

9443.1987(32)

DEC 16 1987

Ms. Barbara E. Pace
Hogan & Hartson
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109

Dear Ms. Pace:

This is in response to your letter of August 19, 1987, in which you requested an interpretation of 40 CFR Section 261.31 as it applies to the iron cake waste generated during the production of methyl dopa at a Merck and Company facility. Based on the information provided in your letter, the Agency has determined that the iron filter cake generated during the production of methyl dopa does not meet the listing description of a spent solvent waste (i.e., EPA hazardous waste No. F005). The basis for our decision is discussed below:

Our understanding of the process is that the iron cake is generated when iron is filtered from the product; toluene is being used for its solvent properties because it is acting as a carrier for the product. Next, the toluene is reclaimed for reuse in the same process.

With regard to the iron filter cake, the preamble and the background document to the rule state that the Agency did not intend to include within the scope of this regulation process wastes that are contaminated with solvent (see Hazardous Waste Listing BD, p.81 May 1980; letter from Steve Silverman to Michael Rodbury, December 16, 1982). The iron filter cake resulting from the production of methyl dopa at the Merck facility is a process residual that is contaminated with the toluene solvent. The filter cake, therefore, would not be EPA hazardous waste No. F005.

Please advise your client of our interpretation and make them aware that as a generator of this type waste, they are responsible for determining whether the filter cake exhibits any RCRA hazardous characteristics (e.g., corrosivity, toxicity, reactivity, or ignitability [See 40 CFR 261.21-24]). Also, you should investigate whether this waste is regulated by the state, which may have more stringent regulations. Finally, careful handling of this waste is advised because of the Superfund liability that exists for wastes containing CERCLA hazardous constituents.

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Our determination is based on the information provided in your letter and any deviations to the described process could result in different interpretation. If you wish to discuss this matter in further detail, please call Yvonne Garbe at (202) 475-6679.

Sincerely,

Marcia E. Williams
Director
Office of Solid Waste