

PPC 9452.1996(01)

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

June 4, 1996

Mr. Stephen T. Smith
Koppers Industries, Inc.
436 Seventh Avenue
Pittsburgh, PA 15219-1800

Dear Mr. Smith:

Thank you for your letter of May 10, 1996 regarding the clarification of requirements involving the counting of wood preserving waters that are hazardous waste and the completion of the Biennial Report as required under the Resource Conservation and Recovery Act (RCRA) of 1976. Specifically, you request that the Biennial Report and instructions be corrected to comply with the requirements of 40 CFR 261.5(c)(3) for determining generator status and the requirements at 40 CFR 262.41 for the Biennial Report.

You stated in your letter that hazardous wastewater from wood preserving plants (listed as F032, F034, and F035) is either returned to the preservative process for reuse or is pretreated and discharged to a POTW. You refer to provisions at 40 CFR 261.5(c)(3) to support your assertion that these hazardous waste waters are reused and are therefore not subject to the quantity determination of part 262 and should not be reported on the Biennial Report.

The provisions at 40 CFR 261.5(c)(3) pertain to making a quantity determination and explain what must be counted when determining generator category. These provisions state that "when making the quantity determination of this part and 40 CFR part 262, the generator must include all hazardous waste that it generates, except hazardous waste that...is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2)..."

If the process you describe meets the conditions of 40 CFR

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261.5(c)(3), i.e., the material is recycled without prior storage or accumulation in an on-site process subject to regulation under 40 CFR 261.6(c)(2), then the waste is not subject to the quantity determination; nor is it required to be counted in determining generator status. However, if the waste is stored or accumulated prior to reuse, it is subject to the quantity determination and must be counted when determining generator status. Should this process not meet the conditions of 40 CFR 261.5(c)(3), it may meet the conditions of 40 CFR 261.5(d)(3), which states that "in determining the quantity of hazardous waste generated, a generator need not include spent materials that are generated, reclaimed and subsequently re-used on site, so long as such spent materials have been counted once." (Emphasis added.)

I understand from my staff that they are currently working with Pam Rogers at AWPI to set up a meeting with you to discuss Biennial Report requirements pertaining to the counting of hazardous wastewaters.

Thank you for your continued interest in this issue.

Sincerely,

Michael Shapiro, Director
Office of Solid Waste