Chapter 3

Interpretive Memos & Letters

Reed Smeller
G.R.

STATE OF MICHIGAN

JOHN ENGLER, Governor
DEPARTMENT OF ENVIRONMENTAL QUALITY
"Better Service for a Better Environment"
HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973
INTERNET: www.deq.state.mi.us
RUSSELL J. HARDING, Director

REPLY TO
WASTE MANAGEMENT DIVISION
PO BOX 30241
LANSING MI 48909-7741

August 31, 2001

RECEIVED
SEP 05 2001
WASTE MANAGEMENT DIVISION
GRAND RAPIDS

Mr. Alan Wilds
8135 Donna Place
Williamsville, New York 14221-7311

Dear Mr. Wilds:

This is in response to your August 10, 2001 letter requesting confirmation of the regulatory status of used and unused dental amalgam under Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). You state that you have had previous discussions with Michigan Department of Environmental Quality (MDEQ), Waste Management Division (WMD) staff regarding the collection and recycling of this amalgam waste.

Your client, SolmeteX, United Parcel Service of America (UPS), and recycling facilities wish to provide a national recycling program through which dentists can recycle their dental amalgam waste. The amalgam waste will be from one of two sources:

1. Unused excess amalgam prepared for restoration work, and
2. Amalgam removed from patients' teeth during repair work.

The amalgam consists of approximately 50 percent mercury, 25 percent silver and smaller quantities of tin, copper and zinc. The amalgam is in solid form.

Amalgam removed from teeth is collected in traps. These traps contain the amalgam particles and prevent them from being discharged with wastewater.

Unused excess amalgam in solid form is defined as scrap metal under Part 111 of the NREPA. Scrap metal exhibiting a characteristic of a hazardous waste is not subjed to hazardous waste regulation and may be shipped to a recycling facility as appropriate by other transportation laws and regulations.

If the trap does not contain liquid it may also be regulated as scrap metal. If the trap contains liquid and the wastewater is discharged through a sewer system to a publicly owned treatment works or through a discharge to a surface water body, the trap and its contents are regulated as a "sludge" as defined in Part 111 of the NREPA. Sludges that only exhibit a characteristic of a hazardous waste and are recycled are not subject to regulation as hazardous waste. Liquid wastes not regulated as hazardous waste are subject to the requirements of Part 121, Liquid Industrial Waste, of the NREPA. However, in this case the trap is sealed and placed into a container. It is our interpretation that this type of material is not subject to Part 121 of the

NREPA. Therefore, sealed traps containing small amounts of liquid are not subject to the requirements of Part 121 of the NREPA.

Under the circumstances discussed above, the amalgam may be shipped for recycling under appropriate Department of Transportation regulations. If you have any questions, please contact Mr. Jack Schinderle, at 517-373-8410, or you may contact me.

Sincerely,

Jim Sygo, Chief
Waste Management Division
517-373-9523

cc: Ms. De Montgomery, MDEQ
Ms. Joy Taylor-Morgan, MDEQ
Mr. Steve Kratzer, MDEQ
Mr. Jack Schinderle, MDEQ
RCRA Committee

GR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTE
DIRECTOR

March 25, 2003

RECEIVED
MAR 2 7 2003
WASTE AND HAZARDOUS MATERIALS
DIVISION - GRAND RAPIDS

Ms. Terri Zick, CHMM
CTI and Associates, Inc.
12482 Emerson Drive
Brighton, Michigan 48116

Dear Ms. Zick:

This is in response to your January 6, 2003 letter to the Department of Environmental Quality (DEQ) requesting clarification of certain issues pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 111). I offer the following response to your questions by topic.

Aerosol Containers

Part 111 does not regulate the residues of hazardous waste that remain in an empty container. An empty container is defined under Part 111 according to the type of waste that the container held.

The Part 111 administrative rules state a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric. A container or an inner liner that is removed from a container which has held an acute hazardous waste or a severely toxic hazardous waste is empty if any of the following criteria are met:

(a) The container or inner liner has been triple rinsed using a solvent that is capable of removing the commercial chemical product or manufacturing chemical intermediate.

(b) The container or inner liner has been cleaned by another method that has been shown, in scientific literature or by tests conducted by the generator, to achieve equivalent removal.

(c) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

A container or an inner liner that is removed from a container that has held a hazardous waste, except for a waste which is a compressed gas, an acute hazardous waste, or a severely toxic hazardous waste, is empty if both of the following conditions are met:

(a) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, such as pouring, pumping, and aspirating.

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(b) Not more than 2.5 centimeters (1 inch) of residue remains on the bottom of the container or inner liner, or either of the following conditions is met:

(i) Not more than 3% by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size.

(ii) Not more than 0.3% by weight of the total capacity of the container remains in the container or inner liner if the container is more than 110 gallons in size.

An aerosol container may contain both a compressed gas and a liquid component. These materials in the aerosol container may be acute or severely toxic hazardous wastes, or not, as well as liquid or gaseous.

The scenarios put forth in your letter involve situations where either the propellant or the liquid components of the aerosol container, or both, exhibit a characteristic of a hazardous waste. The rules address the gaseous component and the liquid component independently. However, due to the potential mixing of hazardous and non-regulated contents in the aerosol container and the inherent difficulty in properly characterizing the remaining contents, the DEQ advises generators of aerosol containers to utilize the criteria for defining empty containers of both the compressed gas and the liquid fraction.

This dual criterion is also necessary when both components exhibit a hazardous waste characteristic, if one or more component is a listed hazardous waste, and if one or both components are acutely hazardous or severely toxic.

Aerosol containers that contain hazardous waste and are not empty are subject to land disposal restrictions, including a determination of underlying hazardous constituents (UHC), when necessary. You asked whether the information contained on the material safety data sheet (MSDS) is adequate to make this determination.

As defined in the Code of Federal Regulations, Title 40, Part 268, Section 2, underlying hazardous constituent means any constituent listed in Sec. 268.48, Table UTS--Universal Treatment Standards, except fluoride, selenium, sulfides, vanadium, and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste at a concentration above the constituent-specific UTS treatment standards. In order to determine whether the MSDS can be solely utilized to determine UHC compliance, the concentrations of constituents expected to be present must be identified on the MSDS in concentrations low enough to compare to the UTS treatment standards.

Clean-up Media

The Part 111 administrative rules adopt by reference the federal land disposal restriction (LDR) requirements found in the Code of Federal Regulations, Title 40, Part 268. The LDR requirements contain alternate treatment standards for soils containing hazardous waste.

You state that soils and other man-made media are often used to contain and clean up spills. You ask about the application of the LDR standards to soils or man-made media when the spill is cleaned up immediately.

We are currently discussing the questions in your letter with the United States Environmental Protection Agency (US EPA). I will provide answers when I get a clear understanding from the US EPA.

On-site Treatment

The Part 111 administrative rules allow generator treatment in tanks or containers under the conditions identified in R 299.9503(1)(i). The DEQ allows generator treatment under rule 503(1)(i) in either a satellite accumulation area or generator accumulation area. This exemption from construction permit and operating license applies to most any treatment that can be safely performed by the generator in accumulation tanks or containers. The DEQ does not authorize or approve any specific generator treatment.

If you have any questions regarding this letter please contact me at the number below.

Sincerely,

Jack Schinderle

Jack Schinderle
Hazardous Waste and Radiological Protection Section
Waste and Hazardous Materials Division
517-373-8410

cc: Mr. Steve Sliver, DEQ
RCRA Committee

RCRA Committee

William Yocum, Lansing District Office
Trisha Peters, Saginaw Bay District Office
Tina Straw, OCI
Reed Sneller, Grand Rapids District Office
Philip Roycraft, Cadillac District Office
Nadine Deak, Kalamazoo District Office
Lynne King, SE Michigan District Office
Leonard Switzer, Marquette District Office
Lawrence AuBuchon, SE Michigan District Office
Judy Schaefer, ESSD
Jenny Bennett, Gaylord District Office
Jack Schinderle
Elizabeth Bols, Grand Rapids District Office
Christine Kearns, C&E Section
Cheryl Howe

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

September 29, 2003

RECEIVED
OCT 0 2 2003
WASTE AND HAZARDOUS MATERIALS
DIVISION - GRAND RAPIDS

Ms. Mary King, PE, CHMM
EHS & Quality Manager
Micronutrients
1550 Research Way
Indianapolis, Indiana 46231

Dear Ms. King:

This is in response to your August 28, 2003, letter requesting concurrence that certain materials are not regulated as wastes pursuant to Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). You provided additional information in a September 11, 2003, correspondence.

Micronutrients processes spent etchants (both ammonium hydroxide and hydrochloric acid) from the printed wire board industry. These spent etchants contain copper from dissolving copper from printed wire boards and are processed to produce a copper micronutrient animal feed known as *Micronutrients TBCC®*. The spent etchants replace copper solutions derived from dissolving copper from copper oxides, copper containing sludges, copper mine concentrates, or scrap copper. The information provided supports the claim that the etchants are preferred over these other ingredients because they are of higher purity, consistent, and eliminate one or more processing steps.

Micronutrients has provided specifications for receipt of incoming spent etchants. Those etchants that do not meet specifications are rejected for use in the process.

As you know, the spent etchants may not be reclaimed prior to being used or reused. Indiana and the United States Environmental Protection Agency have reviewed the process and determined that reclamation does not occur prior to use/reuse. The Michigan Department of Environmental Quality (MDEQ) is deferring to the reclamation determination previously made by these agencies.

Based on the information submitted, and provided that there is no speculative accumulation, use constituting disposal, or burning for energy recovery, the MDEQ concurs that the spent etchants used to produce *Micronutrients TBCC®* are not wastes pursuant to R 299.9202(3). Additionally, these spent etchants are not subject to regulation under Part 121, Liquid Industrial Wastes, of NREPA.

If the process, end uses or feedstocks change this interpretation may change. If you have any questions regarding this letter, please contact me at the telephone number below.

Sincerely,

Jack Schinderle
Hazardous Waste and Radiological Protection
Waste and Hazardous Materials Division
517-373-8410

cc: RCRA Committee

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STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

STEVEN E. CHESTER
DIRECTOR

June 4, 2004

RECEIVED
JUN 08 2004
WASTE AND HAZARDOUS MATERIALS
DIVISION - GRAND RAPIDS

Mr. John A. Prokes
Regional Environmental Director
Environmental Testing & Consulting, Inc.
2530 Three Mile Road North
Traverse City, Michigan 49686

Dear Mr. Prokes:

The Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), has reviewed the petition in support of exempting certain ink waste under Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The petition was submitted September 10, 2003, and supplemented February 10, 2004, in support of the claim that the United States Postal Service's (USPS's) automated facer canceled system (AFCS) ink should be exempt pursuant to R 299.9204(2)(f) of the administrative rules promulgated pursuant to Part 111.

Wastes that fail the test for the toxicity characteristic because chromium is present, that do not fail the test for the toxicity characteristic for any other constituent, and are not hazardous waste for any other characteristic or listing are not hazardous waste if it is shown by the generator that the following conditions are met:

1. The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium.

2. The waste is generated from an industrial process that uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium.

3. The waste is typically and frequently managed in nonoxidizing environments.

The USPS's Processing and Distribution Centers in Michigan generate waste ink during equipment cleaning. The chromium is found in the specially-formulated ink used to cancel stamps. The USPS may use alcohol, water, and/or detergents to clean the equipment. When alcohol is used, the flash point of the resulting waste material may exhibit the hazardous waste characteristic of ignitability. Waste ink and ink solutions that exhibit the characteristic of ignitability are not eligible for the exclusion of R 299.9204(2)(f). Because the USPS is converting to aqueous or high flash cleaning systems, the future ink cleanup wastes will not exhibit the characteristic of ignitability or any other characteristic except for chromium.

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The USPS has, through contractors, demonstrated that the waste AFCS ink is not hazardous for any reason except for exhibiting the toxicity characteristic for chromium, which meets the conditions outlined in R 299.9204(2)(f). Therefore, this waste is not a hazardous waste, and the DEQ will proceed to amend the administrative rules to include USPS AFCS ink waste in R 299.9204(2)(g) at the next opportunity.

If you have any questions regarding this letter, please contact Mr. Jack Schinderle, Hazardous Waste and Radiological Protection Section, WHMD, at 517-373-8410, or you may contact me.

Sincerely,

George W. Bruchmann, Chief
Waste and Hazardous Materials Division
517-373-9523

cc: Ms. Liane Shekter Smith, DEQ
WHMD District Supervisors, DEQ
Ms. Ronda Blayer, DEQ
Mr. Jack Schinderle, DEQ

Reno Sarkar

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

DEQ

STEVEN E. CHESTER
DIRECTOR

September 29, 2009

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WASTE AND HAZARDOUS MATERIALS
DIVISION - GRAND RAPIDS

Mr. Timothy J. Hylla, Vice President
EMA
10627 Midwest Industrial Drive
St. Louis, Missouri 63132

Dear Mr. Hylla:

This is in response to your request for concurrence under Part 111, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, that certain previously used solvents are legitimately reused when used to clean tankers in an out-of-state tank wash program. Michigan administrative rule, R 299.9202, excludes certain material from regulation as a waste when they are legitimately used or reused.

Based on the information provided, the example solvent stream appears to be an effective substitute for commercially available solvents. The Michigan Department of Environmental Quality, Waste and Hazardous Materials Division, concurs that these relatively clean solvents reused under the tanker wash programs approved by the states of Missouri and Indiana and meeting the following conditions are not wastes pursuant to Part 111.

In order to ensure that the solvent reuse is effective the solvent must meet the specifications below:

1) The material is a solvent or solvent blend.
2) A load of material is used to clean multiple tankers.
3) The solvent material does not contain metals at characteristic levels.
4) Any participating generator must maintain documentation, available for inspection, demonstrating acceptance into the program, including contracts, and conformance with all specifications.
5) The out-of-state truck wash programs are operated in accordance with that state's applicable laws and approvals.
6) The reuse material does not leave a heel in the tanker requiring removal to obtain an empty container as defined in R 299.9207 of the Part 111 Rules. All the material must be reused.
7) All the material must be reused. Components may not be separated during storage or handling.
8) The reuse solvent must contain less than two parts per million of polychlorinated biphenyl.
9) The reuse material must be evaluated to ensure it is compatible with the process, including any storage.
10) The material must be re-evaluated whenever there is a change to the process generating the solvent or there is a change in any aspect of the reuse.

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If you have any questions related to this letter, please contact me by telephone at the number below or via e-mail at schinderlej@michigan.gov.

Sincerely,

Jack Schinderle

Jack Schinderle, Chief
Waste Tracking and Data Management Unit
Hazardous Waste Section
Waste and Hazardous Materials Division
517-373-8410

cc: RCRA Committee

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

November 25, 1992

David Bozaan
Groundwater Technology
223 Wilmington West Chester Pike
Chadds Ford, PA 19317

Dear Mr. Bozaan:

Thank you for your October 23, 1991 letter to David Bussard concerning recovered petroleum products. I apologize for the long delay in answering your questions. I understand that you have since contacted and received responses from most of the states in which you conduct business. As a matter of policy, we always suggest that members of the regulated community do just that, since states can promulgate stricter standards.

1. The "Free Product" Issue.

In your letter, you referred to a preamble statement from the Toxicity Characteristic final rule (published on March 29, 1990, at 55 Federal Register 11836) that defines wastes as hazardous under the Resource Conservation and Recovery Act (RCRA) Subtitle C regulations. The statement in question refers to cleanups of contaminated soil and groundwater from petroleum product storage tanks regulated under RCRA's Subtitle I program for underground storage tanks (USTs). It reads:

> "Moreover, the UST cleanup activities involving the most contaminated media and debris are also likely to involve free product recovery. Free product recovery would not be subject to Subtitle C requirements because the material being recovered is not a waste."

This statement was intended to describe the status of recovered "free product," or products that had been stored, spilled, and were subsequently recovered for use or reuse in their normal manner. If the product was going to be discarded instead of used in its normal manner, it would be a waste (and, potentially, a hazardous waste). In order to qualify for an exemption, the generator has the burden of proving that a material is not a solid waste, or is conditionally excluded from regulation (40 CFR 261.2); a generalized assertion that a material is being recycled does not necessarily satisfy this burden. The Agency discussed this issue in more detail with respect to commercial chemical products in the preamble to the Land Disposal Restrictions Third Third Final Rule (55 FR 22671, June 1, 1990). In that preamble (see attached), the Agency described some of the considerations that may be appropriate in characterizing the legitimacy of a claim that a spilled material is not a solid waste based on its being recycled. You should continue to deal with the implementing agencies for detailed guidance on what will satisfy this

burden. Generally, you will likely be asked to show that the material is suitable for, and actually is used as fuel, or to make a fuel.

2. Commercial Chemical Products.

Under the Subtitle C regulations defining materials as "solid wastes" potentially subject to the hazardous waste requirements, commercial chemical products that are reclaimed are not wastes (see 40 CFR 261.2(c)(3)). Although the regulation specifically says "commercial chemical products listed in 40 CFR 261.33," we meant also to include commercial chemical products that are not specifically listed in 40 CFR 261.33 as well (for example, a commercial chemical product that exhibits the ignitability characteristic identified at 40 CFR 261.21). We clarified this principle in a technical correction notice published on April 11, 1985 (55 Federal Register 14219, copy enclosed).

In addition, the regulations at 40 CFR 261.2(c)(2) state that, when used as fuels, commercial chemical products listed in 40 CFR 261.33 are not solid wastes if they are themselves fuels. The same logic applies to commercial chemical products that are not specifically listed, but that exhibit a hazardous characteristic. Although the April 11, 1985 technical correction notice could be read to imply that commercial chemical products burned for energy recovery are wastes, please be assured that a commercial chemical product normally used as a fuel (such as gasoline) is considered to be used in a manner consistent with its normal product use if it is burned for energy recovery or used to produce a fuel. Thus, it would not be a waste [see 40 CFR 261.2(c) (2) (ii)].

3. Specific Questions.

Q) Is recovered free product regulated as a Subtitle C waste if the waste disposal facility which receives the material puts it into a fuels blending program? (If yes, then gasoline, we presume, would be classified as a D001 ignitable hazardous waste).

A) Recovered free product that is normally used as a fuel is not regulated as a RCRA Subtitle C waste if it is used as an ingredient to make a fuel (e.g., by blending into fuel). Gasoline is not regulated as a RCRA Subtitle C hazardous waste when it is put into a fuel blending program. In contrast, a commercial chemical product that is not normally used as a fuel, e.g., a pesticide, would be a RCRA Subtitle C waste if put into a fuel blending program.

Q) Would free product recovered from a UST corrective action (Part 280, Subpart F) be excluded from being regulated as a D018 to D043 toxicity characteristic hazardous waste?

A) Commercial chemical products normally used as fuels, that are free product recovered from a UST corrective action under 40 CFR Part 280, Subpart F, and that are put into a fuel blending program, are not regulated as wastes and thus would be excluded from regulation as a D018 to D043 waste (as well as any other EPA hazardous waste number). If the same commercial chemical product is sent for disposal, however (e.g., in

a landfill), it is a waste and thus may be a hazardous waste[1].

Commercial chemical products that are not normally used as fuels would be wastes if they are to be burned for energy recovery[2]. Thus, typically, recovered free products that are not normally used as fuels would be regulated as hazardous wastes if they were sent to be burned or used in fuel, and exhibited one of the hazardous waste characteristics (or were specifically listed).

Q) Is recovered free product excluded from Subtitle C regulation if it is reused as gasoline by either: 1) being refined by a refinery for resale, or 2) being added to a large bulk storage tank for resale without processing?

A) Gasoline that is recovered and used as a fuel, either by sending to a refinery for re-refining, or combining with other gasoline directly for resale, with no processing (or with some processing, for that matter), is not a waste and thus is excluded from RCRA Subtitle C regulation.

I hope this letter responds to your questions. If you have further questions, please contact Julie Lyddon of my staff at (202) 260-8551. I would, however, encourage you to continue checking with the implementing agency (RCRA-authorized state or EPA regional office) whenever you have questions about specific sites or circumstances.

Sincerely,

Jeffery D. Denit
Deputy Director,
Office of Solid Waste

FaxBack # 11713

[1] Note that petroleum-contaminated media and debris identified as D018 through D043 wastes are excluded from regulation as a hazardous waste under 40 CFR 261.4 (b) (10).

[2] See footnote 1.

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

OCTOBER 7, 1993

Mr. John DiFazio
Chemical Specialties Manufacturers Association
1913 Eye Street, N.W.
Washington, D.C. 20006

Dear Mr. DiFazio:

Over the past several years we have received numerous questions from you and others concerning the regulatory status of used aerosol cans under the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. I understand that confusion about these issues may be hindering your cooperative efforts with the Steel Recycling Institute (SRI) to increase steel aerosol can recycling in this country. As environmentally protective recycling is an important part of the Agency's waste management goals, I hope that this letter will help to answer some of these questions.

RESIDENTIAL AEROSOL CANS

First, I would like to emphasize that under the federal RCRA regulations, household waste (including aerosol cans) is excluded from the definition of hazardous waste (40 CFR 261.4 (b) (1)). Thus, any aerosol cans generated by households are not regulated as hazardous waste. Because this exclusion attaches at the point of generation (i.e., the household) and continues to apply throughout the waste management cycle, household aerosol cans collected in municipal recycling programs and subsequently managed in recycling programs continue to be excluded from the hazardous waste management regulations.

The data submitted by SRI[1] appear to confirm that the majority of used residential aerosol cans contain very little residual product or propellant. Along with your experience working with many of the 600 or more communities currently recycling these cans, the data suggest that aerosol cans can be effectively recycled.

The Agency does recommend that communities running residential steel recycling programs educate their participants to recycle only empty steel aerosol cans. Participants could also be educated to: 1) purchase only the amount of consumer products that they need to minimize the quantities of unused products, 2) give unused products to someone else who can use them, 3) take unused or partially full containers to a household hazardous waste collection program if available, or 4) dispose of the partially full containers as directed on the label.

COMMERCIAL/INDUSTRIAL AEROSOL CANS

FaxBack # 11780

I understand that you and SRI are also interested in facilitating the recycling of aerosol cans generated by commercial or industrial generators. The remainder of this letter discusses only these non-household waste items.

We have been asked whether aerosol cans exhibit the characteristic of reactivity. At this time, the Agency is not able to determine whether various types of cans that may have contained a wide range of products are reactive. However, a steel aerosol can that does not contain a significant amount of liquid would clearly meet the definition of scrap metal (40 CFR 261.1 (c)(6)), and thus would be exempt from RCRA regulation under 40 CFR 261.6(a)(3)(iv) if it were to be recycled. Therefore, a determination of reactivity or any other characteristic would not be relevant. Aerosol cans that have been punctured so that most of any liquid remaining in the can may flow from the can (e.g., at either end of the can), and drained (e.g., with punctured end down), would not contain significant liquids.

It should be noted that since the process of emptying the aerosol cans is part of a recycling process (i.e., scrap steel recycling), this activity would be exempt from RCRA regulation under 40 CFR 261.6(c) (except as specified in 40 CFR 261.6(d)). The Agency recommends that these activities be conducted in a safe and environmentally protective manner and that care be taken to properly manage any contents removed from the container (both liquids and gases). Any liquids or contained gases removed from aerosol cans may be subject to regulation as hazardous wastes if they are listed in Subpart D of 40 CFR Part 261 or if they exhibit any characteristics of hazardous waste as described in Subpart C of 40 CFR Part 261.

We have also been asked to determine whether used aerosol cans would meet the definition of "empty" under 40 CFR 261.7. Again, if the steel cans are being recycled, it is not necessary to determine whether they are "empty" under the criteria listed in 40 CFR 261.7 As long as an aerosol can being recycled does not contain significant liquids, the can is exempt as scrap metal. However, in order to dispose of a can as non-hazardous waste (rather than recycle it), a generator would have to determine that the can is empty under 40 CFR 261.7 (or that the product it contained was not hazardous), and that the can itself is not hazardous. If a can is to be disposed of, and either contains or is hazardous waste, it must be managed under all applicable regulations.

Please be aware that this letter addresses only the federal hazardous waste regulations. Authorized State agencies implement the RCRA program in their states (although some parts of the program may be implemented by the U.S. EPA Regions), and that state regulations may be more stringent than the federal regulations. Anyone managing aerosol cans should contact the appropriate state environmental agency or U.S. EPA Regional Office to determine how the regulations of that particular state will apply to their activities.

I hope this information is useful in your efforts to increase steel recycling. Thank you for the assistance that you and the Chemical Specialties Manufacturers Association have provided my staff in researching these issues. If you have any further questions, please call Charlotte Mooney of my staff at (202) 260-8551.

FaxBack # 11780

Sincerely,

Jeffery D. Denit
Acting Director,
Office of Solid Waste

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[1] Texas Steel Aerosol Can Recycling Program, Final Report; Steel Can Recycling Institute (now Steel Recycling Institute); December 7, 1992.

FaxBack # 11780

9442.1994(05)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

April 15, 1994

Mr. Theodore L. Kinne
Vice President
Interstate Natural Gas Association of America
555 13th Street, N.W. Suite 300
Washington, D.C. 20004

Dear Mr. Kinne:

Thank you for your letter dated July 1, 1991, requesting clarification regarding the status of natural gas pipeline condensate under Resource Conservation and Recovery Act (RCRA) regulations. I apologize for the long delay in responding to your request.

As you correctly state in your letter, off-specification fuels (such as natural gas pipeline condensate) are not considered solid wastes under 40 CFR Part 261 when burned for energy recovery. While this interpretation has not been altered since 1985, EPA has since attempted to clarify what constitutes legitimate burning for energy recovery and may have caused some confusion as a result.

The Agency addressed the issue of legitimate vs. "sham" burning for energy recovery in the February 21, 1991, final rule on Burning of Hazardous Waste in Boilers and Industrial Furnaces. (56 FR 7134). In the preamble to that rule, EPA cited burning of ignitable off-specification natural gas condensate as a motor fuel as an example of an inappropriate or sham type of burning for energy recovery. The Agency further stated that natural gas condensate, when used in this manner, would be a solid and hazardous waste subject to Subtitle C controls (see 56 FR 7184). EPA now recognizes, however, that this was a poorly worded example of what would be considered sham burning for energy recovery. A more precise example, and one that the Agency has found to have occurred, would be the sale or use of contaminated, low energy value "natural gas pipeline condensate" as a motor fuel, or fuel additive (such that additional octane enhancers also had to be

RO 11831

added).

In general, the January 4, 1995 preamble discussion you cite (50 FR at 630) still applies. Accordingly, use of unadulterated natural gas pipeline condensate with high Btu/lb content as a fuel or fuel additive could, in fact, constitute a legitimate type of burning for energy recovery. It is important to note, however, that energy value is not the sole determinant of whether the natural gas condensate is being legitimately burned as a fuel. Additional sham recycling criteria, identified in the January 8, 1988 Proposed Amendments to the Definition of Solid Waste, are equally relevant to a regulatory status determination (see 53 FR at 522; see also 48 FR at 11158 (March 16, 1983)). Of particular relevance to a determination regarding natural gas pipeline condensate is whether the condensate contains toxic constituents not found in normal fuels and if so, whether these constituents contribute to the recycling objective or are simply being destroyed. Assuming that burning is for legitimate energy recovery, high energy value natural gas condensate would not be considered a RCRA solid or hazardous waste when used as a fuel or fuel additive. However, the determination would have to be made case-by-case based on the facts relevant to both the specific material and the manner in which it is being burned.

It is also important to note that authorized states generally implement the RCRA hazardous waste regulations and State regulations may be more stringent than the Federal regulations. I hope this letter has addressed your concerns. If you have any further questions, please contact Mitch Kidwell or Becky Daiss of my staff at (202) 260-8551.

Sincerely,
Michael Shapiro, Director
Office of Solid Waste

RO 11831

9444.1987(14)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 8 1987

Michael Sanderson, Chief
RCRA Branch
U.S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, KS 66101

Dear Mr. Sanderson:

This letter is in response to your April 20, 1987 memo regarding certain wastes generated at Everco Industries' Ottumwa, Iowa plant. Specifically, you requested an interpretation as to whether wastewater treatment sludges generated at their plant meets the definition of EPA Hazardous Waste No. F006.

We have reviewed the description of Everco's processes and agree that the wastewater treatment sludge does not meet the definition of F006. The non-cyanide zinc plating process is specifically excluded from the listing as "zinc plating (segregated Basis) on carbon steel." Likewise the coating processes, both before and after the process change, are not within the scope of the listing as explained in the December 2, 1986 Interpretive Rule. It is also noted that the cleaning and stripping operations are also specifically excluded from the listing as "cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel." Thus, the waste would only be considered hazardous if it exhibits any of the Subpart C hazardous waste characteristics.

Should you have any questions regarding this interpretation, please contact me, or David Topping of my staff, at FTS 475-8551.

Sincerely,

Original Document signed

Matthew A. Straus, Chief
Waste Characterization Branch

RO 11245

[R] 51 FR 43350, 12/02/86

40 CFR Part 261

[SHW-FRL-3121-2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interpretative rule.

SUMMARY: The Agency is today clarifying the scope of EPA Hazardous Waste No. F006 contained in the list of hazardous wastes from non-specific sources of Subpart D of Part 261. The Agency has re-evaluated its previous interpretation of F006 and has determined that it is overly broad. As a result, the Agency is today announcing its current interpretation of the scope of EPA Hazardous Waste No. F006.

DATE: This interpretation is effective December 2, 1986.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Mr. Matthew Straus, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: On May 19, 1980, the Agency published an interim final regulation listing "Wastewater treatment sludges from electroplating operations" as EPA Hazardous Waste No. F006 in Subpart D of Part 261 (see 45 Federal Register 33112-33133). The hazardous constituents for which this waste was listed were cadmium, chromium, nickel, and complexed cyanide. In response to comments on this regulation, the listing was modified on November 12, 1980 (see 45 FR 74884-74892), to read as follows: "Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum." /1/ In addition, the Agency agreed with commenters that wastewater treatment sludges from the chemical conversion coating of aluminum would not be expected to contain hazardous levels of cadmium and nickel and thus, listed this waste separately as EPA Hazardous Waste No. F019. The hazardous constituents for which EPA Hazardous Waste No. F019 was listed are hexavalent chromium and complexed cyanide.

NOTE /1/ The Agency also indicated that hexavalent chromium rather than total chromium would be listed as a constituent of concern in Appendix VII of Part 261.

As explained in the Listing Background Document for F006, the Agency identified the listing for "electroplating operations" to cover the same processes as was included under the Effluent Guidelines Division's pretreatment standards for the electroplating point source category. That is, the Agency considered the F006 listing to include the following processes: common and precious metals electroplating, anodizing, chemical conversion coating, electroless plating, chemical etching and milling, and printed

circuit board manufacturing.

The Agency, through its Chief Judicial Officer, recently determined, however, that from May 19, 1980 to November 12, 1980, the reference to etching in the listing background document accompanying the original F006 listing was insufficient to indicate that the scope of F006 included etching. The Chief Judical Officer concluded that the lack of reference to etching in the rule violated the publication requirement of the Administrative Procedure Act, 5 U.S.C. 552. See In the Matter of U.S. Nameplate Company, RCRA (3008) Appeal/No. 85-3, Final Decision at 13 (March 31, 1986). The opinion also noted, however, that the modified listing (November 12, 1980) could be interpreted to include several processes by reverse implication from the six specific processes explicitly excluded. That is, since sulfuric acid anodizing of aluminum and chemical etching and milling of aluminum were excluded from the listing, all other anodizing and chemical etching and milling are within the scope of the listing.

The Agency has reconsidered its interpretation of EPA Hazardous Waste No. F006. Since the rule explicitly refers only to electroplating, anodizing, chemical etching and milling, and cleaning and stripping, the F006 listing included only common and precious metals electroplating, anodizing, chemical etching and milling, and cleaning and stripping when associated with these processes. Although the listing background document noted other processes, these were not part of the promulgated listing. Accordingly, the following processes are not included under the F006 listing: chemical conversion coating,/2/ electroless plating, and printed circuit board manufacturing./3/ The F006 listing is (and always has been) therefore, inclusive of wastewater treatment sludges from only the following processes: (1) Common and precious metals electroplating, except tin, zinc (segregated basis),/4/ aluminum, and zinc-aluminum plating on carbon steel; (2) anodizing, except sulfuric acid anodizing of aluminum; (3) chemical etching and milling, except when performed on aluminum; and (4) cleaning and stripping, except when associated with tin, zinc, and aluminum plating on carbon steel.

NOTE /2/ Wastewater treatment sludges from the chemical conversion coating of aluminum are listed as EPA Hazardous Waste No. F019.

NOTE /3/ Wastewater treatment sludges from printed circuit board manufacturing operations that include processes which are within the scope of the listing (e.g., chemical etching) are regulated as EPA Hazardous Waste No. F006.

NOTE /4/ "Zinc plating (segregated basis)" refers to non-cyanidic zinc plating processes. For example, wastewater treatment sludges from zinc plating using baths formulated from zinc oxide and/or sodium hydroxide would be excluded from the listing while sludges from baths formulated from zinc cyanide and/or sodium cyanide would not be excluded. Where both cyanidic and non-cyanidic baths are used, the exclusion applies to sludges from the non-cyanidic processes as long as they are segregated from sludges that result from cyanidic plating processes.

As a result of this decision, a number of delisting petitions that have been filed pursuant to 40 CFR 260.20 and 260.22 are unnecessary, since the wastes described in the petitions are not the listed F006 wastes. The Agency intends, therefore, to take no further action on these petitions. These petitions are listed in Table 1.

Table 1.--Moot Petitions

Petitioner	Location	Petition No.
ACR Electronics	Hollywood, FL	0297
Arnold Circuits, Inc	La Habra, CA	0508
Atlantic Wire Co	Branford, CT	0189
Chevrolet Flint Mfg. Complex	Flint, MI	0388
Chrysler Corporation	Fenton, MO	0500
Chrysler Corporation	Belvidere, IL	0501
Chrysler Corporation	Fenton, MO	0502
Colt Industries	Paris, IN	0233
Crosman Airguns	Fairport, NY	0093
Ford Motor Co	Sterling Heights, MI	0509
Ford Motor Co	Norfolk, VA	0511
Ford Motor Co	Sandusky, OH	0512
Ford Motor Co	Louisville, KY	0513
Ford Motor Co	Lorain, Oh	0514
Ford Motor Co	Indianapolis, IN	0515
Ford Motor Co	Brookpark, OH	0516
Ford Motor Co	Avon Lake, Oh	0517
Ford Motor Co	Claycomo, MO	0518
Ford Motor Co	Chicago, IL	0519
Ford Motor Co	Romeo, MI	0521
Ford Motor Co	Wixom, MI	0527
General Electric Co	Conneaut, OH	0012
General Electric Co	Jonesboro, AR	0437
General Motors Corp	Atlanta, GA	0372
General Motors Corp	Fredericksburg, VA	0473
General Motors Corp	Janesville, WI	0526
General Motors Corp	Lake Orion, MI	0581
GMC/Fisher Body Div	Cleveland, OH	0336
GMC/Fisher Body Div	Lansing, MI	0378
GMC/Fisher Body Div	Flint, MI	0410
GMC/Saginaw Steering Gear	Athens, AL	0428
GMC/Saginaw Steering Gear	Saginaw, MI	0432
Greenville Products Co	Greenville, MI	0605
Hyatt Clark Industries	Clark, NJ	0531
Iowa Industries	Burlington, IA	0343
Kent Corporation	Birmingham, AR	0623
Mansfield Products Co	Mansfield, OH	0114
Manville Sales Corp	Utica, OH	0642
Moog Automotive	Maryville, MO	0464
Northern Metal Specialty Div	Osceola, WI	0304
P.T. Components, Inc	Indianapolis, IN	0232B
Polymer Coil Coater, Inc	Fairfield, AL	0611
Rheem Manufacturing Co	Asheville, NC	0653
Teledyne Monarch Rubber Co	Hartville, OH	0507
Teletype Corporation	Little Rock, AR	0525
Universal Oil Products	Decatur, AL	0305
Waterloo Industries	Pocahontas, AR	0544
Whirlpool Corporation	Marion, Oh	0054
Whirlpool Corporation	Ft. Smith, AR	0095
Whirlpool Corporation	Danville, KY	0103
Whirlpool Corporation	Findlay, OH	0128
Whirlpool Corporation	Clyde, OH	0275
White Mop Wringer Co	Fultonville, NY	0176
White Rogers	Batesville, AR	0364

The Agency plans to re-evaluate the F006 listing in the future. The Agency may then incorporate into the scope of the F006 listing those processes which we today state are not part of F006 (i.e., chemical conversion coating, etc.). Any facility that would then want to pursue a delisting would need to submit a new petition.

Dated: November 18, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-27028 Filed 12-1-86; 8:45 am]

BILLING CODE 6560-50-M

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

STEVEN E. CHESTER
DIRECTOR

ETHANOL SYRUP EXEMPTION (ANAEROBIC DIGESTION)

In accordance with the provisions of Section 11507 of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the rules promulgated under Part 115, specifically R 299.4119, syrup generated in the production of ethanol (Syrup) is granted a site/source-separated exemption by the authorized representative of the Director of the Michigan Department of Environmental Quality (MDEQ).

This exemption is subject to the following conditions:

1. This approval is limited to syrup that is produced from the production of ethanol using corn.

2. The Syrup shall only be used as a feed stock in an anaerobic digester that is operated in compliance with Part 55, Air Pollution Control, of the NREPA. Anaerobic digestion is the harnessed and contained, naturally occurring process of anaerobic decomposition. An anaerobic digester is an industrial system that harnesses these natural process to treat waste, produce biogas that can be used to power electricity generators, provide heat, and produce soil improving material.

3. Each generator intending to operate pursuant to this exemption shall notify the Director of the MDEQ, in writing, of his or her intent. Notification shall be sent to the Waste and Hazardous Materials Division (WHMD) District Office. A list of the District Offices is attached in Appendix A.

4. The notification to the WHMD shall include a management plan that must be approved by the MDEQ that describes how the material will be managed during storage (both on-site and off-site), processing, and transportation.

5. The Syrup shall not be stored in a manner constituting speculative accumulation per R 299.4119. The owner/operator of a site must be able to demonstrate compliance with this condition.

6. The Syrup shall not come into direct contact with surface water, groundwater, or wetland areas as defined by the NREPA, and the administrative rules promulgated thereunder, unless approved or permitted by the MDEQ.

7. Processing, storage, transporting, or use of the Syrup shall be managed in such a way to prevent nuisance conditions in violation of Part 115 and Part 55 or the rules promulgated under Part 55.

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8. Vehicles used to transport the Syrup shall be licensed under Part 121, Liquid Industrial Wastes, of the NREPA.

9. The generator of the Syrup shall obtain a Site Identification Number in compliance with Section 12103(1)(b) of Part 121 and manage the Syrup pursuant to Part 121.

10. The owner of the anaerobic digester shall obtain a Site Identification Number in compliance with Section 12112(1)(a) of Part 121 and manage the Syrup pursuant to Part 121.

11. Storage of the Syrup, prior to use, shall be in a tank; a container; a surface impoundment that has been permitted under Part 31, Water Resources Protection, of the NREPA; or other similar structure that is approved by the Director of the MDEQ.

12. The Syrup shall be tested on a quarterly basis for the parameters listed below unless the MDEQ has approved an alternate time frame or modified list of parameters. The results shall be kept by the company for a period of three years and shall be made available to the MDEQ upon request.

Solids and Nutrients	Toxicants
Percent Dry Solids	Arsenic (milligrams/kilograms [mg/kg])
Percent Total Kjeldahl Nitrogen	Barium (mg/kg)
Percent Ammonium Nitrogen	Cadmium (mg/kg)
Percent Nitrate Nitrogen	Chromium (mg/kg)
Percent Phosphorus	Copper (mg/kg)
Percent Potassium	Lead (mg/kg)
Calcium (mg/kg)	Mercury (mg/kg)
Magnesium (mg/kg)	Molybdenum (mg/kg)
Sodium (mg/kg)	Nickel (mg/kg)
Chloride (mg/kg)	Selenium (mg/kg)
Sulfate (mg/kg)	Silver (mg/kg)
pH	Zinc (mg/kg)
5-Day Biochemical Oxygen Demand	Aluminum (mg/kg)
	Manganese
	Iron (mg/kg)
	Boron (mg/kg)
	Ethanol

13. The results of testing shall be submitted to each anaerobic digester using the Syrup.

14. By January 31st of each year, a report shall be submitted to the MDEQ that details the total volume of Syrup shipped and the location(s) where the Syrup was sent. The report shall be sent to:

Mr. Duane Roskoskey
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division
Michigan Department of Environmental Quality
P.O. Box 30241
Lansing, Michigan 48909-7741

15. This approval shall immediately become void for any of the following reasons:

    a. The conditions of this approval are violated.

    b. Additional information demonstrates that the processing, use, or storage of the Syrup is causing environmental contamination.

    c. New state or federal regulations are promulgated that would cause this approval to become invalid.

Since the Syrup has been designated a site/source-separated material, any facility that processes the Syrup will not require a processing plant license pursuant to Part 115 provided they do not take a regulated solid waste and they operate in compliance with the conditions contained in this approval.

Violation of the conditions of this approval is subject to the enforcement provisions of Parts 55, 115, and 121 of the NREPA or other applicable state and federal laws/statutes.

STATE OF MICHIGAN
Department of Environmental Quality

By: _____
George W. Bruchmann, Chief
Waste and Hazardous Materials Division

Dated: 10-17-07

Attachment

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENT
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

REBECCA A. HUMPHRIES
DIRECTOR

SCRAP WOOD EXEMPTION

In accordance with the provisions of Section 11507 of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the rules promulgated under Part 115, specifically R 299.4119, scrap wood is granted a site/source-separated exemption by the authorized representative of the Director of the Michigan Department of Natural Resources and Environment (DNRE).

This authorization amends and replaces the exemption issued on March 1, 2006.

This exemption is subject to the following conditions:

1. This approval is limited to scrap wood that includes plywood, pressed board, oriented strand board, other wood mixed with glue or filler from construction debris, industrial wood, and wood waste from secondary manufacturing, or wood or wood products treated with creosote or pentachlorophenol (Material). Scrap wood does not include wood that has been treated with chromated copper arsenate, ammoniacal copper quat, or ammoniacal copper zinc arsenate.

2. The Material shall only be burned as fuel or used in a gasification unit (Plasma Arc, Pyrolsis, other) at facilities permitted under Part 55, Air Pollution Control, of the NREPA, that have authorized the use of the Material, transported to another state where the Material is used in compliance with that states' regulations, or used in another manner approved by the Director.

3. Each person intending to operate pursuant to this exemption shall notify the Director, in writing, of his or her intent. Notification shall be sent to the Waste and Hazardous Materials Division (WHMD) District Office. A list of the District Offices is attached.

4. The notification to the WHMD District Office shall include a management plan that must be approved by the DNRE that describes how the material will be managed during storage, processing, and transportation.

5. Each location operating pursuant to this exemption must be in compliance with local zoning ordinances.

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6. The owner/operator of a site must notify the local fire authority of their existence prior to bringing Material to a site and must comply with any conditions placed upon them by the local fire authority.

7. The Material shall not be stored in a manner constituting speculative accumulation per R 299.4119. This requires that during the calendar year, the amount of Material that is used or that is transferred to a different site for use equals not less than 75 percent, by weight or volume, of the amount of wood and Material that was accumulated at the beginning of the year. The owner/operator of a site must keep sufficient records to demonstrate compliance with this condition.

8. The Material or constituents contained in the Material shall not come into direct contact with surface water, groundwater, or wetland areas as defined by the NREPA, and the administrative rules promulgated thereunder, unless approved or permitted by the DNRE.

9. Processing, storage, transporting, or use of the Material shall be managed in such a way to prevent nuisance conditions and the release of fugitive dust or visible emissions in violation of Part 55 or the rules promulgated under Part 55.

10. Vehicles used to transport the Material shall comply with the Michigan Vehicle Code, 1949 PA 300, as amended (MVC), and the rules promulgated under the MVC. The Material shall be covered to prevent loss to the environment during transport and delivery.

11. The Material, after processing, shall either be stored for less than 60 days before being transported for reuse or disposal per R 299.4129(2)(c) or shall be stored in leakproof containers or in a manner consistent with the Part 115 waste pile regulation, R 299.4130, as approved by staff of the WHMD District Office.

12. Each site collecting Material shall not accept, other than limited amounts, solid waste (less than 10 percent of total wood received) including but not limited to treated wood, painted wood, or painted wood product that has been contaminated during manufacture or use (Unacceptable Material). The limited amounts of Unacceptable Material must be removed from the Material prior to chipping. The Unacceptable Material must be placed into appropriate containers for shipment to a licensed disposal facility.

13. By October 31st of each year, a report shall be submitted to the DNRE for the previous year that runs from October 1 to September 30 that details the total volume of Material received at each yard, the volume

shipped for use as fuel, and the location where the Material was sent. The report shall be sent to:

Mr. Duane Roskoskey
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division
Department of Natural Resources and Environment
P.O. Box 30241
Lansing, Michigan 48909-7741

14. This approval shall immediately become void and the Material considered to be a regulated solid waste for any of the following reasons:

    a. The conditions of this approval are violated.

    b. Additional information demonstrates that the processing, use, or storage of the Material is causing environmental contamination.

    c. New state or federal regulations are promulgated that would cause this approval to become invalid.

Since the Material has been designated a site/source-separated material, any facility that processes the Material will not require a processing plant license pursuant to Part 115 provided they operate in compliance with the conditions contained in this approval.

Violation of the conditions of this approval is subject to the enforcement provisions of Part 55 and Part 115 or other applicable state and federal laws/statutes.

STATE OF MICHIGAN
Department of Natural Resources and Environment

By: _____

Steven R. Sliver, Chief
Storage Tank and Solid Waste Section
Waste and Hazardous Materials Division

Dated: March 18, 2010

Attachment

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

STEVEN E. CHESTER
DIRECTOR

Agricultural Use Approval #05-AUA-001
for
Lime Sludges from Public Water Treatment Plants

In accordance with the provisions of Section 11506(1)(g) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and specifically R 299.4111 of the administrative rules promulgated under Part 115, an agricultural use approval is granted by the Director of the Michigan Department of Environmental Quality (MDEQ) or the authorized representative of the Director for lime sludges generated from softening potable water (Material) at Public Water Treatment Plants (Generator).

This approval is subject to the following conditions:

1. This approval amends and replaces the Agricultural Use Approval #92-A-001 issued on May 8, 1992.

2. This approval only applies to lime sludges and does not apply to other types of treatment plant sludges that contain alum, ferrous sulfate, ferric chloride, etc.

3. The Material may be applied only to agricultural or silvicultural lands that need pH adjustment as demonstrated by laboratory soil tests that are currently in use or that will be used for crops in the next growing season. Prior to application, the Generator shall ensure that the soil sampling and testing is done to determine the appropriate rate required for proper pH adjustment.

4. The Material shall be licensed with the Michigan Department of Agriculture pursuant to the Michigan Liming Materials Law, 1955 PA 162, as amended, as a "liming material."

5. The Generator shall ensure that all persons involved with the land application of the Material comply with the conditions of this approval.

6. The staging or use of the Material shall be done in a manner that does not violate any local, state, or federal law, statute, or ordinance.

7. The Material shall be applied at a distance greater than 75 feet from surface waters, drinking water wells, or residences.

8. The Generator shall ensure that appropriate, calibrated equipment is used to apply the Material to ensure accurate and uniform distribution.

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9. The Material shall be incorporated into the soil as soon as feasible following application to ensure maximum benefit for soil neutralization. This condition does not apply to applications of the Material on established forage stands or fields managed under no-till cropping conditions.

10. The Material shall not be applied in a manner that adversely restricts soil permeability.

11. Vehicles used to transport the Material shall comply with the Michigan Vehicle Code, 1949 PA 300, as amended (MVC), or the rules promulgated under the MVC. The Material shall be covered or sufficiently contained to prevent loss to the environment during transport and delivery to the application site.

12. The Material shall only be staged or stockpiled at or on the field application sites. Material staged in fields prior to land application shall be placed in locations that adhere to the isolation distance specified in Condition 7. All Material must be used at the site as agricultural lime within the calendar year. Any remaining Material must be removed and disposed of at a properly licensed solid waste disposal facility.

13. Appropriate measures shall be taken to prevent runoff and sedimentation to surface waters in accordance with Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the rules promulgated under Part 91.

14. Staging, transportation, and use of the Material shall not cause visible emissions as defined by Part 55, Air Pollution Control, of the NREPA, or the rules promulgated under Part 55.

15. The Material shall not come into direct contact with surface water or groundwater or be placed in a 100-year flood plain or wetland area as defined by Part 115.

16. The Generator shall maintain records on the amount of Material applied at each site and the address and legal property description of each site used. The Generator shall maintain all records for four years after the Material was last applied and shall be made available for review by the Director, or the Director's authorized representative, upon request.

17. This approval does not apply to Material mixed with other wastes that are not inert as defined by Part 115.

18. Every Generator that intends to utilize this approval shall notify the Chief of the MDEQ, Waste and Hazardous Materials Division, on the form provided in Appendix A, prior to operating. This form includes a certification statement that the Generator understands and will comply with all of the conditions of the approval.

19 This approval does not preclude the Generator from disposing of the Material in accordance with Part 115 at a properly licensed solid waste disposal facility or at an out-of-state facility in accordance with that state's waste disposal regulations

20 In the event that the Material is determined by the MDEQ to pose unacceptable risks to public health, safety, welfare, or the environment, a person responsible for the placement or disposal of those Materials shall remain liable for the performance of response activities and response activity costs as provided by Part 201, Environmental Remediation, of the NREPA.

21 This approval shall immediately become void for any of the following reasons:

a. The Generator does not comply with the conditions of this approval

b. Additional information demonstrates the Material is not appropriate for agricultural or silvicultural use

c. Additional information demonstrates the Material is causing environmental contamination.

d. New state or federal regulations are promulgated that would cause this approval to be invalid

22 Violation of the conditions of this approval will cause this approval to become immediately invalid and is subject to the enforcement provisions of Part 55, Part 91, Part 115, and Part 201 or other applicable state and federal laws/statutes.

STATE OF MICHIGAN
Department of Environmental Quality

By: _____
George W. Bruchmann, Chief
Waste and Hazardous Materials Division

Dated: 7/5/05

Attachment

AGRICULTURAL USE APPROVAL #05-AUA-001
APPENDIX A
FACILITY CERTIFICATION FORM

PART A – Facility Information

Facility Name: _____

Mailing Address: _____

Contact Person: _____

Phone number: _____

Expected Startup Date: _____

County: _____

Expected Completion Date: _____

PART B – Description of Operation

Briefly describe methods of collection, processing, end product usage, and methods of land application of lime residuals (Attach additional sheets as necessary)

_____

Briefly describe contingency plans for proper management of lime residuals if the facility unexpectedly is unable to comply with the conditions of this designation (Attach additional sheets as necessary)

_____

PART C – Certification

I CERTIFY, UNDER PENALITY OF LAW, THAT I READ AND UNDERSTAND MY OBLIGATIONS RELATING TO THE CONDITIONS CONTAINED IN THE AGRICULTURAL USE APPROVAL #05-AUA-001

Signature	Date
Print or type name of person signing	Signer's Title

RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

DAN WYANT
DIRECTOR

Designation of Inertness #13-I-001
for
Scrap Tire Material

In accordance with the provisions of Section 11507(3) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the rules promulgated under Part 115, scrap tires (Material) that are used for the purposes specified below is granted a designation of inertness by the authorized representative of the Director of the Michigan Department of Environmental Quality (MDEQ) in accordance with the specific terms and conditions of this approval.

This designation supersedes approval #04-I-001 issued on March 3, 2004.

1. The following Scrap Tires are inert when used as listed below:

A. Shredded Scrap Tires - Shredded Material when used at a Municipal Solid Waste Landfill or an Industrial Waste Landfill and approved by the MDEQ for the following uses:

(i) Daily cover;

(ii) Leachate collection system protection layer; or

(iii) Access road construction within a lined cell.

B. Shredded Scrap Tires - Material less than 3/8 inch by 3/8 inch in size that is free of all steel when used in construction or in the modification of the following sports surfaces:

(i) Golf course turf (soil amendment-high compaction areas);

(ii) Athletic field turf (soil amendment-football fields, etc.);

(iii) Athletic tracks or hiking trail surfaces;

(iv) Livestock, "Show Arena" surface; or

(v) Safety cushion under playground equipment.

The use of this Material for these purposes must be accomplished in a manner that will prevent the migration of Material outside of the defined sports arena area by wind, water, or other cause. For uses listed in this condition, the minimum amount of Material that will be effective shall be used. Before application of this

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Material for these purposes, the site owner shall provide to the MDEQ, Office of Waste Management and Radiological Protection (OWMRP), in writing, the site location, the sports surface type, and the defined area of the sports surface where Material will be applied.

C. Shredded Scrap Tires - When used in drain fields for sewerage systems, where the use is expressly authorized by an applicable District/County Sanitary Code that has been approved, in writing, by the MDEQ, Water Resources Division, pursuant to Part 31, Water Resources Protection, of Act 451.

D. Crumb Rubber - Granulated Material less than 1/8 inch by 1/8 inch in size, free of all steel and all fiber; any use.

E. Shredded Scrap Tires used as ground cover or mulch, if the following conditions are met:

(i) Ninety-five percent of the Material is less than or equal to 3/4 inch in size in any dimension.

(ii) The Material must contain less than 1 percent, by weight or volume, of steel and/or fiber.

(iii) The depth of Material shall not be greater than 6 inches.

(iv) If more than 10 cubic yards of Material is used on a site, the Material shall not be placed within 4 feet of groundwater or within 100 feet of surface water.

(v) Commercially sold Material must be labeled with the use conditions listed above or an information sheet must be provided that contains this requirement.

F. Less than 500 whole scrap tires and/or shredded scrap tires for uses approved on a case-by-case basis, in writing, by the appropriate District Supervisor of the OWMRP .

G. Five hundred or more whole scrap tires and/or shredded scrap tires for other uses approved on a case-by-case basis, in writing, by the Chief of the Solid Waste Section (SWS).

H. Scrap Tires burned for energy in an industrial furnace, boiler, power plant, or cement kiln, under the following conditions:

(i) Energy is recovered by the combustion of the Material by a facility that has a permit issued pursuant to Part 55, Air Pollution Control, of the NREPA

(ii) All residuals resulting from the incineration of the Materials shall be properly characterized and disposed/reused in accordance with Part 115 or Part 111, Hazardous Waste Management, of the NREPA.

2. The Material shall not come into direct contact with surface water or groundwater or be placed in a floodplain or wetland as defined by Part 115, unless authorized by the Chief of the SWS.

3. The transportation, use, or placement of the Material shall be done in such a manner to prevent nuisance conditions and to control the release of fugitive dust or visible emissions in accordance with Part 55, Air Pollution Control, of Act 451, or the rules promulgated under Part 55.

4. The Material shall not be mixed with other wastes that are not inert as defined by Part 115.

5. All persons collecting, transporting, stockpiling, processing, incinerating, or otherwise using the Material shall be in compliance with all requirements of Part 169, Scrap Tires, of Act 451, and all applicable state and federal laws.

6. This inertness designation does not preclude any person from disposing of the Material at a properly licensed solid waste disposal facility in accordance with Part 115 or at an out-of-state facility in accordance with that state's waste disposal regulations.

This designation shall immediately become void for any of the following reasons:

1. The persons using the Material do not comply with the conditions of this designation.

2. Additional information demonstrates the Material is not inert.

3. Additional information demonstrates the Material is causing environmental contamination.

4. New state or federal regulations are promulgated that would cause this designation to be invalid.

Violation of the conditions of this designation is subject to enforcement provisions of Part 31, Part 55, Part 115, Part 169, or other applicable state and federal laws/statutes.

Designation of Inertness #13-I-001
Page 4 of 4

The effective date of the designation is the date signed by the Director's authorized representative.

STATE OF MICHIGAN
Department of Environmental Quality

By: _____
Steven R. Sliver, Chief
Solid Waste Section

Dated: 5-16-2013

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

STEVEN E. CHESTER
DIRECTOR

MANURE, PAUNCH, AND PEN WASTE EXEMPTION

Pursuant to the provisions of Sections 11506(1)(g) and 11507 of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and the rules promulgated under Part 115, the following forms of solid waste are granted approval to be exempt from solid waste regulation if managed in compliance with the conditions listed below:

1. Manures not generated from the production of livestock or poultry. [Organic waste generated in the production of livestock or poultry is already exempt under Section 11506(1)(c).]

2. Pen waste is defined as manure and mixed bedding material, such as wood chips, sawdust, shredded paper or cardboard, hay, straw, and other similar items normally used for this purpose, from holding pens and other areas of a site where animals defecate and urinate.

3. Paunch waste (stomach contents) from slaughtered animals provided it contains minimal amounts of blood and no chemical additives or drugs.

4. Other similar wastes approved, in writing, by the Michigan Department of Environmental Quality (MDEQ), Waste and Hazardous Materials Division (WHMD).

The described wastes are collectively referred to herein as the "Material." The Material may be generated from any of the following:

1. Slaughtering facility;

2. Race track;

3. Research facility;

4. Animal control facility;

5. County or state fair;

6. Zoo;

7. Commercial pet waste removal company;

8. Veterinary facility; or

9. Other locations generating wastes similar to the named facilities.

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I. Disposal in Landfills or Wastewater Treatment Plants

A. The Material may be disposed of in a Type II municipal solid waste landfill (Landfill) licensed pursuant to Part 115, provided the disposal is consistent with the Landfill's waste acceptance policies and the Material is solidified sufficiently to pass the paint filter test.

B. The Material may be disposed of into a municipal wastewater treatment plant (Plant), provided it is done consistent with the Plant's procedures and the Material is transported in accordance with Part 121, Liquid Industrial Wastes, of the NREPA, if it contains free liquids.

II. Disposal by Land Application

The Material may be land applied, provided it is done in accordance with the following conditions:

A. The Material shall be applied only to agricultural or silvicultural lands that need fertilization as demonstrated by laboratory soil tests. These agricultural fields must currently be in use, or will be used in the next growing season, for crop production or harvest in the case of agricultural land. Fall applications of Material shall be restricted to fall-planted crops such as winter wheat, forage stands, or for silvicultural use.

B. Application of the Material to agricultural or silvicultural lands shall not exceed any of the following:

1. The agronomic rate for the crop to be grown on the site subsequent to the application of Material to the site. The agronomic rate is defined as that rate that provides the nitrogen, phosphorus, and other nutrient needs of the crop but does not overload the soil with nutrients or other constituents that may eventually leach to groundwater, limit crop growth, or adversely impact soil quality.

2. The nitrogen and phosphorus addition recommendation as stated in the results of the soil test.

C. The Material shall not be applied to a site previously used for land application of biosolids, wastes, septage, or wastewater from any other business or facility, without written permission of the WHMD.

D. Material that is surface applied to agricultural soil shall immediately be incorporated into the soil after application to land, unless prior to application the MDEQ approves an alternate time frame.

E. The Material shall not be applied in a manner that adversely restricts soil permeability or causes ponding, pooling, or runoff in the area.

F. The Material shall not be surface applied to slopes exceeding a six percent grade or injected into slopes that exceed a 12 percent grade.

G. The Material shall not be applied within the following isolation distances for the application methodology used at the application site:

	Application Methodology Distance in Feet	
	Surface Application	Subsurface Injection
Municipal Water Supply	2,000	2,000
Domestic Wells	150	150
Homes and Commercial Buildings	500	100
Public Roads and Property Lines	150	25
Surface Water	150	50

H. The Material shall not be applied to a site with a water table less than 30 inches below the surface of the soil at the time of application.

I. The Material or constituents contained in the Material shall not come into direct contact with surface water, groundwater, or a wetland as defined by the NREPA, and the administrative rules promulgated thereunder, unless approved or permitted by the MDEQ.

J. The application of the Material shall not cause erosion or sedimentation to occur in violation of Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the rules promulgated under Part 91.

K. Prior to application, the Material shall not be mixed with other wastes that are not inert as defined by Part 115 or the rules promulgated under Part 115, unless appropriate approvals or permits as required by state and/or federal law are obtained.

L. Any Material that is removed, stored, transported, or land applied shall be managed in such a way so as to prevent nuisance conditions and the release of fugitive dust or visible emissions in violation of Part 55, Air Pollution Control, of the NREPA, or the rules promulgated under Part 55.

M. Vehicles used to transport the Material shall comply with the Michigan Vehicle Code, 1949 PA 300, as amended (MVC), and the rules promulgated under the MVC. The Material shall be covered to prevent loss to the environment during transport and delivery to application sites.

N. Except as provided in this paragraph, land application of Material shall not occur after December 21 or before March 21. A facility may land apply the Material between these dates if necessary because of inadequate storage for winter, equipment failure, or unavailable alternate disposal options, provided the following conditions are met:

1. The generator shall notify the local township supervisor and the supervisor of the appropriate WHMD District Office (list attached), in writing, at least 21 days in advance of the need to land apply anytime between December 21 and March 21. The WHMD may approve an alternate time frame if necessary because of unforeseen circumstances. Notification shall be provided for each application using the Sample Site Identification Form (copy attached). The notification shall include, at a minimum, an explanation of the need to land apply, the maximum volume of the Material intended to be applied and justification for that volume, a mass balance for the proposed application period, and an explanation of how existing storage will be utilized to the maximum extent possible in order to minimize the volume of Material to be winter applied. The generator shall also submit a plan describing the actions that will be taken to ensure that land application will not be needed for subsequent winters. The WHMD will provide timely review of the notification and will approve or deny the request verbally, followed in writing.

2. All Material that is winter applied shall be subsurface injected, such that no Material is present on the land surface or in the injection furrow in contact with ambient air. The Material must be completely covered by soil in the injection furrow to minimize odors related to the Material, to reduce the potential for vector attraction, and to eliminate the possibility of off-site movement of the Material via surface runoff.

3. The slope of winter application sites shall not exceed six percent. All injection applications shall occur perpendicular to the slope to minimize rill erosion in the ejection furrows from melt waters and precipitation events.

4. Soil frost shall not exceed three inches in depth.

5. Winter application of the Material shall comply with Part 31, Water Resources Protection, of the NREPA.

O. The generator of the Material shall maintain records on the amount of the Material applied at each application site, site identification, and property description of each application site used. The generator of the Material shall maintain all records for five years after the Material was last applied and shall make them available for review by the Director of the MDEQ, or his/her authorized representative, upon request.

III. Disposal by Composting

A. The Material shall be separated from other solid waste and maintained separately until used to produce compost.

B. The Material shall be managed as a product or resource in a manner that does not violate Part 31 or Part 55 during composting, storage, or use.

C. Composting shall be performed in a manner that prevents standing water and the attraction, harborage, or production of insects, rodents, or other vectors.

D. Prior to commencing composting, the operator of the composting facility shall notify the Director of the MDEQ of the location of the composting operation and the type and amount of materials to be composted.

E. The compost facility shall be properly sloped and graded to efficiently handle storm water.

F. Nothing in this approval shall be construed to prevent the need for a facility operating pursuant to this approval to comply with local zoning requirements.

G. The Material shall be incorporated into the compost pile immediately.

H. The carbon-to-nitrogen ratio of the compost pile shall be maintained between 20 to 1 and 40 to 1.

I. The windrow or pile edges and/or any processing or staging area of the composting facility shall meet the following location standards, unless alternate criteria are approved by the Director of the MDEQ:

1. Not placed in a wetland.

2. Not placed in a floodplain.

3. Placed at least four feet above groundwater level on a liner or pad meeting the requirements of R 299.4130 or in another manner approved by the WHMD.

4. Placed at least 50 feet from adjacent property lines or surface water.

5. Placed at least 200 feet from a residential drinking water well.

6. Placed at least 2,000 feet from a Type I or Type IIa water supply well.

7. Placed at least 800 feet from a Type IIb or Type III water supply well.

8. Placed at least 500 feet from a licensed day care center or other receptors likely to be sensitive to any odors generated during composting.

IV. This approval shall immediately become void for any of the following reasons:

A. Additional information demonstrates that the Material is not appropriate for agricultural or silvicultural use.

B. Additional information demonstrates that the Material is causing environmental contamination.

C. New state or federal regulations are promulgated that would cause this approval to be invalid.

D. The MDEQ, WHMD, modifies or retracts this exception from solid waste regulation.

Every person operating pursuant to this authorization shall ensure that the use of the Material does not cause the creation of a "facility" as defined by Part 201, Environmental Remediation, of the NREPA. Activity inconsistent with this approval does not constitute a permitted release as defined in Part 201 of the NREPA.

Violation of the conditions of this approval is subject to the enforcement provisions of Part 31, Part 55, Part 91, Part 115, and Part 121 or other applicable state and federal laws/statutes.

STATE OF MICHIGAN
Department of Environmental Quality

By: _____
George W. Bruchmann, Chief
Waste and Hazardous Materials Division

Date: 6-18-07

Attachments

This is a sample format provided for your use.

SAMPLE SITE IDENTIFICATION FORM

Date: _____

Facility Name: _____

SITE INFORMATION

Township Name: _____

Section: _____ Township: _____ Range: _____

County: _____ Application Area (acres): _____

Land Owner (Print): _____

Address: _____

_____

Telephone Number: (____) _____

Is the land farmed by the landowner? YES [ ] NO [ ]

If the land is not farmed by the landowner, provide the name of the individual authorized by the landowner to farm the land.

Name: _____

Address: _____

_____

Telephone Number (____) _____

A copy of the information contained in this sample form must be sent to the Supervisor of the Township in which the site is located.