
M E M O R A N D U M

DATE: October 17, 1995
TO: Paula Bertino, ERM-PMC
FROM: Paul Nazaryk, ERM-Rocky Mountain
RE: Gray Water from ERM-Fast Van

In response to your request, I have reviewed the regulatory status of gray water originating from the ERM-Fast van. Apparently, the gray water (along with sample blanks taken from the van) were found to be contaminated with detectable levels of acetone and methylene chloride. It is my understanding that there is no direct contact between the gray water and these compounds and that the only pathway for the volatiles to enter the wash water was through absorption during contact with the ambient air (inside the van).

As you know, for a material to be regulated as a hazardous waste, it first must be considered a solid waste. RCRA states at 42 U.S.C. 9603(27) that the term "solid waste" means:

...any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities... [Emphasis added.]

40 CFR § 261.3(a) and (c) state that a material is considered a hazardous waste only under the following circumstances:

- it is a solid waste exhibiting a hazardous characteristic identified in 40 CFR Part 261, Subpart C;
- it is a solid waste that is listed as a hazardous waste under 40 CFR Part 261, Subpart D;
- it is a mixture of a solid waste and a hazardous waste listed under 40 CFR Part 261, Subpart D;
- it is a mixture of a solid waste and a hazardous waste exhibiting a characteristic identified in 40 CFR Part 261, Subpart C unless the mixture no longer exhibits a hazardous characteristic (note: even if it no longer exhibits a hazardous characteristic, the waste may be subject land disposal restrictions); or



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- it is a solid waste derived from the treatment, storage, or disposal of a hazardous waste.

Since there are only ppm or less concentrations of acetone and methylene chloride in the gray water, it is unlikely that the gray water exhibits a hazardous characteristic. Likewise, gray water from this process has not been listed as hazardous waste.

There has been no mixture of a hazardous waste and with a solid waste; nor is the gray water derived from the treatment, storage, or disposal of a hazardous waste. This is because the definition of solid waste found at 42 U.S.C. 9603(27) includes only contained gaseous material, not uncontained gases. When contact between the water and the compounds occurred, the acetone and methylene chloride were in an uncontained gaseous form and, therefore, not a solid waste. EPA addressed a similar issue, activated carbon units used as air emission control devices, at 56 FR 7200 (February 21, 1991) stating:

Activated carbon units used as air emission control devices of gaseous industrial process emissions will not necessarily be regulated because trapped organics in such columns are not hazardous wastes because the gas originally being treated is not a solid waste (it is an uncontained gas), and therefore any condensed organics do not derive from treatment of a hazardous waste. (The nongas residues from these devices could be hazardous wastes if they are listed or if they exhibit a characteristic, however.) [Emphasis added.]

Good luck, I hope this helps.