

9441.1987(75)

SEP 4 1987

MEMORANDUM

SUBJECT: Regulatory Interpretation Regarding Status of Coal Tar  
Decanter Sludge Waste Pile at Toledo Coke Corp., Toledo, OH

FROM: Marcia Williams, Director (WH-562)  
Office of Solid Waste

TO: Judy Kertcher, Acting Chief (5HS-13)  
Solid Waste Branch

This memo is in response to your request for assistance in interpreting 40 CFR 261.6(a)(3)(vii), as it applies to the storage of coal tar decanter sludge in a waste pile prior to recycling at the Toledo Coke plant in Toledo, Ohio. Toledo Coke is claiming that the waste pile, which once existed on site, qualifies for exemption under 40 CFR 261.6(a)(3)(vii). Region V does not concur with the claim for exemption.

40 CFR 261.6(a)(3)(vii) exempts the products coke and coal tar made from recycled decanter tank tar sludge (EPA Hazardous Waste K087) from Subtitle C regulation. This exemption does not pertain to the decanter tank tar sludge stored for recycle. Furthermore, the exemption under 40 CFR 261.2 (e)(1)(iii) "Returned to the original process from which they are generated, without first being reclaimed ....", also does not pertain to this waste pile because the manufacture of coke is producing a fuel. This fuel is used as a reducing agent during the production of iron. Therefore, in accordance with 40 CFR 261.2(e)(2)(ii) the waste pile (EPA Hazardous Waste K087) at Toledo Coke's plant is subject to the federal hazardous waste regulations.

If you require additional information, please feel free to contact Ed Abrams of my staff at (202) 382-4787.