



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

March 20, 1992

Mr. Stergios Spanos
New Hampshire Department of Environmental Services
Hazardous Waste Compliance Section
6 Hazen Drive
Concord, NH 03301-6509

Dear Stergios:

During a telephone conversation between your office and EPA on November 6, 1991, you requested Region I's interpretation of recycling requirements as they relate to specific recyclable wastes allegedly generated by Bronze Craft Corporation located in Nashua, New Hampshire. These specific recyclable wastes were: metal chips and turnings; metal buffing and grinding dusts that exhibit the hazardous characteristic of lead; zinc oxide by-products; foundry sand exhibiting the hazardous characteristic of lead, and; wastewater treatment sludge exhibiting the hazardous characteristic of lead.

The regulated status of each of these recyclable materials has been reviewed and is explained below. The applicable federal regulations are included as part of the explanation, as are the corresponding State of New Hampshire Hazardous Waste Rules (Env-Wm).¹

Metal Chips and Turnings

These recyclable materials are classified as a "scrap metal" as defined by 40 C.F.R. § 261.1(c)(6) (Env-Wm 110.01(b)(93)). Scrap metal that is "reclaimed" is not subject to hazardous waste regulation under 40 C.F.R. Parts 262 through Parts 266 and Parts

¹ The Region is referring to the State's hazardous waste regulation citations, solely to provide you with the proposed state analogues to the applicable federal regulations. The Region has not yet reviewed the New Hampshire Hazardous Waste Regulations for equivalency with the federal regulations. EPA's final review of the State of New Hampshire's RCRA Reauthorization Application, dated May 31, 1991, for equivalency to the federal regulations is pending. Should New Hampshire receive authority from EPA to administer parts of its hazardous waste program in lieu of the relevant federal regulations, New Hampshire would then determine the applicability of its regulations to RCRA facilities located within its boundaries.



268, 270 or 124, nor is such recyclable material subject to the notification requirements of Section 3010 of RCRA.²

Buffing and Grinding Dusts

This material is classified as a "sludge" as set out at 40 C.F.R. § 260.10 as referenced by 40 C.F.R. § 261.1(c)(2) (Env-Wm 110.01(a) as referenced by Env-Wm 110.01(b)(95)). The metal and grinding sludges exhibit the characteristic of lead; however, these sludges will be reclaimed for their high copper content. Title 40 C.F.R. § 261.2(c)(3), Table 1, Column 3 (attached) (Env-Wm 803.04(b)(1)) exempts sludges from the regulatory definition of solid waste if they exhibit a characteristic of hazardous waste but are reclaimed.³

Buffing and grinding sludges that are reclaimed and are not classified as solid wastes are not subject to regulation under 40 C.F.R. Parts 262 through Parts 266, Parts 268, 270 and 124 (Env-Wm Chapters 500-800, Chapter 300). These sludges are also not subject to the notification requirements of Section 3010 of RCRA.

Zinc Oxide

The zinc oxide is a "by-product" as defined at 40 C.F.R. § 261.1(c)(3) (Env-Wm 110.01(b)(8)). The zinc oxide will be reused as an ingredient to produce zinc chloride, and can be reused without prior reclamation. Recyclable materials that are used or reused as ingredients in an industrial process without prior reclamation are not solid wastes according to 40 C.F.R. § 261.2(e)(1)(i) (Env-Wm 803.04(a)(1)). Therefore, any zinc oxide handled in this manner is not subject to regulation under 40 C.F.R. Parts 262 through Parts 266, 268, 270 and 124 (Env-Wm Chapters 500-800 and 300).

Excess Foundry Sand

The excess foundry sand is a 90% silica compound that also exhibits the hazardous characteristic of lead. Although the material is a spent material generated by the facility, it is similar to virgin silica used as a fluxing agent to remove metal contaminants (which includes lead) in the copper smelting process. Because the new use of this spent foundry sand is legitimate and has been demonstrated to be an effective commercial substitute, the material is not a solid waste according to 40 C.F.R. § 261.2(e)(1)(ii) (Env-Wm 803.04(a)(2)). Therefore, this material is not considered to be a hazardous waste.

² See Title 40 C.F.R. § 261.6(a)(3)(iv) (Env-Wm 802.02(a)(3)).

³ A waste cannot be classified as a hazardous waste unless it is also a solid waste.

Wastewater Treatment Sludges

These recyclable materials are classified as sludges as defined at 40 C.F.R. § 260.10, as referenced by 40 C.F.R. § 261.1(c)(2), (Env-Wm 110.01(a) as referenced by Env-Wm 110.01(b)(95)). The wastewater treatment sludge exhibits the characteristic of lead but can be reclaimed for the copper content. Title 40 C.F.R. § 261.2(c)(3), Table 1, Column 3 (Env-Wm 803.04(b)(1)) exempts sludges from the regulatory definition of solid waste if they exhibit a characteristic of hazardous waste, and are reclaimed. A waste cannot be classified as a hazardous waste unless it is also a solid waste. Sludges reclaimed in this manner are not subject to regulation under 40 C.F.R. Parts 262 through 266, 268, 270 or 124 (Env-Wm Chapters 500-800 or 300. The sludges are also not subject to the notification requirements of Section 3010 of RCRA.

Conclusion

The recyclable waste materials identified above would not be subject to the hazardous waste exporting requirements since they are not classified as solid wastes and, therefore, cannot be classified as hazardous wastes. Please be advised that our assessment of the non-hazardous classification of these wastes is based solely upon the recycling processes to be conducted with each waste, as set out in a letter from Bronze Craft Corporation to your agency, dated August 23, 1991 (copy attached). Any change to the proposed methods of recycling as set out in this letter may result in a change in the regulatory status for that specific recyclable material.

While the federal regulations allow an exemption for the recyclable materials described above, this exemption does not apply to any recyclable material or portions of recyclable materials that cannot be reclaimed. I have enclosed a copy of EPA's Office of Solid Waste and Emergency Response's (OSWER) Directive Number 9441.25(85) as a reference. This directive explains EPA's interpretation of the regulatory definition of solid waste as applied to recyclable materials used as ingredients (as is the case in Bronze Craft Corporation).

Please call Kenneth Rota of the RCRA Support Section at (617) 573-5759 if you have any questions concerning this matter.

Sincerely,



John Smaldone, Acting Chief
ME, NH & VT Waste Regulation Section

cc: Andy Miniuks, NH State Coordinator
John Gauthier, ME/NH/VT Enforcement Coordinator
Donna Kiefer, ORC

bcc: Ken Rota