 2,4-D; Dicambia; and Bromacil) is regulated as acute HW when excavated because it contains F027; if soil contamination is result of pesticide usage, excavated soil is regulated only if it exhibits characteristic	Pages: 2 FaxBack: 11233
5/18/87	Straus	to Burchett	Clean Crop	EPA continues to regulate listed HW even when it is contained in another material, such as spent carbon; unused Phorate pesticide which volatilizes into air during production and is captured in carbon filters is P094 HW	Pages: 3 FaxBack: 11248
7/22/87	Williams	to Feigner	Region X	if listed waste is burned in unlined pit and seeps into soil, soil containing "any amount of the waste (or a waste constituent)" is regulated as HW until the waste is removed; if original waste is not listed, contaminated soil is still regulated as HW if it exhibits characteristic	Pages: 3 FaxBack: 11267
9/9/87	Williams	to Levin	Velsicol Chemical Corp.	soil, carpet, and wallboard contaminated by unintentional spills of CCP chlordane and heptachlor pesticides must be handled as P- or U-listed HW when sent for disposal	Pages: 6 FaxBack: 11291
2/11/88	Williams	to Heinze	AJH Environmental Consulting, Inc.	if spent F-listed solvents pass through pipeline and pipeline filter, spent filter is HW via derived-from rule until or unless it is delisted; if filter contains discarded P- or U-listed CCP solvent, filter is regulated as HW until it no longer contains hazardous constituents	Pages: 4 FaxBack: 11325

3/11/88	Denit	to Becker	EPA HQ	debris and media from dismantling of incinerator which burned F020 waste are regulated as acute HW F020 via the contained-in policy; such F020 media and debris are regulated until handler demonstrates they no longer contain F020 (formal delisting unnecessary)	Pages: 3 FaxBack: 11332
1/3/89	Lowrance	to Fields	EPA HQ	personal protective equipment (PPE) and clothing contaminated with HW are regulated under contained-in policy; as long as PPE contains HW, it must be handled in accordance with all applicable Subtitle C rules, including LDR	Pages: 2 FaxBack: 11387
1/24/89	Lowrance	to Zelikson	Region IX	GW contaminated with HW which is treated so it no longer contains hazardous constituents is no longer regulated and can be beneficially reused; since no EPA guidance states at what levels GW is no longer HW, Regions make site-specific determination	Pages: 2 FaxBack: 11393
4/14/89	Dellinger	to Rovers	C.T. Male Associates, P.C.	filter material used in treatment of F001-contaminated GW is subject to regulation since media contains F001; derived-from rule does not apply and delisting is not needed, but media must be handled as HW until handler demonstrates that it no longer contains F001	Pages: 2 FaxBack: 11418
6/19/89	Cannon	to Jorling	NY DEP	environmental media (GW, soil, sediment) contaminated with listed HW is regulated as HW via contained-in policy (not mixture or derived-from rules, since media is not SW); Regions or states determine at what levels media no longer contains HW (delisting unecessary)	Pages: 3 FaxBack: 11434
6/26/89	Cannon	to Simon	RI Division of Family Health	if contaminated soil is removed from a site, generator must determine if soil contains HW by testing and/or applying knowledge; in absence of specific cleanup order, soil left in place is not subject to RCRA Subtitle C requirements, including testing	Pages: 3 FaxBack: 11436
8/11/89	Lowrance	to Constantelos	Region V	if discharge of listed HW to surface water is not subject to CWA (and not eligible for §261.4(a)(2) exemption), contaminated sediments may be regulated as listed HW via contained-in policy; excavated sediments contaminated by legal CWA discharges are regulated only if characteristic	Pages: 1 FaxBack: 11455

3/26/91	Lowrance	to Ely	VA Dept. of Waste Management	contained-in policy overview; applies to all environmental media (soil, GW, sediment); media contaminated with HW are regulated until media no longer contain HW, as determined by states or Regions according to risk; policy upheld in Federal court (citation provided)	Pages: 4 FaxBack: 11593
11/4/92	Lowrance	to Noles	Four Seasons Industrial Services, Inc.	if F003 HW is spilled into soil, soil must be managed as listed HW until state or Region determines it no longer contains HW; §261.3(a)(2)(iii) mixture rule exemption does not apply to soil or F003 mixed with soil	Pages: 3 FaxBack: 11707
3/22/94	Shapiro	to Nebrich	Waste Technology Services, Inc.	soil containing F003 (listed solely for ignitability) may be deemed HW due to presence of hazardous constituents (metals) even if soil does not exhibit characteristic; consistent with delistings, state may consider site-specific factors or constitutents in deciding if soil still contains HW	Pages: 2 FaxBack: 11819

261.4(a)

Materials Not Solid Wastes

261.4(a)(1)

Domestic Sewage

12/12/86	Williams	to Stringham	Region V	materials that do not pass through sewer system are not exempt; POTW must manage residues of treatment process as HW if they exhibit a characteristic, or if derived from the treatment of listed HW; wastes shipped by truck, rail, or dedicated pipe to POTW are not exempt	Pages: 2 FaxBack: 11204
6/10/87	Williams	to Brookshire	Federal Deposit Insurance Corp.	photochemicals that mix with domestic sewage are not SW (and not HW) if the mixture drains to a POTW	Pages: 2 FaxBack: 11254
2/12/90	Lowrance	to Corbett	NY DEC	sludge removed from a sewer line is not exempt since it does not pass through a sewer system to a POTW	Pages: 2 FaxBack: 11490

7/12/91	Lowrance	to Citizen		wastewater treatment sludges from POTWs or other facilities discharging pursuant to CWA are subject to all applicable Subtitle C regulations when treated, stored, or disposed; generally, sludges from POTWs are HW only if characteristic; POTW sludges unlikely to exhibit characteristics	Pages: 2 FaxBack: 11628
9/27/93	Denit	to Marshall	Capitoline International Group, Ltd.	domestic sewage exclusion may apply to wastewater discharges from an industrial laundry that are conveyed through a sewer system to a POTW	Pages: 3 FaxBack: 11777

261.4(a)(2)

Industrial Wastewater Discharges

1/23/86	Williams	to Stringham	Region V	lake sediment contaminated by exempt point source discharge is not subject to RCRA when excavated (dredged) unless sediment exhibits characteristic; if discharge not subject to CWA and not exempt from RCRA, sediment can be regulated as listed HW via contained-in policy	Pages: 9 FaxBack: 11125
12/10/87	Williams	to Citizen		only industrial point source discharge is excluded, management prior to discharge is regulated	Pages: 4 FaxBack: 11309
3/20/89	Lowrance	to Elliott	Zerpol Corp.	illegal discharge of HW to river may be "subject to" CWA and eligible for industrial discharge exclusion, although discharge is a CWA violation subject to EPA enforcement action	Pages: 3 FaxBack: 11408
8/11/89	Lowrance	to Constantelos	Region V	if discharge of HW to surface water is not subject to CWA (and not eligible for §261.4(a)(2) exemption), discharge is subject to RCRA and contaminated sediments may be regulated as listed HW; sediments contaminated by legal CWA discharges are regulated only if characteristic	Pages: 1 FaxBack: 11455

7/12/91	Lowrance	to Citizen		wastewater treatment sludges from POTWs or other facilities discharging to CWA are subject to all applicable Subtitle C regulations when treated, stored, or disposed; generally, sludges from POTWs are HW only if characteristic; POTW sludges unlikely to exhibit characteristics	Pages: 2 FaxBack: 11628
2/17/95	Shapiro	to Waste Management Division Directors	Regions I-X	exclusion applies at outfall pipe, but not upstream; exclusion applies when direct hydrologic connection exists between point source and surface water; therefore, HW leachate or wastewater which travels from HW management units into GW and then into river are not exempt	Pages: 3 FaxBack: 11895
2/17/95	Shapiro	to Waste Management Division Directors	Regions I-X	HW discharged into surface waters from point source are exempt from RCRA if they have NPDES permit or should have NPDES permit (i.e., are subject to CWA); facilities that should have NPDES permit but do not are violating CWA, not RCRA Subtitle C	Pages: 3 FaxBack: 11895

261.4(a)(4)

Nuclear Materials

7/5/85	Skinner	to Huebner	Region I	EPA has authority to regulate dioxin-contaminated, radioactive laboratory waste that contains naturally occuring C-14 if waste is listed or characteristic; such wastes are also subject to NRC regulations for disposal of radioactive wastes	Pages: 2 FaxBack: 11088

261.4(a)(7)

Sulfuric Acid

5/26/88	Barnes	to Ford	Stauffer Chemical Co.	spent sulfuric acid accumulated speculatively is not exempt; if sulfuric acid is removed from accumulation to be recycled, the material may qualify for the exemption; exemption is dependent upon the sulfuric acid recycled by being used in the production of virgin sulfuric acid	Pages: 3 FaxBack: 11351
6/6/88	Barnes	to Tribble	American Cyanamid Co.	spent sulfuric acid exemption only applies to sulfuric acid that is recycled by being used in the production of virgin sulfuric acid; other types of spent sulfuric acid recycling do not qualify for this exemption, but may qualify for other exemptions from SW definition	Pages: 9 FaxBack: 11352

9/12/89	Straus	to Ullrich	Region V	exemption applies to sulfuric acid used in the production of virgin sulfuric acid, not to the reclamation of spent sulfuric acid	Pages: 6 FaxBack: 11468
7/20/94	Shapiro	to Ferguson	TX Natural Resource Conservation Commission	secondary material with high sulfur content that is burned in a sulfuric acid regeneration furnace is not eligible for the exclusion in §261.4(a)(7) because the secondary materials in question are not spent sulfuric acid	Pages: 3 FaxBack: 11856

261.4(a)(8)

Closed-loop Reclamation

9/1/87	Williams	to Kertcher	Region V	secondary materials handled or stored within closed-loop reclamation process can qualify for §261.4(a)(8) exclusion from SW definition, but still bottoms or other wastes formed in the reclamation process are SW and can be HW	Pages: 22 FaxBack: 11285
9/12/89	Straus	to Ullrich	Region V	closed-loop recycling only applies to wastes that are piped, not trucked; secondary materials stored in closed-loop system are not SW; however, wastes from the managment of these secondary materials are SW and subject to Subtitle C	Pages: 6 FaxBack: 11468
3/5/93	Denit	to Swanberg	Separation and Recovery Systems	closed-loop exemption does not apply to oil that is being returned to a refinery where it will be used as a fuel; closed-loop exemption does not apply to reclaimed material that will be used to produce a fuel or produce a product applied to the land	Pages: 3 FaxBack: 11732

261.4(a)(10)

Coke By-products

10/29/92	Lowrance	to Wasserstrom	Miles and Stockbridge	use of open pits, or flat or low-walled concrete pads to store coke by-product residues is land disposal, management of wastes in these units is not exempt; wastes managed on the ground or in unit constructed so that waste spills or is otherwise disposed are not exempt	Pages: 5 FaxBack: 11705

261.4(a)(12)

Recovered Oil

7/26/94	Shapiro	to Waste Management Division Directors	Regions I-X	exclusion does not apply to recovered oil stored in land-based units	Pages: 2 FaxBack: 11859
5/3/95	Shapiro	to Colleli	American Petroleum Institute	exclusion covers oil recovered from off-site petroleum industry activities associated with exploration, production, and transportation when returned to the petroleum refinery	Pages: 4 FaxBack: 11904

261.4(b)

Solid Wastes Not Hazardous Wastes

261.4(b)(1)

Household Hazardous Waste

4/23/87	Porter	to Lautenberg	U.S. Senate	restaurant waste qualifies as exempt HHW (SUPERCEDED: see 5/95 MRQ)	Pages: 3 FaxBack: 11239
11/20/87	Denit	to Kovalick	EPA HQ	paint wastes are exempt HHW if generated by homeowners, but not if generated by contractors (SUPERCEDED: see 3/7/95 letter, Friedman to Hill); similar wastes generated by Federal agencies are not HHW, since such agencies generally do not qualify as households	Pages: 6 FaxBack: 11304
1/11/88	Williams	to Sanioan	Ontario Locomotive, Inc.	no Federal requirements for the transportation, treatment, storage, or disposal of HHW	Pages: 2 FaxBack: 11314
5/2/88	Lowrance	to Harkin	U.S. Senate	household-type wastes from other services (i.e. commercial facilities, office buildings) are not covered under the HHW exclusion	Pages: 2 FaxBack: 11347

9/1/88	Lowrance	to	Whitman	SWInc.	waste aerosol cans generated in military housing are HHW and are exempt from RCRA Subtitle C regulation	Pages: 2 FaxBack: 11367
11/1/88	Porter	to	Waste Management Division Directors	Region I-X	HHW collection programs are exempt; HHW mixed with CESQG waste are subject to §261.5; exemption also covers dioxin-bearing HHW	Pages: 4 FaxBack: 11377
11/28/89	Lowrance	to	Greenberg	Browning-Ferris Industries	HHW that is regulated on the state level is not subject to the Federal LDR program	Pages: 4 FaxBack: 11481
4/20/90	Anders	to	Denny	EPA HQ	cancelled mercury-containing paints discarded by homeowners are exempt HHW	Pages: 2 FaxBack: 11508
5/9/90	Lowrance	to	Watson	Oak Ridge National Lab	personal effects contaminated with chemical weapons are considered exempt HHW	Pages: 2 FaxBack: 11515
9/20/90	Lowrance	to	Huber	Petroleum Marketers Association of America (PMAA)	fuel oil leak from household tank qualifies for the HHW exemption	Pages: 2 FaxBack: 11563
5/30/91	Bussard	to	Bergeson	Weinberg, Bergeson and Newman	batteries removed by consumers in their homes are exempt HHW; batteries removed by service centers from consumer appliancess are not exempt; HHW must be generated by individuals at their residences and composed primarily of materials found in wastes generated by consumers in their homes	Pages: 3 FaxBack: 11611

11/12/91	Bussard	to	Eastman	VT Agency of Natural Resources	HW batteries generated by households are not subject to the Subtitle C regulations	Pages: 2 FaxBack: 11653
7/17/92	Belaga (Regiotto I)		LaFleur	New England Power Service Co.	appliances collected from households are HHW; material removed from appliance that qualifies as HHW is also exempt (Region I letter developed in conjunction with US EPA)	Pages: 3 FaxBack: 11678
7/22/92	Lowrance	to	Waste Management Division Directors	Regions I-X	CESQG wastes may be mixed with nonhazardous waste (e.g., HHW) and remain subject to CESQG requirements; collection programs that handle the commingled waste are also subject to the CESQG regulations	Pages: 5 FaxBack: 11681
9/4/92	Lowrance	to	Wilkstrom	National Electrical Manufacturers Association	fluorescent bulbs that are HHW may be disposed in Subtitle D facility	Pages: 2 FaxBack: 11693
9/16/92	Lowrance	to	Guimond	EPA HQ	EPA considered extending HHW exclusion to LBP abatement wastes from renovation (SUPERCEDED: see 3/7/95 letter, Friedman to Hill)	Pages: 3 FaxBack: 11697
9/18/92	Reilly	to	Regional Administrators	Regions I-X	MWC ash is exempt HHW (SUPERCEDED: see 3/22/95 letter, Laws to Herman)	Pages: 7 FaxBack: 11698
4/19/93	Lowrance	to	Hansen	OR DEQ	EPA is evaluating applicability of HHW exclusion to LBP abatement wastes (SUPERCEDED: see 3/7/95, letter from Friedman to Hill)	Pages: 4 FaxBack: 11736

10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	aerosol cans generated by households qualify for HHW exclusion; exclusion attaches at point of generation and continues to apply throughout waste management cycle	Pages: 3 FaxBack: 11780
10/7/93	Denit	to Crawford	Steel Recycling Institute	aerosol cans generated by households qualify for HHW exclusion; exclusion attaches at point of generation and continues to apply throughout waste management cycle	Pages: 3 FaxBack: 11782
5/24/94	Shapiro	to Veckman	Comprehensive Environmental Assessments	LBP abatement wastes not HHW if generated in construction, demolition, or renovation; exempt HHW if from routine residential maintenance; EPA does not distinguish between wastes generated by homeowner rather than contractor (see also 3/7/95 letter, Friedman to Hill)	Pages: 5 FaxBack: 11838
8/18/94	Weddle	to Woolstrun	Honigman, Miller, Schwartz, and Cohn	ash from combustors that do not recover energy and that burn only household waste is exempt; ash from resource recovery facilities that burn commercial waste is not exempt; ash from combustors that burn other wastes in addition to household waste is not exempt	Pages: 2 FaxBack: 11867
9/28/94	Petruska	to Madden	SW Authority of Palm Beach County	UO generated by DIY qualifies as exempt HHW	Pages: 2 FaxBack: 11875
2/28/95	Petruska	to McNally	Coll, Davidson, Carter, Smith, Salter, and Barkett	HHW must be generated on premises and composed primarily of materials generated by consumers in homes; contractor-generated waste exempt if from routine residential maintenance	Pages: 2 FaxBack: 11897
3/7/95	Friedman	to Hill	Region I	LBP chips from stripping and repainting residence walls by owner or contractor are HHW; construction, renovation, or demolition debris is not HHW; waste generated by home healthcare providers may be HHW; media and debris contaminated by residential heating oil tanks are HHW	Pages: 6 FaxBack: 11898

3/22/95	Laws	to	Administrators	Regions I-X	per Supreme Court, ash from waste-to-energy facilities burning household and other SW is no longer exempt from Subtitle C if it exhibits characteristics; revised implementation strategy for Supreme Court decision	Pages: 6 FaxBack: 11901

261.4(b)(4)

Coal / Fossil Fuel Combustion Wastes

2/18/81	Plehn	to	Regional Directors	Regions I-X	exclusion covers wastes from burning mix of fossil and alternative fuels, as long as mix is at least 50% fossil fuels; exclusion covers wastes from burning coal and HW, as long as mix is at least 50% coal (SUPERCEDED: see §266.112); "primarily" means 50% fossil fuels	Pages: 11 FaxBack: 11007
2/18/81	Plehn	to	Regional Directors	Regions I-X	exclusion covers wastes generated, mixed, co-disposed or co-treated with large-volume fossil fuel wastes; exemption restricted to wastes directly associated with combustion, steam generation or water cooling; clarification of co-management (SUPERCEDED: see 58 *FR* 42466; 8/9/93)	Pages: 11 FaxBack: 11007
4/21/86	Williams	to	Weinreich	ANG Coal Gasification Co.	precipitation that becomes corrosive solely as a result of contact with exempt coal gasification ash is also exempt	Pages: 3 FaxBack: 11145
6/16/86	Williams	to	Weinreich	ANG Coal Gasification Co.	residual water that becomes corrosive from exempt waste is also exempt; residual water derived from an exempt waste is exempt	Pages: 3 FaxBack: 11162
3/10/87	Longest	to	Waste Management Division Directors	Regions I-X	fossil fuel component must be over 50% of fuel mix for the exemption to apply; definitions of large volume wastes, including bottom ash, fly ash, boiler slag, and flue gas desulpherization sludge	Pages: 6 FaxBack: 11226

4/29/93	Lowrance	to Green	Piper and Marbury	co-burning of specification UO fuel and virgin fuel oil does not affect exemption since the amount of oil burned is minimal	Pages: 1 FaxBack: 11743

261.4(b)(5)

Oil, Gas, Geothermal Energy Exploration And Production Wastes

3/10/87	Longest	to Waste Management Division Directors	Regions I-X	criteria for determining applicability of oil and gas exploration and development exclusion; examples of exempt and non-exempt wastes	Pages: 6 FaxBack: 11226
4/2/91	Clay	to Bohannon	Porter and Clements	wastes derived from the treatment of exempt wastes are generally exempt; if tank bottoms are created during primary field operations, wastes from recovery of oil from the tank bottoms are exempt; solvent wastes from cleaning tank trucks associated with E&P activities are not exempt	Pages: 2 FaxBack: 11595
5/21/91	Lowrance	to Dodson	Region VIII	petroleum contaminated snow-melt is not exempt, since contamination is a result of pipeline leak that occurred after custody transfer of the oil	Pages: 11 FaxBack: 11610
11/5/93	Weddle	to Dorsey	WV Division of Environmental Protection	compressor station waste generated as part of transportation not exempt; waste from compressors handling local production only is exempt; exemption not dependent upon waste management; CCPs not exempt if material wasn not sent down-hole or did not contact production stream	Pages: 9 FaxBack: 11794

261.4(b)(6)

Tanning Industry Wastes

1/13/88	Williams	to Strassell	Sheppard Color Co.	exclusion only applies to wastestreams identified in §261.4(b)(6); criteria for excluding a chromium waste	Pages: 3 FaxBack: 11319

10/3/89	Scarberry	to Cerar	Squires, Sanders and Dempsey	new data indicate trivalent chromium may pose serious health threat; EPA considering removing §261.4(b)(6) exclusion for wastes containing trivalent chromium	Pages: 5 FaxBack: 11472

261.4(b)(7)

Mining And Mineral Processing Wastes

3/10/87	Longest	to Waste Management Division Directors	Regions I-X	definitions of extraction, beneficiation, and processing	Pages: 6 FaxBack: 11226
2/7/89	Lowrance	to Gallaher	Allied Aircraft Sales, Inc.	exclusion covers certain wastes from the processing of ores when the feedstock to the smelter is greater than 50% ore or mineral; feedstock of greater than 50% scrap aluminum would not qualify	Pages: 4 FaxBack: 11395
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	boiler slag from performing metals recovery on F006 may qualify for mineral processing exclusion if persons can demonstrate that use of F006 HW has not significantly affected hazardous constituent content of slag (SUPERCEDED: see §266.112)	Pages: 5 FaxBack: 11426

261.4(b)(8)

Cement Kiln Dust

3/10/87	Longest	to Waste Management Division Directors	Regions I-X	definition of CKD	Pages: 6 FaxBack: 11226
7/29/88	Barnes	to Colon	Western Fher Laboratories, Inc.	CKD is not a HW; mixture of exempt CKD with corrosive liquid will result in nonhazardous waste if mixture no longer exhibits any characteristic	Pages: 2 FaxBack: 11358

4/26/89	Lowrance	to	HW Management Division Directors	Regions I-X	CKD generated from manufacturing of cement where F006 is used as an ingredient is only exempt if CKD chemical makeup is not significantly affected by use of HW (SUPERCEDED: see §266.112)	Pages: 5 FaxBack: 11426
6/9/94	Shapiro	to	Tureen	Passamaquoddy Technology, L.D.	product clinker and fertilizer produced using previously landfilled CKD is not subject to Subtitle C as long as the products are commercial grade, do not contain hazardous constituents in excess of those found in comparable products, and have met applicable LDR treatment standards	Pages: 2 FaxBack: 11843
2/22/95	Shapiro	to	Moynihan	United States Senate	CKD exempt until EPA promulgates custom-tailored RCRA Subtitle C rules; CKD decision applies to all dust whether or not HW fuel burned in kiln, although CKD from cement kilns co-burning HW must qualify for exclusion through §266.112 test	Pages: 2 FaxBack: 11896

261.4(b)(9)

Treated Wood Products

6/28/91	Lowrance	to	Leutzinger	Burns and McDonnell	treated wood exemption applies to wood failing TC for D004-D017, not just arsenic (see also 57 *FR* 30657; 7/10/92)	Pages: 1 FaxBack: 11622

261.4(b)(10)

Petroleum-contaminated Media And Debris

11/9/90	Lowrance	to	Bevington	Fulton County Dept. of Solid Waste	deferral does not apply to D001-D017; no need to run TCLP to determine if wastes exhibit characteristic for D018 - D043 provided the wastes are generated as part of UST CA	Pages: 4 FaxBack: 11569
3/7/95	Friedman	to	Hill	Region I	environmental media (e.g., soil) and debris contaminated with home heating oil from underground and aboveground residential tanks are exempt as HHW	Pages: 6 FaxBack: 11898

261.4(b)(11)

Injected Groundwater

5/9/91	Lowrance	to Ullrich	EPA HQ	infiltration galleries not exempted by §261.4(b)(11) GW injection exclusion; treatment wastewaters from extracted petroleum-bearing GW are considered sludges and are not eligible for extended TC compliance date (exclusion expired 1/25/93)	Pages: 2 FaxBack: 11604
3/4/93	Lowrance	to Ciechon	Sun Co., Inc.	reinjected GW exclusion expires 1/25/93; reinjection after that date can only be performed in regulated underground injection wells	Pages: 2 FaxBack: 11730

261.4(b)(13)

Non-terne Plated Used Oil Filters

10/23/92	Lowrance	to Ruby	R Way Services	locomotive filters are eligible for oil filter exclusion	Pages: 3 FaxBack: 11704
6/13/93	Denit	to Lind	DanAm Corp.	non-terne plated used oil filters do not typically exhibit a characteristic when the UO has been removed; exemption does not apply to terne-plated filters	Pages: 2 FaxBack: 11754
1/12/94	Shapiro	to Crawford	U.S. Air Force	hydraulic fluid filters not included in non-terne plated UO filter exemption; hydraulic fluid is regulated as UO; hydraulic fuel filters that no longer contain UO are still regulated as used oil when burned for energy recovery	Pages: 2 FaxBack: 11808

261.4(c)

Manufacturing Process Units / Product Vessels

10/11/88	Regas	to Guerry	Collier, Shannon, Rill and Scott	waste produced at sea is subject to regulation as soon as it is produced unless it is in an exempt unit such as a product or raw material storage tank, a product or raw material tank vehicle or vessel, or a manufacturing process unit (see also FFCA)	Pages: 3 FaxBack: 11372
1/26/95	Bussard	to Duthler	ICI Composites, Inc.	manufacturing process units may include distillation columns, flotation units, or discharge trays of screens	Pages: 2 FaxBack: 11935
3/8/95	Petruska	to Goldman	Morgan, Lewis, and Bockius	waste generated in manufacturing process unit or product storage tank not regulated until it exits the unit or unless it remains in closed unit for more than 90 days; after removal from unit, waste may be accumulated without permit for additional period, depending on generator status	Pages: 1 FaxBack: 11899
4/20/95	Shapiro	to Sweeney	Alyeska Pipeline	waste generated in a manufacturing process unit may remain in the unit for up to ninety days after the unit has been shut down, and may be stored for an additional ninety days in generator accumulation units	Pages: 5 FaxBack: 11903

261.4(d)

Samples: Exclusion

1/23/85	Horner	to Citizen		owner of waste, sample collector, and laboratory could all be considered generator of HW lab sample; testing to identify composition or characteristics of a sample is not regulated treatment; any sample meeting §261.4(d) criteria is exempt from Subtitle C regulation	Pages: 5 FaxBack: 11053
8/11/88	Barnes	to Steele	National Institute for Petroleum and Energy Research	sample exclusion is for the sole purpose of testing to determine characteristics; preparation and splitting of samples is part of analytical procedures, therefore exempt	Pages: 2 FaxBack: 11362

4/27/89	Straus	to	Rideout	Dangerous Goods Consultants	lab samples shipped from Canada are exempt from Subtitle C, including import requirements	Pages: 2 FaxBack: 11428
8/11/94	Bussard	to	Prior	Laidlaw Environmental Services (North East), Inc.	exclusion applies to storage of samples at testing lab for legitimate purpose after completion of analysis	Pages: 2 FaxBack: 11866

261.4(e)&(f)

Treatability Studies Exclusion

8/31/88	Lowrance	to	Waste Management Division Directors	Region I-X	treatability study guidance (fact sheet and decision tree)	Pages: 11 FaxBack: 11366
5/4/92	Lowrance	to	Seeger	Morgan, Lewis, and Bockius	treatability study samples that are exported qualify for the exemption; foreign lab does not need EPA ID number	Pages: 3 FaxBack: 11667
9/9/92	Bussard	to	Paulick	U.S. Dept. of Army	reporting and notification requirements for treatability studies	Pages: 2 FaxBack: 11695

261.5

Conditionally Exempt Small Quantity Generators

4/16/85	Claussen	to Citizen		owner of recreational sailboat discarding empty can containing PCP wood preservative residues is typically considered CESQG not subject to HW management regulations; marinas can arrange for collection of such HW from CESQG boat owners	Pages: 3 FaxBack: 11070
10/9/86	Greenwood	to Peck	MI DNR	a facility permitted, licensed, or registered by the state may manage CESQG waste; state may use any mechanism to assess the risks associated with facilities handling the exempt waste; an exchange of letters would be appropriate to achieve registration of a facility	Pages: 3 FaxBack: 11183
2/9/90	Barnes	to Johnson	EPA HQ	generator who produces less than one kg of acute HW per calendar month, or no more than 100 kg of HW per calendar month, may qualify as CESQG; CESQGs are subject to reduced requirements if follow special provisions in §261.5	Pages: 3 FaxBack: 11489
6/21/91	Lowrance	to Constantelos	Safety-Kleen	CESQGs may dispose of HW in sanitary or MSWLF as long as landfill is permitted, licensed, or registered by state to manage municipal or industrial SW	Pages: 3 FaxBack: 11619
11/12/91	Bussard	to Eastman	VT Agency of Natural Resources	batteries generated by CESQG subject to very limited controls	Pages: 2 FaxBack: 11653
7/22/92	Lowrance	to Waste Management Division Directors	Regions I-X	CESQG wastes may be mixed with nonhazardous (e.g., HHW) and remain subject to CESQG requirements; collection programs that handle the commingled waste are also subject to the CESQG regulations	Pages: 5 FaxBack: 11681

8/25/92	Lowrance	to Muno	Region V	CESQG waste must be treated or disposed in facilities specified in §261.5(g)(3); conditions apply to off-site and on-site management of CESQG waste; failure to satisfy conditions triggers full Subtitle C regulation; generators of more than 100 kg per month subject to Part 262	Pages: 2 FaxBack: 11688
9/4/92	Lowrance	to Wilkstrom	National Electrical Manufacturers Association	fluorescent light bulbs from CESQGs may be land disposed in Subtitle D landfill regardless of characteristic properties	Pages: 2 FaxBack: 11693
6/2/93	Lowrance	to Phillips	Air Quality Laboratories	CESQG status depends on total amount of HW generated at facility per calendar month; it is impossible to state whether all generators from a particular industry (e.g., dry cleaning) are CESQGs; CESQGs are subject only to §261.5	Pages: 2 FaxBack: 11752
9/1/93	Denit	to Prasil	Recycled Printer's Ink, Inc.	lithographic printers may qualify as CESQGs if generate less than 100 kg per month of nonacute HW (see also 9/20/93 letter, Petruska to Prasil)	Pages: 5 FaxBack: 11765
9/20/93	Petruska	to Prasil	Recycled Printer's Ink, Inc.	CESQGs may send waste to a facility that beneficially uses or reuses waste; CESQG waste need not be accompanied by a manifest	Pages: 1 FaxBack: 11772
12/23/93	Shapiro	to Joseph	U.S. Dept. of Agriculture	person generating less than one kilogram of acute HW per calendar month is CESQG; weight of containers holding HW need not be counted towards category limit; both on- and off-site facilities managing CESQG's acute HW must meet criteria of §§261.5(f)(3)(i)-(v)	Pages: 5 FaxBack: 11803

261.5(c)&(d)

Counting

1/17/82	Friedman	to McLaughlin	Region VII	quantity determination for spent spray booth filters includes weight of filter and paint	Pages: 2 FaxBack: 11024
8/19/86	Lehman	to Blackburn	Travenol Laboratories, Inc.	only HW subject to substantive regulation is counted for purpose of determining generator category; corrosive HW piped directly from point of generation to neutralization unit and CWA sewer discharge is not counted	Pages: 5 FaxBack: 11173
9/8/86	Williams	to Cooper	Printing Industries of America, Inc.	generator status is determined by totaling all HW generated in a calendar month	Pages: 2 FaxBack: 11178
4/15/87	Petruska	to Koch	ID Dept. of Health and Welfare	generator must count still bottoms if solvent directly recycled without any storage; recycled solvents are only counted once	Pages: 5 FaxBack: 11236
7/30/87	Williams	to Feigner	Region X	count entire aid to navigation (ATON) battery in weight calculations; each ATON unit service area (landbased or tender vehicle) is a point of generation subject to applicable generator standards; satellite accumulation area provisions do not apply to ATON service locations	Pages: 9 FaxBack: 11270
9/2/87	Williams	to Hutchinson	University of ID	acute HW counted and managed separately from non-acute HW	Pages: 1 FaxBack: 11288

12/9/87	Williams	to Sklar	Recyclene Products, Inc,	generators who treat or reclaim solvent waste on site need not count distillation bottoms if original waste has already been counted once; CESQGs may treat, store, or dispose waste on site or off site if meet §261.5(g)(3); recycling facilities may accept CESQG waste	Pages: 3 FaxBack: 11308
4/20/88	Straus	to Bowes	Finish Engineering Co, Inc.	if generator reclaims HW spent solvent but does not store it prior to reclamation, only still bottoms are counted; if generator stores spent solvent before reclamation, spent solvent is counted, but still bottoms are not	Pages: 2 FaxBack: 11341
7/29/88	Lowrance	to Akenhead	University of Nevada-Reno	generator should only count HW that is subject to regulation; spent dry-cleaning filters placed directly into distillation unit without intervening storage are not counted	Pages: 3 FaxBack: 11359
4/18/89	Lowrance	to Boyd	Sidley and Austin	generators must determine generator status based on the total amount of HW generated in a calendar month, including the amount of spent solvent generated before it is recycled (assuming solvent is subject to substantive regulation prior to entering recycling unit)	Pages: 2 FaxBack: 11420
8/1/90	Bussard	to Farley	McGuire, Woods, Battle, and Boothe	generators using the AMUSON recycling system do not count waste that is not stored prior to placement in the treatment tank; treatment tank may not be regulated if subject to reduced CESQG requirements or permit-exempt generator accumulation units	Pages: 10 FaxBack: 11546
12/23/93	Shapiro	to Joseph	U.S. Dept. of Agriculture	person generating less than one kilogram of acute HW per calendar month is CESQG; weight of containers holding HW need not be counted towards category limit; both on- and off-site facilities managing CESQG's acute HW must meet criteria of §§261.5(f)(3)(i)-(v)	Pages: 5 FaxBack: 11803
2/10/94	Shapiro	to Dolce	GZA-AET	wastes in satellite accumulation areas must be included in the generator's monthly waste quantity determination	Pages: 2 FaxBack: 11812

8/10/95	Petruska	to McCoy	CPI Corp.	generator of spent photo fixer who does not accumulate fixer prior to reclamation need not count waste towards generator status and may not be subject to regulation	Pages: 2 FaxBack: 11914

261.6(a)(2)

Recyclable Materials Subject To Part 266

11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	waste pickle liquor (K062) used as ingredient in fertilizer is use constituting disposal, therefore a SW and HW; fertilizer product derived from K062 is regulated under Part 266, Subpart C; if produced for general public's use, product is exempt (SUPERCEDED: see §266.20(b))	Pages: 3 FaxBack: 11112
11/25/85	Straus	to Mahoney	Bridgeport Brass Corp.	zinc oxide dust (characteristic sludge) is a SW when recycled in manner that constitutes disposal, thus subject to Part 266, Subpart C	Pages: 2 FaxBack: 11113
1/22/86	Straus	to Andrews	Industrial and Agricultural Chemicals, Inc.	materials that will be incorporated into products used on land are SW and potentially HW; corrosive spent copper sulfate bath to be used in fertilizer is SW and HW; fertilizer product derived from characteristic HW not regulated after characteristic removed (amended by §266.20(b))	Pages: 2 FaxBack: 11124
8/21/86	Straus	to Meyers	The Fertilizer Institute	use of K061 (emission control dust/sludge from the primary production of steel in EAF) as fertilizer is subject to use constituting disposal regulations in Part 266, Subpart C	Pages: 3 FaxBack: 11174
9/11/86	Williams	to Schauble	Frit Industries, Inc.	zinc micronutrient fertilizers that contain K061 are exempt under §266.20(b) provided they are produced for the general public's use and that the K061-derived fertilizer is handled in a manner commensurate with comparable fertilizer products; definition of zinc micronutrient fertilizer	Pages: 12 FaxBack: 11179

11/19/86	Straus	to Straume	U.S. Air Force	buttons and other metal items, if not exempt as scrap metal, can be subject to Part 266, Subpart F if recycled for precious metals; silver recovery cartridges that are only partially reclaimed are still subject to Part 266, Subpart F (see also 8/4/95 letter, Petruska to Thompson)	Pages: 11 FaxBack: 11197
12/19/86	Straus	to Weisberg	Technic Inc.	precious metal-containing HW are subject to Part 266, Subpart F, including notification, recordkeeping, and manifesting requirements	Pages: 1 FaxBack: 11206
4/15/87	Williams	to Conte	Petroswill Chemicals, Inc.	blending recycled solvents to produce a marketable solvent is not subject to regulation; solvent and chemical mixture resulting from blending error that is sold as fuel becomes a SW and HW when it is determined that it is not suitable for solvent use; HW fuel blending tanks regulated	Pages: 3 FaxBack: 11238
6/24/87	Straus	to Bello	Northspur	EPA regulates the recycling of hazardous spent materials (batteries) in §261.2, §261.6, and Part 266, Subpart G; used lead-acid batteries that are not reclaimed in any way can be sold or given away for further use as batteries without being subject to regulation	Pages: 2 FaxBack: 11258
9/17/87	Grieder	to Dionne	Environment Canada	intact lead-acid batteries shipped to Canada are not subject to manifesting or export notification because no reclamation has taken place	Pages: 6 FaxBack: 11294
11/28/88	Cochran	to Norman	Industrial Safety and Health Consultants, Inc.	bits and pieces of lead metal from batteries can meet the definition of scrap metal and be exempt from regulation; if metal battery pieces are mixed with other wastes that are regulated, the exemption no longer applies	Pages: 9 FaxBack: 11383
3/27/89	Straus	to Johnson	SAFCO Environmental	HW fuel blending tanks are subject to storage regulations (not exempt recycling units); federal regulations do not specify an allowable holding time before off-loading a shipment of HW into the recycling process; some states may allow up to 24 hours before a storage permit is required	Pages: 2 FaxBack: 11411

6/16/89	Straus	to Lodick	North Coast Associates, Inc.	spent abrasives from sandblasting used as an ingredient in Portland cement are subject to HW regulation if characteristic, including manifesting and export notification	Pages: 2 FaxBack: 11433
6/30/89	Cannon	to McBeath	American Public Health Association	no plan to develop specific rules regarding recycling of dental amalgam	Pages: 4 FaxBack: 11438
12/20/89	Barnes	to Levy	Region I	recyclable materials that are subject to Part 266 are also subject to Part 268 LDR paperwork unless specifically exempted from LDR in Part 261 or Part 268	Pages: 2 FaxBack: 11482
2/13/90	Lowrance	to Duprey	Region VIII	legitimacy of use of K061 as an ingredient must be demonstrated when claiming the recycling process is exempt under §2616(c)(1); K061 used as ingredient of cement is a SW because cement is a product that is typically applied to the land	Pages: 13 FaxBack: 11491
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	Part 266, Subpart E standards apply to all hazardous and nonhazardous UO burned for energy recovery, provided it has not been mixed with a listed waste (amended by Part 279)	Pages: 4 FaxBack: 11521
7/16/90	Lowrance	to Eschborn	DuPont Recovery Management Systems	reclamation of precious metals (silver) from used photographic fixer solution is subject to the reduced recycling regulations of Part 266, Subpart F	Pages: 3 FaxBack: 11541
8/13/90	Lowrance	to Citizen		restrictions on use of UO as dust suppressant (SUPERCEDED: see Part 279)	Pages: 1 FaxBack: 11549

10/30/90	Lowrance	to Duprey	Region VIII	as long as UO removed from filter is to be recycled, crushing oil filter to remove UO falls within used oil recycling exemption of §§261.2(a)(2) and (a)(3) (SUPERCEDED: see §§261.6(a)(4) and 279.10(c))	Pages: 3 FaxBack: 11566
2/5/91	Lowrance	to Linson	IN Dept. of Environmental Management	Part 266, Subpart F precious metals that are exported for reclamation are also subject to Part 262 export requirements; export requirements apply to wastes that require a manifest	Pages: 2 FaxBack: 11580
7/9/91	Bussard	to Campbell	American Petroleum Institute (API)	1989-1990 used oil sampling data, gathered to support UO characterization effort (see also 57 *FR* 41566; 9/10/92)	Pages: 25 FaxBack: 11627
8/6/92	Bussard	to Bromm	EPA HQ	HW-derived fertilizer is subject to Part 266, Subpart C; to qualify for §266.20(b), it must be a legitimate product and meet LDR treatment standards; §266.20(b) exemption from LDR treatment standards for K061-derived zinc fertilizers produced for the general public's use	Pages: 2 FaxBack: 11683
2/28/94	Shapiro	to Donovan	Disposal Control Service, Inc.	spent photographic fixer solution is a spent material, subject to regulation as precious metal when reclaimed; silver-bearing sludge precipitated from spent fixer is not a SW when reclaimed, and so no longer subject to Part 266, Subpart F; precipitation process is exempt recycling	Pages: 3 FaxBack: 11814

261.6(a)(3)

Conditionally Exempt Wastes

12/20/89	Barnes	to Levy	Region I	recyclable materials listed in §261.6(a)(3) are exempt from Part 268 LDR paperwork requirements	Pages: 2 FaxBack: 11482

261.6(a)(3)(ii)

Used Batteries Sent For Regeneration

7/28/86	Straus	to	Westbrook	Westbrook and Williams, Inc.	regeneration and resale of used lead-acid batteries is exempt from regulation	Pages: 1 FaxBack: 11167
5/23/90	Lowrance	to	Bergeson	Fox, Weinberg, and Bennett	exemption for batteries returned to the manufacturer for regeneration does not apply to the export of spent nickel-cadmium batteries for reclamation; draining batteries does not constitute regeneration	Pages: 3 FaxBack: 11517
3/4/91	Lowrance	to	Svanda	MN Pollution Control Agency	EPA draws a clear distinction between regeneration (processing to remove contaminants to restore product) and material recovery (processing to recover material as an end product); batteries sent for smelting are not exempt under §261.6(a)(3) (smelting is not regeneration)	Pages: 3 FaxBack: 11586
1/28/93	Lowrance	to	Ross	Sanyo Energy Corp.	used batteries sent to a battery manufacturer for regeneration are not subject to Part 262 export requirements	Pages: 2 FaxBack: 11723
10/22/93	Weddle	to	Clutter	Marathon Power Technologies	nickel-cadmium repair process (replacing damaged separator material and electrolytes) may qualify for §261.6(a)(3) exemption for batteries returned to the manufacturer for regeneration because the activity is similar to recycling CCPs	Pages: 2 FaxBack: 11789
1/12/95	Petruska	to	Bryant	The Technical Group, Inc	battery regeneration exemption applies to batteries regenerated at any type of facility; exemption only covers batteries sent for regeneration, other types of recycling are subject to Subtitle C regulation; lead-acid batteries recycled in all ways covered under Part 266, Subpart G (see also Part 273)	Pages: 4 FaxBack: 11934

261.6(a)(3)(iii)

Scrap Metal That Is Recycled

2/13/85	Skinner	to Merrigan	Madison Industries, Inc.	pending further study, EPA is exempting hazardous scrap metal that is sent for recycling from regulatory control	Pages: 3 FaxBack: 11057
3/21/85	McGraw	to Baucus	Occidental Chemical Corp.	it is within EPA's jurisdiction, and consistent with Congressional intent, to regulate materials being recycled or held for recycling, as SW and HW; EPA does not regulate hazardous scrap metal that is being reclaimed (until further study)	Pages: 4 FaxBack: 11063
8/9/85	Straus	to Lead	General Battery Corp.	industrial steel battery cases and lead plates from which acid and lead components have been removed are scrap metal; mixtures of scrap metal (battery cases) and other regulated recyclable materials (lead oxides) must be managed as HW when sent for reclamation	Pages: 3 FaxBack: 11100
12/18/85	Straus	to Licht	Charles Licht Engineering Associates, Inc.	scrap metal that contains precious metals is exempt from regulation under §261.6(a)(3)	Pages: 2 FaxBack: 11117
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	metal torpedo components which must be decontaminated before reuse are not exempt under §261.2(e), because they must first be regenerated before reuse; instead, such components are scrap metal, which is exempt from regulation when sent for reclamation	Pages: 3 FaxBack: 11134
10/20/86	Straus	to Morford	Stoel, Rives, Boley, Fraser, and Wyse	mixtures of scrap metal (metal plates) and non-scrap metal (lead oxide sludge) removed from spent lead-acid battery regulated as HW, not scrap metal; scrap metal exempt when recycled whether characteristic or not; metal that contains only an oily film is still considered scrap metal	Pages: 7 FaxBack: 11184

11/19/86	Straus	to Straume	U.S. Air Force	buttons, eyeglass frames, insignia from uniforms, and electronic scrap may be scrap metal; if not scrap metal, they are considered spent materials subject to Part 266, Subpart F when reclaimed for their precious metal content	Pages: 11 FaxBack: 11197
5/2/88	Lowrance	to Harkin	U.S. Senate	metal parts that meet the definition of scrap metal in §261.1(c)(6) are not subject to Subtitle C regulation when recycled	Pages: 2 FaxBack: 11347
4/5/89	Barnes	to Bzura	Old Bridge Chemicals	"drove" generated by the brass industry is neither spent material nor sludge (provided it is not derived from a pollution control device), but rather co-product or a by-product; some components of drove may meet definition of scrap metal	Pages: 2 FaxBack: 11416
6/6/89	Cannon	to Goodling	U.S. House of Representatives	discarded automotive parts and electronic devices that meet the definition of scrap metal are exempt from RCRA Subtitle C regulation when sent for reclamation	Pages: 2 FaxBack: 11432
7/20/89	Kidwell	to Douglas	Electrum Recovery Works, Inc.	solder skimmings are by-products, not scrap metal; regulatory definition of scrap metal is not based on the value of the material or the process by which it is reclaimed, but rather on the material's physical appearance and previous use, by-products sent for reclamation are not SW	Pages: 2 FaxBack: 11446
4/23/91	Lowrance	to Levy	Region I	applicability of LDR paperwork to recycled secondary materials depends on material's regulatory status; scrap metal that is recycled is not subject to LDR paperwork	Pages: 1 FaxBack: 11600
9/26/91	Lowrance	to Schaeffer	American Trucking Associations	no HW determination necessary for oil filters destined for scrap metal recycling (see also §261.4(b)(13)); crushed oil filters are unlikely to exhibit TC	Pages: 2 FaxBack: 11643

8/26/92	Lowrance	to	Waste Management Division Directors	Regions I-X	unprocessed, spent printed circuit boards qualify for scrap metal exclusion as generated; residuals from processing of spent circuit boards (e.g., shredded pieces, sweeps, ash, fluff, or baghouse dust) may not qualify as scrap metal, but instead may be spent materials, by-products, or sludges	Pages: 3 FaxBack: 11689
11/10/92	Lowrance	to	Burke	Rode and Qualey	spent photoconductor drums taken from photocopying machines are exempt from regulation if they qualify as scrap metal and are sent for reclamation	Pages: 2 FaxBack: 11710
1/4/93	Shapiro	to	Campbell	Katec Inc.	steel aerosol cans qualify as scrap metal if they do not contain a significant amount of liquid (e.g., cans that have been punctured and drained)	Pages: 1 FaxBack: 11718
4/29/93	Lowrance	to	Tighe	Tighe, McInroy and Corbett	solder drippings generated during radiator repair operations qualify for scrap metal exclusion when recycled	Pages: 2 FaxBack: 11740
4/29/93	Lowrance	to	Truitt	Piper and Marbury	lead foil from dental x-ray packages qualifies for the scrap metal exclusion when recycled	Pages: 2 FaxBack: 11742
9/14/93	Petruska	to	Yazdanpanah	Price Pfister Inc.	scrap metal that fails TC for lead is excluded from RCRA Subtitle C regulation when recycled; deferral to implementing agency for determination of whether brass particles from belting/buffing of brass castings are scrap metal	Pages: 1 FaxBack: 11769
9/20/93	Denit	to	Miller	Lead Industries Association, Inc.	spent solder baths, or "pot dumps" meet definition of scrap metal, are exempt when recycled; §261.2(f) documentation applies to scrap metal that is conditionally exempt based on recycling; scrap metal that will be recycled is still a SW, could be subject to regulation if abandoned through disposal	Pages: 2 FaxBack: 11771

9/24/93	Petruska	to Douglas	Electrum Recovery Works	spent solder baths generally meet definition of scrap metal	Pages: 1 FaxBack: 11775
10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	steel aerosol cans are scrap metal when recycled if they do not contain significant liquids	Pages: 3 FaxBack: 11780
10/7/93	Denit	to Crawford	Steel Recycling Institute	steel aerosol cans are scrap metal when recycled if they do not contain significant liquids	Pages: 3 FaxBack: 11782
1/4/94	Shapiro	to Campbell	Katec, Inc.	steel aerosol cans that do not contain a significant amount of liquid (e.g., can has been punctured and drained) meet the definition of scrap metal; aerosol cans that are recycled as scrap metal are exempt, generator not required to make a HW determination	Pages: 1 FaxBack: 11806
5/9/94	Bussard	to Mauro	U.S. Navy	oxygen breathing apparatus (OBA) used by firefighters could qualify as exempt scrap metal when recycled; no need to determine if recycled scrap metal is HW; emptying steel OBA canister could be exempt scrap steel recycling process	Pages: 17 FaxBack: 11835
7/29/94	Bussard	to Sahler	NY Gas Group	any quantity of liquid mercury other than trace amounts attached to a material precludes scrap metal definition; used natural gas regulators may qualify as scrap metal once mercury and other liquids removed	Pages: 2 FaxBack: 11860
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	scrap metal is both a SW and a HW, but is exempt if recycled; respondents in enforcement actions claiming exemption under §261.6(a)(3) must be able to document legitimacy of recycling per §261.2(f)	Pages: 6 FaxBack: 11877

261.6(a)(3)(iv)-(vii)

Fuels From Refining Oil-bearing Hazardous Waste

3/22/85	Skinner	to O'Keefe	American Petroleum Institute	EPA does not wish to regulate petroleum products whose production involves reintroducing HW from refinery back into refining process (see also §261.6(a)(3)); EPA will study issue of oils that are recovered from refinery HW and returned to refining process (see also §261.4(a)(12))	Pages: 5 FaxBack: 11064
9/4/87	Williams	to Kertcher	EPA HQ	§261.6(a)(3)(vii) exemption applies only to coke and coal tar products that are recycled from coal tar decanter sludge (K087), not to K087 stored in waste pile prior to recycling	Pages: 5 FaxBack: 11290
12/24/87	Williams	to Miner	EPA HQ	regulatory status of coal tar decanter sludge waste pile; K087 stored prior to recycling in coke and coal tar production is not exempt from regulation under §261.6(a)(3)(viii)	Pages: 4 FaxBack: 11312
1/8/91	Bussard	to Dixon	Thermal Waste Management	fuel that is produced (and oil reclaimed and used as a fuel) from petroleum refining, production, and transportation, by processes other than normal refining operations, is eligible for §261.6(a)(3) exemptions; clarification of petroleum refining process	Pages: 6 FaxBack: 11574
7/26/94	Shapiro	to Waste Management Division Directors	Regions I-X	summary of 59 *FR* 38536; 7/28/94 (response to AMC and API petitions) excluding recovered oil from definition of SW when returned to petroleum refining process prior to distillation or cracking; expanded exemption for petroleum coke produced from off site oil-bearing HW	Pages: 2 FaxBack: 11859
5/25/95	Shapiro	to Spratlin	Region VII	"syngas" fuel from gasification unit at Kansas petroleum refinery is derived from F037, K022, and K051, but is not subject to RCRA Subtitle C regulation due to §261.6(a)(3)(iv) exemption for fuels created by refining oil-bearing HW during normal refinery operations	Pages: 2 FaxBack: 11905

261.6(a)(4)

Used Oil That Is Recycled

3/6/87	Williams	to Sanderson	Region VII	UO burned for energy recovery is subject to Part 266, Subpart E; UO recycled in any other manner is exempt from regulation (SUPERCEDED: see Part 279)	Pages: 3 FaxBack: 11225
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	characteristic UO recycled in a manner other than burning for energy recovery is not subject to RCRA Subtitle C (SUPERCEDED: see Part 279)	Pages: 4 FaxBack: 11521
10/30/90	Lowrance	to Duprey	Region VIII	as long as UO removed from filter is to be recycled, crushing oil filter to remove UO falls within used oil recycling exemption of §§261.2(a)(2) and (a)(3) (SUPERCEDED: see §§261.6(a)(4) and 279.10(c))	Pages: 3 FaxBack: 11566
7/9/91	Bussard	to Campbell	American Petroleum Institute	1989-1990 used oil sampling data, gathered to support UO characterization effort (see also 57 *FR* 41566; 9/10/92)	Pages: 25 FaxBack: 11627

261.6(b)

Generators, Transporters Of Recycled Materials

1/6/86	Straus	to Robbins	Kohler Co.	any person storing spent materials before reclamation is subject to §262.34 as a generator or to the Part 264/265 regulations as a TSDF; transportation of foundry sands prior to reclamation is subject to Part 263	Pages: 2 FaxBack: 11119
12/2/86	Straus	to Hayes	Hogan and Hartson	reclamation of spent solvents at generator facilities is HW treatment, but is exempt from regulation under §261.6(c); spent solvents are subject to regulation prior to reclamation; generators managing spent solvents under §262.34 prior to reclamation are not subject to permitting	Pages: 3 FaxBack: 11200

8/12/87	Williams	to Cox	AL Dept. of Environmental Management	if a sludge is reclaimed for metals recovery and fertilizer use, management of the sludge is subject to §§261.6(b) and (c) because some of the managment of sludge is use constituting disposal	Pages: 2 FaxBack: 11276
5/23/90	Lowrance	to Bergeson	Fox, Weinberg, and Bennett	nickel-cadmium batteries, if spent, are subject to all applicable regulations (including manifesting) of Parts 262 and 263; generator must determine if battery is spent	Pages: 3 FaxBack: 11517

261.6(c)

Recyclers, Storers Of Recyclable Materials

8/13/84	Weddle	to Hohman	Region I	storage prior to recycling regulated under RCRA Subtitle C; recyclers not storing HW before recycling are not subject to regulation	Pages: 3 FaxBack: 11040
2/22/85	Skinner	to Rice	TX Mid-Continent Oil and Gas Association	regulated storage units where incidental reclamation of K048 and K049 takes place v. exempt oil reclamation units; emulsion storage is subject to regulation before entering and after leaving reclamation unit; recovered oil is exempt when introduced into refining process	Pages: 4 FaxBack: 11058
7/10/85	Skinner	to Suska	Baltimore City Health Dept.	carbon regeneration facilities storing carbon before recycling need storage permit and Subpart O permit if unit meets definition of incinerator; drum recyclers handling containers that are empty according to §261.7 do not need storage permit	Pages: 3 FaxBack: 11089
1/6/86	Straus	to Robbins	Kohler Co.	storage of spent foundry sands prior to reclamation is subject to §262.34 or Parts 264/265 and 270; the reclamation process itself is exempt from regulation	Pages: 2 FaxBack: 11119

2/13/86	Straus	to Darrah	Resolve Industries	recycling facility that does not store waste prior to recycling does not need a RCRA Subtitle C permit; facility must comply with §3010 notification requirements and manifest requirements of §§265.71 and 265.72	Pages: 2 FaxBack: 11131
4/2/86	Williams	to Wassersug	Region III	carbon regeneration facility is subject to storage requirements, including permitting, prior to regenerating spent carbon; regeneration operation (including the afterburner) is exempt from regulation (SUPERCEDED: see Part 266, Subpart H and §261.6(d))	Pages: 6 FaxBack: 11143
12/2/86	Straus	to Hayes	Hogan and Hartson	reclamation of spent solvents at generator facilities is HW treatment, but is exempt from regulation under §261.6(c); spent solvents are subject to regulation prior to reclamation; generators managing spent solvents under §262.34 prior to reclamation are not subject to permitting	Pages: 3 FaxBack: 11200
5/20/87	Straus	to Russell	Russel Resources, Inc.	spent pickle liquor destined for reclamation is SW and HW subject to all applicable Subtitle C generator, transporter, and storage regulations until it enters exempt recycling unit	Pages: 5 FaxBack: 11250
7/14/87	Williams	to Weisberg	MCW, Inc., Consulting Engineers	EPA does not regulate the actual process of reclamation; generator performing distillation would not need to comply with additional requirements	Pages: 8 FaxBack: 11265
11/4/87	Williams	to Cox	AL Dept. of Environmental Management	zinc sulfate recovered from zinc oxide that is used to produce a fertilizer is a SW; facility that treats hazardous sludge to recover a usable material (i.e., zinc sulfate) is subject to §261.6(c) requirements for recycling facilities	Pages: 4 FaxBack: 11302
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	process of reclaiming K061 is generally not regulated under RCRA Subtitle C	Pages: 11 FaxBack: 11353

7/29/88	Lowrance	to	Akenhead	University of Nevada-Reno	spent dry-cleaning filters placed directly into distillation unit without intervening storage are not subject to Subtitle C regulation	Pages: 3 FaxBack: 11359
8/31/88	Lowrance	to	Svanda	MN Pollution Control Agency	recycling facility where is waste directly off-loaded from vehicles into recycling equipment does not need a storage permit; each facility must be evaluated on a case-by-case basis to determine if storage occurs	Pages: 4 FaxBack: 11365
10/27/88	Lowrance	to	Wagoner	Region VII	EPA generally does not consider treated wastewater to be reclaimed product and thus does not consider wastewater treatment to be exempt recycling; in certain cases, treated wastewater that is legitimately reused is considered reclaimed and loses SW status	Pages: 3 FaxBack: 11374
12/7/88	Lowrance	to	Stapleton	Stapleton Company	unit reclaiming plating wastes is not regulated under Subtitle C unless reclamation process involves land disposal or incineration; owner and/or operator of recycling unit must follow requirements of §261.6(c) and needs permit only for HW storage prior to or after recycling	Pages: 6 FaxBack: 11385
12/9/88	Lowrance	to	Trigger	Clark, Klein and Beaumont	EPA allows time for off-loading waste into recycling process without obtaining a storage permit; specific timeframe determined by the appropriate Region or state office	Pages: 2 FaxBack: 11386
1/3/89	Barnes	to	Hazardous Waste Management Division Directors	Regions I-X	EPA allows time for off-loading waste into recycling process without obtaining a storage permit; specific timeframe determined by the appropriate Region or state office	Pages: 2 FaxBack: 11388
3/13/89	Lowrance	to	Petersen	National Association of Solvent Recyclers	direct transfer of solvents from transportation tanks into distillation equipment does not require a storage permit	Pages: 2 FaxBack: 11404

3/27/89	Straus	to Johnson	SAFCO Environmental	HW fuel blending tanks are subject to storage regulations (not exempt recycling units); federal regulations do not specify an allowable holding time before off-loading a shipment of HW into the recycling process; some states may allow up to 24 hours before a storage permit is required	Pages: 2 FaxBack: 11411
8/1/90	Bussard	to Farley	McGuire, Woods, Battle, and Boothe	EPA generally does not consider treated wastewater to be reclaimed product and thus does not consider wastewater treatment to be exempt recycling; in certain cases, treated wastewater that is legitimately reused is considered reclaimed and loses SW status	Pages: 10 FaxBack: 11546
5/28/92	Lowrance	to Johnson	Crush-A-Matic	crushing dry cleaning filters is exempt recycling; storage prior to recycling may require a permit or may be subject to generator regulations of §§262.34 or 261.5	Pages: 2 FaxBack: 11670
6/24/92	Bussard	to Nash	Attorney at Law	whether the processing of aerosol cans constitutes treatment requiring a permit or exempt recycling is a determination made by each Region on a case-by-case basis	Pages: 1 FaxBack: 11674
4/30/93	Lowrance	to Dodgion	NV Dept. of Conservation and Natural Resources	recycling is normally considered a form of HW treatment that is exempt from regulation	Pages: 2 FaxBack: 11745
7/28/93	Denit	to Redington	Monsanto Co.	while crushing mercury-containing fluorescent lamps constitutes HW treatment, it can be exempt from regulation if a necessary part of legitimate recycling process (see also 6/5/95 letter, Petruska to Jenkins); storage of crushed lamps is still subject to regulation	Pages: 2 FaxBack: 11759
9/1/93	Denit	to Prasil	Recycled Printer's Ink, Inc.	reclamation of waste ink not regulated under RCRA Subtitle C; storage of waste ink prior to recycling is subject to permit standards; whether temporary holding area is subject to permit standards is decided on a case-by-case basis	Pages: 5 FaxBack: 11765

10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	emptying steel aerosol can by puncturing and draining may be exempt as step in recycling of can as scrap metal; steel aerosol can qualifies as scrap metal if it does not contain significant liquids (i.e., is fully drained) and is therefore exempt from regulation when sent for recycling	Pages: 3 FaxBack: 11780
10/7/93	Denit	to Crawford	Steel Recycling Institute	emptying steel aerosol can by puncturing and draining may be exempt as step in recycling of can as scrap metal; steel aerosol can qualifies as scrap metal if it does not contain significant liquids (i.e., is fully drained) and is therefore exempt from regulation when sent for recycling	Pages: 3 FaxBack: 11782
12/27/93	Shapiro	to Simon	Region II	furnaces legitimately recovering precious metals fall within Part 266, Subpart F exemption and are not subject to Subpart O incinerator rules and most BIF rules, except for one-time notification/certification, and sampling and analysis; criteria for legitimate precious metal recovery	Pages: 4 FaxBack: 11804
5/9/94	Bussard	to Mauro	U.S. Navy	oxygen breathing apparatus (OBA) used by firefighters could qualify as exempt scrap metal when recycled; emptying steel OBA canister could be recycling process exempt from all regulation except §261.6(d); if canister not to be recycled, emptying it could require treatment permit	Pages: 17 FaxBack: 11835
9/19/94	McAlister	to Steger	ID Dept. of Health and Welfare	burning HW in an incinerator is not exempt recycling, but incineration regulated under Parts 264 or 265, even if some energy or material recovery occurs	Pages: 2 FaxBack: 11873
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	materials that are not SW when recycled remain exempt even if shipped to recycler by way of TSDF	Pages: 6 FaxBack: 11877
10/7/94	Shapiro	to Trafton	Recovery Express	processing LBP waste that exhibits TC for lead (D008) is not subject to regulation if necessary part of legitimate recycling process (e.g., to meet vendor's specification); storage of HW LBP before or after such exempt processing is still regulated	Pages: 2 FaxBack: 11880

3/8/95	Shapiro	to Richter	American Foundrymen's Society	nonthermal reclamation of foundry sand (screening sand to remove metal residuals) is exempt recycling process; thermal reclamation using controlled flame to destroy organics in sand is HW incineration subject to Part 264/265, Subpart O	Pages: 10 FaxBack: 11900
5/25/95	Shapiro	to Spratlin	Region VII	gasification unit at Kansas petroleum refinery producing "syngas" from listed waste is exempt recycling unit per §261.6(c)(1); no permit needed for storage of listed feedstocks prior to recycling if generator accumulation limits not exceeded; interpretation does not apply to all gasification units	Pages: 2 FaxBack: 11905
6/5/95	Petruska	to Jenkins	AL Dept. of Environmental Management	crushing mercury-containing fluorescent lamps at generator or other facility is exempt if part of legitimate recycling process; recycling process exemption can apply even if portions of recycling operation carried out at different sites; crusher carries burden to ensure bulbs are actually recycled	Pages: 6 FaxBack: 11906
6/23/95	Shapiro	to Downey	Downey Chandler, Inc.	liquid ion exchange technology traditionally used to remove metal contaminants from wastewater prior to discharge, but also can qualify as exempt recycling process when used to recover metals from wastewater; explanation of ion exchange wastewater treatment technology	Pages: 3 FaxBack: 11908

261.7 Empty Containers

11/18/80	Dietrich	to Reynolds	Gold Mist, Inc.	CCP container rinsate is HW via mixture rule (see also 7/21/89 letter, Barnes to Schiffman)	Pages: 1 FaxBack: 11004
11/28/84	Skinner	to Klepitsch	EPA HQ	container not "empty" unless any and all industry practices normally used to achieve maximum possible removal are used; tank cars qualify as containers	Pages: 1 FaxBack: 11048

7/10/85	Skinner	to Suska	Baltimore City Health Dept.	drum recyclers handling containers that are empty according to §261.7 do not need RCRA Subtitle C storage permit; storage of non-empty containers would require at least a permit for HW storage	Pages: 3 FaxBack: 11089
2/9/87	Williams	to Dietrich	ICF Technology	bags that contained technical grade 2,4-D pesticide CCP and have been emptied according to §261.7 might still exhibit TC for 2,4-D (D016) and be regulated as HW	Pages: 15 FaxBack: 11219
4/15/87	Corson	to Whitehead	Madison Chemical Industries, Inc.	emptying containers per §261.7 requires (1) that all wastes be removed from container using commonly-employed emptying practices and (2) meets "1 inch" or "3 percent" criterion; only containers that held P-listed products need triple rinsing	Pages: 3 FaxBack: 11237
5/13/87	Scarberry	to Whitehead	Madison Chemical Industries, Inc.	containers holding listed or characteristic residues should be emptied according to §261.7 to ensure the containers are no longer subject to Subtitle C regulation	Pages: 2 FaxBack: 11246
9/1/88	Lowrance	to Whitman	SW Inc.	Region is in best position to determine if aerosol cans are HW; generally, cans are hazardous they contain a listed or characteristic CCP and are not empty per §261.7 and/or if the cans themselves exhibit a characteristic	Pages: 2 FaxBack: 11367
1/3/89	Lowrance	to Fields	EPA HQ	empty container rule does not apply to contaminated clothing and personal protective equipment (PPE); empty container rule only applies to containers	Pages: 2 FaxBack: 11387
6/5/89	Lowrance	to Bailey	VA Dept. of Waste Management	residues remaining in or removed from containers that have already been rendered "empty" according to §261.7 are not regulated; such residues from empty containers are regulated if subsequent management (i.e., incineration) causes them to exhibit a new characteristic	Pages: 2 FaxBack: 11431

7/21/89	Barnes	to Schiffman	NJ DEP	if tanker truck holding P- and U-listed HW is rendered empty according to §261.7 (contents removed using "reasonable" means and less than one inch or 0.3% of tanker volume remains), water from subsequent rinsing is not regulated, even if it contains traces of P- or U-listed chemicals	Pages: 4 FaxBack: 11447
4/10/90	Lowrance	to Stoll	Freedman, Levy, Kroll, and Simonds	if rinsing is conducted on non-empty container or to render container empty, rinsate is subject to all HW regulations; if container that is already "empty" according to §261.7 is rinsed, rinsate is exempt from regulations, including requirement to determine whether rinsate is characteristic	Pages: 1 FaxBack: 11504
9/13/90	Lowrance	to Winwood	U.S. Customs Service	in some instances, §261.7 allows an "empty" and unregulated container to hold up to one inch of HW; "one inch" criterion is not sole factor governing whether or not container is legally empty and exempt from regulation	Pages: 4 FaxBack: 11559
10/30/90	Lowrance	to Duprey	Region VIII	generally, used automotive oil filters are not containers because they are designed to filter particulates from oil, not to store oil; automotive oil filters can not be empty containers under §261.7 (see also §261.4(b)(13)).	Pages: 3 FaxBack: 11566
10/22/91	Bussard	to Dunn	Law Companies Environmental Group	out-of-service pump that contains mercury could qualify as container if it is portable; empty container provision of §261.7 may apply to such dismantled equipment meeting definition of container	Pages: 2 FaxBack: 11647
7/28/93	Denit	to Igli	Chemical Waste Management, Inc.	since residues from treatment of P-listed acutely HW remain P-listed and acutely hazardous, containers holding such residues must be made empty by triple rinsing; no formal EPA approval necessary in order to use alternative and equivalent method as substitute for triple rinsing	Pages: 2 FaxBack: 11761
10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	aerosol cans may be rendered empty in accordance with §261.7; no need to determine if steel aerosol can is empty once it qualifies as scrap metal (i.e., once no longer contains significant liquids) that is destined for recycling	Pages: 3 FaxBack: 11780

10/7/93	Denit	to Crawford	Steel Recycling Institute	aerosol cans may be rendered empty in accordance with §261.7; no need to determine if steel aerosol can is empty once it qualifies as scrap metal (i.e., once no longer contains significant liquids) that is destined for recycling	Pages: 3 FaxBack: 11782
12/23/93	Shapiro	to Joseph	U.S. Dept. of Agriculture	no formal EPA approval needed in order to use alternative and equivalent method instead of triple rinsing when emptying containers holding acute HW; cyanide-containing capsules can become empty and exempt according to §261.7	Pages: 5 FaxBack: 11803
5/9/94	Bussard	to Mauro	U.S. Navy	oxygen breathing apparatus (OBA) used by firefighters could qualify as exempt scrap metal when recycled; if steel OBA canister is destined for disposal, it is not HW as long as it is empty of any HW chemicals according to §261.7 and the canister itself is not hazardous	Pages: 17 FaxBack: 11835

261.8

TSCA-regulated PCB Wastes

9/22/89	Lowrance	to Wassersug	Region III	cleaning PCBs from transformer with solvent containing 10% or more tetrachloroethylene (PCE) before use results in F002 listed waste; TSCA regulations applicable to waste do not supercede RCRA regulations; if TSCA and RCRA rules conflict, more stringent takes precedence	Pages: 2 FaxBack: 11470

SUBPART B CRITERIA FOR IDENTIFYING AND LISTING HAZARDOUS WASTE

261.11

Criteria For Listing

4/29/85	McGraw	to Wallop	U.S. Senate	most wastes were listed because EPA found them to typically contain toxic constituents (§261.11(a)(3) criteria); presence of constituent(s) for which waste was listed is not sole criterion governing delisting decisions; presence of other constituents influences delisting determinations	Pages: 10 FaxBack: 11073

4/21/86	Porter	to McCloskey	U.S. House of Representatives	presence of Appendix VIII hazardous constituents is not only factor in listing determination for solvent TF-1; concentration, migration potential, persistence, quantity generated, and management history are part of determination	Pages: 3 FaxBack: 11144
5/6/86	Porter	to Lugar	U.S. Senate	presence of Appendix VIII hazardous constituents or combination of P- and U-listed ingredients are not the only factors in listing determination for solvent TF-1; concentration, migration potential, persistence, quantity generated, and management history are part of determination	Pages: 9 FaxBack: 11153

SUBPART C CHARACTERISTIC WASTES

Aerosol Cans

9/1/88	Lowrance	to Whitman	SW Inc.	Region is in best position to determine if aerosol cans are HW; generally, cans are hazardous if they contain a listed or characteristic CCP and are not empty per §261.7 and/or if the cans themselves exhibit a characteristic	Pages: 2 FaxBack: 11367
3/31/89	Lowrance	to Williams	Defense Logistics Agency	whether venting and/or puncturing aerosol cans constitutes treatment of HW per §260.10 is under review; in meantime, consult Regional guidance or take conservative approach that it does constitute treatment	Pages: 2 FaxBack: 11414
9/12/89	Petruska	to Citizen		puncturing, shredding, crushing non-empty aerosol cans may meet definition of HW treatment; however, the appropriate EPA Region or authorized state is in the best position to make this determination	Pages: 1 FaxBack: 11466
6/24/92	Bussard	to Nash	Attorney at Law	whether the processing of aerosol cans constitutes treatment requiring a permit or exempt recycling is a determination made by each Region on a case-by-case basis	Pages: 1 FaxBack: 11674

12/30/92	Lowrance	to Bremer	Region V	propellant mixture of butane and propane removed from aerosol cans is not SW when burned for energy recovery because these propellants are normally used as fuels	Pages: 4 FaxBack: 11717
1/4/93	Shapiro	to Campbell	Katec Inc.	no categorical determination of reactivity possible for all aerosol cans; HW determination is responsibility of generator; however, steel aerosol cans qualify as scrap metal if they do not contain a significant amount of liquid (e.g., cans that have been punctured and drained)	Pages: 1 FaxBack: 11718
10/7/93	Denit	to DiFazio	Chemical Specialties Manufacturers Association	EPA is unable to determine if aerosol cans exhibit characteristic of reactivity; possible to render can empty under §261.7; liquid or gas removed from can is HW if listed or characteristic; steel cans that don't contain significant liquids are recyclable as scrap metal	Pages: 3 FaxBack: 11780
10/7/93	Denit	to Crawford	Chemical Specialties Manufacturers Association	EPA is unable to determine if aerosol cans exhibit characteristic of reactivity; possible to render can empty under §261.7; liquid or gas removed from can is HW if listed or characteristic; steel cans that don't contain significant liquids are recyclable as scrap metal	Pages: 3 FaxBack: 11782

Batteries

6/24/81	Friedman	to Riedel	U.S. Coast Guard	typical SAFT Gelled Electrolyte Primary batteries do not exhibit any characteristic (see also §261.24) and are not listed HW	Pages: 2 FaxBack: 11017

Dioxin Wastes

1/18/85	McGraw	to Kay	Region VII	provides conservative concentration-based levels for 20 toxic constituents beneath which dioxin-bearing ash would not present substantial hazard to human health or the environment when managed at nonhazardous waste facilities (see also §261.31: F020-F023, F026-F028)	Pages: 5 FaxBack: 11052

2/7/85	Fribush	to Citizen		management practices and a summary of TSCA regulations for the handling of dioxin-bearing wastes prior to the creation of HW listings for dioxins	Pages: 2 FaxBack: 11054
2/13/85	Straus	to Whittig	Supelco, Inc.	wastes and contaminated equipment from use of dioxins as lab standards (and most other laboratory wastes) do not meet the listing description for the dioxin-bearing wastes in §261.31 since they do not result from any of the manufacturing processes specified in the listings	Pages: 3 FaxBack: 11055
3/4/85	Skinner	to Talarek	American Wood Preservers Institute	F-listings for HW containing PCP (F021, F027, & F028) only apply to wastes generated at wood preserving facilities in a few rare circumstances (see also §261.31: F032, F034, F035)	Pages: 4 FaxBack: 11061
3/12/85	Straus	to Katona	Occidental Chemical Corp.	dioxin-contaminated wastes from lab operations such as clothing and glassware are not subject to listings for dioxin wastes, while unused samples of these wastes would carry the appropriate listing	Pages: 4 FaxBack: 11062
7/5/85	Skinner	to Huebner	Region I	most lab wastes are not listed (even if they contain dioxins) and are HW only if characteristic; nevertheless, unused portions of HW being analyzed in lab and any residue derived from lab analysis of HW are subject to full regulation when discarded (see also §§261.4(d), (e), and(f))	Pages: 2 FaxBack: 11088
7/23/85	Bellin	to Hagan	Wright State University	mere presence of dioxin constituents in laboratory wastes (such as stock solutions, clean up materials, and chromatographic columns) does not make wastes subject to F-listings for dioxin wastes; however, unused HW samples or residues from their analysis are still HW	Pages: 1 FaxBack: 11097
8/18/86	Straus	to Porter	University of Kansas Medical Center	lab wastes, including animal carcasses, bedding, feces, urine, and other lab dry wastes such as paper, gloves, syringes, etc., generated by an analyst performing research using stock solutions of TCDD are infectious wastes per Part 241, but are not covered by the listings for F020-F023, F026, or F027	Pages: 1 FaxBack: 11172

10/22/86	Straus	to Luxenberg	Aquatics, Inc.	lab wastes such as paper towels, pipets, and laboratory gloves, which have come into contact with TCDD laboratory standards are not covered by the dioxin listings, F020-F023, F026-F028; incineration may be a reasonable method of disposal for these wastes	Pages: 1 FaxBack: 11188
12/10/86	Sterling	to Verploegh	University of New Mexico	lab wastes, including animal carcasses, cages, bedding, excreta, secretions, and disposable fomites generated by an analyst performing research using stock solutions of TCDD are infectious wastes per Part 241, but are not covered by the listings for F020-F023, F026, or F027	Pages: 3 FaxBack: 11203
12/22/86	Straus	to Mullins	Monsanto Co.	incineration is appropriate management method for nonhazardous dioxin wastes (wastes that are not characteristic and are not addressed by F-listings)	Pages: 4 FaxBack: 11208
5/14/87	Williams	to Zellmer	WI DNR	bird eggs and carcasses injected with dilute solutions of TCDD do not meet the listing descriptions for the dioxin wastes, F020-F023, F026-F028, and are not regulated under the TSCA program; they are infectious wastes per Part 241 and are best managed in a high temperature incinerator	Pages: 4 FaxBack: 11247
8/7/87	Williams	to Jennings	EPA HQ	high temperature incineration is the recommended method of management for laboratory wastes that are not listed HW and that do not exhibit any characteristic even though they are contaminated with dioxins	Pages: 1 FaxBack: 11272
9/23/87	Straus	to Blundon	Koppers Co., Inc.	wood chips and sawdust derived from wood treated with PCP formulation (Noxtane) would not meet any of the listing descriptions found in §§261.31 or 261.32; wastes could exhibit a characteristic, and the discarded CCP Noxtane is F027	Pages: 3 FaxBack: 11295
10/23/87	Williams	to Mouser	Marion County Health Dept.	lubricating oil contaminated with dioxins from the use of TCDD as analytical standard is only HW if characteristic, since it is neither manufacturing waste triggering F020-F023, F026, and F028 listings, nor F027	Pages: 2 FaxBack: 11298

11/8/91	Clay	to Van Putten	Great Lakes National Resource Center	no additional regulations are warranted under Subtitle D for landfills and surface impoundments receiving unlisted, dioxin-containing sludge from chlorine and chlorine derivative bleached pulp and paper mills	Pages: 10 FaxBack: 11652

Foundry Sand

1/6/86	Straus	to Robbins	Kohler Co.	foundry sand destined for reclamation is SW and may be regulated as HW because it exhibits TC for lead	Pages: 2 FaxBack: 11119
3/8/95	Shapiro	to Richter	American Foundrymen's Society	most spent foundry sand that is hazardous exhibits toxicity characteristic for lead (D008) or cadmium (D006); industry sources estimate that 4% of foundry sand sent for disposal is hazardous; sand used in leaded brass manufacture more often hazardous than other sand	Pages: 10 FaxBack: 11900

Lead Based Paint Wastes

11/20/87	Denit	to Kovalick	EPA HQ	certain putties and plasters, LBP on walls, sills, and other surfaces, and soil contaminated due to weathering of LBP have all exhibited lead levels in excess of TC limit; LBP remediation methods (see also 3/7/95 letter, Friedman to Hill)	Pages: 6 FaxBack: 11304
7/3/91	Bussard	to Lund	C/P Utility Services Co.	generators conducting LBP abatement must test wastes using TCLP unless they can apply knowledge to determine characteristics; if LBP waste first tests nonhazardous in TCLP due to masking effect of iron abrasive, but exhibits characteristic prior to disposal, all HW regulations apply	Pages: 4 FaxBack: 11624
8/30/91	Bussard	to TC Rule Contacts	Regions I-X	adding iron or other material to LBP removal waste to mask waste lead (D008) characteristic is not legitimate and may subject generator to additional liability; whether masking agent is added to paint removal abrasive or to waste following generation is immaterial	Pages: 6 FaxBack: 11636

5/24/94	Shapiro	to	Veckman	Comprehensive Environmental Assessments	unless it is HHW, LBP abatement waste exhibiting TC for lead (D008) is currently regulated under Subtitle C; EPA may amend RCRA Subtitle C rules to remove disincentives to LBP abatement in future	Pages: 5 FaxBack: 11838
10/7/94	Shapiro	to	Trafton	Recovery Express	processing LBP waste that exhibits TC for lead (D008) is not subject to regulation if necessary part of legitimate recycling process (e.g., to meet vendor's specification); storage of HW LBP before or after such exempt processing is still regulated	Pages: 2 FaxBack: 11880

Manufactured Gas Plant Wastes

4/26/93	Lowrance	to	Waste Management Division Directors	Regions I-IX	manufactured gas plant (MGP) wastes not listed but can be characteristic; since MGP wastes are "newly identified" and not subject to LDR or dilution rules, MGP HW may be decharacterized in generator's §262.34 units without permit and sent off site for burning as nonhazardous	Pages: 3 FaxBack: 11739

Mercury-containing / Fluorescent Lamps

4/30/86	Friedman	to	Vaughn	Quicksilver Products, Inc.	fluorescent and mercury vapor lamps may exhibit TC for mercury as determined using EP (see also 12/7/92 letter, Clay to Pegues)	Pages: 2 FaxBack: 11149
9/4/92	Lowrance	to	Wilkstrom	National Electrical Manufacturers Association	fluorescent light bulbs from CESQGs or households may be land disposed in Subtitle D landfill regardless of characteristic properties	Pages: 2 FaxBack: 11693
12/7/92	Clay	to	Pegues	AL Dept. of Environmental Services	EPA test results indicate that fluorescent lamps often exhibit TC for mercury as determined using TCLP	Pages: 3 FaxBack: 11715

7/28/93	Denit	to	Redington	Monsanto Co.	while crushing fluorescent/mercury-containing lamps constitutes HW treatment, it can be exempt from regulation if it is a necessary part of a legitimate recycling process (see also 6/5/95 letter, Petruska to Jenkins); storage of crushed lamps is still subject to regulation	Pages: 2 FaxBack: 11759
7/14/94	Shapiro	to	Waste Management Division Directors	Regions I-X	fluorescent and high-intensity discharge lamps generally TC for mercury; summary of two regulatory options for spent mercury-containing lamps as proposed in 59 *FR* 38288; 7/24/94; EPA believes mercury bulbs pose less threat than additional power plant pollution	Pages: 2 FaxBack: 11853
6/5/95	Petruska	to	Jenkins	AL Dept. of Environmental Management	EPA still weighing two options proposed in 59 *FR* 38288; 7/27/94 for streamlining fluorescent lamp regulation; EPA resource constraints will affect timeframe for finalizing lamp proposal; states can add lamps to own lists of universal wastes and set regulatory controls as they see fit	Pages: 6 FaxBack: 11906
6/22/95	Petruska	to	Roberts	Maintenance Engineering	testing only one spent fluorescent tube to determine if all waste lamps from site exhibit characteristics is not representative sampling; states authorized for universal waste rule may add fluorescent lamps to state universal waste list and set management standards as they see fit	Pages: 2 FaxBack: 11907

Municipal Solid Waste Combustion Ash

3/22/95	Laws	to	Administrators	Regions I-X	ash from waste-to-energy facilities burning MSW must be evaluated for characteristics at point ash leaves resource recovery facility making mixing bottom and fly ash prior to HW determination impossible in some cases	Pages: 6 FaxBack: 11901

Paint

5/2/86	Straus	to	Harvey	Occupational Medical Services	F listings do not apply to solvents used as ingredients or reactants in a CCP; activated carbon used to collect methylene chloride, Freon 113, and trichloroethylene paint ingredients that volatilized during paint application would only be HW if characteristic	Pages: 2 FaxBack: 11151

9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	ignitable discarded paint which contains xylene is D001 because xylene is neither spent xylene (F003), nor discarded unused CCP (U239); mixture of waste listed solely for characteristic with SW is no longer HW if mixture is not characteristic (see also §268.3)	Pages: 2 FaxBack: 11180
2/5/87	Scarberry	to Crosser	HON Industries	sludge created by treating wastewater from paint spray booth water curtain is manufacturing process waste	Pages: 1 FaxBack: 11218
2/19/87	Straus	to Hemker	Q Source Engineering, Inc.	discarded paints, inks, adhesives, and glues are not listed wastes; they are hazardous only if they exhibit characteristics such as ignitability (D001); products that contain solvent ingredients or to which solvents have been added will not meet a solvent listing upon discard	Pages: 4 FaxBack: 11220
7/21/87	Weil	to Charley	New United Motor Manufacturing	discarded, used paint thinner that consisted of 80% xylene, 9% toluene, and 11% glycol ethers prior to use is D001 but not spent solvent F003 or F005, because it contained neither 100% F003 nor at least 10% F001, F002, F004, and F005 before use	Pages: 2 FaxBack: 11266
4/14/88	Lowrance	to Meeks	U.S. Navy	presence of toxicants from F001-F005 lists in paint product does not make the paint (or any residue containing paint constituents, such as scrubber water) an F-listed HW when discarded; such nonlisted wastes are hazardous if characteristic	Pages: 8 FaxBack: 11340
4/20/90	Anders	to Denny	EPA HQ	EPA "is quite sure" that mercury-containing latex paint will usually exhibit the TC when properly tested; statement that paint will not exhibit the characteristic for mercury unless the level exceeds 540 parts per million is incorrect	Pages: 2 FaxBack: 11508

Pesticides

7/22/85	Skinner	to Hathaway	Region VI	airplane washwater is not HW via the mixture rule because pesticide residue left on aircraft is not a discarded CCP and therefore not a listed HW; washwater is only HW if characteristic (see also 12/15/92 letter, Lowrance to Rodriguez)	Pages: 2 FaxBack: 11096
5/30/86	Williams	to Rambo	National Pest Control Association, Inc.	truck and service vehicle wash rinsewater contaminated with pesticide residue from the ground application of the pesticide is not HW via the mixture rule; the rinsewater is HW only if it exhibits a characteristic (see also 7/22/85 letter, Skinner to Hathaway)	Pages: 2 FaxBack: 11160
9/29/86	Claussen	to Warren	Warren, Goldberg, Berman and Lubitz	while chlordane is a listed CCP (U036), land application of chlordane pesticide product does not generate SW even though activity is use constituting disposal, since it is the intended purpose of a pesticide; soil is HW only if excavated for disposal and it exhibits a characteristic	Pages: 1 FaxBack: 11182
3/11/87	Williams	to Rambo	National Pest Control Association, Inc.	soil contaminated from treatment of home for termites with chlordane & heptachlor is not listed HW since contamination results from normal pesticide use; soil may be HW if characteristic	Pages: 4 FaxBack: 11228
8/13/87	Williams	to Lueck	Exhaust and Filtration Systems	vehicle filters contaminated with pesticides from ambient air near pesticide application area are only HW if they exhibit a characteristic; filter does not contain waste pesticide	Pages: 3 FaxBack: 11277
2/14/90	Lowrance	to Feulner	CIBA-GEIGY Corp.	while cancelled, unused pesticide chlordimeform is not listed in §261.33 as HW, it may exhibit the characteristic of ignitability (due to high xylene content); not subject to regulation if returned to manufacturer for resale or reclamation, but party making claim bears burden of proof per §261.2(f)	Pages: 3 FaxBack: 11492

12/15/92	Lowrance	to Rodriguez	CA Regional Water Quality Control Board	pesticide applicator washwater is HW only if it exhibits a characteristic (see also 7/22/85 letter, Skinner to Hathaway)	Pages: 1 FaxBack: 11716

Scintillation Cocktails / Radioactive Waste

3/3/87	Straus	to Vogt	WestChem	while scintillation cocktail products EcoLite and EcoLume are not listed HW and do not appear to exhibit any characteristic, each generator of SW is responsible for determination (see also 3/89 MRQ); radioactive materials not currently defined as hazardous	Pages: 2 FaxBack: 11223
3/11/87	Straus	to Aniballi	Research Products International Corp.	liquid scintillation cocktail Bio-Safe II does not appear to be HW; does not exhibit ignitability or TC, no data on corrosivity and reactivity; neither scintillation cocktails, nor lab wastes in general, are listed (see also 3/89 MRQ); HW identification is generator's responsibility	Pages: 3 FaxBack: 11227
8/19/87	Straus	to Edelstein	Fisher Scientific Co.	liquid scintillation cocktail Scintiverse BD is not a listed HW, but might exhibit a characteristic (see also 3/89 MRQ)); each generator is responsible for making HW determination per §262.11	Pages: 4 FaxBack: 11279
8/19/87	Straus	to Wunderly	Beckman Instruments, Inc.	liquid scintillation solution, Ready Safe, is not a listed HW (see also 3/89 MRQ); it may exhibit a HW characteristic, and each generator of SW is responsible for making this HW determination per §262.11	Pages: 2 FaxBack: 11280
1/13/88	Williams	to Wunderly	Beckman Instruments, Inc.	liquid scintillation cocktail product, Ready Safe, is not a listed HW, and does not appear to exhibit any HW characteristic (see also 3/89 MRQ); radioactivity is not presently included under the RCRA HW characteristics or listing criteria	Pages: 9 FaxBack: 11318

3/24/88	Lowrance	to Mirsky	National Diagnostics	liquid scintillation cocktails Ecoscint A and O are not listed HW; not EP toxic or ignitable, but insufficient data provided to determine applicability of corrosivity and reactivity (see also 3/89 MRQ); generator responsible for making HW determination	Pages: 2 FaxBack: 11336
9/4/91	Lowrance	to Guinyard & Barker	Region IV	vials containing waste radioactive scintillation cocktails using xylene or toluene as reaction medium are F003 and/or F005 if they meet applicable solvent percentage thresholds (see also RPPC 9444.1989(02b)); if they are listed or characteristic, the cocktails must be managed as RCRA HW	Pages: 2 FaxBack: 11639

Solvent Rags

7/3/86	Williams	to Lardieri	Scott Paper Co.	disposable or reusable rags and wipers are HW if they are used to clean up characteristic HW and they exhibit a characteristic or if used to clean up listed waste; such wipers are regulated when destined for disposal or laundering (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions)	Pages: 4 FaxBack: 11165
8/28/86	Williams	to Zellmer	WI DNR	waste identification method outlined in attached state letter is accurate, but EPA is considering petition to exempt solvent-contaminated shop towels and disposable industrial wipers from definition of HW under the mixture rule (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions)	Pages: 3 FaxBack: 11176
9/8/86	Williams	to Cooper	Printing Industries of America	waste identification process for solvent-contaminated rags and shop towels is under review in response to petition (SUPERCEDED: see 2/14/94 letter, Shapiro to Regions); solvent rags from SQGs in the printing industry may be managed under tolling agreement	Pages: 2 FaxBack: 11178
5/20/87	Sales	to Czigler	S & W Waste, Inc.	former EPA methodology for determining whether rags or wipers contaminated with solvents are listed HW (SUPERCEDED: 2/14/94 letter, Shapiro to Regions)	Pages: 10 FaxBack: 11249

7/21/87	Weil	to Charley	New United Motor Manufacturing	rag contaminated with D001 solvent not subject to LDR until Third Third (see also 55 *FR* 22520; 6/1/90 and 2/14/94 letter, Shapiro to Regions)	Pages: 2 FaxBack: 11266
1/23/91	Lowrance	to Miller	NJ DEP	until EPA has resources to respond to petition to exempt solvent-contaminated rags, wipers, and shop towels from mixture rule, EPA believes waste determination should be made by state or Region on a case-by-case basis since they are in best position to make evaluation	Pages: 2 FaxBack: 11576
9/24/91	Lowrance	to Gorton	U.S. Senate	Regions currently determine regulatory status of solvent-contaminated shop towels, rags and wipers; policy allows determinations to be made on case-by-case basis that accounts for site-specific circumstances; authorized states may be broader in scope or more stringent (see also 2/14/94 letter, Shapiro to Regions)	Pages: 2 FaxBack: 11642
9/27/93	Denit	to Marshall	Capitoline International Group, Ltd.	once a rag, wiper, or any SW is drained of all free-flowing UO, generator must determine HW status; whether or not a rag contains listed HW, is mixed with listed HW, exhibits a characteristic, or is not a waste at all, depends on site-specific factors best evaluated by Region or State	Pages: 3 FaxBack: 11777
2/14/94	Shapiro	to Waste Management Division Directors	Regions I-X	whether a solvent-contaminated rag, wiper, or towel contains listed HW, is mixed with listed HW, only exhibits a characteristic, or is not a waste at all depends on site-specific factors best evaluated by Region or state; cannot use laundering of wipers as means to disguise solvent disposal	Pages: 13 FaxBack: 11813
10/27/94	Shapiro	to Mikulski	U.S. Senate	letter reiterates EPA Headquarters deferral on determination of regulatory status of rags and wipers to appropriate Region or State (see also 2/14/94 letter, Shapiro to Regions)	Pages: 1 FaxBack: 11882
1/26/95	Bussard	to Duthler	ICI Composites, Inc.	wiper can only be defined as listed if HW if wiper contains listed HW or is mixed with listed HW; final regulatory determination for wipers should be made by implementing agency	Pages: 2 FaxBack: 11935

Spent Carbon

7/10/85	Skinner	to Suska	Baltimore City Health Dept.	spent activated carbon is usually considered spent material and is therefore subject to regulation if sent for reclamation; carbon is HW if contains listed waste or exhibits characteristics; carbon unlikely to exhibit HW characteristic (see also §261.24)	Pages: 3 FaxBack: 11089
3/3/86	Straus	to Warren	Eden Associates	spent carbon used to treat GW contaminated by spill of product PCP is acute HW F027; under other circumstances, carbon is not regulated (see also §261.24 and §261.31: F032)	Pages: 1 FaxBack: 11135
4/2/86	Williams	to Wassersug	Region III	spent carbon can be regulated if contains listed or characteristic HW; units regenerating HW carbon are exempt recycling units (SUPERCEDED: see 56 *FR* 7134; 2/21/91)	Pages: 6 FaxBack: 11143
5/2/86	Straus	to Harvey	Occupational Medical Services	F listings do not apply to solvents used as ingredients or reactants in a CCP; activated carbon used to collect methylene chloride, Freon 113, and trichloroethylene paint ingredients that volatilized during paint application would only be HW if characteristic	Pages: 2 FaxBack: 11151
7/15/86	Straus	to Harvey	Occupational Medical Services	vapors from degreasing operations using Freon 113, TCE, and methylene chloride are not SW until adsorbed into carbon (vapors are not contained gases); therefore, F002 listing does not apply and spent carbon canister is not HW via mixture rule, although it could be characteristic	Pages: 2 FaxBack: 11166
6/17/87	Straus	to Ng	Region II	methanol volatilizing from pharmaceutical production is not SW; once captured in carbon and condensed, methanol carries F003 listings and renders carbon listed; removal of F003 from carbon is exempt recycling (SUPERCEDED: see 7/15/86 letter, Straus to Harvey)	Pages: 4 FaxBack: 11255

Treated Wood

7/16/85	Straus	to Stinson	R.W. Summers Railroad Contractor, Inc.	creosote-treated cross ties are not likely to exhibit any characteristic of HW (see also §261.24); FIFRA may place controls on handling and disposal	Pages: 2 FaxBack: 11094
9/24/85	Porter	to Talarek	American Wood Preservers Institute	creosote-treated railroad ties are not listed and they are unlikely to exhibit any characteristic (see also §261.24); FIFRA may place controls on handling and disposal	Pages: 2 FaxBack: 11104
2/11/86	Porter	to McKinney	U.S. House of Representatives	creosote-treated wood is not likely to be HW, as it is not listed and is unlikely to exhibit ignitability, corrosivity, reactivity, or EP toxicity (see also §261.24); FIFRA regulations prohibit burning of creosote-treated wood	Pages: 4 FaxBack: 11129
7/3/90	Bussard	to Burkholder	Bowyer Properties	creosote-treated cross ties are SW when intended for discard; cross ties are not covered by any listing; even though cresols and phenolic compounds have been added to TC, commenters suggest creosote-treated cross ties are unlikely to exhibit any characterisitic	Pages: 4 FaxBack: 11535

X - Ray Film

5/20/86	Straus	to Guptill	MO Hospital Association	x-ray film is not specifically listed as HW; even though trade association data suggest it does not exhibit a HW characteristic, each generator is responsible for HW determination	Pages: 2 FaxBack: 11156
5/23/86	Straus	to Neiderkofler	U.S. Veterans Administration	based on trade association data, x-ray film does not appear to be hazardous; nonetheless, each generator is responsible for making this determination	Pages: 1 FaxBack: 11158

Other

1/27/86	Williams	to Esral	Plant-Roberts Chemicals	while dusts and sludges from primary production of steel in an EAF are K061, similar wastes from foundry use of an EAF to produce castings from scrap are only hazardous if they exhibit a characteristic	Pages: 3 FaxBack: 11126
7/2/86	Straus	to Boulware	Vipont Botanical Laboratories	when methylene chloride is used to recover alkaloids from plant matter, solid cake and wastewater from centrifuge separation are not listed wastes, but could be characteristic; however, spent methylene chloride from centrifuge liquid extractor is F-listed waste	Pages: 2 FaxBack: 11164
8/22/86	Straus	to Mandel	Jenner and Block	UO from hydraulic equipment would be HW if it exhibits a characteristic or if the proposed listing of UO (50 *FR* 49164; 11/29/85) is finalized (SUPERCEDED: see 51 *FR* 41900; 11/19/86, 57 *FR* 41566; 9/10/92, and Part 279)	Pages: 1 FaxBack: 11175
9/4/86	Straus	to Cherill	Corning Glass Works	the P010 listing does not apply to reject vanadium pentoxide substrates because the vanadium pentoxide has been used and is not a CCP; the discarded materials would only be hazardous if they exhibit a characteristic	Pages: 2 FaxBack: 11177
12/8/86	Williams	to Rambo	National Pest Control Association, Inc.	ash from the burning of aluminum and/or magnesium phosphide for fumigation would be HW only if it exhibits a characteristic; the P006 listing for discarded CCP aluminum phosphide would not apply since the product has been used	Pages: 1 FaxBack: 11202
1/6/87	Straus	to Duffiey	National Association of Photographic Manufacturers, Inc.	properly washed photographic silver recovery units (including steel wool cartridges, electrolytic recovery cells and ion exchange resins) might not be characteristic; if characteristic, they may be eligible for reduced recycling rules as characteristic sludges (not SW) or under Part 266, Subpart F	Pages: 12 FaxBack: 11210

1/27/87	Straus	to Drozdowski	Moog Inc.	spent coolant containing 1,1,1,-trichloroethane (111-TCE) as ingredient is not listed, provided not comingled with 111-TCE used in degreasing (F001); coolant is only HW if it exhibits characteristic; future changes to the TC might address TCE (see also 55 *FR* 11798; 3/29/90)	Pages: 2 FaxBack: 11212
3/6/87	Straus	to Skoufis	Anscott Chemical Industries, Inc.	perchloroethylene (PCE) condensed and recovered during normal fabric drying in drycleaning machine is solvent-containing process waste, not F-listed HW; such waste is hazardous only if characteristic	Pages: 3 FaxBack: 11224
3/6/87	Williams	to Sanderson	Region VII	no automotive fluids are listed as HW; commenters suggest brake and automatic transmission fluids may be ignitable; used crankcase oil may be HW due to ignitability or lead; windshield washer fluid and antifreeze unlikely to be characteristic (see also §261.24)	Pages: 3 FaxBack: 11225
4/8/87	Straus	to Seiler	WA Dept. of Ecology	soil contaminated with certain spilled unused pesticides (2,4,5-T; Simazine; 2,4-D; Dicambia; and Bromacil) is regulated as acute HW when excavated because it contains F027; if soil contamination is result of pesticide usage, excavated soil is regulated only if it exhibits characteristic	Pages: 2 FaxBack: 11233
3/22/88	Lowrance	to Simpson	Associated Technologies, Inc.	when used as a commodity, such as for road paving, asphalt is not regulated by RCRA Subtitle C because it is not a SW; when discarded in a trench, it is a SW and potentially HW; nonetheless, asphalt alone is unlikely to exhibit a characteristic	Pages: 2 FaxBack: 11335
3/10/89	Barnes	to Cothern	U.S. Air Force	beryllium dust and associated wastes from grinding and polishing beryllium that is collected in air filtration equipment would generally not match listing description for CCP beryllium powder (P015); waste could be characteristic	Pages: 3 FaxBack: 11403
8/4/89	Cannon	to Everist	Cohen, Dippell, and Everist, P.C.	depleted mixture of ethylene glycol and water used as a coolant is a SW when disposed, but would only be HW if it exhibits a characteristic since no listings apply; generators must test their wastes or apply knowledge; no federal regulation for generators of nonhazardous wastes	Pages: 2 FaxBack: 11454

8/11/89	Lowrance	to Constantelos	Region V	sediments contaminated as result of legal CWA discharges to surface waters are only subject to RCRA Subtitle C regulation if they exhibit characteristics and if they are excavated (see also 1/23/86 letter, Williams to Stringham)	Pages: 1 FaxBack: 11455
8/17/89	Petruska	to Micucci	Bellevue Medical Building	dental amalgam is not specifically listed; American Dental Association (ADA) research suggests amalgam is not EP toxic, but the burden of determination is ultimately the generator's; ADA data could be basis of determination by knowledge; CERCLA §107 liability unrelated	Pages: 2 FaxBack: 11457
9/28/89	Barnes	to Simon	EPA HQ	RCRA codes and regulations applicable to wastes do not necessarily correspond to designations under DOT regulations; wastes are defined as hazardous under RCRA based on characteristics, such as ignitability and corrosivity	Pages: 3 FaxBack: 11471
11/17/89	Barnes	to Simon	EPA HQ	certain nitric acid wastes are both oxidizers and corrosive; while federal regulations do not require waste codes on the manifest, the waste is both D001 and D002 and must be managed in compliance with all special requirements for ignitable (e.g., §264.17) and corrosive wastes	Pages: 1 FaxBack: 11480
8/13/90	Lowrance	to Citizen		UO that exhibits the characteristic of toxicity must not be used as a dust suppressant (see also Part 279)	Pages: 1 FaxBack: 11549
8/24/90	Bussard	to Randall	Hi-Tech Industries, Inc.	waste antifreeze coolant (ethylene glycol) is not listed HW, but it is SW if intended for discard and generator must determine if it is characteristic, either by testing or applying knowledge; anecdotal evidence indicates that used antifreeze may be TC for lead, as determined using EP	Pages: 2 FaxBack: 11554
9/26/91	Lowrance	to Schaeffer	American Trucking Associations	no TC determination necessary for oil filters destined for scrap metal recycling (see also §261.4(b)(13)); nonetheless, oil filters that have been drained and crushed are unlikely to exhibit TC	Pages: 2 FaxBack: 11643

11/17/92	Lowrance	to Campt	EPA HQ	wool blankets treated with DDT are not SW until discarded; if SW, the DDT-treated blankets are unlikely to exhibit any characteristic of HW, and would not meet any of the listing descriptions in Part 261, Subpart D; a discarded product contaminated with a chemical is not a discarded CCP	Pages: 2 FaxBack: 11711

261.21 Ignitable Wastes

6/18/81	Richardson	to Nelson	EL Paso Products Co.	EPA recommends use of Pensky-Martens or Setaflash Closed Cup Testers to determine flash point of potentially ignitable SW; Tag Closed Cup Tester not suitable alternative for wastes which are very viscous, that skin over, or that tend to stratify or contain suspended solids	Pages: 1 FaxBack: 11015
2/26/85	Skinner	to Walter	NY DEC	alcohol exclusion created to cover beverages, but is broader as alcohol is defined by functional hydroxyl group [-OH]; use PFT to extract free liquid (see also 59 *FR* 46052; 8/31/93 and 60 *FR* 3089; 1/13/95); use standard lab techniques to identify aqueous solutions (50% water by weight)	Pages: 5 FaxBack: 11060
9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	ignitable discarded paint which contains xylene is D001 because xylene is neither spent xylene (F003), nor discarded unused CCP (U239); mixture of waste listed solely for characteristic with SW is no longer HW if mixture is not characteristic (see also LDR dilution rules)	Pages: 2 FaxBack: 11180
2/19/87	Straus	to Hemker	Q Source Engineering, Inc.	discarded paints, inks, adhesives, and glues are not listed wastes; they are hazardous only if they exhibit characteristics such as ignitability (D001); products that contain solvent ingredients or to which solvents have been added will not meet a solvent listing upon discard	Pages: 4 FaxBack: 11220
7/21/87	Weil	to Charley	New United Motor Manufacturing	discarded, used paint thinner that consisted of 80% xylene, 9% toluene, and 11% glycol ethers prior to use is D001 but not spent solvent F003 or F005, because it contained neither 100% F003 nor at least 10% F001, F002, F004, and F005 before use	Pages: 2 FaxBack: 11266

10/26/87	Williams	to Senna	International Flavors and Fragrances, Inc.	oil and trace solvents that remain in reactor vessel following washing with acetone, ethyl acetate, and xylene do not meet spent solvent definition; subsequent soap and water washout is process wastewater containing solvent constituents that can be D001, but is not F003	Pages: 2 FaxBack: 11300
9/9/88	Lowrance	to Muno	EPA HQ	waste need not be evaluated for flash point if it is not a liquid at standard temperature (20°C/68°F) and pressure (1 atmosphere)	Pages: 1 FaxBack: 11369
11/17/89	Barnes	to Simon	EPA HQ	nitric acid waste that is both an oxidizer (ignitable) and corrosive; while federal regulations do not require waste codes on the manifest, the waste is both D001 and D002 and must be managed in compliance with all special requirements for ignitable (e.g., §264.17) and corrosive wastes	Pages: 1 FaxBack: 11480
2/14/90	Lowrance	to Feulner	CIBA - GEIGY Corp.	while cancelled, unused pesticide chlordimeform is not listed in §261.33 as HW, it may exhibit the characteristic of ignitability (due to high xylene content); not subject to regulation if returned to manufacturer for resale or reclamation, but party making claim bears burden of proof per §261.2(f)	Pages: 3 FaxBack: 11492
3/27/91	Bussard	to Goldberg	Beveridge and Diamond, P.C.	using one of the two test methods approved for determining igitability is sufficient; choice of method will depend on nature of waste to be tested (e.g., one method might be more approriate given viscosity of waste)	Pages: 1 FaxBack: 11594
6/21/91	Lowrance	to Constantelos	Safety-Kleen	absorbent and waste mixture containing free liquid phase with flash point <140°F is D001; sorbent and waste mixture with no free liquid is D001 only if it qualifies as an ignitable solid; DOT hazard classes do not correspond directly to RCRA characteristics	Pages: 3 FaxBack: 11619
7/12/91	Lowrance	to Citizen		spent potassium permanganate and managenese from the garment industry are unlikely to be D001 oxidizers	Pages: 2 FaxBack: 11628

9/11/91	Hansen	to Pfeifer	Metro Wastewater Reclamation District	possible use of ASTM method D-56 to test flash point of potentially ignitable liquid as an alternative to the two methods specified in §261.21	Pages: 2 FaxBack: 11640
10/20/93	Weddle	to Bowman	Environmental Dynamics	absence of free liquids precludes applicability of §261.21(a)(1) ignitability characteristic; proposed rule change (58 *FR* 46052; 8/31/93) suggests using pressure filtration step from TCLP (method 1311) as definitive demonstaration for absence of free liquids for D001 and D002	Pages: 8 FaxBack: 11787
1/3/94	Brandes	to Siegel	ENV Services Inc.	metal casting containing spent powdered metallic oxide catalyst (i.e., manganese dioxide and copper oxide) is not listed waste, but could exhibit characteristic, most likely ignitability, or reactivity; manganese dioxide is a strong oxidizer and poses a human health hazard through inhalation	Pages: 2 FaxBack: 11805
7/15/94	Brandes	to Tease	Hubbard-Hall, Inc.	discarded chemical polishing bath that contains inorganic oxidizer hydrogen peroxide may be ignitable because it is capable of severely exacerbating a fire by yielding oxygen to stimulate combustion	Pages: 2 FaxBack: 11854
1/26/95	Bussard	to Duthler	ICI Composites, Inc.	no test method has been promulgated for spontaneous combustion; generator is responsible for comparing properties of his waste with narrative definition; PFT is current test to determine whether material contains a liquid for the characteristic of ignitability	Pages: 2 FaxBack: 11935

261.22 Corrosive Wastes

8/18/87	Straus	to Rookstool	Mineral By-Products, Inc.	corrosivity characteristic applies only to aqueous and liquid wastes; no definition of corrosive solid	Pages: 2 FaxBack: 11278

9/15/87	Scarberry	to Gock	Printing Developments, Inc.	for purposes of corrosivity characteristic, a waste is aqueous it it has a liquid phase containing more than 50% water (SUPERCEDED: see 1/7/93 letter, Bussard to Parsons and 4/23/93 letter, Bussard to Franzmathes)	Pages: 6 FaxBack: 11292
5/2/88	Barnes	to Boulden	Ladish Co, Inc.	nonlisted spent pickle liquor is corrosive if it corrodes 1020 steel at a rate of $\geq$ .25 inches/year; nonlisted sludge from pickling tank is D002 if pH of the sludge is $\leq$ 2	Pages: 4 FaxBack: 11346
7/21/88	Lowrance	to Turner	Racon Refrigerants	used CFC refrigerants could exhibit characteristic of corrosivity (D002) if HCl is present due to breakdown of CFCs from high refrigerator compressor temperatures (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355
7/29/88	Barnes	to Colon	Western Fher Laboratories, Inc.	dry solid generated by adding exempt CKD to a liquid, corrosive HW is a nonhazardous waste so long as the resultant solid does not exhibit any characteristics (see also §261.3(d)(1))	Pages: 2 FaxBack: 11358
2/22/89	Cochran	to O'Day	Packard Instrument Co.	material safety data sheet for solvent product "Ultima-Gold" indicates potential to be corrosive and reactive (capable of detonation if exposed to strong intiating source or heated under confinement); solvent product "Ultima-Gold" does not exhibit ignitability or EP toxicity	Pages: 3 FaxBack: 11398
8/2/89	Petruska	to Allen	CA Dept. of Health Services	used CFC refigerant is not F001, F002, U075 or U121; refrigerant is unlikely to exhibit characteristics other than corrosivity (see also §261.4(a)(12))	Pages: 5 FaxBack: 11451
11/17/89	Barnes	to Simon	EPA HQ	while Federal regulations do not require waste codes on the manifest, nitric acid waste that is both ignitable (i.e., an oxidizer) and corrosive must be managed in compliance with all special requirements for D001 (e.g., §264.17) and D002 wastes	Pages: 1 FaxBack: 11480

1/7/93	Bussard	to Parsons	WI DNR	nonaqueous liquids need only be tested using the steel corrosion test, whereas aqueous nonliquids (e.g., gels) need only be evaluated for pH; aqueous liquids are subject to pH measurement and steel corrosion test; aqueous waste is one that is amenable to pH measurement	Pages: 1 FaxBack: 11719
4/23/93	Bussard	to Franzmathes	EPA Region	aqueous means amenable to pH measurement; corrosivity characteristic references Method 9040; scope and application of 9040 notes that it applies only to aqueous wastes and those wastes where the aqueous phase constitutes at least 20% of the total volume of the waste	Pages: 1 FaxBack: 11738
10/20/93	Weddle	to Bowman	Environmental Dynamics	absence of free liquids precludes applicability of §261.21(a)(1) ignitability characteristic; proposed rule change (58 *FR* 46052; 8/31/93) suggests using pressure filtration step from TCLP (method 1311) as definitive demonstration for absence of free liquids for D001 and D002	Pages: 8 FaxBack: 11787
7/8/94	Bussard	to Morishita	Environmental Agency (Japan)	waste bubblers containing phosphorous oxychloride, which reacts violently with water, is highly corrosive, and can cause skin burns; may exhibit the characteristics of corrosivity and reactivity	Pages: 2 FaxBack: 11847

261.23 Reactive Wastes

3/7/84	Thomas	to Bruner	U.S. Defense Logistics Agency	lithium-sulfur dioxide batteries clearly exhibit the characteristic of reactivity because of their potential to generate toxic gas; insufficient information to make blanket determination for all lithium batteries	Pages: 5 FaxBack: 11033
7/12/85	Claussen	to Regions	Regions I-X	EPA provides interim thresholds of 250 mg HCN/Kg and 500 mg H_2S/Kg respectively f r SW that merit designation as reactive HW per §261.23(a)(5) for their potential to release toxic cyanide sulfide gases	Pages: 21 FaxBack: 11091

3/18/87	Williams	to Berger	Electronics Technology and Devices Laboratory	based on supplied data, EPA agrees that Li/SO2 (lithium-sulfur dioxide) batteries no longer exhibit the characteristic of reactivity when fully discharged to zero volts; each generator is responsible for HW determination	Pages: 32 FaxBack: 11229
8/12/87	Straus	to Friedman	Region III	lithium sulfur dioxide batteries tend to exhibit reactivity characteristic	Pages: 1 FaxBack: 11274
11/30/87	Porter	to McGuire	U.S. Dept. of Treasury	detonation of seized explosives in lieu of disposal constitutes discard, so they must be managed as SW; if the explosives exhibit the characteristic of reactivity, Subtitle C regulations apply to these BATF activities	Pages: 2 FaxBack: 11305
12/7/87	Williams	to Kertcher	Region V	narrative definition for reactive sulfide waste; interim guidance that wastes releasing more than 500 mg H_2S/Kg of waste should be considered hazardous for reactivity characteristic	Pages: 4 FaxBack: 11307
2/22/89	Cochran	to O'Day	Packard Instrument Co.	material safety data sheet for solvent product "Ultima-Gold" indicates potential to be reactive (capable of detonation if exposed to strong intiating source or heated under confinement) and corrosive; Ultima-Gold does not exhibit characteristics of ignitability or EP toxicity	Pages: 3 FaxBack: 11398
1/4/93	Shapiro	to Campbell	Katec Inc.	no categorical determination of reactivity possible for all aerosol cans; HW determination is responsibility of generator	Pages: 1 FaxBack: 11718
3/3/93	Lowrance	to Schiller	TX Water Commission	EPA has test procedures to determine reactivity of wastes that release hydrogen cyanide or hydrogen sulfide gas when mixed with weak acid; no EPA test for waste that releases hydrogen gas when mixed with water; many reactive properties, such as water reactivity, are difficult to quantify	Pages: 4 FaxBack: 11729

9/14/93	Petruska	to Lupton	U.S. Marine Corps	3/18/87 letter, Williams to Berger regarding potential reactivity of LiSO2 (lithium-sulfur dioxide) batteries is still in effect	Pages: 1 FaxBack: 11768
12/22/93	Petruska	to Gorta	New South Wales Environment Protection Authority	lithium-sulfur dioxide batteries fully discharged to zero volts do not exhibit the characteristic of reactivity; other lithium batteries may be characteristic HW for constituents like lead, cadmium, & mercury, or properties like corrosivity	Pages: 4 FaxBack: 11801
1/3/94	Brandes	to Siegel	ENV Services, Inc.	metal casting containing spent powdered metallic oxide catalyst (i.e., manganese dioxide and copper oxide) is not listed waste, but could exhibit characteristic, most likely ignitability, or reactivity	Pages: 2 FaxBack: 11805
1/26/94	Shapiro	to Lain	U.S. Navy	aluminum chaff roving bundles could exhibit reactivity characteristic (§261.23(b)) for propensity to release flammable hydrogen gas when exposed to moisture; Part 268 LDR treatment standard for these wastes is deactivation, best achieved by washing with acidic solution	Pages: 2 FaxBack: 11810
7/8/94	Bussard	to Morishita	Environmental Agency (Japan)	waste bubblers containing phosphorous oxychloride, which reacts violently with water, is highly corrosive, and can cause skin burns, may exhibit the characteristics of corrosivity and reactivity	Pages: 2 FaxBack: 11847

261.24

Toxicity Characteristic / Extraction Procedure Wastes

5/29/81	Lindsey	to Herr	General Motors Corp.	denial of petition to block applicability of EP to drying bed solids since these wastes could leach hazardous levels of cadmium and lead to GW if mismanaged	Pages: 2 FaxBack: 11014

2/4/86	Straus	to Duffiey	National Association of Photographic Manufacturers, Inc.	photographic film and paper are not specifically listed as HW and are only hazardous if characteristic; data from representative samples suggest they usually do not exhibit TC, as determined using EP; each generator must make HW determination	Pages: 2 FaxBack: 11127
5/20/86	Straus	to Guptill	MO Hospital Association	x-ray film is not specifically listed as HW; although though trade association data suggest it does not exhibit a HW characteristic, each generator is responsible for making a HW determination	Pages: 2 FaxBack: 11156
10/30/86	Straus	to Frazier	Ozark Circuits, Inc.	although printed circuit boards are not specifically listed, they commonly exhibit the characteristic of EP toxicity for lead that leaches from the solder	Pages: 2 FaxBack: 11189
2/9/87	Williams	to Dietrich	ICF Technology	lab equipment, clothing, pipes, valves, pumps, tank insulation, bags, and filters contaminated during 2,4-D production are not F-listed wastes but should be evaluated for TC (D016 characteristic in particular)	Pages: 15 FaxBack: 11219
3/6/87	Williams	to Sanderson	Region VII	no automotive fluids are listed as HW; commenters suggest brake and automatic transmission fluids may be ignitable; used crankcase oil may be HW due to ignitability or lead; windshield washer fluid and antifreeze unlikely to be characteristic (see also §261.24)	Pages: 3 FaxBack: 11225
8/13/87	Williams	to Lueck	Exhaust and Filtration Systems	vehicle filters contaminated with pesticides from ambient air near application area are only HW if they exhibit a characteristic; filter does not contain waste pesticide	Pages: 3 FaxBack: 11277
11/21/88	Kidwell	to LaShier	EPA HQ	fluff residual from automobile shredding may commonly exhibit EP toxicity for lead; other metals of concern include cadmium and chromium; PCB contamination may subject the fluff to additional regulation under TSCA	Pages: 2 FaxBack: 11382

4/20/89	Lowrance	to Schupak	American Standard, Inc.	regulatory levels for EP toxicity depend on both MCLs and a fate and transport factor; therefore, a change to the MCL for barium would not automatically merit change to EP regulatory level	Pages: 1 FaxBack: 11423
5/12/89	Scarbrough	to Tiesler	TN Dept. of Health and Environment	proper procedure for testing blast slag at secondary lead smelter according to EP toxicity test; reconciliation of particle reduction step with structural integrity requirement	Pages: 2 FaxBack: 11430
6/30/89	Cannon	to McBeath	American Public Health Association	dental amalgam is not specifically listed, so generator is responsible for determining applicability of HW characteristics; silver and mercury are of particular concern	Pages: 4 FaxBack: 11438
8/17/89	Petruska	to Micucci	Bellevue Medical Building	American Dental Association research suggests amalgam is not EP toxic, but burden of determination is ultimately generator's; still, ADA data could be basis of determination by knowledge and dental amalgam is not specifically listed; CERCLA §107 liability is not dependent on RCRA status	Pages: 2 FaxBack: 11457
4/20/90	Anders	to Denny	EPA HQ	EPA "is quite sure" that mercury-containing latex paint will usually exhibit the TC when properly tested; statement that paint will not exhibit the characteristic for mercury unless the level exceeds 540 parts per million is incorrect	Pages: 2 FaxBack: 11508
6/25/90	Lowrance	to Bergeson	Weinberg, Bergeson, and Neuman	TC effective date was 9/25/90; EPA promulgated different TC compliance dates for LQG (9/25/90) and SQG (3/29/91)	Pages: 2 FaxBack: 11531
7/3/90	Bussard	to Burkholder	Bowyer Properties	creosote-treated cross ties are SW when intended for discard; cross ties are not covered by any listing; even though cresols and phenolic compounds have been added to TC, commenters suggest creosote-treated cross ties are unlikely to exhibit any characterisitic	Pages: 4 FaxBack: 11535

7/11/90	Lowrance	to Hill	USPCI	facilities newly subject to regulation by promulgation of TC rule are not subject to 11/8/92 LOIS deadline; impact of state authorization on interim status eligibility	Pages: 3 FaxBack: 11537
7/19/90	Lowrance	to Lugar	U.S. Senate	utility poles may exhibit TC for organic constituents and trigger HW regulation	Pages: 2 FaxBack: 11543
8/14/90	McBride	to Leonard	National Environmental Testing, Inc.	use of the TCLP to evaluate SW prior to the effective date of the TC rule is valid; use of matrix spike recovery; difficult to use TCLP on oily or solvent matrices; in absence of useable data, safest to assume material is HW (see also 3/25/91 letter, McBride to Leonard)	Pages: 3 FaxBack: 11550
9/20/90	Lowrance	to Huber	Petroleum Marketers Association of America	EPA does not determine whether a particular waste exhibits a characteristic; HW determination is the responsibility of the generator; SQGs newly subject to regulation by virtue of the TC rule had until 11/2/90 to notify the appropriate Region	Pages: 2 FaxBack: 11563
10/30/90	Lowrance	to Duprey	Region VIII	performing TCLP on UO filters involves crushing, cutting, or grinding filter and its contents until pieces are smaller than one centimeter in their narrowest dimension; characteristic used oil filter destined for disposal subject to HW regulation (SUPERCEDED: see §261.4(b)(13))	Pages: 3 FaxBack: 11566
11/8/90	Hansen	to Coleman	OH EPA	TCLP inappropriate for use with certain matrices, such as oils and neat solvents, because dilution step shifts detection limit above regulatory levels; in these cases, generator must assume waste is hazardous (see also 3/25/91 letter, McBride to Leonard); TCLP must be used to obtain extract	Pages: 2 FaxBack: 11568
11/9/90	Lowrance	to Bevington	Fulton County Dept. of Solid Waste	deferral from regulation of petroleum contaminated media and debris does not apply to wastes exhibiting D001-D017; unecessary to run TCLP to determine if wastes exhibit characteristic for D018-D043 provided the wastes are generated as part of Part 280 UST CA	Pages: 4 FaxBack: 11569

1/8/91	Bussard	to Johnson	MN Dept. of Transportation	after effective date of TC rule, the TCLP must be used instead of the EP for waste determination based on testing for toxicity; Part 268 regulations continue to allow the use of either the EP or the TCLP to demonstrate compliance with treatment standards for certain lead & arsenic wastes	Pages: 2 FaxBack: 11575
2/5/91	Hansen	to Coleman	OH EPA	clarification of 11/8/90 letter, Hansen to Coleman; generator may always apply knowledge in determining if waste is HW; if no information is available except inconclusive TCLP data, prudent for generator to assume waste is hazardous; no need to perform TCLP on UO destined for recycling	Pages: 5 FaxBack: 11579
3/8/91	Lowrance	to Leopold	Region VI	TC sludges generated in surface impoundments receiving nonhazardous influent are SW and HW; regulations apply not only when surface impoundment is cleaned or closed, but as soon as sludge is generated (sludges are generated at moment of deposition at bottom of unit)	Pages: 6 FaxBack: 11588
3/25/91	McBride	to Leonard	National Environmental Testing, Inc.	TCLP difficult to use on wastes such as oils and neat solvents, because dilution step shifts detection limit above TC levels; generator should apply knowledge in such cases; if no information is available, prudent to handle as HW (see also 8/14/90 letter, McBride to Leonard)	Pages: 5 FaxBack: 11592
4/16/91	Lowrance	to Oberg	United Marketing International, Inc.	in spite of TC rule, generators may still apply their knowledge to make HW determination; they must, however, be correct in their determination; UO filters are subject to HW determination (see also §261.4(b)(13))	Pages: 2 FaxBack: 11599
5/21/91	Lowrance	to Commanding Officer	U.S. Navy	mandatory HW determination should be based on knowledge when application of TCLP to discarded munitions would result in inherently unsafe situation due to particle reduction step; exemption from TCLP is unwarranted because generators can apply their knowledge	Pages: 2 FaxBack: 11608
6/21/91	Bussard	to Randall	Hi-Tech Industries, Inc.	use of TCLP to determine if spent anti-freeze exhibits characteristic for lead; EP and TCLP are functionally equivalent for liquid wastes, since both lead to direct analysis of the liquid; EP toxic wastes are a subset of all HW; generators may apply their knowledge instead of testing	Pages: 5 FaxBack: 11620

7/3/91	Bussard	to Lund	C/P Utility Services Co.	generators conducting LBP abatement must test wastes using TCLP unless they have enough information to determine if waste is hazardous; addition of iron shot abrasive to temporarily mask lead characteristic is not legitimate	Pages: 4 FaxBack: 11624
7/9/91	Bussard	to Campbell	American Petroleum Institute	EPA sampling and analysis plan for UO HW determination; 7 types of used oils were analyzed; results do not reflect regional variations as all samples, where possible, were taken from Washington, D.C. area; role of TCLP and other methods in determination	Pages: 25 FaxBack: 11627
7/31/91	Lowrance	to Wallace	Region VIII	pulp and paper mill wastes should be sampled at outlet from bleach plant (point of generation), prior to commingling (mixing) with other wastestreams, to determine whether they exhibit the TC for chloroform, D022	Pages: 7 FaxBack: 11631
8/5/91	Cochran	to Lui	Hong Kong Environmental Protection Dept.	certain heavy metals (e.g. vanadium, copper, zinc, nickel, tin, antimony) are not regulated constituents under the TCLP because they have not yet been assigned MCLs and EPA's fate and transport models do not account well for metals	Pages: 2 FaxBack: 11633
9/26/91	Lowrance	to Schaeffer	American Trucking Associations	no TC determination necessary for oil filters destined for scrap metal recycling (see also (§261.4(b)(13)); nonetheless, oil filters that have been drained and crushed are unlikely to exhibit TC	Pages: 2 FaxBack: 11643
10/29/91	Hansen	to Miller	Betz Analytical Services	suggested analytical steps when inconclusive results are obtained from application of TCLP to solvent and oily wastes; generators may always apply their knowledge; TCLP unecessary for used oil destined for recycling	Pages: 2 FaxBack: 11649
11/12/91	Bussard	to Eastman	VT Agency of Natural Resource	until EPA develops special management standards for recycling HW batteries, generators must still determine whether used nickel-cadmium batteries exhibit the TC (see also Part 273)	Pages: 2 FaxBack: 11653

9/16/92	Lowrance	to Guimond	EPA HQ	revising the TC levels for lead based on GW modeling, rather than EP levels, would result in most LBP abatement wastes no longer testing hazardous; revision of the TC level for lead may occur as part of HWIR	Pages: 3 FaxBack: 11697
11/25/92	Lowrance	to Chirumbolo	Arizona Filter Recyclers	TC rule is federally enforceable in every state until it is adopted by the state and EPA approves authorization	Pages: 2 FaxBack: 11712
1/12/93	Hansen	to Internal Memo	EPA HQ	method and formula for using totals analysis to determine maximum theoretical concentration of contaminants that could leach from waste when using TCLP (see also 1/94 MRQ)	Pages: 21 FaxBack: 11721
4/19/93	Lowrance	to Hansen	OR DEQ	fluorescent bulbs may be conditionally exempt in future; spent antifreeze may be TC for lead and/or benzene; EPA evaluating TC levels for lead and PCP; new MCLs could affect future TC levels; sandblast grit from removal of LBP may be D008	Pages: 4 FaxBack: 11736
7/14/93	Bussard	to Melone	EPA HQ	TC is designed to identify wastes which may pose a risk to human health and environment under reasonable worst-case mismanagement scenario; some spent batteries would fail TC for lead, cadmium, and mercury; batteries may be eligible for universal waste regulations (see also Part 273)	Pages: 2 FaxBack: 11756
12/22/93	Petruska	to Gorta	New South Wales Environment Protection Authority	lead-acid, nickel-cadmium rechargable, mercuric oxide, and alkaline batteries may exhibit TC or another characteristic; lithium-sulphur dioxide batteries are not reactive if fully discharged to zero volts	Pages: 4 FaxBack: 11801
1/3/94	Brandes	to Siegel	ENV Services, Inc.	metal casting containing spent powdered metallic oxide catalyst (e.g., manganese dioxide and copper oxide) is not listed waste, but could exhibit characteristic, most likely ignitability or reactivity; manganese dioxide is a strong oxidizer and poses a human health hazard through inhalation	Pages: 2 FaxBack: 11805

1/21/94	Shapiro	to Wright	Woodbury Nissan, Inc.	spent antifreeze is a HW only if it exhibits a characteristic	Pages: 2 FaxBack: 11809

SUBPART D LISTED WASTES

General

7/17/85	Skinner	to Scarbrough	Region IV	since any pollution abatement technique such as land treatment, disposal, or storage of a wastewater will invariably form a sludge, F- and K-listed sludges can be formed in situations where wastewaters are stored or disposed (i.e., not treated)	Pages: 1 FaxBack: 11095
3/20/86	Jenkins	to Straus	EPA HQ	contaminant concentrations are not relevant to determining whether a waste is F006, K001, or another listed HW; if waste matches listing description but does not merit RCRA Subtitle C regulation, delisting or rulemaking is necessary to deregulate waste	Pages: 9 FaxBack: 11139
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	K listings apply only to wastes from the industrial sources specified in the listing descriptions; in general, primary SIC code for a facility does not dictate whether facility is within K list industrial category	Pages: 4 FaxBack: 11521
8/20/90	Josephson	to Butlin	John A. Butlin Limited	presence of xylene and pesticide constituents in manufacturing process waste does not necessarily trigger HW listings	Pages: 1 FaxBack: 11553

261.31

F-listed Wastes

F001, F002, F003, F004, F005: General

2/22/88	Denit	to Bobel	Region IX	presence of F001-F005 listed solvent as constituent in wastestream does not automatically render waste listed and subject to Part 268 LDR requirments; only if waste matches F001-F005 listing descriptions is it F-listed and regulated under Part 268 LDR	Pages: 6 FaxBack: 11327
10/6/89	Lowrance	to Threlfall	Chemviron	wastewater treatment sludges containing small quantities of methanol are not necessarily listed or characteristic HW; even if such waste is not hazardous under Federal rules, more stringent or broader-in-scope state regulations can trigger regulation	Pages: 2 FaxBack: 11474
4/19/93	Lowrance	to Hansen	OR DEQ	EPA does not believe F001-F005 solvents should be included as universal wastes, because viable solvent reclamation programs are already operating within RCRA Subtitle C system; EPA currently studying other solvent wastes to determine if they merit listing	Pages: 4 FaxBack: 11736

F001, F002, F003, F004, F005: Solvent Carryover

7/2/86	Straus	to Boulware	Vipont Botanical Laboratories	when methylene chloride is used to recover alkaloids from plant matter, solid cake and wastewater from centrifuge separation are not listed wastes, but could be characteristic; however, spent methylene chloride from centrifuge liquid extractor is F-listed waste	Pages: 2 FaxBack: 11164
11/7/86	Williams	to Winslow	Sandoz Crop Protection Corp.	F listings and mixture rule generally do not apply to solvent-containing process wastewaters, which typically become contaminated with solvents before those solvents are spent and meet listing; mixtures of F001-F005 HW and wastewaters are typically listed via mixture rule	Pages: 6 FaxBack: 11193
3/6/87	Straus	to Skoufis	Anscott Chemical Industries, Inc.	perchloroethylene (PCE) condensed and recovered during normal fabric drying in drycleaning machine is solvent-containing process waste, not F-listed HW; PCE condensate from distillation or steam stripping of spent filter cartridges is HW since it is derived from F002 drycleaning HW	Pages: 3 FaxBack: 11224

8/25/87	Straus	to Harer	CHEM-CLEAR	if metal parts are cleaned using solvent containing over 10% trichloroethylene (TCE) and then rinsed with caustic solution, traces of TCE remaining on part and carried over into rinse are not F-listed; caustic rinse is therefore not listed via mixture rule, but could be characteristic	Pages: 2 FaxBack: 11283
9/1/87	Williams	to Kertcher	Region V	using toluene as diluent (as carrier solubilizing feedstocks or reactant ingredients in a process) is solvent use and can trigger F001-F005 listings; excess toluene recovered from Chevron's process was diluent and is F005 waste (SUPERCEDED: see 2/11/88 letter, Williams to Kertcher)	Pages: 22 FaxBack: 11285
10/26/87	Williams	to Senna	International Flavors and Fragrances, Inc.	oil and trace solvents that remain in reactor vessel following washing with acetone, ethyl acetate, and xylene do not meet spent solvent definition; subsequent soap and water washout is process wastewater containing solvent constituents and is not F003 via mixture rule	Pages: 2 FaxBack: 11300
12/16/87	Williams	to Pace	Hogan and Hartson	toluene used as carrier in manufacturing is used as solvent and F-listed after it is spent and separated from product; however, when iron filter cake containing trace toluene levels is separated from product, solvent on cake is not F-listed and does not render cake listed via mixture rule	Pages: 7 FaxBack: 11311
12/6/88	Barnes	to Moretta	Region V	F001-F005 solvents used as carriers, extractants, etc. are listed HW when separated from process in which they were used; but other wastestreams (extracted wastewaters, etc.) that picked up trace solvents during process are not F001-F005 or listed via mixture rule once separated from process	Pages: 2 FaxBack: 11384
6/28/89	Barnes	to Wilson	EPA HQ	when listed solvent is used to extract aqueous liquid from liquid product stream, solvent is listed when spent and removed from process; extracted aqueous wastestream which picked up trace amounts of solvent during extraction step is not F001-F005 or listed via mixture rule	Pages: 9 FaxBack: 11437
7/10/89	Barnes	to Belden	USPCI	if metal part is degreased in F001-F005 solvent and then ground with sand, resulting metal and sand waste containing traces of solvent is not F001-F005 or listed via mixture rule; metal and sand waste considered process waste contaminated with solvent that was not "spent"	Pages: 1 FaxBack: 11440

7/21/89	Barnes	to Schiffman	NJ DEP	when toluene is used as solvent in production process and toluene is recovered, trace quatities of toluene found in facility's washwaters would not normally be F-listed spent solvent and would not render all facility wastewaters and WW sludges hazardous via mixture rule	Pages: 4 FaxBack: 11447
8/30/91	Lowrance	to Duprey	Region VIII	solvent carryover; when metal part is cleaned using F-listed solvent, then is air dried and blasted, blasting grit containing trace levels of solvent is not F001-F005 or listed via mixture rule; if solvent was used in excessive amounts during initial cleaning, solvent in grit could be F-listed	Pages: 12 FaxBack: 11638
10/20/92	Bussard	to Boyle	Region V	F001-F005 solvents used as carriers, extractants, etc. are listed HW when separated from process in which they were used; but other wastestreams (extracted wastewaters, etc.) that picked up trace solvents during process are not F001-F005 or listed via mixture rule once separated from process	Pages: 2 FaxBack: 11703
6/1/94	Shapiro	to Hiley	Goodwin, Proctor, and Hoar	although in past EPA has stated that "process wastes" contaminated with F-listed solvents are often not listed, states and Regions usually make such determinations; EPA has no numerical levels for solvent contamination which render "process wastes" listed	Pages: 2 FaxBack: 11839

F001, F002, F003, F004, F005 Solvent Ingredients In Paint Not Listed

5/2/86	Straus	to Harvey	Occupational Medical Services	F-listings do not apply to solvents used as ingredients or reactants in a CCP; activated carbon used to collect methylene chloride, Freon 113, and trichloroethylene paint ingredients that volatilized during paint application would only be HW if characteristic	Pages: 2 FaxBack: 11151
9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	ignitable discarded paint which contains xylene is D001 because the xylene is neither spent xylene (F003) nor a discarded, unused CCP (U239); F005 waste code, not F002, applies to spent toluene	Pages: 2 FaxBack: 11180

11/7/86	Straus	to Fixter	S & W Waste Inc.	solvent waste from painting operation is not F-listed if solvent served as ingredient in the paint formulation; solvent used to strip paint can be F-listed HW because it was used as solvent (i.e. to dissolve or solubilize paint constituents)	Pages: 2 FaxBack: 11194
2/19/87	Straus	to Hemker	Q Source Engineering, Inc.	adding pure or commercial grade F-listed solvent to ink, paint, adhesive, or glue as ingredient does not trigger spent solvent HW listings; mixture of listed spent solvent HW and product destined for discard carries F-listings via mixture rule	Pages: 4 FaxBack: 11220
5/20/87	Sales	to Czigler	S & W Waste, Inc.	paint containing solvent where solvent is an ingredient in product is not covered by the spent solvent listings, even if solvent was added as thinner after purchase; addition of solvent to paint by user is formulation of modified paint product, not solvent use for purpose of F listings	Pages: 10 FaxBack: 11249
4/14/88	Lowrance	to Meeks	U.S. Navy	use as a paint stripper constitutes solvent use because the solvent is being used to mobilize or solubilize constituents in the paint; presence of F001-F005 constituents in paint product does not make the paint (or any residue containing paint) an F-listed HW when discarded	Pages: 8 FaxBack: 11340
5/5/88	Barnes	to Lindberg	SWI, Inc.	wastes involving solvents that were used as reactants or ingredients in CCPs are not F-listed HW; paints which contain F001-F005 solvents as ingredients are not F-listed when discarded	Pages: 1 FaxBack: 11349
7/28/88	Barnes	to Vickers	Columbus Industries	filters from paint spray booths are not listed HW, although they may exhibit characteristics (does not address filters capturing solvents used to clean booths); if F001-F005 solvent is used to clean paint-laden filter, resulting solution of paint and thinner is listed HW	Pages: 1 FaxBack: 11357
5/3/90	Lowrance	to Diehn	Environmental Services	wastes such as discarded paint and paint spray booth air filters containing toluene and xylene which served as ingredients in paint are not F001-F005	Pages: 3 FaxBack: 11513

F001, F002, F003, F004, F005 Solvent Percentages Before Use

11/7/86	Williams	to Winslow	Sandoz Crop Protection Corp.	F001-F005 listings do not cover solvent wastes where solvent was used as reactant or ingredient in product; if solvent contains less than 10% of solvents specified in F001, F002, F004, or F005 listings before use, resultant waste is not listed (see also §261.31)	Pages: 6 FaxBack: 11193
11/7/86	Straus	to Fixter	S & W Waste, Inc.	solvent blends containing more than 10% methylene chloride prior to use would be F002 following use as paint stripper; solvent paint ingredients are not F002 because they are not used for solvent properties (to solubilize, dissolve or mobilize other constituents)	Pages: 2 FaxBack: 11194
5/20/87	Sales	to Czigler	S & W Waste, Inc.	technical grade F003 solvent (containing F003 constituents and other constituents as minor impurities) can be F003 when spent; solvent containing (prior to use) more than 90% F003 constituents and less than 10% F001, F002, F004, F005 constituents carries no F-listing when spent	Pages: 10 FaxBack: 11249
7/21/87	Weil	to Charley	New United Motor Manufacturing	discarded, used paint thinner that consisted of 80% xylene, 9% toluene, and 11% glycol ethers prior to use is D001 but not spent solvent F003 or F005, because it contained neither 100% F003 nor at least 10% F001, F002, F004, and F005 before use	Pages: 2 FaxBack: 11266
3/31/88	Straus	to Fox	Aptech	if product solvent contains less than a total of 10% of the solvents specified in the F001, F002, F004, or F005 listings, the solvent is not listed HW after its use; such solvent wastes could still meet F003 listing or exhibit characteristic	Pages: 2 FaxBack: 11337
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	for purpose of F001-F005 listings, "before use" means before use at facility, not when purchased; if pure solvent product is purchased, diluted to less than 10% concentration, and used as solvent, resulting waste is not F001-F005	Pages: 4 FaxBack: 11521

6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	if solvent formulation (before use) includes any amount of F003 solvents as well as at least 10% total of F001, F002, F004, or F005 solvents, resulting waste carries F003 listing and other applicable F001-F005 listings (see also 6/94 MRQ)	Pages: 4 FaxBack: 11521
6/20/90	Lowrance	to Giannetti	Pittsburgh Applied Research Corp.	if total of all F001, F002, F003, or F004 solvents before use is 10% or more by volume, waste from using solvent is listed and carries all applicable codes; F001-F005 codes can apply even if each F001-F005 constituent is under 10%; trichloromethane (chloroform) is U044 or D022, not F-listed	Pages: 1 FaxBack: 11527
10/20/93	Weddle	to Bowman	Environmental Dynamics	spent solvent which was 10% or more methylene chloride and toluene before use and used to strip wood carries F002 and F005 listings; if solvent contained any amount of F003 constituents before use, it would also carry F003 listing when spent	Pages: 8 FaxBack: 11787

F001, F002, F003, F004, F005: Solvent Use

5/24/85	Straus	to Scott	Mobay Chemical Corp.	using solvents as reactants (as feedstocks to be incorporated into products) is not solvent useand excess toluene, methanol, and m-cresol reactants cannot be F-listed; using solvents as reaction media (to dissolve chemicals in order to enhance ability of those chemicals to react) is solvent use	Pages: 2 FaxBack: 11079
5/2/86	Straus	to Harvey	Occupational Medical Services	F-listings do not apply to solvents used as ingredients or reactants in a CCP; activated carbon used to collect methylene chloride, Freon 113, and trichloroethylene paint ingredients that volatilized during paint application would only be HW if characteristic	Pages: 2 FaxBack: 11151
7/2/86	Straus	to Boulware	Vipont Botanical Laboratories	when methylene chloride is used to recover alkaloids from plant matter, solid cake and wastewater from centrifuge separation are not listed wastes, but could be characteristic; however, spent methylene chloride from centrifuge liquid extractor is F-listed waste	Pages: 2 FaxBack: 11164

8/4/86	Straus	to McAdams	Mobil Chemical Co.	using solvents as reactants or ingredients in products is not solvent use;wastes from processes where solvents were used as reactants are not F-listed; waste from process where 2-ethoxyethanol was used as ingredient in coating cannot be F-listed, although it may dangerous	Pages: 1 FaxBack: 11169
11/7/86	Williams	to Winslow	Sandoz Crop Protection Corp.	F001-F005 listings do not cover solvent wastes where solvent was used as reactant or ingredient in product; if solvent contains less than 10% of solvents specified in F001, F002, F004, or F005 listings before use, resultant waste is not listed (see also possible applicability of F003 listing)	Pages: 6 FaxBack: 11193
11/7/86	Straus	to Fixter	S & W Waste Inc.	solvent waste from painting operation is not F-listed if solvent served as ingredient in the paint formulation; solvent used to strip paint can be F-listed HW because it was used as solvent (to dissolve, solubilize, or mobilize paint constituents)	Pages: 2 FaxBack: 11194
1/27/87	Straus	to Drozowski	Moog, Inc.	spent coolant containing 1,1,1,-trichloroethane (111-TCE) as ingredient is not listed, provided not comingled with 111-TCE used in degreasing that is F001; solvent used as coolant is only HW if characteristic	Pages: 2 FaxBack: 11212
2/19/87	Straus	to Hemker	Q Source Engineering, Inc.	adding pure or commercial grade F-listed solvent to ink, paint, adhesive, or glue as ingredient does not trigger spent solvent HW listings; mixture of listed spent solvent HW and product destined for discard carries F listings via mixture rule	Pages: 4 FaxBack: 11220
5/20/87	Sales	to Czigler	S & W Waste, Inc.	addition of solvent to paint by user after purchase is formulation of modified paint product, not solvent use for purpose of F listings; laboratory solvents can be listed when spent if used for cleaning or degreasing, or as dilutents, extractants, or reaction and synthesis media	Pages: 10 FaxBack: 11249
9/1/87	Williams	to Kertcher	Region V	using toluene as diluent (as carrier solubilizing feedstocks or reactant ingredients in a process) is solvent use and can trigger F001-F005 listings; excess toluene recovered from Chevron's process was diluent and is F005 waste (SUPERCEDED: see 2/11/88 letter, Williams to Kertcher)	Pages: 22 FaxBack: 11285

12/16/87	Williams	to	Pace	Hogan and Hartson	toluene used as carrier in manufacturing is used as solvent and F-listed after it is spent and separated from product; however, when iron filter cake containing trace toluene levels is separated from product, solvent on cake is not F-listed and does not render cake listed via mixture rule	Pages: 7 FaxBack: 11311
2/11/88	Williams	to	Kertcher	Region V	using toluene as feedstock in product or as "chain transfer agent" (as reactant controlling rate of reaction that is partially consumed in process) is not solvent use; excess toluene recovered from such operations is not F005	Pages: 5 FaxBack: 11326
4/14/88	Lowrance	to	Meeks	U.S. Navy	use as a paint stripper constitutes solvent use because the solvent is being used to mobilize or solubilize constituents in the paint; presence of F001-F005 constituents in paint product does not make the paint (or any residue containing paint) an F-listed HW when discarded	Pages: 8 FaxBack: 11340
5/5/88	Barnes	to	Lindberg	SWI, Inc.	wastes involving solvents that were used as reactants or ingredients in CCPs are not F-listed HW; paints which contain F001-F005 solvents as ingredients are not F-listed when discarded	Pages: 1 FaxBack: 11349
7/21/88	Lowrance	to	Turner	Racon Refrigerants	used CFC refrigerant would not be listed spent solvent since it was not used for solvent properties; refrigerant waste could exhibit characteristic of corrosivity (D002) if HCl is present due to breakdown of CFCs at high compressor temperatures (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355
7/28/88	Barnes	to	Vickers	Columbus Industries	filters from paint spray booths are not listed HW, although they may exhibit characteristics (does not address filters capturing solvents used to clean booths); if F001-F005 solvent is used to clean paint-laden filter, resulting solution of paint and thinner is listed HW	Pages: 1 FaxBack: 11357
12/6/88	Barnes	to	Moretta	Region V	F001-F005 solvents used as diluents (carriers), extractants, reaction, and synthsis media are listed HW once separated from process in which they were used; solvents used as ingredients or reactants incorporated into products are not used as solvents and do not trigger F listings	Pages: 2 FaxBack: 11384

6/28/89	Barnes	to Wilson	EPA HQ	when listed solvent is used to extract aqueous liquid from liquid product stream, solvent is listed when spent and removed from process; extracted aqueous wastestream which picked up trace amounts of solvent during extraction step is not F001-F005 or listed via mixture rule	Pages: 9 FaxBack: 11437
7/21/89	Barnes	to Schiffman	NJ DEP	using pure methanol and acetone to extract water from product is solvent use and resulting wastes are F003; if solvent product contains only F003 solvents before use, wastes from its use are F003; if F003 is nonignitable when generated, it is still F003 until it is mixed with SW	Pages: 4 FaxBack: 11447
8/2/89	Petruska	to Allen	CA Dept. of Health Services	used CFC refrigerants are not HW F001 or F002 because they were not used as solvents; such wastes are only HW if characteristic (see also §261.4(a)(12))	Pages: 5 FaxBack: 11451
2/26/90	Barnes	to Wolf	Source Reduction Research Partnership	CFCs used as blowing agents in production of foam insulation products (i.e., to physically open and expand the foam cells) are not considered used as solventsand are not F001-F005 when spent	Pages: 2 FaxBack: 11494
5/3/90	Lowrance	to Diehn	Environmental Services	wastes such as discarded paint and paint spray booth air filters containing toluene and xylene which served as ingredients in paint are not F001-F005	Pages: 3 FaxBack: 11513
6/14/90	Bussard	to Wilson	EPA HQ	using F-listed solvent to dissolve CCP and formulate lab standards is use as an ingredient, not solvent use; such lab standards are not F001-F005 when discarded, although they may be P- or U-listed if they contain only one active ingredient	Pages: 4 FaxBack: 11523
9/4/91	Lowrance	to Guinyard	Region IV	vials containing waste radioactive scintillation cocktails using xylene or toluene as reaction medium are F003 and/or F005 if they meet applicable solvent percentage thresholds (see also RPPC 9444.1989(02b)); if they are listed or characteristic, the cocktails must be managed as RCRA HW	Pages: 2 FaxBack: 11639

8/17/92	Brandes	to	Wilson	The Environmental Co., Inc.	wastes from normal use or discard of toluene and polyurethane coating formulation are not F001-F005 (solvent is used as ingredient); if identical formulation is used to clean spray gun or equipment, resulting wastes can be F001-F005; in all cases, waste may be characteristic	Pages: 6 FaxBack: 11685
10/20/93	Weddle	to	Bowman	Environmental Dynamics	spent solvent which was 10% or more methylene chloride and toluene before use and used to strip wood carries F002 and F005 listings; if solvent contained any amount of F003 constituents before use, it would also carry F003 listing when spent	Pages: 8 FaxBack: 11787

F002

7/15/86	Straus	to	Harvey	Occupational Medical Services	vapors from degreasing operations using Freon 113, TCE, and methylene chloride are not SW until adsorbed into carbon (vapors are not contained gases); therefore, F002 listing does not apply and spent carbon canister is not HW via mixture rule, although it could be characteristic	Pages: 2 FaxBack: 11166
3/6/87	Straus	to	Skoufis	Anscott Chemical Industries, Inc.	perchloroethylene (PCE) condensed and recovered during normal fabric drying in drycleaning machine is solvent-containing process waste, not F-listed HW; PCE condensate from distillation or steam stripping of spent filter cartridges is HW since it is derived from F002 drycleaning HW	Pages: 3 FaxBack: 11224
9/22/89	Lowrance	to	Wassersug	Region III	cleaning PCBs from transformer with solvent containing 10% or more tetrachloroethylene (PCE) before use results in F002 listed waste; TSCA PCB regulations applicable to waste do not supercede RCRA regulations; using solvent as dielectric is not "solvent use" causing F001-F005 listings	Pages: 2 FaxBack: 11470

F003

1/27/87	Williams	to	Didier	WI DNR	mixture of SW and waste listed solely for characteristic (F003) is no longer listed HW if it does not exhibit characteristics; such listed waste remains listed before mixing even if it exhibits no characteristics as generated	Pages: 4 FaxBack: 11213

5/20/87	Sales	to Czigler	S & W Waste, Inc.	technical grade F003 solvent (containing F003 constituents and other constituents as minor impurities) can be F003 when spent; solvent containing (prior to use) more than 90% F003 constituents and less than 10% F001, F002, F004, F005 constituents carries no F listing when spent	Pages: 10 FaxBack: 11249
6/17/87	Straus	to Ng	Region II	methanol volatilizing from pharmaceutical production is not SW; once captured in carbon and condensed, methanol carries F003 listings and renders carbon listed; removal of F003 from carbon is exempt recycling (SUPERCEDED: see 7/15/86 letter, Straus to Harvey)	Pages: 4 FaxBack: 11255
7/21/87	Weil	to Charley	New United Motor Manufacturing	discarded, used paint thinner that consisted of 80% xylene, 9% toluene, and 11% glycol ethers prior to use is D001 but not spent solvent F003 or F005, because it contained neither 100% F003 nor at least 10% F001, F002, F004, and F005 before use	Pages: 2 FaxBack: 11266
3/31/88	Straus	to Fox	Aptech	if product solvent contains less than a total of 10% of the solvents specified in the F001, F002, F004, or F005 listings, the solvent is not listed HW after its use; such solvent wastes could still meet F003 listing or exhibit characteristic	Pages: 2 FaxBack: 11337
7/21/89	Barnes	to Schiffman	NJ DEP	using methanol and acetone mixture to extract water from or dry product is solvent use and wastes from process are F003; if product contains only F003 solvents before use, wastes from use of solvent is F003; F003 that is nonignitable when generated is still F003 until mixed with SW	Pages: 4 FaxBack: 11447
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	if solvent formulation (before use) includes any amount of F003 solvents as well as at least 10% total of F001, F002, F004, or F005 solvents, resulting waste carries F003 listing and other applicable F001-F005 listings (see also 6/94 MRQ)	Pages: 4 FaxBack: 11521
9/4/91	Lowrance	to Guinyard	Region IV	vials containing waste radioactive scintillation cocktails using xylene or toluene as reaction medium are F003 and/or F005 if they meet applicable solvent percentage thresholds (see also RPPC 9444.1989(02b)); if they are listed or characteristic, the cocktails must be managed as RCRA HW	Pages: 2 FaxBack: 11639

11/4/92	Lowrance	to Noles	Four Seasons Industrial Services, Inc.	xylene and acetone used to remove paint creates F003, even if waste is not ignitable; mixture rule exemption does not apply to nonignitable F003 that has not been mixed with SW and does not apply to soil and F003 mixture; LDR applies to F003 even if no longer ignitable or HW	Pages: 3 FaxBack: 11707

F005

9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	ignitable discarded paint which contains xylene is only D001 because the xylene is neither spent xylene (F003), nor a discarded, unused CCP (U239); F005 waste code, not F002, applies to spent toluene	Pages: 2 FaxBack: 11180
9/4/91	Lowrance	to Guinyard	Region IV	vials containing waste radioactive scintillation cocktails using xylene or toluene as reaction medium are F003 and/or F005 if they meet applicable solvent percentage thresholds (see also RPPC 9444.1989(02b)); if they are listed or characteristic, the cocktails must be managed as RCRA HW	Pages: 2 FaxBack: 11639
10/20/92	Bussard	to Boyle	Region V	toluene used as reaction medium (to carry ingredients into production process) may be F005 HW when spent and separated from final product, but other wastes separated from final product that picked up trace solvents during process are not F001-F005 or listed via mixture rule	Pages: 2 FaxBack: 11703

F006 - F009 Electroplating Wastes: Current Electroplating Operations Definition

4/17/85	Maid	to Davis	Brush Wellman, Inc.	cleaning step preceding electroplating that uses alkaline (basic) rather than more common acidic cleaning solutions is considered an electroplating operation	Pages: 2 FaxBack: 11071
10/15/85	Poppiti	to Friedman	PA DNR	heat - treating not within scope of electroplating operations	Pages: 1 FaxBack: 11107

5/22/86	Sarno	to Yancey	Whirlpool Corp.	wastes from initial cleaning steps in listed process that are kept separate from wastes from subsequent portions of process may not carry listing	Pages: 1 FaxBack: 11157
1/27/87	Straus	to Sauer	General Electric Co.	chemical etching and milling (which includes bright dipping, electropolishing, electrochemical machining) is electroplating operation and associated wastewater treatment sludges are F006	Pages: 1 FaxBack: 11214
1/28/87	Straus	to White	Tricil Environmental Services, Inc.	electrostatic painting is not electroplating operation; treatment sludge resulting from use of waterfall curtain in electrostatic painting operations is not F006	Pages: 1 FaxBack: 11216
1/28/87	Straus	to Crossland	Air Products and Chemicals, Inc.	since bright - dipping is considered chemical etching, it is an electroplating operation and associated wastewater treatment sludges are F006	Pages: 1 FaxBack: 11217
5/8/87	Straus	to Sanderson	Region VII	wastewater treatment sludges from non-cyanide zinc plating processes (i.e., zinc plating (segregated basis) on carbon steel) are excluded from F006 listing; associated cleaning and stripping operations are also excluded; such sludges are hazardous only if characteristic	Pages: 13 FaxBack: 11245
5/20/87	Straus	to Thirman	MN Pollution Control Agency	chemical etching is electroplating operation and cyanide-bearing stripping solution from etching process is F009	Pages: 3 FaxBack: 11251
8/10/87	Straus	to Sanderson	Region VII	since chromate conversion coating is no longer within scope of electroplating operations, sludges from treatment of associated wastewaters are not F006	Pages: 1 FaxBack: 11273

1/11/88	Williams	to Lovgren	Leach and Garner Co.	mechanical burnishing and polishing are not an electroplating operation triggering F006-F009 listings; pickling to remove oxide scale could be cleaning or stripping associated with electroplating operation; etching of copper from gold-plated copper tubing is electroplating operation	Pages: 4 FaxBack: 11315
4/14/88	Lowrance	to Meeks	U.S. Navy	sludge from wastewater used in metal cleaning or precleaning that is associated with electroplating is F006; routine cleaning and stripping is not normally associated with electroplating; purpose of cleaning, not location, determines if associated; metal stripping part of electroplating	Pages: 8 FaxBack: 11340
10/3/88	Barnes	to Lyon	McDermott, Will and Emery	plating of copper-tin alloy on carbon steel wire using no electrodes or electrolysis is "immersion plating" and is not electroplating operation triggering F006-F009 listings	Pages: 2 FaxBack: 11371
12/7/88	Lowrance	to Stapleton	Stapleton Company	electroless plating not electroplating operation triggering F006-F009 listings	Pages: 6 FaxBack: 11385
8/21/89	Barnes	to Evans	Modine Manufacturing Co.	use of electrical current not needed for electroplating operation; chemical etching does not involve electrical current; cleaning must be associated with electroplating operations for sludges from treatment of cleaning bath to be F006	Pages: 5 FaxBack: 11458
8/15/90	Lowrance	to Hopkins	OR DEQ	printed circuit board manufacturing wastes can be F006 if electroplating operations involved; anodizing is electrical process and is electroplating operation; chemical conversion coating is non-electrical and is not electroplating for purposes of F006, F007, F008, or F009 listings	Pages: 4 FaxBack: 11551
1/15/92	Lowrance	to Duprey	Region VIII	electroplating definition; reduction or plating of metal ions on cathodic surface; electrolysis is not electroplating; facility need only perform electroplating operations to be within scope of F006-F009 listings (whether facility is subject to CWA electroplating effluent standards is irrelevant)	Pages: 2 FaxBack: 11663

7/12/94	Shapiro	to Rhodes	IPC	cleaning and stripping is electroplating only if associated with, in line or contiguous with (i.e., no intermediate rinsing or drying) other electroplating operations; wastes from printed circuit board manufacturing can be F006 if electroplating operations are involved	Pages: 7 FaxBack: 11851
7/15/94	Brandes	to Tease	Hubbard-Hall, Inc.	chemical polishing process involving sulfuric acid washes and hydrogen peroxide-based oxidation is not electroplating operation; discarded baths are HW only if characteristic	Pages: 2 FaxBack: 11854

F006 - F009 Electroplating Wastes: Electroplating Operations Definition (Not Current)

4/2/85	McGraw	to Danforth	U.S. Senate	phosphating and chemical conversion coating is electroplating operation and associated wastewater treatment sludges can be F006 (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 9 FaxBack: 11067
4/17/85	Maid	to Davis	Brush Wellman, Inc.	electroplating operations include six process categories (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11071
5/13/85	Morse	to Bell	City of Fort Smith	phosphating (chemical conversion coating) on carbon steel is electroplating operation and associated wastewater treatment sludges could be F006 (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 1 FaxBack: 11075
5/31/85	Topping	to Ramus	Water Management, Inc.	wastewater treatment sludges from chemical conversion coating are either F006 or F019; F019 wastes are a subset of F006 wastes (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11080

9/3/85	Sarno	to Chiu	Region V	phosphate conversion coating of automotive parts to provide lubrication is electroplating operation and sludges from treatment of associated rinsewaters are F006 (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11103
5/2/86	Claussen	to Duffy	Pace Laboratories, Inc.	electroplating operations producing F006-F009 can include six processes, including chemical conversion coating (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11152
9/21/94	Brandes	to Downing	Fidelity Chemical Products Corp.	electroless plating not covered by F006; electroless nickel solutions may be HW if mixed with listed HW, if derived from listed HW or if they exhibit a characteristic	Pages: 3 FaxBack: 11930

F006 - F009 Electroplating Wastes: F006 Exclusions

4/10/85	McGraw	to Satterfield	American Hot Dip Galvanizers Association, Inc.	hot dip galvanizing is zinc plating on carbon steel and associated wastewater treatment sludges are excluded from F006 listing; in context of F006 "segregated basis" means no cyanides used in process	Pages: 4 FaxBack: 11068
5/13/85	Morse	to Bell	City of Fort Smith	in context of F006, segregated basis means not mixed with wastewater from processes containing hazardous constituents	Pages: 1 FaxBack: 11075
5/31/85	Topping	to Ramus	Water Management, Inc.	wastewater treatment sludges from sulfuric acid anodizing of aluminum specifically excluded from F006	Pages: 2 FaxBack: 11080

5/2/86	Claussen	to Duffy	Pace Laboratories, Inc.	for purposes of F006, "segregated basis" means non-cyanide plating process	Pages: 2 FaxBack: 11152
8/2/94	Shapiro	to Fisher	General Motors Corp.	exclusion from F006 for zinc plating on carbon steel applies if zinc-cobalt alloy is used	Pages: 3 FaxBack: 11861
2/27/95	Brandes	to Wozniak	TKK AP America, Inc.	aluminum anodized in sulfuric acid is excluded from F006 listing; sealing and coloring anodized aluminum is not considered F006 or F019 if no chromates or cyanides are used; electrodeposition with clear acrylic film does not generate a listed HW if no chromate or cyanides are used	Pages: 4 FaxBack: 11940

F006 - F009 Electroplating Wastes: F006 Sludges

4/17/85	Maid	to Davis	Brush Wellman, Inc.	F006 listing covers processes that vary; variations in composition of sludges expected; even if sludge is not characteristic, it can still be regulated as F006 until delisted	Pages: 2 FaxBack: 11071
3/20/86	Jenkins	to Straus	EPA HQ	even when fully treated, industrial wastewater remains wastewater for purpose of listings; management of electroplating or wood preserving wastewater at any point in wastewater treatment train will create F006 or K001 sludge, regardless of actual contaminants in sludge	Pages: 9 FaxBack: 11139
11/24/86	LeBleu-Biswas	to Young	Whiteman, Osterman and Hanna	F006 applies to sludge from treatment of rinsewaters; electroplating rinsewaters are not listed	Pages: 1 FaxBack: 11198

5/5/87	Abrams	to	Duncan	Compliance Recycling Industries	filters as well as anionic and cationic ion exchange resins used to remove pollutants from electroplating rinsewater meet the definition of sludges and are F006, even if not characteristic	Pages: 8 FaxBack: 11244
7/28/87	Straus	to	Schiffman	NJ DEP	any residual (e.g., ion exchange canisters) from treating electroplating wastewaters for pollution control is F006 sludge; electroplating rinsewaters not listed, but treatment of rinse can create listed F006 waste	Pages: 4 FaxBack: 11269
1/11/88	Williams	to	Lovgren	Leach and Garner Co.	sludges from treating spent stripping and plating baths that are not wastewater are not F006; spent etching acid solution is not wastewater; sludge from treating wastewater used solely for non-contact cooling is not F006	Pages: 4 FaxBack: 11315
10/27/88	Lowrance	to	Greenberg	Browning-Ferris Industries	once sludge precipitates from electroplating wastewater, sludge is F006, whether precipitation occurs at generator facility or off-site TSDF; generator not required to identify source of nonhazardous wastewater, but TSDF remains responsible for assigning F006 listing to sludges	Pages: 3 FaxBack: 11375
12/7/88	Lowrance	to	Stapleton	Stapleton Company	filter cake from treatment of plating wastewater is sludge; filter cake from treatment of electroplating bath more likely to be spent material than sludge (i.e., plating bath is not wastewater)	Pages: 6 FaxBack: 11385
7/5/89	Lowrance	to	Greenberg	Browning-Ferris Industries	treatment of nonhazardous or characteristic electroplating wastewater can generate listed F006 sludge, whether treatment occurs at generator facility or off-site TSDF	Pages: 4 FaxBack: 11439
8/15/90	Lowrance	to	Hopkins	OR DEQ	EPA has defined wastewater only for purposes of Part 268, LDR requirements; wastewater treatment sludge is anything that precipitates or separates out during treatment; F006 may be formed in ENU or other exempt unit	Pages: 4 FaxBack: 11551

7/12/94	Shapiro	to Rhodes	IPC	stripping solutions or baths can be electroplating wastewater; photoresist solids or "skins" filtered from stripping solutions in printed circuit board industry can be F006 sludges	Pages: 7 FaxBack: 11851
7/21/94	Bussard	to Weisjahn	U.S. Filter Recovery Services, Inc.	ion exchange resin used to filter electroplating wastewater is F006 regardless of characteristic; act of filtering contaminants from electroplating wastewater is pollution control and generates sludge, even if intent is to reclaim wastewater for reuse in production process	Pages: 2 FaxBack: 11857
6/30/95	Bussard	to Crim	Miller, Canfield, Paddock and Stone, P.L.C.	although dewatering is a form of reclamation, dried metal hydroxide solids in pellet powder from dewatering of electroplating wastewater are F006 sludges; interpretation applies even if sludge sent for further reclamation	Pages: 3 FaxBack: 11910

F006 - F009 Electroplating Wastes: F007, F008, F009

11/24/86	LeBleu-Biswas	to Young	Whiteman, Osterman and Hanna	carryover of cyanide-bearing plating and stripping solutions to rinsewater baths during normal electroplating process does not make rinsewater F007 or F009 via mixture rule	Pages: 1 FaxBack: 11198
5/20/87	Straus	to Thirman	MN Pollution Control Agency	chemical etching is electroplating operation and cyanide-bearing stripping solution from etching process is F009	Pages: 3 FaxBack: 11251
7/28/87	Straus	to Schiffman	NJ DEP	electroplating rinsewaters are not stripping or cleaning baths and cannot be F009; sludges from rinsewater treatment can be F006; incidental carryover of F009 stripping or cleaning solutions to rinsewater during process does not make rinsewater HW via mixture rule	Pages: 4 FaxBack: 11269

4/7/88	Lowrance	to Wagoner	Region VII	F007, F008, F009 listings do not apply to rinsewaters; rinsewater can be listed if deliberately mixed with F007, F008, or F009; carryover of plating or cleaning bath to rinsewater during normal electroplating process is not HW mixture	Pages: 6 FaxBack: 11339
4/14/88	Lowrance	to Meeks	U.S. Navy	F007-F009 listings apply to solutions from electroplating operations when cyanides are used in the process, or when such solutions contain cyanides; spent stripping bath itself might also be F001-F005	Pages: 8 FaxBack: 11340

F010, F011, F012: Heat - Treating Wastes

10/15/85	Poppiti	to Friedman	PA DNR	when parts (dies) are removed from salt bath and rinsed, salt bath residues that carry over from part to rinsewater are not F011 and do not render rinsewater listed via mixture rule	Pages: 1 FaxBack: 11107

F017, F018

4/20/81	Straus	to Padnos	NY City DEP	F017, F018, K078-K082 listings for paint wastes are suspended; paint wastes are still subject to HW characteristics	Pages: 1 FaxBack: 11010

F019: Conversion Coating Sludges

5/31/85	Topping	to Ramus	Water Management, Inc.	wastewater treatment sludges from chemical conversion coating are either F006 or F019; F019 wastes are a subset of F006 wastes (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11080
9/3/85	Sarno	to Chiu	Region V	phosphate conversion coating (process triggering F019) involves producing insoluble crystalline phosphate on surface of metal to provide base for lubricants; phospate conversion coating is electroplating operation within scope of F006 (SUPERCEDED: see 51 *FR* 43350; 12/2/86)	Pages: 2 FaxBack: 11103

6/24/87	Williams	to Torrito	Continental Can Co., Inc.	chemical conversion coating (chromating, phosphating, metal coloring, immersion plating) changes surface properties of the part by converting underlying or basis metal; zirconium phosphating of aluminum cans triggers F019 listing (SUPERCEDED: see 55 *FR* 5340; 2/14/90)	Pages: 7 FaxBack: 11259
4/14/88	Lowrance	to Meeks	U.S. Navy	scale or size of aluminum chemical conversion coating operation has no impact on applicability of F019 listing	Pages: 8 FaxBack: 11340
1/24/89	Lowrance	to Torrito	Continental Can Co., Inc.	wastewater treatment sludges from processes involving zirconium phosphating of aluminum cans should be excluded from F019; exclusion applies retroactively to wastes generated before promulgation of final exclusion	Pages: 2 FaxBack: 11392
4/17/90	Barnes	to Duprey	Region VIII	wastewater from chemical conversion coating of aluminum retains identity while passing through treatment train; sludges generated in initial treatment unit and subsequent units are all F019	Pages: 1 FaxBack: 11507
5/2/90	Scarberry	to Jaronik	Coral International, Inc.	exclusion from F019 listing apples to zirconium phosphating on aluminum cans when no cyanide, chromium, or other hazardous constituents are involved	Pages: 2 FaxBack: 11512
8/2/90	Bussard	to Brenan	Chrysler Motors Corp.	non-electrolytic tin phosphate coating of aluminum is chemical conversion coating; wastewater treatment sludge from phosphate coating process is F019, even if no hazardous constituents or characteristics present	Pages: 3 FaxBack: 11547
8/15/90	Lowrance	to Hopkins	OR DEQ	chemical conversion coating is non-electrical process; chemical conversion coating is not anodizing and is not an electroplating operation for purposes of F006, F007, F008, or F009 listings	Pages: 4 FaxBack: 11551

3/7/91	Kayser	to Udo	Fuji Photo Film, Inc.	metal treatment process is not chemical conversion coating of aluminum (i.e., does not create F019) if does not involve chromate compounds or oxide, phosphate, or chromate conversion	Pages: 2 FaxBack: 11587
3/4/93	Kayser	to Slotta	Kelsey-Hayes Co.	if rinsewater is collected prior to actual chromate conversion coating step of process and is managed separately from other process wastewater, sludges from treatment of rinsewater are not F019	Pages: 3 FaxBack: 11731
2/27/95	Brandes	to Wozniak	TKK AP America, Inc.	sealing and coloring anodized aluminum is not considered F006 or F019 if no chromates or cyanides are used; electrodeposition with clear acrylic film does not generate a listed HW if no chromate or cyanides are used	Pages: 4 FaxBack: 11940

F020, F021, F022, F023, F026, F027, F028 Dioxin Wastes

3/4/85	Skinner	to Talarek	American Wood Preservers Institute	F-listings for HW containing PCP (F021, F027, and F028) only apply to wastes generated at wood preserving facilities in a few rare circumstances (see also §261.31: F032); F021 and F027 are listed for acute toxicity (H), while F028 is listed solely as a toxic waste (T)	Pages: 4 FaxBack: 11061
3/29/85	Cook	to Dioxin Policy Coordinators	Regions I-X	wastes from the production of chlorophenoxy acids, or their ester, ether, amine, or other salt derivatives are F020 (including 2,4,5-T); processes covered by F023 are the same as those covered by F020; F020-F023, and F026 do not cover wastewaters but do cover sludges from their treatment; packaging is not part of the formulating process	Pages: 4 FaxBack: 11065
7/5/85	Skinner	to Huebner	Region I	most lab wastes aren not listed (even if they contain dioxins) and are HW only if characteristic; nevertheless, unused portions of HW being analyzed in lab and any residue derived from lab analysis of HW are subject to regulation when discarded (see also §§261.4(d), (e), and(f))	Pages: 2 FaxBack: 11088

7/23/85	Bellin	to Hagan	Wright State University	mere presence of dioxin constituents in laboratory wastes (such as stock solutions, clean up materials, and chromatographic columns) does not make wastes subject to F-listings for dioxin wastes; however, unused HW samples or residues from their analysis are still HW	Pages: 1 FaxBack: 11097
2/12/86	Straus	to Igli	Chemical Waste Management, Inc.	unrinsed container which contained unused PCP formulation is F027 subject to all regulations applicable to acute HW; residues from incineration of such acute HW remain acutely hazardous	Pages: 2 FaxBack: 11130
3/3/86	Straus	to Warren	Eden Associates	spent carbon used to treat GW contaminated by spill of product PCP is acute HW F027 (see also §§261.24 and 261.31)	Pages: 1 FaxBack: 11135
10/21/86	Straus	to Levin	Velsicol Chemical Corp.	applicability of F020 and F023 listings to wastes from the production of 2,4,5-trichlorophenol (TCP) and hexachlorophene; F020 and F023 wastes are regulated as acutely hazardous	Pages: 2 FaxBack: 11186
10/21/86	Straus	to Berry	Baker and Potts	since F027 listing does not include PCP formulations which have been used, used PCP is only HW if mixed with listed HW or if it exhibits characteristics (SUPERCEDED: see §§261.24 and 261.31)	Pages: 3 FaxBack: 11187
2/9/87	Williams	to Dietrich	ICF Technology	residue from incineration of F020 (or other acute F-listed HW) is still F020 and must be handled as acute HW; proposed F029 listing (never finalized) would have regulated certain residues from incineration of acute F-listed HW as toxic listed waste	Pages: 15 FaxBack: 11219
2/9/87	Williams	to Dietrich	ICF Technology	equipment and debris used in production of 2,4-D is not covered by F-listings unless equipment was also used in production of tri- or tetrachlorophenol and is F023	Pages: 15 FaxBack: 11219

4/8/87	Straus	to	Seiler	WA Dept. of Ecology	soil contaminated with certain spilled unused pesticides (2,4,5-T; Simazine; 2,4-D; Dicambia; and Bromacil) is regulated as acute HW when excavated because it contains F027; if soil contamination is result of pesticide usage, excavated soil is regulated only if it exhibits characteristic	Pages: 2 FaxBack: 11233
4/9/87	Straus	to	Rader	Environmental Affairs Consultant	F027 listing covers unused formulations such as those which contacted wood or which remain in dip or process tank after preservation; dipping piece of wood in container of unused preservative to claim it as used is sham; preservative can be used even if not spent (i.e., still has value)	Pages: 2 FaxBack: 11235
6/19/87	Williams	to	Roos	SRM	F021 listing applies to wastes from the manufacture of PCP; F021 listing does not apply to wastes from wood-preserving facilities such as bottom sludge cleaned out of dip tanks or PCP-treated wood that is discarded (see also §261.31: F032)	Pages: 7 FaxBack: 11256
6/19/87	Williams	to	Roos	SRM	F027 listing applies to unused PCP wood preservative; F027 does not cover used formulations that have come in contact with wood; that remain in process vessel or dip tank after wood has been treated; or that are contained within treated wood (posts, poles, railroad ties, etc.)	Pages: 7 FaxBack: 11256
6/25/87	Straus	to	Martin	Preservation Products, Inc.	hydrochloric acid produced from hydrogen chloride gas in manufacture of PCP is a co-product, not F021; co-products are produced intentionally and ordinarily used in existing state as commodities	Pages: 7 FaxBack: 11260
9/2/87	Scarberry	to	Ramsey	KS Dept. of Health and Environment	all wastewaters from production of PCP are excluded from the F021 listing as well as the other listings for dioxin-bearing HW	Pages: 8 FaxBack: 11287
9/23/87	Straus	to	Blundon	Koppers Co., Inc.	discarded brand name product "Noxtane" is F027 due to the active ingredient, PCP; wood chips and sawdust derived from wood treated with PCP formulation (Noxtane) would not meet any of the listing descriptions found in §§261.31 or 261.32	Pages: 3 FaxBack: 11295

10/23/87	Williams	to	Mouser	Marion County Health Dept.	lubricating oil contaminated with dioxins from the use of TCDD as analytical standard is only HW if characteristic, since it is neither manufacturing waste triggering F020-F023, F026, F028 listings nor F027 (discarded unused formulation containing chlorophenolic compounds)	Pages: 2 FaxBack: 11298
11/16/88	Weil	to	Grove	Hutcheson and Grundy	EPA is aware of special problems in storing dioxin-containing wastes since no facilities are permitted to treat or dispose of these wastes	Pages: 3 FaxBack: 11381

F032, F034, & F035

5/31/91	Lowrance	to	Waste Management Division Directors	Regions I-X	incidental drippage at wood preserving plants not illegal HW disposal provided owner and/or operator responds immediately; immediate response determination is site-specific; once removed from drippage area, contaminated media are HW F032, F034, or F035	Pages: 1 FaxBack: 11612
4/8/94	Brandes	to	Ingalls	OR DEQ	although F032, F034, F035 listings do not generally apply to treated wood products that are discarded, wood "stickers" (pieces of wood used during wood preserving to separate bundles of lumber) that come into contact with wood preservative are listed HW when discarded	Pages: 1 FaxBack: 11827

F037 & F038

7/3/91	Lowrance	to	Duprey	Region VIII	sludges formed in aggressive biological treatment (ABT) units aren't F037 or F038; only secondary or tertiary treatment units qualify as ABT; ABT units receiving or generating TC HW are subject to all applicable rules; F037/F038 sludges can be formed in ABT units not operating properly	Pages: 3 FaxBack: 11625
7/5/91	Lowrance	to	Waste Management Division Directors	Regions I-X	liquid from which F037 and F038 sludges is generated is not itself HW via the mixture unless it is mixed with the sludge after the sludge is generated (e.g., sludge is scoured upon introduction of waste into the unit)	Pages: 9 FaxBack: 11626

7/31/91	Lowrance	to Wallace	Region VIII	definition of aggressive biological treatment (ABT) units for purposes of F037 and F038 listings does not apply to exemption for biological treatment units from surface impoundment MTR	Pages: 7 FaxBack: 11631

261.32

K-listed Wastes

K001

Wood Preservation

3/4/85	Skinner	to Talarek	American Wood Preservers Institute	F-listed dioxin wastes are rarely generated at wood preserving facilities; EPA may amend K001 to address chlorinated dioxins and furans (see also §261.31: F032-F035)	Pages: 4 FaxBack: 11061
7/16/85	Straus	to Stinson	R.W. Summers Railroad Contractor, Inc.	listings (K035, K001) for wood preserving wastes do not apply to disposal of creosote-treated cross ties; cross ties unlikely to exhibit characteristic (see also §261.24); FIFRA may place controls on their handling and disposal	Pages: 2 FaxBack: 11094
2/11/86	Porter	to McKinney	U.S. House of Representatives	creosote-treated wood is probably not HW, as it is not covered by the listings (K001, K035) and is unlikely to a characteristic (see also §261.24); FIFRA regulations prohibit the burning of creosote-treated wood	Pages: 4 FaxBack: 11129
3/20/86	Jenkins	to Straus	EPA HQ	contaminant concentrations are not relevant to determining whether a waste is F006, K001, or another listed HW; if waste matches listing description but does not merit RCRA Subtitle C regulation, delisting or rulemaking is necessary to deregulate waste	Pages: 9 FaxBack: 11139
6/19/87	Williams	to Roos	SRM	bottom sludge from cleaning out dip tanks at wood preserving facilities using PCP is not K001; K001 listing applies to sludges from treatment of wastewater produced from wood preserving operations using PCP or creosote (see also §§261.24 and 261.31)	Pages: 7 FaxBack: 11256

K009 - K136

Organic Chemicals

5/14/85	Jacoff	to Haight	KY DEP	K021 (aqueous spent antimony catalyst waste from fluoromethanes production) applies to aqueous waste contaminated with spent catalyst and organics from reactor purging, not to the spent catalyst (reactor purge stream) before it is filtered, washed, and oxidized	Pages: 1 FaxBack: 11077
10/16/87	Williams	to Retallick	DE Dept. of Natural Resources and Environmental Control	Standard Chlorine's "polychlor material," a distillation bottom by-product from the production of chlorinated benzenes, is K085	Pages: 4 FaxBack: 11297
4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	distillation or fractionation column bottoms from the production of chlorobenzene are K085	Pages: 22 FaxBack: 11342
7/13/89	Barnes	to Ullrich	Region V	K022 listing for "distillation bottom tars from the production of phenol/acetone from cumene" includes liquids	Pages: 4 FaxBack: 11444

K031 - K126

Pesticides

7/16/85	Straus	to Stinson	R.W. Summers Railroad Contractor, Inc.	listings (K035, K001) do not apply to disposal of creosote-treated cross ties; cross ties unlikely to exhibit characteristic (see also §261.24); FIFRA may place controls on their handling and disposal	Pages: 2 FaxBack: 11094
2/11/86	Porter	to McKinney	U.S. House of Representatives	creosote-treated wood is probably not HW, as it is not covered by the listings (K001, K035) and is unlikely to a chatacteristic (see also §261.24); FIFRA regulations prohibit the burning of creosote-treated wood	Pages: 4 FaxBack: 11129

K044 - K046

Explosives

1/10/80	Lehman	to	Bingham	IRK Chemicals	K047 (pink/red water from TNT operations) is listed for its potential to dewater over time and become reactive	Pages: 5 FaxBack: 11002
3/3/87	Straus	to	Hubbard	U.S. Dept. of Army	residue from the incineration of K045 is still listed waste even though the ash is not reactive; waste or treatment residue may be eligible for §261.3(a)(2)(iii) mixture rule exemption if mixed with SW and mixture exhibits no characteristics (see also §268.3)	Pages: 3 FaxBack: 11222
11/4/88	Weil	to	Ward	Omark Industries	K044 which loses reactivity characteristic when treated in wastewater treatment system is no longer K044, but must be designated as a HW if it exhibits another characteristic	Pages: 2 FaxBack: 11380

K048 - K052

Petroleum Refining

2/22/85	Straus	to	Walsh	Placid Refining Co.	K048 does not apply to sludge generated by dissolved air flotation device used in secondary (biological) wastewater treatment systems	Pages: 1 FaxBack: 11059
8/23/85	Skinner	to	Regions	Regions I-X	mixture of wastewater and waste derived from a listed petroleum refinery waste is hazardous via the mixture rule; supernatent from proper dewatering of listed petroleum wastewater treatment sludge may not be HW via derived-from rule (see also 3/5/93 letter, Denit to Swanberg)	Pages: 14 FaxBack: 11102
1/7/86	Straus	to	Rose	Region VI	mixture of SW and listed HW originally listed due to presence of specific hazardous constituents (such as K048, K049, K051, which were listed for containing hexavalent chromium and lead) is HW via mixture rule until delisted	Pages: 2 FaxBack: 11121

5/26/87	Straus	to Curtiss	PA DNR	sludge generated in an API separator at a facility that is not a petroleum refinery is not K051; K051 covers facilities in SIC 2911 that perform distillation of crude oil and/or unfinished petroleum derivatives	Pages: 4 FaxBack: 11252
7/2/87	Williams	to Davis	EPA HQ	K049 listing (slop oil emulsion solids) is not limited to skimmings from API separators	Pages: 3 FaxBack: 11262
8/2/89	Lowrance	to Uremovich	Terminal Technologies, Inc.	sludges generated at bulk terminals are not typically within scope of K051 and K052 listings (see also §261.31); if K049, K051, or K052 wastes are shipped to a bulk terminal, wastes derived from their management would meet the listings	Pages: 2 FaxBack: 11453
3/5/93	Denit	to Swanberg	Separation and Recovery Systems	effluent from petroleum recovery process that accepts HW K048-K051 that is returned to wastewater treatment system is not derived from listed waste if chemically equivalent to non-listed influent that originally produced listed waste (see also 8/23/85 letter, Skinner to Regions)	Pages: 3 FaxBack: 11732
4/20/95	Shapiro	to Sweeney	Alyeska Pipeline	EPA HQ policy does not address whether K050 is generated only through actual cleaning of heat exchanger bundles, or if regulated K050 waste is created when sludges remain in shut-down exchanger for more than 90 days or when they are discarded along with uncleaned bundle	Pages: 5 FaxBack: 11903
5/25/95	Shapiro	to Adler	Demetriou, Del Guercio, Springer & Moyer	K052 is limited to tank bottoms generated at or as part of a petroleum refinery from tanks used to store leaded gasoline or leaded blending fractions; listing applies regardless of whether waste exhibits characteristic; tank bottoms from naptha storage at a refinery not listed	Pages: 2 FaxBack: 11941

K060, K087, K141 - K145, K147, K148

Coking

12/24/87	Williams	to Miner	EPA HQ	regulatory status of coal tar decanter sludge waste pile; K087 stored prior to recycling in coke and coal tar production is not exempt from regulation under §261.6(a)(3)(viii) (see also §261.4(a)(10))	Pages: 4 FaxBack: 11312
4/20/93	Lowrance	to Novello	Freedman, Levy, Kroll, and Simonds	centrifuge underflow waste is not coke byproducts waste K147 or K148; may exhibit a characteristic	Pages: 2 FaxBack: 11737

K061, K062

Iron And Steel

4/10/85	McGraw	to Satterfield	American Hot Dip Galvanizers Association, Inc.	lime-stabilized waste pickle liquor sludge from steel finishing is not K062 unless it exhibits a characteristic of HW	Pages: 4 FaxBack: 11068
11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	K062 is spent material subject to full regulation before use as fertilizer ingredient; treated pickle liquor that becomes a commercially available fertilizer produced for general public's use is not subject to regulation (see also §266.20(b))	Pages: 3 FaxBack: 11112
1/27/86	Williams	to Esral	Plant-Roberts Chemicals	all dusts and sludges from the production of steel in EAF are listed HW, unless generated from foundry operations; distinction between primary (steel manufacture in EAF) and secondary (foundry making castings from scrap) production processes	Pages: 3 FaxBack: 11126
8/21/86	Straus	to Meyers	The Fertilizer Institute	zinc flue dust (K061) is exempt from regulation once it is processed into a commercial fertilizer sold to the general public; wastes from fertilizer production are K061 via derived-from rule	Pages: 3 FaxBack: 11174

9/11/86	Williams	to Schauble	Frit Industries, Inc.	zinc micronutrient fertilizer containing K061 is exempt from regulation if it is produced for the general public's use and handling is commensurate with zinc fertilizer management (see also 266.20(b))	Pages: 12 FaxBack: 11179
5/20/87	Straus	to Russell	Russel Resources, Inc.	pickle liquor becomes K062 as soon as it exits the pickling line bath and is sent to be regenerated; reclamation of pickle liquor before reuse makes it a spent material, even if it could continue to be used prior to reclamation	Pages: 5 FaxBack: 11250
1/11/88	Williams	to Lovgren	Leach and Garner Co.	pickling bath used to remove oxide scale from precious metals is not K062 when spent; if pickling is associated with electroplating, anodizing, or chemical etching and milling, wastes from process could be F006-F009	Pages: 4 FaxBack: 11315
1/25/88	Williams	to Greaves	EPA HQ	partially reclaimed K061 (zinc oxide) requiring further reclamation is still a HW; AMC v. EPA; status of dust from kiln burning K061 could change when BIF regulations are finalized (see also §§261.3(c)(2)(iii)(C)(1) and 261.4(a)(11)); indigenous secondary materials (see also §266.100)	Pages: 4 FaxBack: 11322
2/24/88	Denit	to Bouchard	Centre de Recherche Industrielle du Quebec	K061 listing applies solely to emission control dust or sludge from EAFs used in primary steel production (e.g., stainless steel); K061 listing does not apply to dust or sludge from EAFs used in casting operations	Pages: 4 FaxBack: 11328
5/2/88	Barnes	to Boulden	Ladish Co, Inc.	spent pickle liquor generated by steel fabricator is not K062 since facility is not in SIC codes 331 or 332	Pages: 4 FaxBack: 11346
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	K061 was listed because it is typically disposed, or reclaimed in processes unrelated to primary production of steel, and because it is frequently stored in open piles	Pages: 11 FaxBack: 11353

2/13/90	Lowrance	to Duprey	Region VIII	cement made using EAF dust as an ingredient is still K061, and must meet LDR treatment standards; high zinc subcategory has required treatment standard of metal recovery and cannot be land disposed (SUPERCEDED: see §268.40)	Pages: 13 FaxBack: 11491
6/19/90	Cessar	to Bowman	PA DNR	lime-stabilized K062 pickle liquor is not exempt from derived-from rule if characteristic; to qualify for exemption, waste pickle liquor must be lime- stabilized at an iron and steel manufacturer; lime stabilization at a commerical TSDF does not qualify	Pages: 2 FaxBack: 11526
12/1/92	Denit	to Guerry	Collier, Shannon, Rill and Scott	EAF dust (K061) used as ingredient in grit for abrasive blasting, roofing granules, or ceramics is not SW as long as dust is not used in a manner constituting disposal	Pages: 2 FaxBack: 11714

K064

Primary Copper

7/12/89	Duprey	to Giannotto	Shea and Gardner	Magma Copper's acid plant blowdown (APB) and APB/tailings mixture is not K064 because it is not thickened into sludge or slurry	Pages: 2 FaxBack: 11441

K069 & K100

Secondary Lead

8/5/91	Lowrance	to Waste Management Division Directors	Regions I-X	slags and drosses from secondary lead smelting where K069 is used as a feedstock are not listed via the derived-from rule; such smelting residues may be HW if characteristic; indigenous principle for recycled furnace wastes	Pages: 2 FaxBack: 11632
9/19/94	Shapiro	to Dumas	RSR Corp.	K069 listing does not apply to secondary acid scrubber wastes from secondary lead smelting during administrative stay; stay remains in effect until 30 days after future rulemaking clarifying K069 scope	Pages: 1 FaxBack: 11872

K078 - K082

Paint Wastes

4/20/81	Straus	to Padnos	NY City DEP	F017, F018, K078-K082 listings for paint wastes are suspended; paint wastes are still subject to HW characteristics	Pages: 1 FaxBack: 11010

K086

Ink Formulation

5/20/87	Sales	to Czigler	S & W Waste, Inc.	F-listed solvents from washing tubs and equipment used in ink formulation meet both the K086 and the appropriate F001-F005 listings when discarded	Pages: 10 FaxBack: 11249

K088

Primary Aluminum

3/3/89	Lowrance	to Goldman	The Aluminum Association	K088 listing only applies to the carbon portion of the material contained inside the elctrolytic reduction cell; other materials contained in the pot are not within the scope of the listing	Pages: 4 FaxBack: 11400
3/6/89	Barnes	to Day	Kaiser Aluminum	K088 listing for spent potliners only applies to the carbon portion contained inside the electrolytic cell; other materials contained in the pot are not covered by the listing	Pages: 2 FaxBack: 11401
8/25/89	Lowrance	to Goldman	Aluminum Association, Inc.	K088 only applies to carbon portion inside electrolytic reduction cell; other portions of the pot containing "significant levels of free cyanide" may be reactive	Pages: 2 FaxBack: 11462

K090 & K091

Ferroalloys

10/3/89	Scarberry	to Cerar	Squires, Sanders and Dempsey	K090 and K091 cover waste generated by air pollution control devices from ferrochromium or ferrochromium silicon production furnaces; K090 and K091 listed for total chromium (Cr); as of 1989, no plan to remove listings since new data show trivalent Cr may be a carcinogen	Pages: 5 FaxBack: 11472

K156, K157, K158, K159, K160, K161

Carbamates

8/3/95	Bussard	to Steinberg	Morgan, Lewis & Bockius	calculation for §261.3(a)(2)(iv)(F) exemption for K157 carbamate wastes must account for all constituents not reacted, destroyed, or recovered, including amount volatilized; compliance point (where volatilization is measured) is the point of generation prior to mixing with other wastes	Pages: 3 FaxBack: 11911
8/24/95	Bussard	to Dolan	Ansell Perry, Inc.	K161 is limited to wastes from the production of dithiocarbamate acids and their salts	Pages: 3 FaxBack: 11943
11/27/95	Shapiro	to Koster	Cytec Industries, Inc.	carbamates are a salt or ester of carbamic acid; methyl carbamate is the simplest ester of carbamic ester; organic wastes from the production of methyl carbamate are K156 regardless of the concentration of toxic contaminants	Pages: 2 FaxBack: 11946

261.33

P- & U-listed Wastes

Discarded

11/18/80	Dietrich	to Reynolds	Gold Mist, Inc.	mixture created by rinsing listed CCP from container with washwater is HW via mixture rule; container rinsewater is SW because it is discarded	Pages: 1 FaxBack: 11004

5/7/81	Corson	to Buschel	Chloroben Chemical Corp.	use of orthodichlorobenzene (U070) to unclog sewer pipes and septic tanks is not disposal, therefore solvent is not a CCP; CCPs not HW until discarded; normal use is not disposal	Pages: 2 FaxBack: 11011
5/13/81	Corson	to Wittmer	Merck, Sharp & Dohme	CCPs are not SW until a decision is made to discard them; pharmaceutical chemicals (U245) becomes HW at point decision made to discard (after returned to manufacturer)	Pages: 4 FaxBack: 11012
5/30/86	Williams	to Rambo	National Pest Control Association, Inc.	pesticide residue left on truck or service vehicle is not a discarded CCP because it is released into the environment as a result of use (see also 7/22/85 letter, Skinner to Hathway)	Pages: 2 FaxBack: 11160
5/18/87	Straus	to Burchett	Clean Crop	unused Phorate pesticide that volatilizes into the air during production, is captured in carbon filters, and is ultimately destined for destruction is P094 HW	Pages: 3 FaxBack: 11248
9/9/87	Williams	to Levin	Velsicol Chemical Corp.	P and U listings do not apply to chlordane and heptachlor applied to land or inside homes as part of normal use and subsequently found in soil, swimming pool water, carpet, or wallboard; P and U listings do apply to soil or carpet contaminated by unintentional spills of these chemicals	Pages: 6 FaxBack: 11291
2/22/89	Cochran	to O'Day	Packard Instrument Co.	transportation and sale of unused solvent, Ultima-Gold, not subject to Subtitle C because it is still a product rather than a discarded material; only subject to regulation as a discarded material if abandoned (i.e., disposed or incinerated) or recycled by being burned for energy recovery	Pages: 3 FaxBack: 11398
3/20/89	Cannon	to Fowler	U.S. Senate	cancelled dinoseb pesticide product becomes SW at point it is to be sent for disposal	Pages: 2 FaxBack: 11409

6/23/89	Lowrance	to Ullrich	Region V	until FIFRA regulations amended to reflect RCRA Subtitle C storage standards, regulations applicable to storage of suspended or cancelled U-list pesticides (silvex and 2,4,5-T) determined on case-by-case basis	Pages: 2 FaxBack: 11435
12/15/92	Lowrance	to Rodriguez	CA Regional Water Quality Control Board	pesticide applicator rinsewater is not a HW because pesticide residue left on machinery is not a discarded CCP and therefore not a HW; washwater is HW if it exhibits a characteristic (see also 7/22/85 letter, Skinner to Hathaway)	Pages: 1 FaxBack: 11716
8/24/95	Bussard	to Dolan	Ansell Perry, Inc.	residue remaining in a container or an inner liner removed from a container that has held any CCP having the generic name listed in §§261.33(e) or (f) is HW when discarded or intended for discard	Pages: 3 FaxBack: 11943

General

9/1/88	Lowrance	to Whitman	SW Inc.	Region is in best position to determine if aerosol cans are HW; generally, cans are hazardous if they contain a listed or characteristic CCP and are not empty per §261.7 and/or if the cans themselves exhibit a characteristic	Pages: 2 FaxBack: 11367
4/5/90	Scarberry	to Kreider	BASF Corp.	benzene dimethyl (U239, CAS No. 1330-20-7), which is a synomym for xylene, listed for ignitability only; 53 *FR* 13382; 4/22/88 added CAS numbers and chemical synonyms to P and U lists	Pages: 1 FaxBack: 11502
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	no regulatory definition for commercially pure grade or technical grade for purposes of P and U listings; CCPs can include any and all grades of purity of a chemical that are marketed or recognized in general usage by the chemical industry	Pages: 4 FaxBack: 11521

6/14/90	Bussard	to Wilson	EPA HQ	diluting or dissolving chemicals in order to make lab standards is not use; lab standards containing P- or U-listed chemicals that are discarded unused (i.e., excess, exceeded shelf life, otherwise contaminated) are P- or U-listed HW if only one active ingredient	Pages: 4 FaxBack: 11523
8/24/92	Abrams	to Lynnes	BHL Consultants, Ltd.	P and U listings apply to all CCPs with the generic names listed in §261.33, regardless of CAS numbers; cyclophosphamide and cyclophosphamide monohydrate, although described by different CAS numbers, are both U058	Pages: 1 FaxBack: 11687

Sole Active Ingredient

9/16/81	Friedman	to Sato	Region IX	diluted solution of pesticide Aldicarb (P070) would be disposal of product itself provided Aldicarb is sole active ingredient in solution	Pages: 2 FaxBack: 11021
5/6/86	Porter	to Lugar	U.S. Senate	presence of one or more P- or U-listed chemicals in solvent TF-1 does not automatically make it a listed solvent; to be listed under on P or U list it must be a pure or technical grade of a listed solvent, or contain a sole active ingredient	Pages: 9 FaxBack: 11153
9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	a mixture of pyridine and osmium tetroxide, both listed in §261.33 when discarded CCPs, is not a P- or U-listed waste because the mixture is not a pure or technical grade of chemical and is not a formulation with a sole active ingredient	Pages: 2 FaxBack: 11180
5/3/88	Lowrance	to Wayland	EPA HQ	products containing small amounts of other chemicals as manufacturing impurities are still considered to have sole ingredient; no percentage cutoff defines active ingredient; active ingredient is one that performs function of product; fillers, carriers, propellants are not active ingredients	Pages: 6 FaxBack: 11348

5/19/88	Barnes	to Fox	APTECH	P and U lists apply to commercial and technical grades of product, and to forumlations in which chemical is sole active ingredient; sole active ingredient means only chemically active component for the function of the product	Pages: 3 FaxBack: 11350
2/22/89	Cochran	to O'Day	Packard Instrument Co.	product solvent is only CCP HW if chemical on P or U list serves as the product's sole active ingredient (sole chemically active component for the function of the product)	Pages: 3 FaxBack: 11398
3/14/89	Barnes	to McLaughlin	Region VII	formaldehyde and paraformaldehyde added to pesticides to preserve the formulation are not considered active ingredients for purposes of P and U lists, even though FIFRA defines them as an active ingredient, for FIFRA purposes; intent of sole active ingredient provision	Pages: 2 FaxBack: 11405
2/9/90	Barnes	to Johnson	EPA HQ	dinoseb which is the sole active ingredient in a forumulation is P020; formulation in which both dinoseb and naptalam are active ingredients is not listed	Pages: 3 FaxBack: 11489
6/14/90	Bussard	to Wilson	EPA HQ	diluting or dissolving chemicals in order to make lab standards is not use; lab standards containing P- or U-listed chemicals that are discarded unused (i.e., excess, exceeded shelf life, otherwise contaminated) are P- or U-listed HW if only one active ingredient	Pages: 4 FaxBack: 11523
8/24/95	Bussard	to Dolan	Ansell Perry, Inc.	latex process wastes containing diothiocarbamate (ethyl zimate) are not regulated as U407, since ethyl zimate is not sole active ingredient	Pages: 3 FaxBack: 11943

Technical Grade

5/3/88	Lowrance	to Wayland	EPA HQ	"technical grade" means all commercial grades of chemical (in some cases may be marketed in various stages of purity); no exact criteria, such as percent purity, to define technical grade; purity of product will vary from compound to compound	Pages: 6 FaxBack: 11348
3/20/89	Cannon	to Fowler	U.S. Senate	discarded pesticide product dinoseb is regulated as HW if listed on P or U list, or if it contains a P or U list chemical as the sole active ingredient; dinoseb is listed as U015	Pages: 2 FaxBack: 11409
6/28/89	Barnes	to Wilson	EPA HQ	chemical made in lab instead of purchased from commerical source (due to cost or difficulty in procuring chemical) is equivalent to CCP and could be P- or U-listed when disposed; diluting CCP to make lab standard is not "use" and excess diluted CCPs that are not analyzed can be P- or U-listed	Pages: 9 FaxBack: 11437
2/9/90	Barnes	to Johnson	EPA HQ	formulation in which dinoseb (P020) is the major constituent (95%) is a technical grade CCP which is listed when discarded unused	Pages: 3 FaxBack: 11489
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	no regulatory definition for commercially pure grade or technical grade for purposes of P and U listings; CCPs can include any and all grades of purity of a chemical that are marketed or recognized in general usage by the chemical industry	Pages: 4 FaxBack: 11521

Used / Unused

3/12/83	Friedman	to D'Aloia	Deuel and Associates, Inc.	P and U listings do not apply to manufacturing process wastes which contain compounds listed in §261.33, because EPA was unable to establish reliable concentration levels indicating when such wastes containing P- or U-listed chemicals pose enough of a hazard to deserve regulation	Pages: 2 FaxBack: 11026

5/14/85	Corson	to Bassell	City of Fort Smith	P and U listings apply only to unused CCPs, not to process wastes containing chemicals listed in §261.33; U122 formaldehyde listing does not apply to waste containing used formaldehyde or fish contaminated with formaldehyde	Pages: 2 FaxBack: 11076
7/22/85	Skinner	to Hathaway	Region VI	pesticide residue left on an aircraft used to apply the pesticide is not a discarded CCP because it has been used (it has been released into the environment as a result of use) (see also 12/15/92 letter, Lowrance to Rodriguez)	Pages: 2 FaxBack: 11096
12/13/85	Williams	to Seraydarian	Region IX	pesticide residue on outside of pesticide applicator aircraft is not a discarded CCP eligible for P or U listing because it is considered used (it has been released into the environment as a result of use); pesticide residue remaining in spray tanks has not been used	Pages: 2 FaxBack: 11115
9/4/86	Straus	to Cherill	Corning Glass Works	P010 listing does not apply to rejected vanadium pentoxide substrates because the vanadium pentoxide has been used and is not a CCP; discarded materials would only be hazardous if they exhibit a characteristic	Pages: 2 FaxBack: 11177
9/29/86	Claussen	to Warren	Warren, Goldberg, Berman and Lubitz	if chlordane (U036) is applied to land during normal pesticide use, listings do not apply to chlordane-contaminated soil that is excavated, although soil may be regulated as HW if characteristic	Pages: 1 FaxBack: 11182
12/8/86	Williams	to Rambo	National Pest Control Association, Inc.	ash from the burning of aluminum and/or magnesium phosphide for fumigation would only be HW if it exhibits a characteristic; P006 listing for discarded CCP aluminum phosphide does not apply since the product has been used	Pages: 1 FaxBack: 11202
3/11/87	Williams	to Rambo	National Pest Control Association, Inc.	soil contaminated with pesticides during normal pesticide use can't carry P or U listing	Pages: 4 FaxBack: 11228

4/8/87	Straus	to Seiler	WA Dept. of Ecology	soil contaminated with certain spilled unused pesticides (2,4,5-T; Simazine; 2,4-D; Dicambia; and Bromacil) is regulated as acute HW when excavated because it contains F027; if soil contamination is result of pesticide usage, excavated soil is regulated only if it exhibits characteristic	Pages: 2 FaxBack: 11233
7/21/88	Lowrance	to Turner	Racon Refrigerants	used refrigerant would not meet the listing description in §261.33(e) for trichlorofluoromethane (U121) or dichlorodifluoromethane (U075) because it has been used	Pages: 4 FaxBack: 11355
11/2/88	Dellinger	to Stone	GSX Chemical Services	if mercury is contaminated prior to placement in thermometer, mercury is U151 when discarded, but is not SW when destined for reclamation; if mercury is removed from used thermometer, mercury is only HW if characteristic	Pages: 3 FaxBack: 11378
6/28/89	Barnes	to Wilson	EPA HQ	chemical made in lab instead of purchased from commerical source (due to cost or difficulty in procuring chemical) is equivalent to CCP and could be P- or U-listed when disposed; diluting CCP to make lab standard is not "use" and excess diluted CCPs that are not analyzed can be P- or U-listed	Pages: 9 FaxBack: 11437
8/21/89	Barnes	to Mastalerz	GSX Services, Inc.	P and U listings do not apply to chemicals listed in §261.33 that have been used for intended purpose; if unused chemical not technical grade or sole active ingredient in formulation due to contamination, it can still be off-specification species of CCP and P- or U-listed HW when discarded	Pages: 3 FaxBack: 11459
9/28/89	Barnes	to Simon	EPA HQ	off-specification CCP solvent that is discarded because it was contaminated with another product during packaging is a P- or U-listed waste if solvent is listed in §261.33	Pages: 3 FaxBack: 11471
6/14/90	Bussard	to Wilson	EPA HQ	diluting or dissolving chemicals in order to make lab standards is not use; lab standards containing P- or U-listed chemicals that are discarded unused (i.e., excess, exceeded shelf life, otherwise contaminated) are P- or U-listed HW if only one active ingredient	Pages: 4 FaxBack: 11523

11/2/92	Brandes	to Chase	U.S. Dept. of Army	if beryllium dust is used in glove box manufacture, beryllium dust residual on boxes after production is considered used and not P015; P015 listing does not cover particles created during normal beryllium machining, unless purpose of machining is to create beryllium dust CCP	Pages: 4 FaxBack: 11706
6/8/94	Brandes	to Dong	FulCircle Ballast Recyclers	diethylhexyl phthalate (DEHP) removed from lamp ballasts is used and is not U028; if DEHP from ballasts is reclaimed and then spilled or discarded, listing could apply	Pages: 1 FaxBack: 11842

261.33(e)

P-listed Wastes

6/19/81	Friedman	to McNeill	Occidental Chemical Co.	P120 listing applies to all oxides of vanadium's +5 oxidation state	Pages: 2 FaxBack: 11016
6/3/86	Williams	to Wagoner	Region VII	CCPs listed in §261.33 or exhibiting characteristics that are spilled in warehouse are subject to RCRA Subtitle C regulation unless immediately cleaned up	Pages: 5 FaxBack: 11161
9/4/86	Straus	to Cherill	Corning Glass Works	P010 listing does not apply to rejected vanadium pentoxide substrates because the vanadium pentoxide has been used and is not a CCP; discarded materials would only be hazardous if they exhibit a characteristic	Pages: 2 FaxBack: 11177
12/8/86	Williams	to Rambo	National Pest Control Association, Inc.	ash from the burning of aluminum and/or magnesium phosphide for fumigation would only be HW if it exhibits a characteristic; the P006 listing for discarded CCP aluminum phosphide does not apply since the product has been used	Pages: 1 FaxBack: 11202

5/3/88	Lowrance	to Wayland	EPA HQ	chlordane product (U036) that contains small amount of heptachlor (P059 if CCP) has only one active ingredient (chlordane) because heptachlor is a manufacturing impurity in chlordane; no percentage cutoff to define active ingredient	Pages: 6 FaxBack: 11348
3/10/89	Barnes	to Cothern	U.S. Dept. of Air Force	beryllium dust and associated wastes from grinding and polishing beryllium that is collected in air filtration equipment would generally not match listing description for CCP beryllium powder (P015)	Pages: 3 FaxBack: 11403
10/5/89	Josephson	to Shashoua	NJ DEP	warfarin is common name associated with chemical listed as P001	Pages: 13 FaxBack: 11473
2/9/90	Barnes	to Johnson	EPA HQ	P020 dinoseb listing does not include alkanol amine dinoseb (dinoseb salts) because no dinoseb salts are listed on P or U lists	Pages: 3 FaxBack: 11489
1/29/91	Bussard	to Lowrance	EPA HQ	EPA has removed strontium sulfide (P107) from P list of HW at §261.33 and Part 261, Appendix VIII, list of hazardous constituents	Pages: 1 FaxBack: 11578
4/13/94	Levine	to Bussard	EPA HQ	P015 listing applies to product beryllium powder, including dust and fines; the word "dust" was inadvertently deleted from the original listing "beryllium dust" in 1988	Pages: 1 FaxBack: 11830

261.33(f)

U-listed Wastes

7/16/85	Straus	to Stinson	R.W. Summers Railroad Contractor, Inc.	creosote listing (U051) does not apply to treated cross ties destined for disposal; cross ties unlikely to exhibit characteristic (see also §261.24); FIFRA may place controls on their handling and disposal	Pages: 2 FaxBack: 11094
2/11/86	Porter	to McKinney	U.S. House of Representatives	creosote-treated wood is probably not HW, as it is not covered by the listings (K001, K035) and is unlikely to exhibit a characteristic (see also §261.24); FIFRA regulations prohibit the burning of creosote-treated wood	Pages: 4 FaxBack: 11129
9/15/86	Straus	to Slemmer	SolidTek Systems, Inc.	ignitable discarded paint which contains xylene is not U239 because the xylene in formulation does not meet CCP definition	Pages: 2 FaxBack: 11180
2/9/87	Williams	to Dietrich	ICF Technology	debris and equipment from production of 2,4-D pesticide is regulated as U240 only if it contains or is contaminated with discarded CCP formulations of 2,4-D	Pages: 15 FaxBack: 11219
1/14/88	Williams	to Sylvestri	Versar, Inc.	hexachloroethane becomes a HW (U131) when mixed with sand for the purposes of burning in an incinerator trial burn; mixture of sand and U131 carries the U131 waste code via the mixture rule; ash resulting from burning the mixture is U131 via the derived-from rule	Pages: 2 FaxBack: 11320
1/20/88	Williams	to Gray	Earth Industrial Waste Management, Inc.	U-listed product residuals flushed from product line results in waste with multiple U listings	Pages: 3 FaxBack: 11321

4/25/88	Barnes	to Geary	Bio-Ecological Services, Inc.	antineoplastic drugs listed in §261.33 that are discarded unused are P- or U-listed HW; listings apply even if drug has been diluted in water or saline (as long as drug is sole active ingredient in formulation)	Pages: 4 FaxBack: 11343
5/3/88	Lowrance	to Wayland	EPA HQ	chlordane product (U036) that contains small amount of heptachlor (P059 if CCP) has only one active ingredient (chlordane) because heptachlor is a manufacturing impurity in chlordane; no percentage cutoff to define active ingredient	Pages: 6 FaxBack: 11348
7/21/88	Lowrance	to Turner	Racon Refrigerants	used refrigerant is not listed waste trichlorofluoromethane (U121) or dichlorodifluoromethane (U075) because it has been used; P and U listings apply to pure and technical grade chemicals and formulations with a sole active ingredient, but not to used chemicals	Pages: 4 FaxBack: 11355
10/5/89	Josephson	to Shashoua	NJ DEP	U036 listing covers all formulations including chlordane as sole active ingredient (includes technical and alpha/gamma isomer forms); no CAS number associated with U051 because EPA intends to list all forms of creosote; corrections to U126 and U161	Pages: 13 FaxBack: 11473
4/5/90	Scarberry	to Kreider	BASF Corp.	benzene dimethyl (U239, CAS No. 1330-20-7), which is a synomym for xylene, listed for ignitability only (typographical error in CFR);53 *FR* 13382; 4/22/88 added CAS numbers and chemical synonyms to P and U lists	Pages: 1 FaxBack: 11502
11/17/92	Lowrance	to Campt	EPA HQ	wool blankets treated with DDT are not SW until discarded; if SW, the DDT-treated blankets are unlikely to exhibit any characteristic of HW, and would not meet any of the listing descriptions in Part 261, Subpart D; a discarded product contaminated with chemical is not discarded CCP	Pages: 2 FaxBack: 11711
10/20/93	Weddle	to Bowman	Environmental Dynamics	discarded, unused paint stripper is U080 if methylene chloride is sole active ingredient and U220 if toluene is sole active ingredient; neither listing would apply if both are present as active ingredients; evaluation of characteristics necessary for compliance with Part 268 LDR requirements	Pages: 8 FaxBack: 11787

261 APPENDICES

APPENDIX I REPRESENTATIVE SAMPLING METHODS

7/3/91	Bussard	to Lund	C/P Utility Services Co.	general guidance for representative sampling of LBP abatement wastes (debris and abrasives) from drums, roll off boxes, and other containers	Pages: 4 FaxBack: 11624
6/22/95	Petruska	to Roberts	Maintenance Engineering	testing only one spent fluorescent tube to determine if all waste lamps generated at a site exhibit TC is not representative sampling; selection of randomly chosen bulbs would be more appropriate; Chapter 9 of SW-846 provides guidance on developing representative sampling plans	Pages: 2 FaxBack: 11907

APPENDIX III CHEMICAL ANALYSIS TEST METHODS

12/4/87	Friedman	to Adelsberger	OH EPA	clarification of how to determine holding times for RCRA samples; holding time begins at time sample is generated; holding times for EP analysis, for volatile organics in groundwater using Method 8010, and for semi-volatile organics in GW using Methods 3510 and 8270	Pages: 2 FaxBack: 11306

APPENDIX VII BASIS FOR LISTING HAZARDOUS WASTES

12/13/93	Abrams	to Citizen		EPA did not identify in Part 261, Appendix VII, all hazardous constituents expected to be present in listed wastes; explanation of criteria used to determine which constituents should be included in Appendix VII	Pages: 9 FaxBack: 11800

APPENDIX VIII HAZARDOUS CONSTITUENTS

4/10/85	Skinner	to Rickert	U.S. Dept. of Interior	the designation "N.O.S." (not otherwise specified) in Part 261, Appendix VIII, indicates the inclusion of all compounds of that particular class	Pages: 2 FaxBack: 11069

262 GENERATOR STANDARDS

Cogenerators

11/18/80	Dietrich	to Cooper	Mobay Chemical Corp.	owner, operator, contractor, and subcontractor are generators and are jointly and severally liable for complying with generator standards; EPA prefers one party to assume generator responsibilities	Pages: 5 FaxBack: 11005
5/20/81	Lindsey	to Ellis	Catalyst Technology Inc.	on-site contractor removing HW from tanks, vehicles, and vessels qualifies as generator; may be jointly and severally liable with other cogenerator for compliance with applicable regulations	Pages: 4 FaxBack: 11013
1/23/85	Horner	to Citizen		owner of waste, sample collector, and laboratory may be generator of lab samples; testing to identify the composition or characteristics of a sample is not treatment; waste is excluded from Subtitle C regulation if it meets sample provisions of §261.4(d)	Pages: 5 FaxBack: 11053
6/25/85	Skinner	to Seraydarian	Region IX	importers subject to generator requirements; transporter and U.S. facility arranging for importation would be importers; all parties may be jointly and severally liable for compliance with generator requirements; imported waste subject to manifest requirements	Pages: 2 FaxBack: 11085
7/21/88	Lowrance	to Turner	Racon Refrigerants	owner of refrigeration equipment as well as company or individual performing servicing may be generator of used refrigerant waste; generator must test waste or apply knowledge to determine if waste exhibits characteristic (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355

10/11/88	Regas	to Guerry	Collier, Shannon, Rill and Scott	under EPA's cogenerator policy, either Navy personnel or contractors meeting definition of generator may perform Part 262 duties including obtaining ID numbers, signing manifest certification, packaging waste, keeping records, and reporting	Pages: 3 FaxBack: 11372
12/3/90	Clay	to Hekman	U.S. Navy	both contractor generating HW in repair of Navy ship and Navy owning ship are cogenerators; cogenerators must decide who assumes generator responsibilities; cogenerators operating at same site normally use ID number assigned to that site	Pages: 5 FaxBack: 11571
3/4/94	Shapiro	to Stocker	Shipbuilders Council of America	presence of ID number on manifest not decisive factor in assessing liability; cogenerators all potentially liable; second ID number can be placed on manifest to designate cogenerators; no national policy on issuance of ID numbers for waste generated on ships	Pages: 2 FaxBack: 11816
8/10/95	Petruska	to Chirigos	Industrial Painters Coalition	during typical LBP abatement, both property owner and contractor may qualify as generators responsible for RCRA Subtitle C compliance; cogenerator policy applies to cases other than those specified in 45 *FR* 72024; 10/30/80, where waste is generated by more than one party	Pages: 2 FaxBack: 11913

Federal Hazardous Waste Generator Notification Policy

4/26/91	Clay	to Waste Management Division Directors	Region I-X	policy on releasing information on TSDF enforcement actions to federal generators; use of CERCLA "off-site policy" and the Federal Government Notification System to provide information; non-federal generators must submit Freedom of Information Act requests	Pages: 13 FaxBack: 11602

Generation

1/23/86	Williams	to Stringham	Region V	lake or harbor sediments contaminated by an exempt point source discharge are subject to RCRA Subtitle C only when excavated or dredged and if they exhibit a characteristic; sediments contaminated by illegal discharge and excavated could be regulated as listed via contained-in policy	Pages: 9 FaxBack: 11125
4/6/94	Bussard	to DuBoff	Winston and Strawn	one-time removal of wastes from unit inactive prior to effective date of applicable RCRA rules does not subject unit to Subtitle C, but waste removed from unit is "generated" and subject to all relevant regulations, including LDR	Pages: 2 FaxBack: 11826

Liability

11/18/80	Dietrich	to Cooper	Mobay Chemical Corp.	owner, operator, contractor, and subcontractor are generators and are jointly and severally liable for complying with generator standards; EPA prefers one party to assume generator responsibilities	Pages: 5 FaxBack: 11005
5/20/81	Lindsey	to Ellis	Catalyst Technology Inc.	on-site contractor removing HW from tanks, vehicles, and vessels qualifies as generator; may be jointly and severally liable with other cogenerator for compliance with applicable regulations	Pages: 4 FaxBack: 11013
9/17/81	MacMillan	to Moran	Client Relations and Regulatory Affairs	EPA typically does not enforce against generator for mishandling of HW by designated facility; legal action under §7003, other environmental laws, or common laws is possible	Pages: 2 FaxBack: 11022
6/25/85	Skinner	to Seraydarian	Region IX	importers subject to generator requirements; transporter and U.S. facility arranging for importation would be importers; all parties may be jointly and severally liable for compliance with generator requirements; imported waste subject to manifest requirements	Pages: 2 FaxBack: 11085

10/23/85	Porter	to Pannicucci	LAN Associates	delisted waste is not subject to RCRA Subtitle C regulation, but generator could still be liable under CERCLA for damage to the environment; revocation of delisting decision will not affect status of previously delisted waste	Pages: 2 FaxBack: 11110
7/3/86	Williams	to Lardieri	Scott Paper Co.	the manner in which waste is ultimately managed may greatly affect the potential liability of generators under CERCLA	Pages: 4 FaxBack: 11165
7/3/91	Bussard	to Lund	C/P Utility Services Co.	if LBP waste initially tests nonhazardous in TCLP due to temporary masking effect of iron shot, but exhibits characteristic prior to disposal, all HW regulations apply; generator of LBP waste may be liable under CERCLA for any damages caused by release of lead into environment	Pages: 4 FaxBack: 11624
8/30/91	Bussard	to TC Rule Contacts	Regions I-X	adding iron or other material to LBP removal waste to mask lead (D008) characteristic is not legitimate and may subject generator to additional liability; whether masking agent is added to paint removal abrasive or to waste following generation is immaterial	Pages: 6 FaxBack: 11636
3/4/94	Shapiro	to Stocker	Shipbuilders Council of America	presence of ID number on manifest not decisive factor in assessing liability; cogenerators all potentially liable; second ID number can be placed on manifest to designate cogenerators; no national policy on issuance of ID numbers for waste generated on ships	Pages: 2 FaxBack: 11816

Ships As Generators

2/5/86	Williams	to Rotz	U.S. Coast Guard	both the ship and port facility may be generator of waste produced in product or raw material vessel units; ship only would be generator of other wastes (see also RPPC 9441.1986(65) and FFCA)	Pages: 5 FaxBack: 11128

3/17/86	Porter	to Montgomery	U.S. House of Representatives	both the ship and port facility may be generator of waste produced in product or raw material vessel units; ship only would be generator of other wastes (see also RPPC 9441.1986(65) and FFCA)	Pages: 2 FaxBack: 11137
7/30/87	Williams	to Feigner	Region X	each ATON unit service area (landbased or tender vehicle) is a point of generation subject to applicable generator standards; satellite accumulation area provisions do not apply to ATON service locations (see also FFCA)	Pages: 9 FaxBack: 11270
2/25/88	Denit	to Wiman	U.S. Coast Guard	a generator site may be defined as each vessel where waste is generated; if buoy is brought on ship to remove ATON battery, the ship can be generation site rather than buoy; ship may accumulate spent ATON batteries under §262.34 (see also FFCA)	Pages: 11 FaxBack: 11329
10/11/88	Regas	to Guerry	Collier, Shannon, Rill and Scott	waste produced at sea is subject to regulation as soon as it is produced unless it is in exempt unit such as product or raw material storage tank, product or raw material tank vehicle or vessel, or manufacturing process unit (see also FFCA)	Pages: 3 FaxBack: 11372
2/8/89	Cochran	to Cunniff	EPA HQ	all wastes from ships are potentially subject to RCRA Subtitle C; ship is generator of waste	Pages: 3 FaxBack: 11396
3/4/94	Shapiro	to Stocker	Shipbuilders Council of America	no national policy on issuing EPA ID numbers for waste generated on ships	Pages: 2 FaxBack: 11816
8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	in absence of permit, HW generated on public vessel may not be stored on-board over 90 days after vessel is placed in reserve or out of service (see also FFCA §106)	Pages: 13 FaxBack: 11862

Who Is Generator Of Treatment Residue

11/3/80	Chau	to Long	Burr-Brown Research Corp.	requirements to notify EPA regarding Part 262 is independent of notification requirements for Part 270	Pages: 3 FaxBack: 11003
1/16/86	Straus	to Slemmer	Solid Tek Systems, Inc.	TSDF is generator of treatment residue	Pages: 2 FaxBack: 11122
8/30/91	Lowrance	to Kaiser	McHale, Cook & Welch	residues from the treatment of HW could cause a TSDF to be a generator; TSDF may also generate other kinds of waste than those generated as a result of treatment	Pages: 1 FaxBack: 11637

SUBPART A GENERAL

262.10

Applicability

6/25/85	Skinner	to Seraydarian	Region IX	importers subject to generator requirements; transporter and U.S. facility arranging for importation are importers; all parties may be jointly and severally liable for compliance with generator requirements; imported waste subject to manifest requirements	Pages: 2 FaxBack: 11085
5/16/86	Greenwood	to Prentice	Region IX	commercial pesticide applicators who apply and dispose of pesticide for farmers can qualify for farmer exemption	Pages: 2 FaxBack: 11155

3/13/91	Lowrance	to Zelikson	Region IX	if generator receives return copy of the manifest with the required signatures (generator, transporter, TSDF), the generator should be in compliance with RCRA Subtitle C; generator retains potential liability under CERCLA for future mismanagement	Pages: 2 FaxBack: 11589
7/3/91	Bussard	to Lund	C/P Utility Services Co.	bridge repair projects involving LBP removal are subject to HW generator regulations if paint wastes exhibit TC for lead (D008)	Pages: 4 FaxBack: 11624

262.11 Hazardous Waste Determination

12/26/84	Skinner	to Scarbrough	Region IV	generators do not use Appendix VIII in HW determination; wastes containing Appendix VIII constituents not HW unless listed or characteristic	Pages: 1 FaxBack: 11051
2/4/86	Straus	to Dufficy	National Association of Photographic Manufacturers, Inc.	although trade association data indicate photographic films and papers are not specifically listed and are unlikely to exhibit any characteristic, each generator must make independent HW determination	Pages: 2 FaxBack: 11127
4/21/86	Porter	to McCloskey	U.S. House of Representatives	solvent and PCB wastes containing Appendix VIII constituents not HW unless listed or characteristic; TSCA has authority to regulate handling and dispsoal of PCBs	Pages: 3 FaxBack: 11144
5/20/86	Straus	to Guptill	MO Hospital Association	generator responsible for making determination even if trade association data suggest waste is not hazardous; x-ray film not specifically listed as HW, only hazardous if exhibits a characteristic	Pages: 2 FaxBack: 11156

5/23/86	Straus	to Neiderkofler	U.S. Veterans Administration	based on trade association data, x-ray film does not appear to be hazardous; nonetheless, each generator is individually responsible for making this determination	Pages: 1 FaxBack: 11158
1/6/87	Straus	to Dufficy	National Association of Photographic Manufacturers, Inc.	properly washed photographic silver recovery units (e.g. steel wool cartridges, electrolytic recovery cells, and ion exchange resins) might not exhibit characteristic; generators remain responsible for correct HW determination; if recycled, residues may be eligible for reduced regulation	Pages: 12 FaxBack: 11210
2/10/88	Williams	to Gere	Stonimpex, Inc.	HW determination can be made by testing or applying knowledge of materials and processes	Pages: 1 FaxBack: 11323
5/19/88	Barnes	to Fox	APTECH	if waste is not listed, the generator must test or apply knowledge to determine if waste exhibits a characteristic	Pages: 3 FaxBack: 11350
6/6/88	Barnes	to Tribble	American Cyanamid Co.	generators of sulfuric acid must make own SW and HW determination and must have adequate documentation to support any exemption claims	Pages: 9 FaxBack: 11352
7/21/88	Lowrance	to Turner	Racon Refrigerants	used refrigerant does not meet HW listing description but generator must test waste or apply knowledge to determine if waste exhibits characteristic; generators may cautiously use knowledge of similar operations at different facilities to characterize waste (see also §261.4(a)(12))	Pages: 4 FaxBack: 11355
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	Bureau of Alcohol, Tobacco, and Firearms (BATF) transport of explosives to safe areas for destruction exempt from RCRA Subtitle C requirements if an immediate response; emergency permits are available for activities that do not constitute an immediate response	Pages: 4 FaxBack: 11363

10/27/88	Lowrance	to Greenberg	Browning-Ferris Industries	if generator improperly characterizes waste, TSDF should advise generator to correct error on manifest or should reject shipment; generator and TSDF potentially liable for improperly analyzing and managing HW	Pages: 3 FaxBack: 11375
4/18/89	Lowrance	to Brown	EPA HQ	if waste does not match listing descriptions, generator is responsible for determining whether waste exhibits any characteristic	Pages: 1 FaxBack: 11421
6/26/89	Cannon	to Simon	RI Division of Family Health	if contaminated soil is removed from a site, generator must determine if soil contains HW by testing and/or applying knowledge; in absence of specific cleanup order, soil left in place is not subject to RCRA Subtitle C requirements, including testing	Pages: 3 FaxBack: 11436
3/22/90	Barnes	to Jamison	Micron Diagnostics, Inc.	although data may indicate waste is not hazardous, each generator is responsible for evaluating waste and making a HW determination	Pages: 2 FaxBack: 11501
5/23/90	Lowrance	to Bergeson	Fox, Weinberg, and Bennett	generator must determine when a battery is a spent material or reusable; generator regulations applicable to spent batteries if hazardous	Pages: 3 FaxBack: 11517
7/19/90	Lowrance	to Lugar	U.S. Senate	generator of used utility poles removed from ground must determine if poles exhibit a characteristic of HW	Pages: 2 FaxBack: 11543
7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	Section 262.11 requires generators of SW to determine characteristic waste codes applicable to all wastes, whether or not those wastes already qualify as listed HW (pp. 7-8)	Pages: 13 FaxBack: 11545

8/14/90	McBride	to Leonard	National Environmental Testing, Inc.	generators should assume waste is hazardous in absence of useable lab data (SUPERCEDED: see 3/25/91 letter, from McBride to Leonard)	Pages: 3 FaxBack: 11550
9/20/90	Lowrance	to Huber	Petroleum Marketers Association of America	EPA does not determine whether a particular waste exhibits a characteristic; HW determination for UO is the responsibility of the generator (see also Part 279)	Pages: 2 FaxBack: 11563
11/8/90	Hansen	to Coleman	OH EPA	TCLP inappropriate for use with certain matrices, such as oils and neat solvents, because dilution step shifts detection limit above regulatory levels; in these cases, generator must assume waste is hazardous (see also 3/25/91 letter, McBride to Leonard); TCLP must be used to obtain extract	Pages: 2 FaxBack: 11568
2/5/91	Hansen	to Coleman	OH EPA	clarification of 11/8/90, letter from Hansen to Coleman; generator may always apply knowledge in determining if waste is HW; if no information is available except inconclusive TCLP data, prudent for generator to assume waste is hazardous; no need to perform TCLP on used oil destined for recycling	Pages: 5 FaxBack: 11579
3/25/91	McBride	to Leonard	National Environmental Testing, Inc.	TCLP difficult to use on wastes such as oils and neat solvents, because dilution step shifts detection limit above TC levels; generator should apply knowledge in such cases; if no information is available, prudent to handle as HW (clarifies 8/14/90 letter from McBride to Leonard)	Pages: 5 FaxBack: 11592
4/16/91	Lowrance	to Oberg	United Marketing International, Inc.	generator can apply knowledge instead of testing when making HW determination for oil filters; generators must be correct in their determinations when applying knowledge (see also §261.4(b)(13))	Pages: 2 FaxBack: 11599
5/1/91	Lowrance	to Maes	Blue Beacon International, Inc.	generators may test or apply knowledge to make HW determination; generators may limit testing to constituents likely to be present in waste	Pages: 4 FaxBack: 11603

5/21/91	Lowrance	to	Commanding Officer	U.S. Navy	mandatory waste determination should be based on knowledge when application of TCLP to discarded munitions would result inherently unsafe situation due to particle reduction step; exemption from TCLP is unwarranted because generators can apply their knowledge	Pages: 2 FaxBack: 11608
7/3/91	Bussard	to	Lund	C/P Utility Services Co.	generators conducting LBP abatement must test wastes using TCLP unless they can apply knowledge to determine characteristics; if LBP waste first tests nonhazardous in TCLP due to masking effect of iron abrasive, but exhibits characteristic prior to disposal, all HW regulations apply	Pages: 4 FaxBack: 11624
9/14/92	Bussard	to	Salinas	Border Trading, Inc.	generator must perform HW determination for waste that will be exported; all TSDFs handling HW that will be exported must have proper permits under RCRA Subtitle C	Pages: 1 FaxBack: 11696
11/10/92	Lowrance	to	Burke	Rode and Qualey	generator is responsible for determining regulatory status of spent photoconductor drums removed from photocopying machines	Pages: 2 FaxBack: 11710
10/20/93	Weddle	to	Bowman	Environmental Dynamics	generators must determine whether or not any listed waste also exhibits a hazardous characteristic for purposes of compliance with the Part 268 LDR requirements	Pages: 8 FaxBack: 11787
4/12/94	Bussard	to	Clements	ZEP Manufacturing Co.	generator may apply knowledge for HW determination on nationwide basis only if all processes and materials are identical at each location	Pages: 3 FaxBack: 11829
4/18/94	Petruska	to	Preheim	Mineral Bureau, Inc.	importer must make HW determination on a shipment by shipment basis; generator retains burden of proof when claiming material is not SW or is conditionally exempt from regulation	Pages: 1 FaxBack: 11832

5/9/94	Bussard	to Mauro	U.S. Navy	HW determination is not necessary for steel Oxygen Breathing Apparatus (OBA) canisters recycled as scrap metal	Pages: 17 FaxBack: 11835
6/22/95	Petruska	to Roberts	Maintenance Engineering	any person generating SW is responsible for determining whether their wastestream (e.g., waste fluorescent lamps) exhibits a characteristic and is hazardous	Pages: 2 FaxBack: 11907
8/22/95	Petruska	to Kuszaj	Ogletree, Keakins, Nash, Smoak & Stewart	two autonomous divisions of same company operating on individual generation site are not separate generators; EPA expects each generator site to have one ID number; requests for multiple ID numbers for one generation site are evaluated on case-by-case basis by region or state	Pages: 2 FaxBack: 11916

262.12 Identification Numbers

8/3/83	Daneker	to Kawatachi	Region V	EPA ID numbers are site-specific, not owner-specific; generator or TSDF at a new location obtains a new EPA ID number for the new site; multiple corporations at same site can have different EPA ID numbers; lessor of federal property on a federal site may obtain separate EPA ID number	Pages: 7 FaxBack: 11028
11/17/86	Straus	to Slemmer	SolidTek Systems, Inc.	generator must list all individual HW codes that are generated when completing notification form 8700-12	Pages: 3 FaxBack: 11196
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	generators under RCRA are defined both by person and by site; each Bureau of Alcohol, Tobacco, and Firearms (BATF) field office or storage locker area where explosive material becomes a waste is an individual generation site requiring its own EPA ID number	Pages: 4 FaxBack: 11363

8/15/89	Barnes	to Bider	Trans World Airlines, Inc.	Region or state ultimately decides how many EPA ID numbers apply to particular facility; EPA generally issues one number to each unique site; on site" definition may help in deciding how many ID numbers to assign (see also 9/83 MRQ)	Pages: 2 FaxBack: 11456
9/20/90	Lowrance	to Huber	Petroleum Marketers Association of America	SQG of new TC wastes were required to notify EPA by 11/2/90; SQG were granted an additional three months to comply with TC Rule due to inconsistencies in the rule	Pages: 2 FaxBack: 11563
12/3/90	Clay	to Hekman	U.S. Navy	EPA normally assigns only one EPA ID number per individual site; Navy port would normally receive one ID number used by all contractors generating HW at site; Regions and authorized states can make own determinations on assigning ID number to such port facilities	Pages: 5 FaxBack: 11571
11/4/94	Shapiro	to Johnson	U.S. House of Representatives	university facilities on separate city blocks or divided by public roads are individual generation sites requiring separate EPA ID numbers and manifests for exchange of HW; if access between facilities is possible without traveling along public road, only one EPA ID number is needed	Pages: 2 FaxBack: 11884

SUBPART B THE MANIFEST

262.20 General Requirements

12/15/83	Barley	to Citizen		generator may use services of outside firms to aid in preparing manifests; generator must assure that information on manifests is correct; generator is ultimately responsible for the preparation of the form	Pages: 1 FaxBack: 11030
9/8/86	Williams	to Cooper	Printing Industries of America	printer shipping hazardous rags and wipers to an industrial laundry may qualify for the manifest exemption under §262.20(e) provided that printer is a SQG and all conditions of exemption are met (see also 2/14/94 letter, Shapiro to Regions)	Pages: 2 FaxBack: 11178

11/28/86	Williams	to Crabtree	Motor Vehicle Manufacturers Association	no requirement for an "authorized representative" to sign manifest certification; person signing the manifest certification should have direct knowledge of the information listed on the manifest	Pages: 4 FaxBack: 11199
2/24/87	Williams	to Sparta	Environmental Technology Southeast	facilities with exempt WWTUs usually do not qualify as designated facilities and cannot accept manifested off-site waste; POTW with permit-by-rule is designated facility; designated facility means permitted, interim status, or subject to regulations of §261.6(c)(2)	Pages: 2 FaxBack: 11221
4/30/87	Barley	to Zak	IL EPA	manifest instructions require generators to use continuation sheets when more than two transporters are used or if more space is needed for DOT description information; states may require use of additional manifests rather than continuation sheets	Pages: 1 FaxBack: 11242
11/3/87	Williams	to Coleman	"The New" Photogene Corp.	manifest document numbers are unique five digit numbers assigned to the manifest by the generator; the number may be entirely numeric or alphanumeric	Pages: 2 FaxBack: 11301
6/16/89	Straus	to Lodick	North Coast Associates, Inc.	spent abrasives from sandblasting used as an ingredient in Portland cement are subject to HW regulation if characteristic, including manifesting	Pages: 2 FaxBack: 11433
7/13/89	Lowrance	to Regions I-X	Regions I-X	manifest is not required to have a burden box statement	Pages: 3 FaxBack: 11443
3/13/91	Lowrance	to Zelikson	Region IX	if generator receives return copy of the manifest with the required signatures (generator, transporter, TSDF), the generator shouls be in compliance with RCRA Subtitle C ; generator retains potential liability under CERCLA for future mismanagement	Pages: 2 FaxBack: 11589

7/3/91	Bussard	to Lund	C/P Utility Services Co.	shipments of LBP abatement HW from field site (bridge repair) to central accumulation point must generally be accompanied by manifest; central accumulation point must be a transfer facility or TSDF to accept manifested HW	Pages: 4 FaxBack: 11624
7/26/91	Lowrance	to Engel	U.S. Pollution Control	generator responsible for designating second transporter when HW is transferred from rail to highway; generator responsible for knowing who is transporting HW	Pages: 2 FaxBack: 11630
8/20/92	Lowrance	to Hofman-Haynie	Southdawn, Inc.	no comprehensive national policy for handling partial or complete rejection of HW shipments	Pages: 2 FaxBack: 11686
8/11/93	Browner	to Dingell	U.S. House of Representatives	pursuant to Combustion Strategy, EPA examining its authority to enforce generator and TSDF waste minimization and certification requirements	Pages: 10 FaxBack: 11764
7/18/94	Shapiro	to St. John	BKK Landfill	waste minimization and certification requirements apply to landfill which generates and has RCRA Subtitle C treatment permit for F039 leachate; no exemption from waste minimization certification for facilities generating remedial waste	Pages: 2 FaxBack: 11855
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	manifest continuation sheets should carry same manifest number found on first page of manifest; certain states no longer use continuation sheets.	Pages: 6 FaxBack: 11877

262.23

Use Of The Manifest

7/11/85	Skinner	to Saulsman	The Boeing Co.	employees signing the manifest may sign on behalf of their company; preprinting the phrase "on behalf of . . ." under the signature line on the manifest is allowed; individual signing the manifest and company responsible for veracity of certification statement	Pages: 1 FaxBack: 11090
10/17/85	Williams	to Deaver	Tektronix, Inc.	employees signing the manifest may sign on behalf of their company; preprinting the phrase "on behalf of . . ." under the signature line on the manifest is allowed; additional information about the signature may be included in Item 15	Pages: 3 FaxBack: 11108
11/17/86	Straus	to Slemmer	SolidTek Systems, Inc.	generator not required to list waste codes on the manifest; states might require waste codes	Pages: 3 FaxBack: 11196
11/28/86	Williams	to Crabtree	Motor Vehicle Manufacturers Association	no requirement for an "authorized representative" to sign manifest certification; person signing the manifest certification should have direct knowledge of the information listed on the manifest	Pages: 4 FaxBack: 11199
8/19/87	Williams	to Manthey	SW Incorporation	optional boxes on manifest left blank for use by states; EPA does not require waste code on manifest; each waste in a waste mixture must be described on manifest	Pages: 3 FaxBack: 11281
8/31/87	Lowrance	to Gingold	Envirosure	EPA does not require listing HW codes on the manifest; DOT requires descriptions of each waste on the manifest	Pages: 6 FaxBack: 11284

10/11/88	Regas	to Guerry	Collier, Shannon, Rill and Scott	contractor may sign manifest certification on behalf of generator such as U.S. Navy if properly authorized; contractor and generator should establish means to ensure contractor is properly authorized to sign on generator's behalf	Pages: 3 FaxBack: 11372
11/17/89	Barnes	to Simon	EPA HQ	federal regulations do not require generators to place waste codes on the manifest	Pages: 1 FaxBack: 11480
6/14/90	Bussard	to Wilson	EPA HQ	federal regulations do not require inclusion of HW codes on manifest, although state regulations can; if waste is both listed and exhibits characteristic, waste must carry all applicable codes for purposes of LDR and incompatible waste regulations	Pages: 4 FaxBack: 11523
7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	under federal regulations, only DOT waste descriptions required on manifest; EPA waste codes need not be included on manifest (p. 1)	Pages: 13 FaxBack: 11545
12/3/90	Clay	to Hekman	U.S. Navy	in typical cogeneration situations (e.g., Navy ports), all parties shipping HW from same site use same EPA ID number on manifests; generator such as Navy may assign "internal" tracking numbers to manifests in Box 15 to identify contractor involved in creating each shipment of HW	Pages: 5 FaxBack: 11571
7/26/91	Lowrance	to Engel	U.S. Pollution Control	generator responsible for designating second transporter when HW is transferred from rail to highway; generator responsible for knowing who is transporting HW	Pages: 2 FaxBack: 11630
10/17/91	Bussard	to HW Management Division Directors	Regions I-X	manifest with 9/30/91 expiration date may be used through 9/30/92; cross out printed 1991 expiration date and replace with new 1992 expiration date	Pages: 3 FaxBack: 11646

4/29/93	Lowrance	to Citizen		EPA does not require generators to list HW codes or complete Section J on the manifest; obtain manifest from receiving state; if receiving state doesn't supply manifest, obtain from originating state; if neither supply manifest, obtain from any source	Pages: 2 FaxBack: 11741
7/15/93	Lowrance	to Devaney	EPA HQ	Memorandum of Understanding between EPA and U.S. Customs; importers or transporters are under no obligation to submit manifests at borders of U.S.	Pages: 2 FaxBack: 11757
10/20/93	Weddle	to Bowman	Environmental Dynamics	DOT shipping descriptions are required for each HW listed on manifest; generator must designate all transporters that will transport HW; waste codes on manifest not required under Federal law; use continuation sheet if more space is needed to enter required information	Pages: 8 FaxBack: 11787
3/22/94	Shapiro	to Ouellette	Canadian National Railways	rail shipments of HW need not be accompanied by manifest; generator of waste transported solely by rail forwards copies of manifest directly to designated facility	Pages: 3 FaxBack: 11820
8/9/94	Bussard	to Winwood	U.S. Customs Service	manifesting procedures for HW imports and exports passing U.S. Customs; Customs Service collects manifest from exporter and transmits to EPA	Pages: 2 FaxBack: 11863
9/14/95	Petruska	to Berry	Goodwin, Procter, and Hoar	manifest discrepancy regulations do not apply to waste which loses the characteristic of corrosivity during transit; manifest discrepancy regulation was intended to cover situations where a quantity of waste is unaccounted for	Pages: 2 FaxBack: 11918

SUBPART C PRE-TRANSPORT REQUIREMENTS

262.30

Packaging

11/17/87	Williams	to Smith	Burns and Levinson	no requirement to list a drum's previous contents; generators must only comply with DOT packaging, labeling, marking, and placarding requirements	Pages: 6 FaxBack: 11303

262.31

Labeling

1/10/84	Weddle	to Staab	Baltimore County Delegation	container labels must be durable; typed or written labels must not smear	Pages: 2 FaxBack: 11031
11/17/87	Williams	to Smith	Burns and Levinson	no requirement to list a drum's previous contents; generators must only comply with DOT packaging, labeling, marking, and placarding requirements	Pages: 6 FaxBack: 11303

262.32

Marking

11/17/87	Williams	to Smith	Burns and Levinson	no requirement to list a drum's previous contents; generators must only comply with DOT packaging, labeling, marking, and placarding requirements	Pages: 6 FaxBack: 11303

262.34

Accumulation Time

3/12/85	Straus	to Katona	Occidental Chemical Corp.	generators may accumulate dioxin-containing HW on site for less than 90 days without a permit or interim status; generator accumulation provisions can apply whether or not a permit is necessary for other parts of a facility's operation	Pages: 4 FaxBack: 11062
4/1/85	Gray	to Munger	Hawaiian Electric Co., Inc.	tank holding but not treating HW prior to off-site transfer is not WWTU but could be generator accumulation unit exempt from permitting	Pages: 4 FaxBack: 11066
7/10/85	Skinner	to Suska	Baltimore City Health Dept.	generators who store spent activated charcoal that is HW on site must comply with §262.34 accumulation time limits or obtain RCRA Subtitle C permit	Pages: 3 FaxBack: 11089
1/6/86	Straus	to Robbins	Kohler Co.	generator storage of spent materials (foundry sands) prior to shipment off site for reclamation is subject to §262.34	Pages: 2 FaxBack: 11119
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	if a sump storing HW prior to neutralization is not part of WWTU or other exempt unit, the sump is subject to §262.34 or Parts 264/265	Pages: 3 FaxBack: 11134
6/17/86	Williams	to Seraydarian	Region IX	detailed discussion of EPA policy allowing generators to treat HW in accumulation tanks or containers without obtaining a permit or interim status	Pages: 3 FaxBack: 11163

8/28/86	Williams	to Zellmer	WI DNR	solvent evaporation during generator accumulation in a container is not within the §262.34 permitting exemption because one of the conditions for the exemption is that containers remain closed except when adding or removing waste per §265.173(a) (see also Part 264/265, Subpart CC)	Pages: 3 FaxBack: 11176
9/25/86	Williams	to Stringham	Region V	a facility which generates a HW and ships the waste to a POTW for treatment must comply with all applicable accumulation and transportation requirements, including the manifest	Pages: 2 FaxBack: 11181
12/2/86	Straus	to Hayes	Hogan and Hartson	reclamation of spent solvents at generator facilities is HW treatment, but is exempt from regulation under §261.6(c); spent solvents are subject to regulation prior to reclamation; generators managing spent solvents under §262.34 prior to reclamation are not subject to permitting	Pages: 3 FaxBack: 11200
12/22/86	Williams	to Barber	KY DEP	generators can treat HW in accumulation tanks or containers without a permit, provided treatment is performed strictly in accordance with §262.34	Pages: 3 FaxBack: 11207
12/22/86	Williams	to Lamm	IN Dept. of Environmental Management	generators can treat HW in accumulation tanks or containers without a permit, provided treatment performed strictly in accordance with §262.34	Pages: 3 FaxBack: 11209
3/25/87	Williams	to Allford	NL Industries, Inc.	generator meeting the requirements of §262.34 need not obtain a RCRA Subtitle C permit to conduct treatment in tank systems	Pages: 3 FaxBack: 11231
7/1/87	Williams	to Cox	AL Dept. of Environmental Management	generators can treat in accumulation tanks or containers without a permit provided treatment occurs in units complying with Subparts I or J of 265; open burning in drums or tanks is not allowed under §262.34	Pages: 9 FaxBack: 11261

7/14/87	Williams	to Weisberg	MCW, Inc., Consulting Engineers	generator can treat in accumulation tanks or containers in compliance with §262.34 without a permit or interim status; a company may market treatment equipment to generators without a permit or EPA approval, EPA only regulates persons who manage HW	Pages: 8 FaxBack: 11265
7/30/87	Williams	to Feigner	Region X	each Aids to Navigation (ATON) unit service area (landbased or tender vehicle) is a point of generation subject to applicable generator standards; satellite accumulation area provisions do not apply to ATON service locations (see also FFCA)	Pages: 9 FaxBack: 11270
9/2/87	Williams	to Hutchinson	University of ID	different accumulation times for acute and non-acute HW at same generator facility	Pages: 1 FaxBack: 11288
12/10/87	Williams	to Citizen		generators may accumulate HW under §262.34 without a permit or interim status; containers and tanks are subject to standards designed to prevent releases to GW; EPA may take enforcement action under §3008(a) and §7003 to stop discharges and to cleanup contamination	Pages: 4 FaxBack: 11309
12/15/87	Williams	to Greaves	EPA HQ	generators accumulating HW under §262.34 are exempt from permitting requirements whether or not treatment is conducted; thermal treatment (OB/OD) is not allowed under §262.34; thermal treatment is subject to Part 265, Subpart P	Pages: 4 FaxBack: 11310
1/13/88	Williams	to Young	Atlantic Research Corp.	satellite accumulation areas not subject to permitting, interim status, or the requirements for generator storage under §262.34(a)	Pages: 2 FaxBack: 11317
2/25/88	Denit	to Wiman	U.S. Coast Guard	a generator site may be defined as each vessel where waste is generated; if buoy is brought on ship to remove ATON battery, the ship can be generation site rather than buoy; ship may accumulate spent ATON batteries under §262.34 (see also FFCA)	Pages: 11 FaxBack: 11329

7/29/88	Barnes	to Colon	Western Fher Laboratories, Inc.	CKD mixed with liquid corrosive waste is considered treatment; no permit required for treatment performed in generator accumulation tanks subject to Parts 264 or 265 Subparts I or J or §262.34.	Pages: 2 FaxBack: 11358
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	storage of waste explosives at Bureau of Alcohol, Tobacco, and Firearms (BATF) facilities not subject to permitting if accumulation time does not exceed 90 days and other generator accumulation requirements satisfied	Pages: 4 FaxBack: 11363
4/18/89	Lowrance	to Boyd	Sidley and Austin	accumulation time for still bottoms begins when they are removed from recycling unit for spent solvents recycled in generator on site distillation unit; still bottoms subject to all applicable §262.34 generator accumulation regulations	Pages: 2 FaxBack: 11420
4/19/89	Dellinger	to Pendleton	K.A. Pendleton Co., Inc.	stabilizing F006 compounds prior to thermal drying is HW treatment; permit not needed if unit is exempt under §270.1(c)(2) or if treatment occurs in generator accumulation units complying with §262.34; permit is required if thermal treatment of HW is involved	Pages: 1 FaxBack: 11422
4/21/89	Lowrance	to Axtell	Smith and Schnacke	generator accumulation time period and regulations apply as soon as waste is produced or when waste is removed from satellite accumulation area, not when test results confirm whether waste is hazardous or not	Pages: 2 FaxBack: 11424
4/24/89	Lowrance	to HW Management Division Directors	Regions I-X	general discussion of LQG and SQG accumulation regulations; also discussion of environmental problems found at generator accumulation areas	Pages: 18 FaxBack: 11425
5/9/89	Lowrance	to D'Aloia	Deuel and Associates, Inc.	LQGs and SQGs must comply with all applicable contingency plan, emergency procedures, and personnel training requirements under §262.34; relationship of generator training requirements to OSHA training	Pages: 3 FaxBack: 11429

2/9/90	Barnes	to Johnson	EPA HQ	generators may store and treat HW in tanks for 90 days without obtaining a permit	Pages: 3 FaxBack: 11489
8/15/90	Lowrance	to Hopkins	OR DEQ	generator accumulation time limit starts when waste first enters storage container	Pages: 4 FaxBack: 11551
4/16/91	Lowrance	to Di Salvo	Radiation Service Organization	petition to allow generators of mixed radioactive and HW to treat on site without obtaining a permit might be unnecessary; some types of treatment are allowable during the §262.34 accumulation period so long as applicable management standards are met	Pages: 2 FaxBack: 11598
5/21/91	Lowrance	to Nowak	Compacting Technologies International	compacting HW in steel drum is generally treatment if changes physical, chemical, biological character or composition of waste or reduction in volume; compacting in generator accumulation containers would not require permit	Pages: 2 FaxBack: 11609
7/3/91	Bussard	to Lund	C/P Utility Services Co.	LBP abatement wastes that are characteristic for lead may be stabilized on site during accumulation in tanks or containers without permit; however, addition of iron shot to abrasive to temporarily mask lead characteristic of LBP waste is not legitimate	Pages: 4 FaxBack: 11624
9/20/91	Lowrance	to McCarley	U.S. Defense Logistics Agency	both LQGs and SQGs can treat in accumulation tanks or containers without a permit if the treatment in compliance with §262.34 generator accumulation requirements	Pages: 2 FaxBack: 11641
7/1/92	Lowrance	to Bozek	Edison Electric Institute	generators may treat contaminated soils from manufactured gas plant (MGP) remediation to remove characteristic in §262.34 accumulation units without permit; decharacterized HW may then be sent off site for burning as nonhazardous waste	Pages: 2 FaxBack: 11675

7/21/92	Bussard	to Citizen		generators may conduct treatment of oil in accumulation tanks or containers without a permit or interim status provided that the units conform to standards in Part 265, Subparts I or J and §262.34	Pages: 5 FaxBack: 11679
11/5/92	Lowrance	to Northup	Convenient Automotive Services, Inc.	UO and mineral spirits mixture is UO if mixture is not ignitable; tank in which UO and ignitable HW are mixed is subject to Part 279 and §262.34; tank must be labeled with words "used oil"; mixing may be treatment (see also 60 *FR* 55202; 10/30/95)	Pages: 2 FaxBack: 11708
4/26/93	Lowrance	to Waste Management Division Directors	Regions I-IX	manufactured gas plant (MGP) wastes not listed but can be characteristic; since MGP wastes are "newly identified" and not subject to LDR or dilution rules, MGP HW may be decharacterized in generator's §262.34 units without permit and sent off site for burning as nonhazardous	Pages: 3 FaxBack: 11739
10/7/93	Denit	to Citizen		generator personnel training requirements; personnel must have training in proper waste handling and emergency procedures for waste at facility; personnel training applies when wastes are moved from satellite accumulation areas to a §262.34 generator accumulation areas	Pages: 2 FaxBack: 11779
10/20/93	Weddle	to Bowman	Environmental Dynamics	containers used for accumulating HW must be labeled and marked clearly in a manner that avoids any confusion	Pages: 8 FaxBack: 11787
11/1/93	Weddle	to Ware	Ogletree, Deakins, Nash, Smoak and Stewart	transfer of waste to different tanks or containers does not effect §262.34 generator accumulations unit treatment exemption; although treatment may render waste nonhazardous, LDR may still apply	Pages: 2 FaxBack: 11791
5/9/94	Bussard	to Mauro	U.S. Navy	generators of spent Oxygen Breathing Appartus (OBA) that are HW may accumulate OBA on site without a permit for 90 days or less provided they comply with §262.34	Pages: 17 FaxBack: 11835

10/17/94	Shapiro	to HW Management Division Directors	Regions I-X	fuel blending is not exempt from regulations or permitting, unless done in generator accumulation tank or container; no permit exemption for thermal treatment units under §262.34	Pages: 6 FaxBack: 11881

262.34(c)

Satellite Accumulation

1/13/88	Williams	to Young	Atlantic Research Corp.	satellite accumulation areas not subject to permitting, interim status, or the requirements for generator storage under §262.34(a)	Pages: 2 FaxBack: 11317
10/27/88	Lowrance	to Duprey	Region VIII	contingency plans and personnel training not required for satellite accumulation areas	Pages: 1 FaxBack: 11373
11/2/88	Lowrance	to Taritas	Environmental Technology Corp.	generator in compliance with §262.34 is exempt from permitting for HW treatment or storage; §262.34 permitting exemption not relevant to WWTUs that are already exempt from permitting (see also 2/95 MRQ); accumulation time begins at moment waste first enters unit	Pages: 3 FaxBack: 11379
4/21/89	Lowrance	to Axtell	Smith and Schnacke	generator accumulation time period and regulations apply when waste is produced or when waste is removed from satellite accumulation area, even in absence of test results confirming whether waste is hazardous or not	Pages: 2 FaxBack: 11424
7/13/89	Lowrance	to Ullrich	Region V	portable roll-off boxes meet §260.10 definition of container and may be used for satellite accumulation as long as quantity limits, time limits, and other conditions of §262.34(c) are met; any device meeting the definition of container may be used for satellite accumulation	Pages: 2 FaxBack: 11442

8/2/89	Lowrance	to Kirk	Fehr-Graham and Associates	55-gallon limit applies to the total of all non-acutely HW in a satellite accumulation area; no limit on total number of satellite accumulation areas at a facility; no specific size of containers required for satellite accumulation	Pages: 2 FaxBack: 11452
2/23/93	Lowrance	to Redington	Monsanto Co.	clarification of phrases "at or near point of generation" and "under control of operator. . ."	Pages: 3 FaxBack: 11728
2/10/94	Shapiro	to Dolce	GZA-AET	wastes in satellite accumulation areas must be included in the generator monthly waste quantity determination	Pages: 2 FaxBack: 11812

SUBPART D RECORDKEEPING AND REPORTING

262.41

Biennial Report

11/28/86	Williams	to Crabtree	Motor Vehicle Manufacturers Association	generator biennial report certification allows the generator or his authorized representative to certify to accuracy and completeness of report	Pages: 4 FaxBack: 11199
4/29/93	Lowrance	to Citizen		content of biennial report not contingent on waste information on manifest, but on HW generated by the reporter during the reporting year	Pages: 2 FaxBack: 11741

SUBPART E EXPORTS OF HAZARDOUS WASTE

6/16/89	Straus	to Lodick	North Coast Associates, Inc.	spent abrasives from sandblasting used as an ingredient in Portland cement are subject to HW regulation if characteristic, including manifesting and export notification	Pages: 2 FaxBack: 11433
1/29/91	Denit	to Citizen		1990 export data regarding the received notifications of intent to export	Pages: 1 FaxBack: 11577
2/5/91	Lowrance	to Linson	IN Dept. of Environmental Management	Part 266, Subpart F, precious metals that are exported for reclamation must comply with export requirements; export requirements apply to wastes that require a manifest	Pages: 2 FaxBack: 11580
4/23/91	Lowrance	to Levy	Region I	LDR notification applies to exports of HW	Pages: 1 FaxBack: 11600
12/10/91	Bussard	to Whalen	Hamanna Alloys Corp.	overview of requirements related to HW export, including State Department, Customs, and bilateral agreement requirements	Pages: 2 FaxBack: 11658
5/4/92	Lowrance	to Seeger	Morgan, Lewis, and Bockius	treatability study samples that are exported qualify for exemption from export requirements; member countries of Basel Convention may prohibit transboundary movement of treatability samples; foreign lab does not need EPA ID number	Pages: 3 FaxBack: 11667

9/14/92	Bussard	to Salinas	Border Trading, Inc.	generator must do HW determination for waste that will be exported; all TSDFs handling HW that will be exported must have proper RCRA Subtitle C permits	Pages: 1 FaxBack: 11696
11/10/92	Lowrance	to Burke	Rode and Qualey	only wastes that qualify as hazardous are subject to Part 262 export regulations	Pages: 2 FaxBack: 11710
1/28/93	Bussard	to Citizen		HW export facts; summary of export regulations	Pages: 2 FaxBack: 11722
1/28/93	Lowrance	to Ross	Sanyo Energy Corp.	HW is subject to RCRA within U.S. borders; HW imported to U.S. from Mexico for shipment to Japan must comply with RCRA requirements the moment it enters U.S.; HW passing through U.S. must comply with both import and export requirements	Pages: 2 FaxBack: 11723
3/23/93	Lowrance	to Jones	Environmental Consulting	characteristic sludge exported for reclamation not subject to export regulations because sludge is not SW; §262.53(a)(vi) refers to HW exported for recycling operations	Pages: 1 FaxBack: 11734
7/15/93	Lowrance	to Devaney	EPA HQ	Memorandum of Understanding between EPA and U.S. Customs; importers or transporters are under no obligation to submit manifests at borders of U.S.	Pages: 2 FaxBack: 11757
5/16/94	Petruska	to Andrews	Industrial and Agricultural Chemicals, Inc.	nickel-containing catalysts not exhibiting a characteristic may be imported for recovery because not HW; Basel Convention and bilateral agreement applicability	Pages: 2 FaxBack: 11836

8/5/94	Shapiro	to Donovan	The Law Offices of Jones and Donovan	purchasers of ships to be scrapped and sold abroad must determine if and when export rules and other environmental regulations apply	Pages: 13 FaxBack: 11862
8/9/94	Bussard	to Winwood	U.S. Customs Service	manifesting procedures for HW imports and exports passing U.S. Customs; U.S. Customs Service collects manifest from exporter and transmits to EPA	Pages: 2 FaxBack: 11863
8/9/94	Bussard	to Honohan	BFI Medical Waste Systems, Inc.	MW not regulated under RCRA unless characteristic or listed; notification and consent for import or export not required for MW under RCRA unless characteristic or listed	Pages: 1 FaxBack: 11864
11/28/94	Bussard	to Stratford	U.S. Dept. of State	Basel Convention currently prohibits movement of hazardous or mixed waste between U.S. and any nation party to Convention, unless agreement between countries exists; Basel Convention restrictions extend to wastes destined for certain types of recycling	Pages: 3 FaxBack: 11889
2/17/95	Petruska	to Lassner	Investment Recovery Manager	EPA ID number not required for vessel once waste shipment is outside US jurisdiction	Pages: 1 FaxBack: 11894

SUBPART F IMPORTS OF HAZARDOUS WASTE

6/25/85	Skinner	to Seraydarian	Region IX	importers subject to generator requirements, transporter and U.S. facility arranging for importation would be importers; imported waste fully subject to all applicable manifest requirements even where importer and TSDF are the same facility	Pages: 2 FaxBack: 11085

4/27/89	Straus	to Rideout	Dangerous Goods Consultants	lab samples shipped from Canada are exempt from Subtitle C, including import requirements, per §261.4(d)	Pages: 2 FaxBack: 11428
12/5/91	Bussard	to Citizen		imports of HW and SW is not prohibited under Federal regulations; wastes are "goods in commerce" protected under the commerce clauses in the Constitution	Pages: 2 FaxBack: 11657
1/28/93	Lowrance	to Ross	Sanyo Energy Corp.	HW is subject to RCRA within U.S. borders; HW imported to U.S. from Mexico for shipment to Japan must comply with RCRA Subtitle C requirements the moment it enters U.S.; HW passing through U.S. must comply with both import and export requirements	Pages: 2 FaxBack: 11723
7/15/93	Lowrance	to Devaney	EPA HQ	Memorandum of Understanding between EPA and U.S. Customs; importers or transporters are under no obligation to submit manifests at borders of U.S.	Pages: 2 FaxBack: 11757
3/22/94	Shapiro	to Ouellete	Canadian National Railways	RCRA Subtitle C regulations can only apply to U.S. parties; U.S. importer, importer's agent, transporter may all be "generators"; all generators are jointly and severally liable for compliance with generator requirements	Pages: 3 FaxBack: 11820
5/16/94	Petruska	to Andrews	Industrial and Agricultural Chemicals, Inc.	nickel-containing catalysts not exhibiting a characteristic may be imported for recovery because not HW; Basel Convention and bilateral agreement applicability	Pages: 2 FaxBack: 11836
7/8/94	Bussard	to Morishita	Environmental Agency (Japan)	importer of waste responsible for HW determination and generator duties; importer could be waste broker, transporter, or destination TSDF	Pages: 2 FaxBack: 11847

8/9/94	Bussard	to Winwood	U.S. Customs Service	manifesting procedures for HW imports and exports passing U.S. Customs; U.S. Customs Service collects manifest from exporter and transmits to EPA	Pages: 2 FaxBack: 11863
8/9/94	Bussard	to Honohan	BFI Medical Waste Systems	MW not regulated under RCRA unless characteristic or listed; notification and consent for import or export not required for MW under RCRA unless characteristic or listed	Pages: 1 FaxBack: 11864
9/12/94	Petruska	to Andrews	Industrial and Agricultural Chemicals, Inc.	no regulatory restrictions on imports not meeting U.S. definition of HW, provided exporting nation also does not consider material hazardous; Basel Convention prohibits HW trade between parties and non-parties, unless separate agreement exists	Pages: 4 FaxBack: 11869
11/28/94	Bussard	to Stratford	U.S. Dept. of State	Basel Convention currently prohibits movement of hazardous or mixed waste between U.S. and any nation party to Convention, unless agreement between countries exists; Basel Convention restrictions extend to wastes destined for certain types of recycling	Pages: 3 FaxBack: 11889

SUBPART G FARMERS

9/16/81	Friedman	to Sato	Region IX	commercial applicator may mix, apply, rinse, and dispose of pesticide on farmer property if follows pesticide label instructions; farmer exemption not applicable to pesticide shipped off site for disposal or for on-site disposal of other farmer pesticides	Pages: 2 FaxBack: 11021
5/16/86	Greenwood	to Prentice	Region IX	commercial pesticide applicators who apply and dispose of pesticide for farmers can qualify for farmer exemption; all pesticide residues must be disposed on the farm where used; generaldisposal instructions on pesticide label satisfy §262.51 requirements	Pages: 2 FaxBack: 11155

262 APPENDICES
APPENDIX THE MANIFEST

6/26/84	Barley	to Hilsenbeck	MO DNR	manifest form modifications by individual states	Pages: 2 FaxBack: 11037
4/30/87	Barley	to Zak	IL EPA	manifest instructions require generators to use continuation sheets when more than two transporters are used or if more space is needed for DOT description information; states may require use of additional manifests rather than continuation sheets	Pages: 1 FaxBack: 11242
7/13/89	Lowrance	to Regions I-X	Regions I-X	manifest is not required to have a burden box statement on manifest	Pages: 3 FaxBack: 11443
6/7/90	Lowrance	to Duprey	Region VIII	manifested waste must not inappropriately be delayed to fill transportation vehicle; manifested waste may temporarily stored at transfer facilities for less than 10 days during the normal course of transportation	Pages: 2 FaxBack: 11520

263 TRANSPORTERS
SUBPART A GENERAL
263.10 Scope

6/25/85	Skinner	to Seraydarian	Region IX	importers subject to generator requirements, transporter and U.S. facility arranging for importation would be importers; imported waste subject to all applicable manifest requirements even where importer and TSDF are the same facility	Pages: 2 FaxBack: 11085
4/30/86	Williams	to Seraydarian	Region IX	since §260.10 definition of transportation does not include pipeline transport, Part 263 regulations do not apply to pipeline movement of HW; pipeline transport of HW is not prohibited by RCRA; CERCLA and RCRA cleanup authorities may apply to HW pipeline facilities	Pages: 3 FaxBack: 11148
9/25/86	Williams	to Stringham	Region V	a facility which generates a HW and ships the waste to a POTW for treatment must comply with all applicable accumulation and transportation requirements, including the manifest	Pages: 2 FaxBack: 11181
2/22/88	Denit	to Bobel	Region IX	in cases where the transporter mixes wastes of different DOT shipping descriptions, the transporter must assume generator responsibilities	Pages: 6 FaxBack: 11327
12/9/88	Lowrance	to Trigger	Clark, Klein and Beaumont	EPA allows time for off-loading waste into recycling process without obtaining a storage permit; specific timeframe determined by the appropriate Region or state office	Pages: 2 FaxBack: 11386

3/20/89	Cannon	to Fowler	U.S. Senate	Congress clearly intended RCRA Subtitle C to cover transportation of HW; waste management system is a "cradle-to-grave" system	Pages: 2 FaxBack: 11409
3/1/90	Lowrance	to Jaekels	GSX Government Services, Inc.	bulking or consolidating HW shipments for transportation purposes may not be treatment subject to permitting; mixing different HW to produce fuel is regulated fuel blending subject to permitting; implementing agency ultimately decides if activity is or is not regulated HW treatment	Pages: 2 FaxBack: 11497
6/7/90	Lowrance	to Duprey	Region VIII	manifested waste must not inappropriately be delayed to fill transportation vehicle; manifested waste may temporarily stored at transfer facilities for less than 10 days during the normal course of transportation	Pages: 2 FaxBack: 11520

263.11 Identification Numbers

8/3/83	Daneker	to Kawatachi	Region V	transporter company is assigned one EPA ID number for all trucks and trucking locations	Pages: 7 FaxBack: 11028
10/30/90	Lowrance	to Ullrich	Region V	EPA identification number assigned to transportation company as a whole; all company trucks assigned same ID number	Pages: 4 FaxBack: 11567
2/17/95	Petruska	to Lassner	Investment Recovery Manager	EPA ID number not required for vessel once waste shipment is outside U.S. jurisdiction	Pages: 1 FaxBack: 11894

263.12 Transfer Facilities

8/13/84	Weddle	to Hohman	Region I	recycling facilities cannot qualify as transfer facilities	Pages: 3 FaxBack: 11040
2/25/88	Denit	to Wiman	U.S. Coast Guard	shore facility accepting spent ATON batteries from ships servicing buoys may qualify as transfer facility	Pages: 11 FaxBack: 11329
8/31/88	Lowrance	to Svanda	MN Pollution Control Agency	recycling facility cannot be transfer facility if recycling facility is designated on the manifest as the receiving facility	Pages: 4 FaxBack: 11365
6/7/90	Lowrance	to Duprey	Region VIII	manifested waste must not inappropriately be delayed to fill transportation vehicle; manifested waste may be temporarily stored at transfer facilities for less than 10 days during the normal course of transportation	Pages: 2 FaxBack: 11520
10/30/90	Lowrance	to Ullrich	Region V	transporters may consolidate shipments of HW at transfer facilities; must re-manifest consolidated waste to original generator's designated facility; permitted or interim status facility can be transfer facility if not already designated facility	Pages: 4 FaxBack: 11567
6/21/94	Petruska	to Igli	Chemical Waste Management	regulations do not specifically prohibit use of multiple transfer facilities during normal course of transportation; to be considered normal course, transportation should be completed in a timely manner; generator must receive signed copies of manifests within specified time periods	Pages: 4 FaxBack: 11846

10/17/94	Shapiro	to HW Management Division Directors	Regions I-X	fuel blending at transfer facility is considered treatment and requires a permit	Pages: 6 FaxBack: 11881

SUBPART B THE MANIFEST AND RECORDKEEPING

263.20

The Manifest System

7/13/89	Lowrance	to Regions I-X	Regions I-X	manifest no longer required to have a burden box statement	Pages: 3 FaxBack: 11443
10/30/90	Lowrance	to Ullrich	Region V	waste is in the custody of last transporter to sign manifest until a signature from the designated facility or the next transporter is obtained	Pages: 4 FaxBack: 11567
7/26/91	Lowrance	to Engel	U.S. Pollution Control	generator is responsible for designating second transporter when HW is transferred from rail to highway; generator is responsible for knowing who is transporting HW	Pages: 2 FaxBack: 11630
10/17/91	Bussard	to HW Management Division Directors	Regions I-X	manifest with 9/30/91 expiration date may be used through 9/30/92; cross out printed 1991 expiration date and replace with new 1992 expiration date	Pages: 3 FaxBack: 11646
12/13/94	Shapiro	to Dickhut	Chemical Waste Transportation Institute	consideration of Definition of Solid Waste Task Force issues concerning hazardous recyclable materials manifest	Pages: 2 FaxBack: 11890

9/14/95	Petruska	to Berry	Goodwin, Procter, and Hoar	manifest discrepancy regulations do not apply to waste which loses the characteristic of corrosivity during transit; manifest discrepancy regulation was intended to cover situations where a quantity of waste is unaccounted for	Pages: 2 FaxBack: 11918

263.21

Compliance With The Manifest

10/30/90	Lowrance	to Ullrich	Region V	last transporter to sign manifest retains custody of HW until next transporter or designated facility signs; transporter mixing HW of different DOT descriptions must comply with Part 262, remanifest HW to facility designated by original generator, and indicate new composition	Pages: 4 FaxBack: 11567
7/26/91	Lowrance	to Engel	U.S. Pollution Control	generator responsible for designating second transporter when HW is transferred from rail to highway; generator responsible for knowing who is transporting HW	Pages: 2 FaxBack: 11630

SUBPART C HAZARDOUS WASTE DISCHARGES

263.30

Immediate Action

10/30/90	Lowrance	to Ullrich	Region V	transfer facilities subject to Part 263, Subpart C, requirements for HW discharges	Pages: 4 FaxBack: 11567

263.31

Discharge Clean Up

10/30/90	Lowrance	to Ullrich	Region V	transfer facilities subject to Part 263, Subpart C, requirements for HW discharges	Pages: 4 FaxBack: 11567

264 / 265 STANDARDS FOR PERMITTED / INTERIM STATUS FACILITIES

SUBPART A GENERAL

264.1 / 265.1

Applicability

7/28/81	Lehman	to Johnson	Oil-Dri Corp. of America	use of absorbents for spill control not regulated as treatment due to §264.1(g)(8) immediate response exemption; use of absorbents to solidify HW in other contexts is regulated treatment (SUPERCEDED: see §264.1(g)(10))	Pages: 2 FaxBack: 11019
8/17/83	Skinner	to Devine	Region IV	if HW placed in land-based units prior to 11/19/80 is being "stored" (i.e., it will be managed at some point in the future), facility is subject to interim status; if HW was placed in units prior to 11/19/80 for final disposal, facility never subject to RCRA Subtitle C	Pages: 2 FaxBack: 11029
2/25/86	Williams	to Volz	McKenna, Conner and Cuneo	sumps that meet definition of tank can be exempt WWTUs; if sump storing HW prior to neutralization is not part of WWTU or other exempt unit, sump is subject to §262.34 or Parts 264/265; surface impoundments holding HW are not WWTUs and are regulated	Pages: 3 FaxBack: 11134
8/11/88	Lowrance	to McGuire	U.S. Dept. of Treasury	Bureau of Alcohol, Tobacco, and Firearms (BATF) transport of explosives to safe areas for destruction exempt from RCRA Subtitle C requirements if an immediate response; emergency permits are available for activities that do not constitute an immediate response	Pages: 4 FaxBack: 11363
9/19/88	Carra	to Hazardous Waste Branch Chiefs	Regions I-X	law enforcement agents (BATF) transporting and detonating bombs and other reactive wastes may be exempt from RCRA Subtitle C regulation if action is immediate response per §264.1(g)(8); if not an immediate response, emergency permit may be required per §270.61	Pages: 4 FaxBack: 11370

5/31/91	Lowrance	to	Waste Management Division Directors	Regions I-X	incidential drippage after removal of treated wood from drip pad is not illegal HW disposal provided owner and/or operator responds immediately; immediate response determination site-specific; facility must have a contingency plan, must keep records of response	Pages: 1 FaxBack: 11612

264.13 / 265.13

Waste Analysis

7/31/90	Bussard	to	MacMillan	National Solid Wastes Management Association	owner and/or operator must conduct periodic analysis of representative samples of all wastes handled at TSDFs; general waste analysis parameters and frequency of testing are determined on site-specific basis (pp. 2-3)	Pages: 13 FaxBack: 11545

SUBPART E MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

9/14/95	Petruska	to	Berry	Goodwin, Procter, and Hoar	manifest discrepancy regulations do not apply to waste which loses the characteristic of corrosivity during transit; manifest discrepancy regulation was intended to cover situations where a quantity of waste is unaccounted for	Pages: 2 FaxBack: 11918

SUBPART F GROUNDWATER MONITORING

12/1/81	Lehman	to	Smith	Dames and Moore	initial background mean and variance samples obtained from upgradient wells only during first year; after first year, indicator parameters from all wells, both upgradient and downgradient, are compared with initial background mean	Pages: 2 FaxBack: 11023

SUBPART G CLOSURE

12/22/80	Dietrich	to	Sullivan	Ford, Farquhar, Kornblut & O'Neil	EPA has no specific form for certification of closure by an engineer; guidance document "Closure and Post Closure - Subpart G" gives examples of closure plans and engineer certifications	Pages: 4 FaxBack: 11006
1/11/83	Skinner	to	Rubenstein	National Solid Wastes Management Association	recontouring final cover, adjusting in-place waste are not considered receipt of HW; closure and post-closure plans to account for vegetation and liquid inputs; addition of liquids during v. after closure; receipt of HW after 1/26/83 causes impoundment or landfill to be a regulated unit	Pages: 8 FaxBack: 11025
6/14/83	Weddle	to	RCRA Branch Chiefs	Regions I-X	protective filers that were never regulated under Part 265 can be removed from interim status data in EPA database after confirmation that no regulated activity was conducted; interim status facilities that withdraw permit application are subject to Part 265 closure requirements	Pages: 2 FaxBack: 11027
6/28/85	Skinner	to	Waste Management Division Directors	Regions I-X	applicability of post-closure permits and GW monitoring for interim status facilities based on date of final receipt of waste; closure by removal does not preclude use of §3008(h) or §3004(u); summary of closure by removal requirements; Part B post-closure permit contents	Pages: 5 FaxBack: 11086
7/19/88	Weddle	to	Vaille	Region IX	transferring waste between units at active facility or during closure is land disposal and triggers LDR treatment requirements; in situ treatment or movement of waste within the unit is not "placement" and so waste is not subject to LDR treatment standards	Pages: 2 FaxBack: 11354
8/22/89	Carra	to	Permit Section Chiefs	Regions I-X	correction to 54 *FR* 33376; 8/14/89 (Delay of Closure Rule): §264.113(d)(4) regulatory language is correct while preamble language concerning deadline for permit modification requests is incorrect	Pages: 1 FaxBack: 11460

5/28/93	Lowrance	to Garcia	NM Environment Dept.	due to differences in timing of closure plan submittal, interim status facilities must identify specific destination of closure wastes, while permitted facilities need only identify the type of unit to which their wastes resulting from closure will be sent	Pages: 2 FaxBack: 11748
6/4/93	Lowrance	to Bernstein	Waste Management, Inc.	clarification of independent registered professional engineer for closure certification; engineer employed by a subsidiary may be able to certify parent company's closure if certain conditions are met; definition of majority-owned subsidiary	Pages: 2 FaxBack: 11753

SUBPART I CONTAINERS

4/16/91	Wehling	to Golian	EPA HQ	a drum is not in itself a RCRA Subtitle C unit; drums and the land on which drums are placed may constitute a container storage area	Pages: 2 FaxBack: 11597
6/30/95	McAlister	to Hopper	Brown & Davis, Inc.	bare concrete can serve as container storage pad to comply with secondary containment; no regulatory definition of sufficiently impervious; secondary containment regulations are performance standards that allow for the use of materials other than concrete or asphalt	Pages: 2 FaxBack: 11909

SUBPART J TANK SYSTEMS

10/17/94	Shapiro	to HW Management Division Directors	Regions I-X	fuel blending tanks are subject to Subpart J standards	Pages: 6 FaxBack: 11881

SUBPART K SURFACE IMPOUNDMENTS

6/30/95	McAlister	to Hopper	Brown & Davis, Inc.	bare concrete not sufficiently impervious to be primary containment in continuous contact with waste (e.g., in surface impoundments or waste piles); concrete could serve as secondary containment for container storage area	Pages: 2 FaxBack: 11909

SUBPART N LANDFILLS

11/13/84	Cassidy	to Shuster	EPA HQ	statutory ban on disposal of bulk liquids in HW landfills does not prohibit disposal of liquids after proper chemical stabilization	Pages: 2 FaxBack: 11047
10/12/93	Fordham	to Schrader	Millsaps College	no wastes, whether sorbed or not, may be placed in HW landfill if they release free liquids as determined by the PFT; PFT not designed to evaluate performance of one absorbent relative to other sorbents	Pages: 3 FaxBack: 11784
11/17/93	Weddle	to Adamoli	Tascon, Inc.	liquids in landfills prohibition applies only to HW landfills; liquids that have been sorbed with biodegradable sorbents are prohibited from direct placement in a HW landfill; sorbents used to clean up non-listed waste are hazardous only by characteristic	Pages: 3 FaxBack: 11798

SUBPART O INCINERATORS

11/13/84	Thomas	to	Russell	EPA HQ	Office of Water proposed incineration-at-sea regulations potentially conflict with RCRA Subtitle C incinerator rules	Pages: 1 FaxBack: 11045
7/10/85	Skinner	to	Suska	Baltimore City Health Dept.	spent charcoal regeneration unit that meets the definition of incinerator is required to obtain a Supbart O incinerator permit; if the unit does not meet the definition of incinerator, the unit is exempt from regulation (see also Part 266, Subpart H)	Pages: 3 FaxBack: 11089
4/21/88	Lowrance	to	Sinibaldi	Standard Chlorine of DE, Inc.	burning waste for any purpose in an incinerator is waste destruction subject to Subpart O incinerator standards; any materials or energy recovery that occurs is considered ancillary to the function of the unit	Pages: 22 FaxBack: 11342
2/27/89	Lowrance	to	HW Division Directors	Regions I-X	omnibus authority (§3005(c)(3)) can be used to control emissions (metals, HCL, PICs) from incinerators prior to promulgation of modified Subpart O regulations; establishment of interim controls for facilities that have already conducted trial burns or have approved trial burn plans	Pages: 2 FaxBack: 11399
9/22/92	Lowrance	to	Waste Management Division Directors	Regions I-X	no specific DRE for dioxin and furans; 99.9999% DRE demonstrated on POHCs more difficult to incinerate than dioxin and furans; spiking POHCs at high concentrations in trial burn waste is standard practice; EPA to use PIC approach from BIF rule as guidance for incinerators	Pages: 4 FaxBack: 11699
7/2/93	Lowrance	to	Cohen	U.S. Senate	EPA requires incinerators burning dioxin and PCBs to operate at 99.9999% DRE; incineration of other wastes requires 99.99% DRE; EPA conducts conservative, site-specific risk assessments for individual combustion facilities	Pages: 2 FaxBack: 11755

8/11/93	Browner	to Dingell	U.S. House of Representatives	Combustion Strategy will not impact incinerators at CERCLA sites or ability of interim status units to continue burning HW; summary of risk assessment guidance; EPA examining its authority to enforce generator and TSDF waste minimization and certification requirements	Pages: 10 FaxBack: 11764
10/29/93	Chanania	to Fortuna	Hazardous Waste Treatment Council	permit writers will consider Subpart O standards for permitting thermal desorption units under Subpart X	Pages: 2 FaxBack: 11790
12/27/93	Shapiro	to Simon	Region II	criteria for legitimate precious metal recovery; furnaces legitimately recovering precious metals fall within Part 266, Subpart F exemption and are not subject to Subpart O incinerator regulations and most BIF rules, except for one-time notification and certification, sampling, and analysis	Pages: 4 FaxBack: 11804
9/19/94	McAlister	to Steger	ID Dept. of Health and Welfare	demilitarization and munitions popping furnaces are incinerators; controlled flame combustion units are by definition BIFs or incinerators; any process involving burning in an incinerator is regulated under Subpart O even if some energy recovery or material recovery occurs	Pages: 2 FaxBack: 11873
3/8/95	Shapiro	to Richter	American Foundrymen's Society	thermal reclamation of foundry sand using controlled flame to destroy organics in sand is HW incineration subject to Part 264 or 265, Subpart O	Pages: 10 FaxBack: 11900

SUBPART S CORRECTIVE ACTION FOR SWMUS

7/10/85	Skinner	to Suska	Baltimore City Health Dept.	MSWLF suspected of containing HW is subject to CA if facility on which landfill is located requires permit, has interim status, or should have had interim status; closed MSWLF still subject to CERCLA	Pages: 3 FaxBack: 11089

11/13/86	Williams	to	Tobin	Region IV	collected GW contaminated with listed HW may be treated at interim status facility subject to §3008(h) order; EPA examining whether permits should be required for CA	Pages: 2 FaxBack: 11195
1/25/88	Williams	to	Greaves	EPA HQ	§3004(u) CA authority applies to releases of wastes normally exempt from HW regulations under §3001(b)(3) (Bevill) exclusion; §3004(u) applies to releases from pre-RCRA inactive units; units holding product are not SWMUs unless routine and systematic releases occur	Pages: 4 FaxBack: 11322
7/11/90	Clay	to	Wassersug and Mulkey	Region III	RCRA CA can be used at CERCLA NPL sites; §3008(h) actions at NPL sites need not comply with NCP remedy selection requirements; relationship between RCRA corrective action and CERCLA NPL deletion and deferral; CERCLA five-year review at RCRA CA sites	Pages: 3 FaxBack: 11540
10/25/91	Lowrance	to	HW Management Division Directors	Regions I-X	RCRA stabilization strategy; RCRA stabilization initiative; interim measures encouraged for addressing imminent risks, stabilizing sources, and preventing spread of contamination; includes interim measures selection decision tree and stabilization strategy questionnaire	Pages: 16 FaxBack: 11648
5/4/92	Lowrance	to	Smith	Region III	RCRA stabilization strategy; RCRA stabilization initiative; goals of stabilization evaluation; interim measures can happen at any time in CA process; interim measures are tools to achieve stabilization; sites first evaluated for stabilization after RCRA facility assessment	Pages: 3 FaxBack: 11668
8/31/92	Lowrance	to	Waste Management Division Directors	Regions I-X	use of the proposed CAMU concept before CAMU rule is finalized (fact sheet attached); CAMU is derived from the CERCLA AOC concept	Pages: 5 FaxBack: 11692
5/4/93	Lowrance	to	MacMillan	Institute of Chemical Waste Management	as-generated HW cannot be managed in CAMUs, only remediation waste can be managed in a CAMU; definition of remediation waste; dumping of as-generated waste to make it remediation waste is illegal; CAMUs designated by EPA or state	Pages: 3 FaxBack: 11746

4/6/94	Bussard	to	DuBoff	Winston and Strawn	units inactive prior to effective date of applicable RCRA rules not subject to Subtitle C unless wastes actively managed within unit; one-time removal of waste from such units not active management; units may still be subject to RCRA cleanup authority as SWMUs or under §7003	Pages: 2 FaxBack: 11826

SUBPART W DRIP PADS

5/31/91	Lowrance	to	Waste Management Division Directors	Regions I-X	incidental drippage after removal of treated wood from drip pad is not illegal HW disposal provided owner and/or operator responds immediately; immediate response determination site-specific; facility must have a contingency plan, must keep records of response	Pages: 1 FaxBack: 11612

SUBPART X / P MISCELLANEOUS UNITS / THERMAL TREATMENT UNITS

7/22/87	Williams	to	Feigner	Region X	open burning of HW in unlined pits (except for detonation of waste explosives) is prohibited; open burning of commercial fuels in fire training exercise is use of product, not HW management	Pages: 3 FaxBack: 11267
9/19/88	Carra	to	Hazardous Waste Branch Chiefs	Regions I-X	open burning of HW (other than explosives) prohibited; detonation of munitions (ordnance, bombs, bullets, etc.) at firing range and burning off-spec fuel for fire exercise not regulated OB/OD; emergency detonation of bombs by law enforcement officials may be exempt immediate response	Pages: 4 FaxBack: 11370
10/29/93	Chanania	to	Fortuna	Hazardous Waste Treatment Council	Subpart X standards not inadequate for permitting of thermal desorption units; permit writers would look to Subpart O standards for permitting thermal desorption units as miscellaneous units	Pages: 2 FaxBack: 11790

SUBPART AA AIR EMISSION STANDARDS FOR PROCESS VENTS

10/17/94	Shapiro	to	HW Management Division Directors	Regions I-X	fuel blenders often subject to air emission standards under Subparts AA and BB (see also 59 *FR* 62896; 12/6/94)	Pages: 6 FaxBack: 11881

SUBPART BB AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

12/23/93	Lowrance	to	King	Safety-Kleen	for Subpart BB recordkeeping, "connectors" include only flanged fittings; screwed unions, quick disconnect hose fittings, and strainer housings that have a flange-type top are not subject to BB reporting and recordkeeping, but still must be inspected and monitored for leaks	Pages: 2 FaxBack: 11802
10/17/94	Shapiro	to	HW Management Division Directors	Regions I-X	fuel blenders often subject to air emission standards under Subparts AA and BB (see also 59 *FR* 62896; 12/6/94)	Pages: 6 FaxBack: 11881

SUBPART DD CONTAINMENT BUILDINGS

10/20/92	Otte	to Bryant	Weinberg, Bergeson, & Neuman	limits on height to which HW may be piled in a containment building apply only to true containment walls, not "crowd walls" or stalls inside containment building; HW may be piled to height exceeding height of "crowd walls" or stalls inside containment buildings	Pages: 2 FaxBack: 11702

266 HAZARDOUS WASTE RECYCLING
SUBPART C RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

6/6/85	Skinner	to Regions	Regions I-X	HSWA ban on use of HW and characteristic UO for dust suppression (exception for ignitable only wastes); prohibition applies to HW whether or not it is part of a mixture; decharacterized wastes not subject to ban (see also Part 279)	Pages: 3 FaxBack: 11082
6/6/85	Straus	to Bzura	Madison Industries, Inc.	oxides separated from brass dross skimmings must be manifested to fertilizer company; fertilizer company and processor must obtain RCRA Subtitle C storage permits for the oxide material	Pages: 3 FaxBack: 11083
11/14/85	Claussen	to Wyatt	Leggett and Platt, Inc.	waste pickle liquor (K062) destined for use as ingredient in fertilizer is used in a manner constituting disposal; fertilizer product derived from K062 regulated under Part 266, Subpart C; if produced for general public's use, product is exempt from regulation under §266.20(b)	Pages: 3 FaxBack: 11112
11/25/85	Straus	to Mahoney	Bridgeport Brass Corp.	characteristic sludge (zinc oxide dust) processed to produce an ingredient (zinc sulfate) used in a fertilizer is subject to Part 266, Subpart C since the sludge will be incorporated into a product that is placed on the land; sludge subject to generator, transporter, and storage regulations	Pages: 2 FaxBack: 11113
1/22/86	Straus	to Andrews	Industrial and Agricultural Chemicals, Inc.	materials that will be incorporated into products used on land are SW and potentially HW; corrosive spent copper sulfate bath used in fertilizer is SW and HW; fertilizer product derived from characteristic HW not regulated after characteristic removed (amended by §266.20(b))	Pages: 2 FaxBack: 11124

8/21/86	Straus	to Meyers	The Fertilizer Institute	once K061-derived zinc fertilizer is produced for the general public's use, it is exempt from regulation; K061-derived zinc fertilizer must be handled in a manner commensurate with comparable fertilizer products	Pages: 3 FaxBack: 11174
8/21/86	Straus	to Meyers	The Fertilizer Institute	zinc fertilizer made with HW ingredients does not become commercial fertilizer until it is reacted with sulfuric acid, granulated, and sized; until then the material is not yet commercial fertilizer produced for the general public's use and is subject to regulation	Pages: 3 FaxBack: 11174
9/11/86	Williams	to Schauble	Frit Industries, Inc.	zinc micronutrient fertilizers that contain K061 are exempt provided they are produced for the general public's use and provided the K061-derived fertilizer is handled in a manner commensurate with comparable fertilizer products; definition of zinc micronutrient fertilizer	Pages: 12 FaxBack: 11179
3/31/87	Straus	to Miner	Region V	use constituting disposal regulations only apply to wastes or waste-derived materials that are placed on the land as products; wastes that are stored or treated in land-based units (e.g., surface impoundments) are not regulated under these provisions	Pages: 3 FaxBack: 11232
9/3/87	Straus	to Taylor	Region VI	definition of commercial fertilizer; §266.20(b) exemption applies to fertilizer products that contain HW; HW placed directly on the ground does not qualify for this exemption	Pages: 2 FaxBack: 11289
1/11/88	Williams	to Citizen		dust control product that is not a HW or not mixed with a HW is not subject to the ban on dust suppressants	Pages: 2 FaxBack: 11316
6/15/88	Barnes	to Yaori	Sumitomo Corp. of America	slag material from the reclamation of K061 that is used as aggregate in sub-base course or sand material is a SW and HW subject to full regulation unless material has undergone a chemical reaction so that the HW is inseparable by physical means	Pages: 11 FaxBack: 11353

11/28/88	Cochran	to	Norman	Industrial Safety and Health Consultants, Inc.	spent battery acid and sulfates from lead acid battery reclamation that are used as ingredients in fertilizer are subject to Part 266, Subpart C; once a fertilizer is produced for the general public's use and it meets Part 268 LDR treatment standards, it is no longer subject to regulation	Pages: 9 FaxBack: 11383
2/7/89	Lowrance	to	Gallaher	Allied Aircraft Sales, Inc.	aluminum dross that exhibits characteristic of HW is subject to Part 266, Subpart C when used in the manufacture of cement until the product is formed, if cement will be placed on the land; HW-derived products that are placed on the land must meet LDR treatment standards	Pages: 4 FaxBack: 11395
3/27/89	Dellinger	to	Jones	Environmental Consulting	if product destined for placement on land includes characteristic sludges as ingredient, product is subject to Subtitle C regulation until it no longer exhibits characteristics (see also §268.9)	Pages: 2 FaxBack: 11412
4/26/89	Lowrance	to	HW Management Division Directors	Regions I-X	products containing F006 that are destined for placement on land (e.g., F006 used as ingredient in cement or aggregate) are regulated until §266.20(b) is satisfied; legitimate products containing F006 that are not destined for placement on land are not SW; sham recycling criteria	Pages: 5 FaxBack: 11426
6/16/89	Straus	to	Lodick	North Coast Associates, Inc.	spent abrasives from sandblasting used as an ingredient in Portland cement are subject to HW regulation if characteristic, including manifesting and export notification	Pages: 2 FaxBack: 11433
2/13/90	Lowrance	to	Duprey	Region VIII	K061 used as ingredient of cement is a SW and subject to Part 266, Subpart C, because EPA considers cement to be a product that is typically applied to the land (this presumption is rebuttable); legitimacy of K061 as an ingredient must be demonstrated	Pages: 13 FaxBack: 11491
8/13/90	Lowrance	to	Citizen		restrictions on use of UO as dust suppressant (see also Part 279)	Pages: 1 FaxBack: 11549

12/21/90	Bussard	to Bouse	Pacific Basin Resources	K048-K052 filter cake used as ingredient in cement is a SW and HW because it is used to produce a product that is applied to the land; sham recycling discussion	Pages: 3 FaxBack: 11573
6/20/91	Lowrance	to Hohman	Region I	asphalt containing listed or TC petroleum-contaminated soils as an ingredient is subject to Part 266, Subpart C (unless CCP is normally used as an ingredient); product remains subject to HW regulation (a de facto ban on the product's use) unless it meets the terms of §266.20(b)	Pages: 6 FaxBack: 11616
6/21/91	Bussard	to Young	Whiteman, Osterman, and Hanna	baghouse dust used as an ingredient in a product placed on the land (e.g., aggregate) is a SW; product must meet LDR treatment standards; indigenous principle (SUPERCEDED: see §266.100); no requirements for legitimate waste-derived products not placed on the land	Pages: 5 FaxBack: 11618
10/11/91	Lowrance	to Bates	AR Dept. of Pollution Control and Ecology	D008 baghouse dust used in fertilizer production is SW used in a manner constituting disposal; fertilizer produced for the general public's use that meets LDR treatment standards is no longer subject to regulation	Pages: 8 FaxBack: 11644
10/11/91	Lowrance	to Kaul	NY DEC	D008 baghouse dust used in fertilizer production is SW used in a manner constituting disposal; fertilizer produced for the general public's use that meets LDR treatment standards is no longer subject to regulation	Pages: 4 FaxBack: 11645
8/6/92	Bussard	to Bromm	EPA HQ	HW-derived fertilizer must be a legitimate product and meet LDR treatment standards; exemption from LDR treatment standards for K061-derived zinc fertilizers produced for the general public's use	Pages: 2 FaxBack: 11683
8/11/92	Denit	to Guinyard	Region VI	cement produced from burning off-gases in cement kiln is not waste-derived product; cement produced from treated soil that no longer contains HW is not a waste-derived product; for purposes of §266.20(b), EPA may test clinker, rather than product (i.e., cement)	Pages: 5 FaxBack: 11684

9/9/93	Denit	to	Muno	Region V	drip gas from a natural gas pipeline used as a solvent to remove paraffin buildup may be a HW used in a manner constituting disposal if it is a by-product rather than a legitimate product; criteria for determining if the material is a waste or a product	Pages: 2 FaxBack: 11767
10/17/94	Shapiro	to	HW Management Division Directors	Regions I-X	cement or light-weight aggregate kiln produced by a Bevill device that burns both HW and Bevill wastes may be exempt from LDR treatment standards when used in a manner constituting disposal if residues pass the significantly affected test in §266.112	Pages: 6 FaxBack: 11881
11/8/94	Shapiro	to	Kotlinski	CleanHarbors Environmental Services, Inc.	status of products (e.g., cement, aggregate kiln) used in a manner constituting disposal that are produced in BIFs; EPA considers product to be waste-derived if furnace burns HW fuels with heating values less than 5000 Btu/lb, unless facility can demonstrate legitimate energy recovery	Pages: 4 FaxBack: 11885
12/19/94	Bussard	to	DiBella	Metals Recycling Technologies Corp.	incorporating HW into animal feeds is generally not considered use constituting disposal	Pages: 2 FaxBack: 11932
2/16/95	Shapiro	to	Moore	Akin, Gump, Strauss, Hauer & Feld	§266.20 effectively prohibits the use of slag derived from HTMR of K061, K062, and F006 for anti-skid or deicing; HTMR residues may contain high concentrations of metals; EPA not confident that K061, K062, and F006 used in this manner have been treated to minimize threat	Pages: 4 FaxBack: 11939

SUBPART E USED OIL BURNED FOR ENERGY RECOVERY

3/6/87	Williams	to	Sanderson	Region VII	UO burned for energy recovery is subject to Part 266, Subpart E; UO recycled in any other manner is exempt from regulation (SUPERCEDED: see Part 279)	Pages: 3 FaxBack: 11225

3/6/87	Williams	to Sanderson	Region VII	UO includes brake, power steering, and automatic transmission fluids; HW characteristics not relevant if UO is recycled as fuel; windshield washer fluid and anti-freeze not UO because they are not "oils" as the term is commonly used (see also Part 279)	Pages: 3 FaxBack: 11225
10/23/87	Williams	to Mouser	Marion County Health Dept.	lubricating oil contaminated with dioxins from use of TCDD as an analytical standard is not listed HW F020-F023, F026-F028; even if characteristic, the oil is subject to Part 266, Subpart E if it meets definition of UO and if it is burned for energy recovery (see also Part 279)	Pages: 2 FaxBack: 11298
6/13/90	Lowrance	to Richards	Applied Environmental Technologies Corp.	Part 266, Subpart E standards apply to all hazardous and nonhazardous UO burned for energy recovery, provided the oil is not mixed with listed HW; characteristic UO recycled in a manner other than burning for energy recovery is not subject to Subtitle C (see also Part 279)	Pages: 4 FaxBack: 11521
11/30/90	Lowrance	to Anderson	Bracewell and Patterson	open-gear lubricant (Gearite) is considered UO (see also Part 279)	Pages: 2 FaxBack: 11570
1/8/91	Bussard	to Dixon	Thermal Waste Management	certain fuels produced from oily hazardous petroleum refinery wastes are exempt from regulation if they meet the UO fuel specifications of §266.40(e) (see also 59 *FR* 38537; 7/28/94)	Pages: 6 FaxBack: 11574
4/23/91	Bussard	to Gansel	Robert Sun Co.	used compressor oil containing ammonia can be burned in a space heater provided the three conditions of §266.41 are met (see also Part 279)	Pages: 1 FaxBack: 11601
6/5/91	Lowrance	to Duprey	Region VIII	UO applied as coal dust suppressant before burning coal as a fuel may be legitimate recycling; UO and coal mixture is subject to Part 266, Subpart E requirements; legitimacy of UO as ingredient in ANFO explosive (see also Part 279)	Pages: 3 FaxBack: 11613

6/21/91	Lowrance	to Constantelos	Safety-Kleen	mixture of absorbent and UO is HW if exhibits characteristic and is destined for disposal; mixture of absorbent and UO is subject to Part 266, Subpart E if destined for energy recovery (see also Part 279)	Pages: 3 FaxBack: 11619
7/9/91	Bussard	to Campbell	American Petroleum Institute	UO sampling data (1989-1990) gathered to support UO characterization effort (see also 57 *FR* 41566; 9/10/92)	Pages: 25 FaxBack: 11627
10/29/91	Lowrance	to Ravenel	U.S. House of Representatives	no federal regulations prohibit service stations from accepting DIY oil (see also Part 279)	Pages: 1 FaxBack: 11650
11/5/92	Lowrance	to Northup	Convenient Automotive Services, Inc.	mixture of UO and characteristic HW is managed as HW if mixture exhibits characteristic; mixture of UO and ignitable only HW is regulated as UO if mixture is not ignitable (see also 60 *FR* 55202; 10/30/95)	Pages: 2 FaxBack: 11708

SUBPART F RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

12/18/85	Straus	to Licht	Charles Licht Engineering Associates, Inc.	precious metal-containing scrap metal that is recycled qualifies for the scrap metal exemption under §261.6(a)(3)(iv)	Pages: 2 FaxBack: 11117
5/20/86	Straus	to Guptill	MO Hospital Association	used x-ray film (spent material) is not specifically listed, and is unlikely to exhibit characteristic of HW; if x-ray film is HW and it is sent to silver reclaimer, generator must obtain EPA ID number and must manifest waste	Pages: 2 FaxBack: 11156

5/23/86	Straus	to Neiderkofler	U.S. Veterans Administration	if x-ray film is HW and is sent for precious metal recovery, only requirements for generator under Part 266, Subpart F are manifesting and notification to obtain EPA ID number	Pages: 1 FaxBack: 11158
11/19/86	Straus	to Straume	U.S. Air Force	buttons, eyeglass frames, uniform insignia, and electronic scrap are regulated as spent materials subject to Part 266, Subpart F, if not scrap metal; silver recovery cartridges needing further processing and residues from burning silver-containing batteries are subject to Part 266, Subpart F	Pages: 11 FaxBack: 11197
12/19/86	Straus	to Weisburg	Technic, Inc.	precious metal-containing HW are subject to notification, recordkeeping, and manifesting requirements	Pages: 1 FaxBack: 11206
12/20/89	Barnes	to Levy	Region I	LDR paperwork required for Part 266, Subpart F precious metals; only those wastes specifically exempted from LDR in Part 261 or Part 268 are not subject to §268.7 requirements	Pages: 2 FaxBack: 11482
2/5/91	Lowrance	to Linson	IN Dept. of Environmental Management	precious metal-containing HW are subject to Part 262, Subpart E when exported for reclamation; export requirements apply to wastes that require a manifest	Pages: 2 FaxBack: 11580
8/26/92	Lowrance	to Waste Management Division Directors	Regions I-X	residual waste generated during scrap metal recycling of printed circuit boards may no longer qualify for scrap metal exemption, but if it contains significant amounts of precious metals, the waste may be eligible for reduced recycling regulations of Part 266, Subpart F	Pages: 3 FaxBack: 11689
4/29/93	Lowrance	to Werbicki	Agmet Resource Recovery	recyclable material must meet the §261.2 definition of SW (e.g., spent material or listed sludge sent for silver reclamation) to be subject to Part 266, Subpart F; characteristic sludge sent for silver reclamation not subject to Subpart F because not a SW	Pages: 2 FaxBack: 11744

12/27/93	Shapiro	to Simon	Region II	criteria for legitimate precious metal recovery; furnaces legitimately recovering precious metals are regulated by Part 266, Subpart F rather than Parts 264 or 265 Subpart O; Under Part 266, Subpart F, only subject to one-time notification and certification, sampling, and analysis	Pages: 4 FaxBack: 11804
2/28/94	Shapiro	to Donovan	Disposal Control Service, Inc.	spent photographic fixer solution is a spent material, subject to regulation as precious metal when reclaimed; silver-bearing sludge precipitated from spent fixer is not a SW when reclaimed, therefore not subject to Part 266, Subpart F; precipitation process is exempt recycling	Pages: 3 FaxBack: 11814
8/4/95	Petruska	to Thompson	Eastman Kodak Co.	silver recovery units used to treat photo processing wastewater are characteristic sludges, and so are not SW and are not subject to Part 266, Subpart F when sent for reclamation	Pages: 1 FaxBack: 11912

SUBPART G SPENT LEAD-ACID BATTERIES BEING RECLAIMED

12/18/85	Straus	to Licht	Charles Licht Engineering Associates, Inc.	spent lead-acid batteries are HW at point they are generated as wastes; however, generators, transporters, and persons who store (but do not reclaim) such batteries destined for reclamation are not subject to HW regulation	Pages: 2 FaxBack: 11117
6/24/87	Straus	to Bello	Aqua-Tech, Inc.	used lead acid batteries that are sold or given away for continued use as batteries are not SW and are not subject to regulation if not reclaimed in any way	Pages: 2 FaxBack: 11258
9/17/87	Grieder	to Dionne	Environment Canada	intact batteries shipped to Canada are not subject to manifesting or export notification because no reclamation has taken place	Pages: 6 FaxBack: 11294

8/26/88	Lowrance	to	Waste Management Division Directors	Region I-X	lead plates removed from lead-acid batteries at smelter and awaiting further reclamation in smelter are SW; partially-reclaimed lead at smelter is typically eligible for variance from SW definition; common lead-acid battery cracking practices at lead smelting facilities	Pages: 27 FaxBack: 11364
11/28/88	Cochran	to	Norman	Industrial Safety and Health Consultants, Inc.	EPA evaluation of spent lead-acid battery recycling process; provides analysis of the regulatory status of 16 materials, including battery acid, plastic chips, metal battery pieces, and lead sulfates	Pages: 9 FaxBack: 11383
10/19/89	Abrams	to	Williams	U.S. Air Force	speculative accumulation not applicable to lead-acid batteries that are reclaimed or any other material already defined as SW (see also 8/95 MRQ); persons who store but do not reclaim batteries are not subject to regulation	Pages: 2 FaxBack: 11476
6/27/90	Bussard	to	Reed	EPA HQ	§§266.80(b)(3) and (b)(4) accidentally omitted from the CFR; regulations read correctly as of July 1, 1992, CFR	Pages: 3 FaxBack: 11533
3/4/91	Lowrance	to	Svanda	MN Pollution Control Agency	EPA may consider amending Part 266, Subpart G regulations to include all batteries instead of just lead-acid batteries provided human health and the environment can be adequately protected; presents EPA's rationale behind creating the recycling regulations in Subpart G	Pages: 3 FaxBack: 11586
12/23/93	Shapiro	to	McHenry	McClintock, Weston, Benshoof, Rochefort, Rubalcava, and MacCuish	§266.80(a) applies to locations where lead-acid batteries stored, but not reclaimed, regardless of battery management activities owner or operator may conduct at other locations; §266.80(b) applies to locations where lead-acid batteries are both stored and reclaimed	Pages: 2 FaxBack: 11803
1/12/95	Petruska	to	Bryant	The Technical Group, Inc	battery regeneration exemption applies to batteries regenerated at any type of facility; exemption only covers batteries sent for regeneration, other types of recycling are subject to Subtitle C regulation; lead-acid batteries recycled in all ways covered under Part 266, Subpart G (see also Part 273)	Pages: 4 FaxBack: 11934

SUBPART H HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY / BIFS

2/28/84	Skinner	to Devine	Region IV	determination of when HW (halogenated solvents) are legitimate fuels burned for energy recovery; fuel must have substantial heat value (i.e., 5,000-8,000 BTU/lb), must be burned in a legitimate energy recovery device (SUPERCEDED: see 11/8/94 letter, Shapiro to Kotlinski)	Pages: 2 FaxBack: 11032
4/2/86	Williams	to Wassersug	Region III	spent carbon can be regulated if contains listed or characteristic HW; units regenerating HW carbon are exempt recycling units (SUPERCEDED: see 56 *FR* 7134: 9/21/91, and Part 266, Subpart H)	Pages: 6 FaxBack: 11143
4/21/88	Lowrance	to Sinibaldi	Standard Chlorine of DE, Inc.	regulatory status of oxidation reactor burning chlorinated benzene process streams depends on whether material is burned for energy recovery or as ingredient in industrial product (SUPERCEDED: see Part 266, Subpart H)	Pages: 22 FaxBack: 11342
3/27/89	Straus	to Johnson	SAFCO Environmental	HW fuel blending tanks are subject to storage regulations (not exempt recycling units); Federal regulations do not specify an allowable holding time before off-loading a shipment of HW into the recycling process; some states may allow up to 24 hours before a storage permit is required	Pages: 2 FaxBack: 11411
4/26/89	Lowrance	to HW Management Division Directors	Regions I-X	metals recovery smelter using F006 as a feedstock is exempt recycling process, treatment residues retain listing; F006 used as a feedstock in primary smelting may cease to be HW based on indigenous waste concept (SUPERCEDED: see §266.100)	Pages: 5 FaxBack: 11426
3/1/90	Lowrance	to Jaekels	GSX Government Services, Inc.	no Federal regulatory definition of fuel blending; blending v. bulking for transport; fuel blending tanks are subject to permitting, unless exempt §262.34 units; HW fuel blenders must ensure fuel has significant heating value (SUPERCEDED: see 11/8/94 letter, Shapiro to Kotlinski)	Pages: 2 FaxBack: 11497

10/30/90	Lowrance	to Ullrich	Region V	burners and marketers must notify EPA of their HW fuel activities, even if they already have EPA ID numbers (SUPERCEDED: see Part 266, Subpart H)	Pages: 4 FaxBack: 11567
1/8/91	Bussard	to Dixon	Thermal Waste Management	certain fuels, produced from petroleum refinery wastes, that are otherwise exempt under §261.6(a)(3) are HW and must be burned in BIFs or incinerators if they do not meet the UO fuel specifications of §266.40(e) (see also 59 *FR* 38537; 7/28/94)	Pages: 6 FaxBack: 11574
8/19/91	Clay	to Scherer	EPA Region	clarification of interim status qualification criteria for BIFs, including under construction, in existence, substantial loss, and reasonable time	Pages: 6 FaxBack: 11635
1/22/92	Diamond	to HW Management Division Directors	Regions I-X	use of enforcement authorities when evaluating BIF precompliance certification violations; interpretation of "complete and accurate" certification of precompliance	Pages: 2 FaxBack: 11664
8/11/92	Denit	to Guinyard	Region VI	cement kiln and resource recovery kiln operating in series are regulated as BIFs; off-gases from resource recovery kilns are regulated under RCRA Subtitle C if they originate from HW treatment	Pages: 5 FaxBack: 11684
12/30/92	Lowrance	to Bremer	Region V	unused propellant mixture (butane and propane) from aerosol cans is not SW when burned for energy recovery because butane and propane are fuels; burning of mixture is not subject to BIF regulations under Part 266, Subpart H	Pages: 4 FaxBack: 11717
4/30/93	Lowrance	to Dodgion	NV Dept. of Conservation and Natural Resources	recycling is a form of HW treatment; Part 266 rules apply to all BIFs that burn or process HW, whether or not burning for energy recovery is considered recycling (see also §§266.100(b), (c), (d))	Pages: 2 FaxBack: 11745

6/2/93	Lowrance	to Owens	Borden Chemicals and Plastics	Valorization of Chlorinated Residuals unit is halogen acid furnace (HAF) subject to BIF rules; EPA designates all hazardous material fed to HAFs as inherently waste-like, since HAFs necessarily destroy toxics in addition to recovering materials or energy recovery	Pages: 6 FaxBack: 11751
8/11/93	Browner	to Dingell	U.S. House of Representatives	Combustion Strategy will not impact incinerators at CERCLA sites or ability of interim status units to continue burning HW; summary of risk assessment guidance; EPA is examining its authority to enforce generator and TSDF waste minimization and certification requirements	Pages: 10 FaxBack: 11764
12/27/93	Shapiro	to Simon	Region II	criteria for legitimate precious metal recovery; furnaces legitimately recovering precious metals fall within 266, Subpart F exemption and are not subject to Subpart O incinerator regulations and most BIF rules, except for one-time notification and certification, sampling, and analysis	Pages: 4 FaxBack: 11804
4/4/94	Shapiro	to Fortuna	Hazardous Waste Treatment Council	interim status is a statutory right when a facility meets all applicable standards; EPA cannot order BIFs that properly qualified for interim status to stop operating; to qualify for interim status, facility must be in existence on effective date of applicable rule	Pages: 12 FaxBack: 11825
7/20/94	Shapiro	to Ferguson	TX Natural Resource Conservation Commission	HW burned in a BIF for metals recovery is exempt under §266.100(c) only if the device burns HW exclusively for metals recovery and not partially for destruction or energy recovery; HW with heating value at or above 5000 Btu/lb is considered to be burned as a fuel (for energy recovery)	Pages: 3 FaxBack: 11856
10/17/94	Shapiro	to HW Management Division Directors	Regions I-X	residues or products derived from HW coprocessed with raw materials in Bevill devices are exempt from LDR, except for one-time notification; LDR requirements for fuel blenders; fuel blending is not exempt, unless done in §262.34 unit; fuel blenders subject to air emissions standards	Pages: 6 FaxBack: 11881
11/4/94	Shapiro	to Hathcock	Laidlaw Environmental Services (Recovery), Inc.	blending of HW to increase heating value for use as fuel is not prohibited; HW with heating value less than 5000 Btu/lb burned for destruction, not energy recovery; resulting cement or aggregate is waste-derived product unless facility documents energy contribution of low Btu fuel	Pages: 2 FaxBack: 11883

11/8/94	Shapiro	to Kotlinski	CleanHarbors Environmental Services, Inc.	regulatory status of BIFs no longer dependent on as-generated heating value of HW fuels; wastes of any Btu value can be blended and burned in a BIF; if fuels with low heating values are burned, cement product may be considered a waste-derived product and subject to HW regulation	Pages: 4 FaxBack: 11885
2/22/95	Shapiro	to Moynihan	United States Senate	CKD from kilns burning HW fuel must pass test at §266.112 to qualify for Bevill exclusion; all other CKD currently excluded from RCRA Subtitle C regulation pending EPA's development of custom-tailored regulations for CKD	Pages: 2 FaxBack: 11896

268 LAND DISPOSAL RESTRICTIONS
SUBPART A GENERAL

2/22/88	Denit	to Bobel	Region IX	presence of F001-F005 listed solvent as constituent in wastestream does not automatically render waste listed and subject to LDR; only if waste matches F001-F005 listing descriptions is it F-listed and regulated under LDR	Pages: 6 FaxBack: 11327
7/19/88	Weddle	to Vaille	Region IX	transferring waste between units at an active facility or during closure is land disposal and triggers LDR treatment requirements; in situ treatment or movement of waste within the unit is not placement and so waste is not subject to LDR treatment standards	Pages: 2 FaxBack: 11354
10/28/88	Weil	to Gabel	Region II	HW removed from disposal units and placed in different land based units during remediation activities must meet LDR treatment standards for all applicable waste codes	Pages: 1 FaxBack: 11376
3/3/89	Lowrance	to Goldman	The Aluminum Association	newly listed wastes (e.g., K088) for which EPA has not established treatment standards are not subject to LDR	Pages: 4 FaxBack: 11400
12/20/89	Barnes	to Levy	Region I	all HW are subject to LDR unless specifically exempted by Part 261 or Part 268	Pages: 2 FaxBack: 11482

2/13/90	Lowrance	to Duprey	Region VIII	cement made using EAF dust as an ingredient is still K061, and must meet LDR treatment standards; high zinc subcategory has required treatment standard of metal recovery and cannot be land disposed (SUPERCEDED: see amended §268.41)	Pages: 13 FaxBack: 11491
3/7/90	Barnes	to Stone	GSX Chemical Services	LDR standard for derived-from waste is based on original treatment standard; in situations where multiple treatment standards apply, the most stringent standard must be met for any common constituents of concern	Pages: 3 FaxBack: 11500
4/6/90	Lowrance	to Luftig	Region II	wastes eligible for NCV must be disposed in MTR unit (see also §268.5); applicability of LDR to CERCLA remedial actions at NPL site (LDR as ARAR); disposal within an AOC is not subject to MTR; treatability variances at CERCLA; DDT is HOC	Pages: 3 FaxBack: 11503
6/14/90	Lowrance	to Ullrich	Region V	lead-contaminated personal protective gear is subject to LDR; HW eligible for a NCV may be disposed without treatment in MTR landfill or surface impoundment if waste is below California list prohibition levels	Pages: 2 FaxBack: 11524
10/14/90	Lowrance	to Vogt	Thompson Consumer Electronics, Inc.	applicability of Third Third NCV for inorganic solid debris to metal-contaminated cloth filters, glass picture tubes; determine if waste is debris at the point of generation; inseparable mixtures of inorganic and organic solid debris (see also §§268.2(g) and (h))	Pages: 4 FaxBack: 11564
1/8/91	Bussard	to Johnson	MN Dept. of Transportation	LDR continues to allow use of either EP or TCLP to demonstrate compliance with treatment standards for certain wastes that contain lead and arsenic; however, TCLP must be used instead of EP for waste determination based on testing	Pages: 2 FaxBack: 11575
4/16/91	Wehling	to Golian	EPA HQ	temporary container storage of investigative-derived wastes within an AOC followed by disposal within original AOC does not trigger LDR treatment; movement to separate storage and/or treatment area followed by replacement may trigger treatment; single drum is not considered a unit	Pages: 2 FaxBack: 11597

6/21/91	Bussard	to Young	Whiteman, Osterman, and Hanna	baghouse dust that is used (directly or as an ingredient) in manner constituting disposal is exempt from further regulation if it meets LDR treatment standards and it is a legitimate product; formerly Bevill-exempt mineral processing wastes are considered newly identified wastes	Pages: 5 FaxBack: 11618
12/10/91	Denit	to Fognani	Holland and Hart	extension of comment period for Land Disposal Restrictions: Potential Treatment Standards for Newly Identified and Listed Wastes and Contaminated Soil (56 *FR* 55160; 10/24/91) on issues related to mineral processing wastes, wood preserving wastes, and spent potliners	Pages: 1 FaxBack: 11659
11/4/92	Lowrance	to Noles	Four Seasons Industrial Services, Inc.	LDR treatment requirements still apply to F003 waste that has been rendered nonignitable and/or nonhazardous under §261.3(a)(2)(iii) mixture rule exemption	Pages: 3 FaxBack: 11707
7/15/94	Brandes	to Tease	Hubbard-Hall, Inc.	wastes that exhibit a characteristic at the point of generation may still be subject to the LDR requirements of Part 268, even if they no longer exhibit a characteristic at the point of disposal	Pages: 2 FaxBack: 11854
10/16/95	Shapiro	to Waste Management Division Directors	Regions I-X	administrative stay for UO and characteristic HW mixtures applies only to §279.10(b)(2); all UO and characteristic HW mixtures are subject to LDR, even if no longer characteristic; treatment of UO mixture or residuals for underlying constituents or by specified technology may be required	Pages: 5 FaxBack: 11922

268.3 Dilution Prohibition

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	stabilization of cyanides to reduce leachability is inappropriate treatment and generally considered impermissible dilution (p. 5); TC wastes may not be diluted if they will be land disposed (p. 6)	Pages: 13 FaxBack: 11545

7/31/91	Lowrance	to Wallace	Region VIII	dilution of characteristic HW at a pulp and paper mill is acceptable for CWA compliance provided there is no specified method of treatment (58 *FR* 29860; 5/24/93)	Pages: 7 FaxBack: 11631
4/26/93	Lowrance	to Waste Management Division Directors	Regions I-IX	manufactured gas plant (MGP) wastes not listed but can be characteristic; since MGP wastes are "newly identified" and not subject to LDR or dilution rules, MGP HW may be decharacterized in generator's §262.34 units without permit and sent off site for burning as nonhazardous	Pages: 3 FaxBack: 11739
10/13/93	Kinch	to Green	Westinghouse Electric Corporation	D001 and D002 wastes (subject to treatment for underlying hazardous constituents) may be aggregated with other compatible wastes to facilitate treatment; aggregating wastes for other purposes may be impermissible dilution; D002/F001 mixture must meet D002, F001, and F039 standards	Pages: 2 FaxBack: 11785
3/1/94	Shapiro	to Dolce	GZA-AET Regulatory Services	if waste is D001 (high TOC) and D008, blending and combustion as HW fuel is not impermissible dilution, since high TOC D001 treatment standard requires burning; ash from burning such metal-bearing wastes must meet treatment standards for metals	Pages: 2 FaxBack: 11815
3/8/95	Shapiro	to Richter	American Foundrymen's Society	treating hazardous spent foundry sands with iron to stabilize metal contaminants could constitute impermissible dilution (see also 60 *FR* 11702, 11731; 3/2/95)	Pages: 10 FaxBack: 11900

268.4

Treatment In Surface Impoundment Exemption

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	waste subject to LDR may only be placed in surface impoundments meeting MTR if waste meets treatment standards, is eligible for variance or extension, or qualifies for §268.4; placement of untreated waste into an impoundment for storage is prohibited land disposal (pp. 12-13)	Pages: 13 FaxBack: 11545

268.5

Procedures For Case-by-case Extensions To An Effective Date

11/16/88	Weil	to Grove	Hutcheson and Grundy	notice of information needed to process case-by-case extension application	Pages: 3 FaxBack: 11381
1/8/93	Clay	to Duffy	U.S. Dept. of Energy	impact of FFCA on DOE's application for a case-by-case extension for Third Third mixed wastes; EPA questions need to process application in light of FFCA's delay of waiver of sovereign immunity	Pages: 3 FaxBack: 11720

268.6

No-migration Variances

8/17/90	Lowrance	to MacMillan	National Solid Wastes Management Association	to EPA's knowledge, all commercial facilities with HW injection wells disposing of on-site clean up wastes have received final approval of no-migration petitions	Pages: 2 FaxBack: 11552

268.7

Waste Analysis, Notification, Recordkeeping

1/11/89	Weil	to Garvey	Stauffer Chemical Co.	neutralized phosphoric acid filter cake is subject to LDR tracking requirements because it did not meet California list prohibitions at the point of generation	Pages: 1 FaxBack: 11390
12/20/89	Barnes	to Levy	Region I	LDR paperwork required for Part 266, Subpart F precious metals; only those wastes specifically exempted from LDR in Part 261 or Part 268 are not subject to §268.7 notification requirements	Pages: 2 FaxBack: 11482

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	TSDF may rely on waste analysis data or certifications supplied by generator, but must periodically test to verify generator data; frequency of corroborative testing site-specific; lab doing analysis may certify under LDR as representative of waste handler (pp. 2-4)	Pages: 13 FaxBack: 11545
4/23/91	Lowrance	to Levy	Region I	LDR paperwork requirement for exports of HW; materials that are not SW when reclaimed are not subject to LDR paperwork; wastes specifically excluded from Part 268 requirements are exempt from LDR notification	Pages: 1 FaxBack: 11600
2/23/93	Lowrance	to Perry	Frito-Lay, Inc.	LDR recordkeeping may apply pursuant to laboratories discharging listed HW to wastewater treatment systems and qualifying for §261.3(a)(2)(iv)(E) exemption from mixture rule	Pages: 6 FaxBack: 11727
10/17/94	Shapiro	to HW Management Division Directors	Regions I-X	residue from co-processing of HW and raw materials in Bevill device not subject to LDR if they are not affected by HW; HW burned for energy recovery in production process not subject to LDR; in either situation, original waste subject only to one-time notification; blenders and LDR	Pages: 6 FaxBack: 11881

268.9

Notification For Characteristic Wastes

6/14/90	Bussard	to Wilson	EPA HQ	federal regulations do not require inclusion of HW codes on manifest, although state regulations can; if waste is both listed and exhibits a characteristic, the waste must carry all applicable codes for purposes of LDR and incompatible waste regulations	Pages: 4 FaxBack: 11523

Listed Code Operating In Lieu Of Characteristic Code

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	when waste both listed and characteristic, if treatment standard for listed code addresses constituent causing waste to exhibit characteristic, listed code operates in lieu of characteristic code (even if listed treatment standard less stringent than characteristic standard) (pp. 8-10)	Pages: 13 FaxBack: 11545

10/13/93	Kinch	to Green	Westinghouse Electric Corporation	F001 and D002 waste must be treated to meet standards for both waste codes (including treatment standards for underlying hazardous constituents); waste mixtures with common constituents of concern must meet most stringent standard that applies	Pages: 2 FaxBack: 11785
10/20/93	Weddle	to Bowman	Environmental Dynamics	where the treatment standard for a listed HW also addresses the characteristics, it will operate in lieu of the treatment standard for the characteristic	Pages: 8 FaxBack: 11787
3/1/94	Shapiro	to Dolce	GZA-AET Regulatory Services	F005 treatment standard addresses the characteristic of ignitability and so operates in lieu of D001 treatment standard (i.e., no need to meet D001 treatment standard for F005/D001 waste) (SUPERCEDED: see 9/28/94 letter, Shapiro to Prior)	Pages: 2 FaxBack: 11815
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	F003 and F005 waste exhibiting ignitability must carry notification for and meet D001 treatment standard, since F003/F005 standard does not operate in lieu of D001 standard.	Pages: 6 FaxBack: 11877

Notification For Wastes That Cease To Exhibit Characteristics

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	if treated characteristic waste is no longer hazardous, but is sent for disposal at Subtitle C facility, §268.9(d) notice and certification should be sent to Subtitle C facility, not implementing agency (p. 11)	Pages: 13 FaxBack: 11545

SUBPART C PROHIBITIONS ON LAND DISPOSAL

268.30

Solvent Wastes

1/20/87	Weil	to Meyer	Sacramento Environmental Operations	F001-F005 wastes treated voluntarily during NCV can be land disposed; at expiration of NCV, wastes must meet applicable treatment standards prior to disposal	Pages: 2 FaxBack: 11211
4/27/87	Fortune	to Fixter	S & W Waste, Inc.	NCV for F001-F005 solvent-containing sludges, solids, soils, and solvent-waste mixtures (including rags) containing less than one percent of F-listed solvent constituents	Pages: 2 FaxBack: 11240

268.32 California List

11/21/88	Kidwell	to LaShier and Johnson	EPA HQ	hazardous fluff (fluff contaminated with PCBs, lead, and other metals) is subject to California list if it equals or exceeds HOC prohibition levels	Pages: 2 FaxBack: 11382
1/6/89	McGuinness	to Simmington	Occidental Chemical Corp.	California list prohibition applies only to the HOCs listed in Part 268, Appendix III; determination of HOC content is based on total waste analysis, not on extract analysis	Pages: 3 FaxBack: 11389
1/11/89	Weil	to Garvey	Stauffer Chemical Co.	neutralized phosphoric acid filter cake is subject to LDR tracking requirements because it did not meet California list prohibitions at the point of generation	Pages: 1 FaxBack: 11390
11/28/89	Lowrance	to Greenberg	Browning-Ferris Industries	nonliquid waste containing one HOC must be incinerated unless a more specific treatment standard exists for the HOC; nonliquid wastes with multiple HOCs must be incinerated unless a specific treatment standard has been established for at least one of the HOCs in the waste	Pages: 4 FaxBack: 11481

4/6/90	Lowrance	to Luftig	Region II	DDT is a HOC	Pages: 3 FaxBack: 11503
5/16/91		to Kaul	NY DEC	California list prohibitions are superceded except for PCBs, HOCs, nickel, and thallium; California list does not apply to newly-identified wastes; listed wastes no longer subject to HOC prohibition (see also 9/28/94 letter, Shapiro to Prior), but may be subject to nickel and thallium ban	Pages: 2 FaxBack: 11605
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	F001 chlorinated fluorocarbon waste could be subject to California list prohibition for HOCs (see also May 16, 1991 letter, Unknown to Kaul)	Pages: 6 FaxBack: 11877

268.33

First Third Wastes

11/4/88	Weil	to Ward	Omark Industries	K044 that is treated in a wastewater treatment process and no longer exhibits reactivity characteristic is no longer subject to LDR	Pages: 2 FaxBack: 11380

268.35

Third Third Wastes

6/25/90	Lowrance	to Bergeson	Weinberg, Bergeson, and Neuman	D008 (lead) wastes that fail the TCLP but pass the EP are considered in compliance with the D008 treatment standard and can be land disposed	Pages: 2 FaxBack: 11531

6/25/90	Lowrance	to Igli	Chemical Waste Management	Third Third revised F024 treatment standard from concentration standards to incineration; pending effective date for the new standards or a correction notice establishing an immediate effective date, Second Third treatment standard remains in effect	Pages: 1 FaxBack: 11532
7/25/90	Clay	to Karas	PPG Industries, Inc.	pending the effective date of revised F024 treatment standards or a correction notice establishing an immediate effective date, treatment standards promulgated in the Second Third remain in effect	Pages: 2 FaxBack: 11544
8/17/90	Lowrance	to MacMillan	National Solid Wastes Management Association	multi-source leachate wastewater (F039) that is deep-well injected was granted a two-year capacity variance, whether disposed at a commercial (i.e., off-site) or on-site injection facility	Pages: 2 FaxBack: 11552
9/4/92	Lowrance	to Wilkstrom	National Electrical Manufacturers Association	LDR does not apply to mercury-containing fluorescent light bulbs (D009) that pass the EP test; bulbs subject to LDR because they exhibit EP (and TC) toxicity could be considered debris per §268.45	Pages: 2 FaxBack: 11693

SUBPART D TREATMENT STANDARDS

268.40 - 268.43

Waste Code - Specific Treatment Standards

3/1/94	Shapiro	to Dolce	GZA-AET Regulatory Services	wastestream must meet treatment standards for all applicable waste codes before land disposal (see also §268.9(b))	Pages: 2 FaxBack: 11815

Corrections To Treatment Standards

4/12/91	Craig	to LDR contacts	Regions I-X	Corrections to treatment standards for K048, P003, P073, U001, U003, U154 (errata sheet for 58 *FR* 3877; 1/31/91, Technical Amendment to the Third Third)	Pages: 2 FaxBack: 11596

Differing Treatment Standards For Single Waste Constituent (§268.40(c))

10/13/93	Kinch	to Green	Westinghouse Electric Corporation	F001 and D002 waste must be treated to meet standards for both waste codes (including treatment standards for underlying hazardous constituents); waste mixtures with common constituents of concern must meet most stringent standard that applies	Pages: 2 FaxBack: 11785

F001 - F005 Spent Solvent Treatment Standards

3/1/94	Shapiro	to Dolce	GZA-AET Regulatory Services	F001-F005 treatment standards apply only to those constituents used for their solvent properties and which triggered the listing; solvent constituents picked up through use (i.e., solvents present as ingredients in stripped paint) are not subject to F001-F005 treatment standards	Pages: 2 FaxBack: 11815
9/28/94	Shapiro	to Prior	Laidlaw Environmental Services (North East), Inc.	F001 spent chlorinated fluorocarbons need only be treated for the two fluorocarbons identified as constituents of concern in F001-F005 treatment standards; fluorocarbon solvent waste could be subject to California list prohibition for HOCs	Pages: 6 FaxBack: 11877

Specified Technology Treatment Standards

7/31/90	Bussard	to MacMillan	National Solid Wastes Management Association	simplified lab pack procedures in §268.42 require that the lab packs be burned in a Subpart O incinerator; cement kilns can not be used to achieve this alternate treatment standard	Pages: 13 FaxBack: 11545

5/7/92	Lowrance	to Scarberry	Chemical Waste Management	under narrow set of circumstances (including low levels of recoverable metals), LDR treatment not required for wastes normally subject to specified technology treatment standard of metal recovery because of derived-from rule (waste code carry through principle)	Pages: 2 FaxBack: 11669
1/26/94	Shapiro	to Lain	U.S. Navy	aluminum chaff roving bundles that exhibit reactivity characteristic must be deactivated prior to land disposal; compliance is evaluated based on removal of characteristic, not based on following a specified method of deactivation	Pages: 2 FaxBack: 11810
12/13/94	Petruska	to Murdoch	Murdoch Consultation Service	mercury-cadmium batteries must be treated by thermal recovery; EPA recognizes that most battery recycling technologies in U.S. are not designed to treat these wastes	Pages: 3 FaxBack: 11891

268.45 Alternative Debris Treatment Standards

9/4/92	Lowrance	to Wilkstrom	National Electrical Manufacturers Association	bulbs subject to LDR because they exhibit EP (and TC) toxicity could be considered debris per §268.45; LDR does not apply to mercury-containing fluorescent light bulbs (D009) that pass the EP test	Pages: 2 FaxBack: 11693
9/14/93	Kinch	to Docket	EPA HQ	clarification to Phase II proposed rule: EPA intends alternative debris treatment standards to apply to waste codes addressed in Phase II rule (D018-43, K149-K151, K141-K145, K147, K148)	Pages: 1 FaxBack: 11770
3/1/94	Shapiro	to Dolce	GZA-AET Regulatory Services	alternative debris treatment standards may be used even if debris is contaminated with waste code whose treatment standard is a specified technology	Pages: 2 FaxBack: 11815

6/3/94	Shapiro	to	Kastner	Bryan Cave	removing contaminants from an intact building is waste generation, not treatment; removed material is eligible for §268.45 debris treatment standards if it meets the definition of debris	Pages: 2 FaxBack: 11841

268.48

Universal Treatment Standards

12/19/94	Shapiro	to	Waste Management Division Directors	Regions I-X	changes to LDR standards due to new UTS are not immediately effective in states authorized for LDR, since EPA does not consider UTS levels "more stringent or less stringent" than previous LDR standards; standards for newly listed wastes are immediately effective in all states	Pages: 2 FaxBack: 11892

268 APPENDICES

APPENDIX III LIST OF HALOGENATED ORGANIC COMPOUNDS REGULATED UNDER §268.32

3/12/93	Lesnik	to Weber	USPCI	1,2-dibromomethane and hexachloroprophene are typographical errors, should read 1,2-Dibromoethane (EDB) and Hexachlorophene	Pages: 2 FaxBack: 11733

270 HAZARDOUS WASTE PERMITS

General

7/28/81	Lehman	to	Johnson	Oil-Dri Corp. of America	use of absorbents for spill control not regulated as treatment due to §264.1(g)(8) immediate response exemption; use of absorbents to solidify HW in other contexts is regulated treatment (SUPERCEDED: see §264.1(g)(10))	Pages: 2 FaxBack: 11019
6/14/83	Weddle	to	RCRA Branch Chiefs	Regions I-X	protective filers that were never regulated under Part 265 can be removed from interim status data in EPA database after confirmation that no activity subjected to permitting was conducted; interim status facilities that withdraw permit application are subject to closure requirements	Pages: 2 FaxBack: 11027
3/29/85	Cook	to	Dioxin Policy Coordinators	Regions I-X	compliance dates for notification and submittal of new and revised Part A permit applications pursuant to dioxin listings (F020-F023, F026-F028)	Pages: 4 FaxBack: 11065
6/28/85	Skinner	to	Waste Management Division Directors	Regions I-X	applicability of post-closure permits and GW monitoring for interim status facilities based on date of final receipt of waste; closure by removal does not preclude use of §3008(h) or §3004(u); summary of closure by removal requirements; Part B post-closure permit contents	Pages: 5 FaxBack: 11086
8/1/85	Skinner	to	Hellman	General Electric	permit required prior to construction of SW incinerator if owner and/or operator intends to burn HW in future; TSCA PCB incinerator can apply for RCRA Subtitle C permit at any time	Pages: 2 FaxBack: 11098

2/25/86	Williams	to	Volz	McKenna, Conner and Cuneo	sumps that meet definition of tank can be exempt WWTUs; if sump storing HW prior to neutralization is not part of WWTU or other exempt unit, sump is subject to §262.34 or Parts 264/265; surface impoundments holding HW are not WWTUs and are regulated	Pages: 3 FaxBack: 11134
10/31/86	Porter	to	EPA Administrator	EPA HQ	once authorized, states have permitting authority, not EPA	Pages: 4 FaxBack: 11190
12/12/86	Williams	to	Cooper	Waste-Tech Services, Inc.	addition of new incinerator unit at interim status facility is subject to §270.72 conditions; Part A application must be revised, permitting agency must approve change, and cost of change must not exceed 50% of facility reconstruction	Pages: 2 FaxBack: 11205
7/23/87	Petruska	to	Fisher	Fisher Industrial Service, Inc.	TSDF that qualified for interim status for receiving SQG waste may also receive waste from generators of all sizes	Pages: 2 FaxBack: 11268
8/11/88	Lowrance	to	McGuire	U.S. Dept. of Treasury	immediate removal and destruction of explosive materials by law enforcement agencies may require emergency RCRA Subtitle C permit; emergency permits and provisional transporter ID numbers may be issued via telephone or in writing	Pages: 4 FaxBack: 11363
9/19/88	Carra	to	Hazardous Waste Branch Chiefs	Regions I-X	law enforcement agents (BATF) transporting and detonating bombs and other reactive wastes may be exempt from RCRA Subtitle C regulation if action is immediate response per §264.1(g)(8); if not an immediate response, emergency permit may be required per §270.61	Pages: 4 FaxBack: 11370
2/27/89	Lowrance	to	HW Division Directors	Regions I-X	omnibus authority (§3005(c)(3)) can be used to control emissions (metals, HCl, PICs) from incinerators prior to promulgation of modified Subpart O regulations; §3005(c)(3) gives permit writers authority to apply permit conditions as necessary to protect human health and environment	Pages: 2 FaxBack: 11399

7/31/90	Bussard	to	MacMillan	National Solid Wastes Management Association	F039 waste code was promulgated pursuant to HSWA authority; permitted facilities managing F039 must submit a Class 1 permit modification by 8/8/90 (§270.42(g))	Pages: 13 FaxBack: 11545
5/31/91	Lowrance	to	Waste Management Division Directors	Regions I-X	incidental drippage after removal of treated wood from drip pad is not illegal HW disposal provided owner and/or operator responds immediately; immediate response determination is site-specific; facility must have a contingency plan, must keep records of response	Pages: 1 FaxBack: 11612
8/19/91	Clay	to	Scherer	EPA Region	clarification of interim status qualification criteria for BIFs, including under construction, in existence, substantial loss, and reasonable time	Pages: 6 FaxBack: 11635
10/19/92	Lowrance	to	Waste Management Division Directors	Regions I-X	LOIS for storage and treatment facilities that were in interim status on 11/8/84, but failed to submit Part B by 11/8/88; submission of Part B in accordance with HSWA deadlines ensures continued interim status until permit issued	Pages: 2 FaxBack: 11701
8/11/93	Browner	to	Dingell	U.S. House of Representatives	permit applications for new combustion facilities have lower priority than pending applications of interim status facilities; Combustion Strategy will not impact incinerators at CERCLA sites or ability of interim status units to continue burning HW	Pages: 10 FaxBack: 11764
3/16/94	Browner	to	Environmental Appeals Board	EPA HQ	interim status facilities may operate after denial of permit when appealing to Environmental Appeals Board (EAB); EAB directed to take final action within 90 days on appeals of interim status combustion facility permit denials	Pages: 2 FaxBack: 11817
4/4/94	Shapiro	to	Fortuna	Hazardous Waste Treatment Council	interim status is a statutory right when a facility meets all applicable standards; EPA cannot order BIFs that properly qualified for interim status to stop operating; to qualify for interim status, facility must be in existence on effective date of applicable rule	Pages: 12 FaxBack: 11825

10/17/94	Shapiro	to	HW Management Division Directors	Regions I-X	fuel blending tanks are subject to permitting unless they qualify for §262.34 generator accumulation exemption	Pages: 6 FaxBack: 11881

271 AUTHORIZATION OF STATE PROGRAMS

General

11/6/92	Lowrance	to	Waste Management Division Directors	Regions I-X	EPA has the authority to approve late or incomplete applications for state authorization; states' failure to apply for authorization to implement §3006(f) public information requirements (FOIA)	Pages: 4 FaxBack: 11920

273 STANDARDS FOR UNIVERSAL WASTES/SPECIAL COLLECTION SYSTEM WASTES

General

7/27/93	Denit	to Bowes	Finish Thompson, Inc.	EPA is considering regulating engine coolant/antifreeze under universal waste regulations (see also 60 *FR* 23928; 5/11/95)	Pages: 2 FaxBack: 11758
9/28/94	Bussard	to Green	Applied Environmental Services, Inc.	possible to petition EPA to include mercury switches/relays in universal waste system (see also 60 *FR* 23928; 5/11/95)	Pages: 2 FaxBack: 11876
6/5/95	Petruska	to Jenkins	AL Dept. of Environmental Management	Universal Waste Rule streamlines regulations for HW batteries, pesticides, mercury-containing thermostats; states may add additional wastes (i.e., fluorescent lamps) to state universal waste list and establish management standards for those wastes as they see fit	Pages: 6 FaxBack: 11906
6/22/95	Petruska	to Roberts	Maintenance Engineering	Universal Waste Rule streamlines regulations for HW batteries, pesticides, mercury-containing thermostats; states may add additional wastes (i.e., fluorescent lamps) to state universal waste list and establish management standards for those wastes as they see fit	Pages: 2 FaxBack: 11907

279 USED OIL MANAGEMENT STANDARDS

General

11/5/92	Lowrance	to	Northup	Convenient Automotive Services, Inc.	UO and mineral spirits mixture is UO if mixture is not ignitable; tank in which UO and ignitable HW are mixed is subject to Part 279 and §262.34; tank must be labeled with words used oil; mixing may be treatment (see also 60 *FR* 55202; 10/30/95)	Pages: 2 FaxBack: 11708
11/25/92	Lowrance	to	Chirumbolo	Arizona Filter Recyclers	applicability of UO regulations in authorized states	Pages: 2 FaxBack: 11712
4/5/93	Lowrance	to	Hartman	Kirkpatrick and Lockhart	to qualify for the rebuttable presumption exemption, UO contaminated with HCFCs must be removed from refrigeration units and the HCFCs must be destined for recycling; HCFC-contaminated UO can not be mixed with UO from other sources	Pages: 1 FaxBack: 11735
4/19/93	Lowrance	to	Hansen	OR DEQ	storage of UO in unlined surface impoundments and use of UO in road oiling is prohibited under Part 279	Pages: 4 FaxBack: 11736
9/3/93	Denit	to	Waste Management Division Directors	Regions I-X	anticipated changes to definition of processor and to status of UO that is inserted into the refining process at primary oil refineries (changes finalized 59 *FR* 10559; 3/4/94); majority of Part 279 UO regulations promulgated pursuant to RCRA Subtitle C base program	Pages: 3 FaxBack: 11766

9/24/93	Denit	to Harris	National Oil Recyclers Association	mixtures of UO and ignitable-only characteristic wastes are regulated as UO if no longer ignitable; all other mixtures are regulated as HW if they exhibit a characteristic, UO if they do not (see also 60 *FR* 55202; 10/30/95)	Pages: 2 FaxBack: 11776
9/27/93	Denit	to Marshall	Capitoline International Group, Ltd.	rags and wipers from which UO has been removed are subject to HW determination	Pages: 3 FaxBack: 11777
11/1/93	Weddle	to Van Schepen	John Deere Waterloo Works	oil and water separation and recycling metal-working oil on site are not processing if recovered oil is not burned for energy recovery; activities that are ancillary to the normal manufacturing process are not considered processing; USTs containing UO are subject to Parts 279 and 280	Pages: 2 FaxBack: 11792
1/10/94	Shapiro	to Patterson	Oils Unlimited, Inc.	on-specification UO fuel is the equivalent of virgin fuel oil for regulatory purposes	Pages: 1 FaxBack: 11807
3/22/94	Shapiro	to Lindgren	Heritage Environmental Services, Inc.	wastewater that contains UO is subject to Part 279; UO-containing residues and sludges from WWTUs are subject to Part 279; on-site separation of UO and water to meet CWA requirements does not constitute UO processing	Pages: 2 FaxBack: 11818
9/12/94	Petruska	to Nebrich	Waste Technology Services, Inc	documentation that halogens in excess of 1,000 ppm in UO arise from unintentional mixing of residuals from "RCRA empty" containers is sufficient to rebut HW presumption	Pages: 1 FaxBack: 11870
9/28/94	Petruska	to Pickett	3M	generators who remove UO from sorbents are not processors if UO not sent directly off site to burner; on-site burning of UO from incidental processing activities is allowed	Pages: 2 FaxBack: 11874

11/10/94	Cotsworth	to Northup	Convenient Automotive Services Industry	clarification of exemption from CERCLA liability for service station dealers; fast lube services eligible if accept DIY oil and receive significant income from vehicle maintenance; exemption applies to both DIY UO and UO from customer vehicles	Pages: 3 FaxBack: 11887
8/10/95	Petruska	to Phillips		generator dewatering UO coolant to reduce volume is not processor if: (1) UO is generated on site, (2) processing does not change physical and chemical condition of oil-based portion of coolant, (3) dewatered UO is not sent directly from generator to off-site used oil burner	Pages: 2 FaxBack: 11915

SUBPART A DEFINITIONS

11/30/90	Lowrance	to Anderson	Bracewell and Patterson	open-gear lubricant ("Gearite") is considered UO	Pages: 2 FaxBack: 11570
1/28/93	Lowrance	to Redington	Monsanto Co.	used nonpolymer-based oils (e.g., synthetic hydraulic and transfer fluids) that function similarly to petroleum-based lubricants, oils, and surface agents are considered UO and subject to Part 279	Pages: 1 FaxBack: 11724
10/7/93	Denit	to Hunter	Arvin Industries, Inc.	scrap metal that meets no free-flowing oil standard is not subject to UO transporter standards; coolant recycling and oil and water separation are not UO processing when they are incidental to the normal manufacturing process	Pages: 2 FaxBack: 11783
10/7/93	Denit	to Hunter	Arvin Industries, Inc.	scrap metal that meets no free-flowing oil standard is not subject to UO transporter standards; coolant recycling and oil/water separation are not UO processing when they are incidental to the normal manufacturing process	Pages: 2 FaxBack: 11783

SUBPART B APPLICABILITY

10/7/93	Denit	to Hunter	Arvin Industries, Inc.	scrap metal that meets no free-flowing oil standard is not subject to UO transporter standards; coolant recycling and oil/water separation are not UO processing when they are incidental to the normal manufacturing process	Pages: 2 FaxBack: 11783
10/13/93	Petruska	to Citizen		UO consolidated from different sources is regulated under Part 279; UO that is hazardous solely because it exhibits a characteristic is subject to Part 279; UO that cannot be recycled is subject to RCRA Subtitle C if the UO is a HW	Pages: 1 FaxBack: 11786
11/17/93	Weddle	to Adamoli	Tascon, Inc.	UO is presumed to be recycled until sent for disposal; sorbents containing UO that will be burned for energy recovery subject to Part 279; sorbents defined as UO that will not be burned for energy recovery are managed under Part 279 until disposed, even if characteristic	Pages: 3 FaxBack: 11798
2/8/94	Petruska	to Citizen		characteristic UO is subject to Part 279 if recycled, to RCRA Subtitle C when sent off site for disposal if it cannot be recycled; no need to test for specification if UO burned in §279.61 units; marketer includes anyone selling UO to customer burning it for energy recovery	Pages: 2 FaxBack: 11811
7/11/94	Bussard	to Cameron	Appliance Recycling Centers of America, Inc.	discarded household appliances containing UO are regulated under Part 279 if oil is recycled, as HW if oil is characteristic and disposed; CFC contaminated UO is exempt from rebuttable presumption at point of draining provided CFCs will be reclaimed; removal of CFCs not treatment	Pages: 3 FaxBack: 11850
7/22/94	Bussard	to Savage	Ogletree, Deakins, Nash, Smoak & Stewart	*de minimis* UO exemption does not apply to UO intentionally introduced to wastewater treatment system; surface impoundments managing UO must operate under RCRA Subtitle C permits or interim status	Pages: 3 FaxBack: 11858

10/16/95	Shapiro	to	Waste Management Division Directors	Regions I-X	administrative stay for UO and characteristic HW mixtures applies only to §279.10(b)(2); all UO and characteristic HW mixtures are subject to LDR, even if no longer characteristic; treatment of UO mixture or residuals for underlying constituents or by specified technology may be required	Pages: 5 FaxBack: 11922

SUBPART C USED OIL GENERATORS

6/10/94	Petruska	to	Lewis	Baker & McKenzie	company which services vehicle at off-site locations and brings UO back to central facility is subject only to generator requirements provided each shipment of UO is less than 55 gallons	Pages: 2 FaxBack: 11923
8/25/95	Shapiro	to	Nosenchuck	NY DEC	generator may only burn in his space heater UO from DIYs, UO he generated on site, or UO his business generated at an off site location; generator may not burn UO generated by another business	Pages: 2 FaxBack: 11944

SUBPART D USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

4/8/94	Bussard	to	Tollett	Vavoline, Inc.	DIY UO generators are not subject to UO standards; DIY oil is subject to Part 279 regulation once it has been collected; collected DIY oil is subject to rebuttable presumption; collection center can rebut presumption based on HHW exemption	Pages: 2 FaxBack: 11828
6/9/94	Shapiro	to	Frick	American Petroleum Institute	refineries receiving off-site UO subject to processor rules until UO enters refining process; E&P or refining facility may transport UO to same company's aggregation point; transporter rules apply to UO transported off site to pipeline or E&P facility until it is mixed with crude oil	Pages: 3 FaxBack: 11844

SUBPART E USED OIL TRANSPORTERS AND TRANSFER FACILITIES

7/8/92	Bussard	to Hilton	National Solid Waste Management Association	applicability of state v. federal transportation regulations (e.g., Hazardous Materials Transportation Act) to UO handlers	Pages: 1 FaxBack: 11676
7/28/93	Petruska	to Eggenberger	Defense Logistics Agency	UO transporter standards do not apply if movement of oil is on site (i.e., oil is not transported along public road); UO may be transported anywhere on site in any quantity without compliance with transporter or off-site shipment requirements	Pages: 2 FaxBack: 11762
6/9/94	Shapiro	to Frick	American Petroleum Institute	refineries receiving off-site UO subject to processor rules until UO enters refining process; E&P or refining facility may transport UO to same company's aggregation point; transporter rules apply to UO transported off site to pipeline or E&P facility until it is mixed with crude oil	Pages: 3 FaxBack: 11844
6/10/94	Petruska	to Lewis	Baker & McKenzie	company which services vehicle at off-site locations and brings UO back to central facility is subject only to generator requirements provided each shipment of UO is less than 55 gallons	Pages: 2 FaxBack: 11923

SUBPART F USED OIL PROCESSORS AND REREFINERS

10/7/93	Denit	to Hunter	Arvin Industries, Inc.	scrap metal that meets no free-flowing oil standard is not subject to UO transporter standards; coolant recycling and oil/water separation are not UO processing when they are incidental to the normal manufacturing process	Pages: 2 FaxBack: 11783

6/9/94	Shapiro	to Frick	American Petroleum Institute	refineries receiving off-site UO subject to processor rules until UO enters refining process; E&P or refining facility may transport UO to same company's aggregation point; transporter rules apply to UO transported off site to pipeline or E&P facility until it is mixed with crude oil	Pages: 3 FaxBack: 11844

SUBPART G BURNERS OF OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

2/8/94	Petruska	to Citizen		characteristic UO is subject to Part 279 if recycled, to RCRA Subtitle C when sent off site for disposal if it cannot be recycled; no need to test for specification if UO burned in §279.61 units; marketer includes anyone selling UO to customer burning it for energy recovery	Pages: 2 FaxBack: 11811

SUBPART I USE AS DUST SUPPRESSANT AND DISPOSAL OF USED OIL

10/13/93	Petruska	to Citizen		UO consolidated from different sources is regulated under Part 279; UO that is hazardous solely because it exhibits a characteristic is subject to Part 279; UO that cannot be recycled is subject to RCRA Subtitle C if the UO is a HW	Pages: 1 FaxBack: 11786
11/17/93	Weddle	to Adamoli	Tascon, Inc.	UO is presumed to be recycled until sent for disposal; sorbents containing UO that will be burned for energy recovery subject to Part 279; sorbents defined as UO that will not be burned for energy recovery are managed under Part 279 until disposed, even if characteristic	Pages: 3 FaxBack: 11798
2/8/94	Petruska	to Citizen		characteristic UO is subject to Part 279 if recycled, to RCRA Subtitle C when sent off site for disposal if it cannot be recycled; no need to test for specification if UO burned in §279.61 units; marketer includes anyone selling UO to customer burning it for energy recovery	Pages: 2 FaxBack: 11811

7/11/94	Bussard	to Cameron	Appliance Recycling Centers of America, Inc.	discarded household appliances containing UO are regulated under Part 279 if oil is recycled, as HW if oil is characteristic and disposed; CFCcontaminated UO is exempt from rebuttable presumption at point of draining provided CFCs will be reclaimed; removal of CFCs not treatment	Pages: 3 FaxBack: 11850
7/22/94	Bussard	to Savage	Ogletree, Deakins, Nash, Smoak & Stewart	*de minimis* UO exemption does not apply to UO intentionally introduced to wastewater treatment system; surface impoundments managing UO must operate under RCRA Subtitle C permits or interim status	Pages: 3 FaxBack: 11858