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9441.1988(45)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

NOV 2 1988

Mr. Donald E. Stone
Manager, Environmental Compliance
GSX Chemical Services, Inc.
P.O. Box 210799
Columbia, SC 29221

Dear Mr. Stone:

This letter is in response to our telephone conversation of October 19, 1988 and your follow-up letter dated October 20, 1988, both dealing with waste listings for commercial chemical products.

When defining a material as a hazardous waste under RCRA Subtitle C, the material must first be defined as a solid waste in accordance with 40 CFR Section 261.3(a). A discarded material that is recycled by being reclaimed may be defined as a solid waste, depending on the type of secondary material (see Table 1, Section 261.2(c)(3)). Since you did not specify in the examples in your letter the disposition of the mercury and mercury-containing material, I am assuming that it is going for reclamation.

In your first example, the mercury is contaminated before being placed in the product (thermometer). If the contaminated mercury is shipped off-site for disposal, it would be a solid and hazardous waste identified as an off-specification commercial chemical product (listed waste U151) in 40 CFR Section 261.33. If, however, the mercury was sent for reclamation, it would not be defined as a solid waste (see 40 CFR Section 261.2(c)(3)(Table 1)). Therefore, the mercury would not be identified as listed waste U151 and a manifest would not be required in this case because Subtitle C of RCRA is not applicable to materials that are not defined as a solid waste (see 40 CFR Section 261.2).

In your second example, the broken thermometer has been used and meets the definition of a spent material in 40 CFR Section 261.1(c)(1). Spent material sent for reclamation is defined as a solid waste in 40 CFR Section 261.2(c)(3)(Table

1). The broken thermometer (mercury and glassware) could then

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be further defined as a hazardous waste if it exhibits a characteristic of a hazardous waste (i.e., EP toxic, in which case it is hazardous waste D009). This determination is made either through the generator's knowledge of the characteristics of the waste or by subjecting the waste to the EP toxicity leaching procedure (refer to 40 CFR Section 262.11(c)).

Finally, in your third example, if the mercury-containing batteries and switches can be defined as spent materials as specified in 40 CFR Section 261.1(c)(1), the waste identification process used in example two above would apply.

As is always the case, a RCRA authorized State might have more stringent requirements so you should contact the appropriate state agency to determine what their regulations require.

If you have any questions, please contact Steve Cochran at (202) 475-8551.

Sincerely,

Original Document signed

Robert W. Dellinger
Chief, Waste
Characterization Branch