

9441.1986(89)

DEC 2 1986

Mr. David Hayes  
Hogan and Hartson  
815 Connecticut Avenue  
Washington, DC 20006-4072

Dear Mr. Hayes:

This is in response to your letter of October 6, 1986, regarding the regulatory status under the federal hazardous waste rules of solvent reclamation operations conducted at semiconductor firms. Based on the discussions we had on September 10, 1986, and based on your letter, I agree with your interpretation of the Federal hazardous waste rules as it applies to solvent reclamation. In particular, the actual reclamation operation, which qualifies as treatment, is exempt from regulation. See 40 CFR 261.6(c)(1); see also 50 CFR 643, January 4, 1985 where it states "We usually do not regulate the recycling process itself, except when the recycling is analogous to land disposal or incineration." In addition, the spent solvents would be subject to the standards for generators (Part 262) and transporters (Part 263); persons who "store" spent solvents prior to recycling are also subject to the storage facility requirements. However, if the spent solvent is accumulated in a tank or container for less than 90 days (or 180 or 270 days for generators who generate between 100 and 1000 kg/calendar month of hazardous waste), a RCRA permit is not required, provided the generator fully complies with 40 CFR §262.34.

You should be aware that States may choose to regulate the materials differently under their State programs. Therefore, you will need to contact States representatives in the various States to determine the regulatory status of the spent solvents under the State hazardous waste rules.

Please feel free to give me a call at (202) 475-8551 if I can be of any further assistance.

Sincerely,

Matthew Straus  
Chief  
Waste Characterization Branch

RO 11200

- \* Are the spent refractory bricks considered a spent material or a by-product under the hazardous waste rules?

Since the refractory bricks are not solid wastes (i.e., they are used/reused), the answer to this question is not germane. Therefore, it's not necessary to deal with this particular issue.

- \* How a representative sample should be obtained?

As is stated in your memo, the spent refractory bricks are stored in a waste pile prior to recycling. Guidance has been provided on how to collect representative samples from waste piles in the guidance manual, "Petitions to Delist Hazardous Wastes."2/ In summary, the pile should be divided into quadrants, and each quadrant sampled using a two-dimensional grid and random vertical core sample collected. You should refer to this document for further information in collecting representative samples.

- \* Whether the secondary material is actually reclaimed prior to reuse?

As indicated earlier, based on our understanding of the processing of the refractory bricks, these materials are not reclaimed, but rather are used/reused. As we discussed in the preamble to the January 4, 1985 Definition of Solid Waste rulemaking, processing steps that do not themselves regenerate or recover material values are not reclamation. Examples of operations that do not constitute reclamation that are provided in the preamble refer to briquetting or sintering operations which are agglomerating type processes; crushing/grinding are similar types of processes. Therefore, we do not see the processing operations conducted by Universal Materials, Inc. as constituting reclamation.

2/ This manual is available through the Department of Commerce, National Technical Information Service (PB 85 194488), 5285 Port Royal Road, Springfield, VA 22161.

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\* Whether the secondary material is being accumulated speculatively?

Whether or not the refractory bricks are accumulated speculatively will depend on the hazardousness of these bricks and the percentage of the refractory bricks that are recycled within the calendar year. These questions can only be addressed based on the facts in this case.

Please feel free to contact Matt Straus at 8-475-8551 if you have any further questions.

cc: Solid Waste Branch Chiefs (EPA Regions I-IV & VI-X)