



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

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

April 9, 1993

The Honorable Bill Zeliff  
Member, House of Representatives  
340 Commercial St.  
Manchester, NH 03101

OPTIONAL FORM 99 (7-90)

**FAX TRANSMITTAL** # of pages **2**

To: <i>Mat Hoagland</i>	From: <i>Randy Brown</i>
Dept./Agency: <i>Waste</i>	Phone #: <i>565-3412</i>
Fax #: <i>573-9682</i>	Fax #: <i>565-3414</i>

NSN 7540-01 317-7308 0099-101 GENERAL SERVICES ADMINISTRATION

315  
9.45  
100-2

Dear Mr. Zeliff:

Thank you for the opportunity to respond to Mr. William Fortune of Rochester, New Hampshire. Mr. Fortune's concerns deal with treatability studies for spent lead paint. Apparently, Mr. Fortune contacted your office after he spoke with the New Hampshire Department of Environmental Services (NHDES).

In his February 4, 1993 letter, Mr. Fortune provides information on his current and potential future lead removal operations. His goal is to minimize the volume of waste produced during lead paint removal operations. Mr. Fortune's chief concern appears to revolve around bringing "samples" to Rochester, NH "...where tests will be conducted to determine the best separation equipment design." Mr. Fortune requests "recognition" under 40 CFR 261.4 (d), (e) and (f) "for the sole purpose of conducting 'Treatability Studies' for spent lead paint."

On March 25, 1992, our office contacted Mr. Fortune. In that conversation, Mr. Fortune informed us that he seeks an exemption for shipping a sample containing spent lead paint waste, steel grit and water for testing at his Rochester, NH facility. This sample would not exceed 1000 kilograms. His treatability testing would involve: 1) separating the water, steel grit and lead paint waste from each other, and 2) further treatment of the water to precipitate dissolved lead ions. All lead solids produced from the treatability test would be handled as a hazardous waste.

Spent lead paint waste would meet the definition of solid waste under RCRA. Commonly, spent lead paint waste becomes a hazardous waste when a representative sample extract equals or exceeds 5 milligrams per liter (parts per million) using a standard testing procedure known as the Toxicity Characteristic Leaching Procedure (TCLP). Finally, our office has confirmed that Mr. Fortune's company, Industrial Consultants, Inc., has received an EPA Hazardous Waste Identification Number.

Mr. Fortune's testing plans, as we currently understand them, meet the RCRA treatability study definition found in 40 CFR 260.10. As his testing process proceeds, he must comply with all

other parts of RCRA, particularly §§ 261.4 (e) and (f). Several of the RCRA requirements that Mr. Fortune must comply with involve notification of the Regional Administrator because the State of New Hampshire is not authorized by the federal government to enforce the TCLP rules under the federal RCRA program. Thus, the TCLP rules are currently federal law.

As one final note, Mr. Fortune also mentions in his letter that water used in the lead paint removal process will be discharged "overboard." Mr. Fortune should be aware that such discharge would likely require a permit from EPA and/or the NHDES under National Pollution Discharge Elimination System (NPDES).

If you have any additional questions or concerns on this matter, please contact Matthew Hoagland at 617/573-5790.

Sincerely,

*Paul Keough*  
Paul Keough,  
Acting Regional Administrator

cc: Philip J. O'Brien, NHDES

Lo = Report ?

*Pinella S...*

May 6, 1993

Responded to Mr Fortune's call.

He said that he has not been able to get information from NH. ←

I told Mr Fortune that he can proceed, but he must be in compliance with RCRA laws esp. the ones cited in this letter. I told him that he must also comply with state laws which are more stringent.

*M.P.H.*