

Mr. Harry J. DeSoi, President
Pioneer Metal Finishing
2034 Coles Mill Road
P.O. Box 387
Franklinville, NJ 08322

Dear Mr. DeSoi:

Thank you for your letter concerning the applicability of the Environmental Protection Agency's (EPA) hazardous waste management regulations under the Resource Conservation and Recovery Act (RCRA). We appreciate your thoughtful description of your issue. Specifically, you encourage the use of "dry weight" (rather than "wet weight") to count hazardous waste generation and to determine generator status.

In your letter you detailed the generation of wastewater treatment sludge from electroplating operations (listed hazardous waste F006) by "Company A" and "Company B." In your example, although both companies send the same amount of metals offsite, Company B's ability to remove water from the F006 sludge allows it to be a small quantity generator, while Company A is a large quantity generator. You suggest that the dry weight of the sludge should be used to determine generator status of both companies.

Under the current federal RCRA regulations (40 CFR Section 261.5 (c)(2)), a generator must include all the hazardous waste that it generates when making quantity determinations. You are correct that, in the case of F006 listed sludge, hazardous waste generation is determined by the total volume of the waste and not the quantity of particular hazardous constituents. In the past, when EPA listed a waste as hazardous, the listing has been based on a broad evaluation of the entire industry's waste generation. This kind of broad evaluation results in a general listing that may not take into account variability among individual generators. There are specific provisions that address lower-risk wastes on a case-by-case basis, such as the delisting procedures described in 40 CFR Section 260.22. However, there is nothing at this time that specifically addresses the water content of F006 listed waste.

I understand your concern about the impacts of this regulation on your situation. I assure you that we are working closely with the metal finishing industry to better tailor the hazardous waste regulations to assist metal finishers in achieving environmental goals. For example, to minimize transportation costs and encourage metals recovery, we extended the large quantity generator accumulation times to 180 or 270 days for F006 from which metals are recovered. We currently are working on another regulatory change to encourage more metals recovery from F006 by streamlining the applicable regulations. We are working closely with the Strategic Goals Program on this project and will be getting advice from metal finishers through that process. We appreciate your illustration of the effects of measuring quantities by volume instead of by the quantity of hazardous constituents, and we will certainly evaluate how that concept may be incorporated into our current streamlining efforts. We hope that these efforts will allow F006 generators to reduce costs and increase investment in improved waste management technologies.

Thank you for your interest in the safe recycling of hazardous waste. If you have any further questions in this area, please contact Jim O'Leary of my staff at (703) 308-8827.

Sincerely,

Marianne Lamont Horinko
Assistant Administrator

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