

A generator remains obligated under RCRA to confirm that its waste remains non-hazardous based on the hazardous waste characteristics defined in subpart C of 40 CFR part 261, even if EPA has delisted its waste.

B. What Does SPSA/Onyx Request in Their Petition?

On April 7, 2003, SPSA/Onyx petitioned EPA to exclude on a one-time basis a combustion ash generated at SPSA's waste-to-energy facility in Portsmouth, Virginia. The ash which is the subject of this petition is currently located at SPSA's Regional Landfill in Suffolk, Virginia. The total volume of the subject combustion ash at the SPSA Landfill was determined by SPSA/Onyx to be 1410 cubic yards.

The ash was produced by the routine combustion of a batch of municipal and commercial solid waste which was processed in SPSA's Refuse Derived Fuel (RDF) plant and burned in SPSA's Power Plant in Portsmouth, Virginia. A small amount of this waste consisted of materials containing the spent non-halogenated solvent, methyl ethyl ketone (EPA Hazardous Waste Number F005).

II. Waste-Specific Information

A. How Was the Waste Generated?

In January, 2002, Logan Aluminum, Inc. (Logan) sent a routine shipment of fourteen drums of hazardous waste generated at the Logan plant in Russellville, Kentucky, to Onyx's facility in West Carrollton, Ohio. Logan manufactures aluminum sheet used in making beverage cans. Its process includes application of an FDA-approved, food-safe coating by passing sheet aluminum through rollers. The rollers are cleaned periodically by wiping them with cloth strips using virgin methyl ethyl ketone (MEK) as the cleaning agent. MEK is the only solvent used by Logan in this process.

The used wipes are collected in drums along with other materials including personal protective equipment, excess coating, paper, cardboard and packing materials. These wipes are classified by the Kentucky Department for Environmental Protection as spent solvent wastes.

Onyx Environmental Services is a company that provides a wide range of environmental services to other companies. These services include hazardous and non-hazardous waste management.

Logan has a contractual arrangement with Onyx for the transportation and disposal of hazardous and non-hazardous wastes. Every two months,

Logan ships its wastes to Onyx in 55-gallon drums.

On January 30, 2002, Onyx picked up a shipment of eighty-two drums from Logan. Fourteen of the drums contained MEK rags used in the roller cleaning process, and these drums were shipped with a Uniform Hazardous Waste Manifest. Sixty drums in this shipment contained only non-hazardous waste and eight others, which were not further involved in this incident, were also designated as hazardous. All the drums in this shipment were received at Onyx's West Carrollton facility on February 9, 2002.

In the petition, Onyx asserts that on February 16, 2002, the fourteen drums containing the used wipes were inadvertently included in a shipment of eighty-three drums sent under a non-hazardous waste manifest to Eagle Environmental Services, Inc.'s (Eagle) waste processing facility in Dorchester, South Carolina. Eagle operates a facility that processes non-hazardous industrial waste for recycling and disposal, and is permitted for such activities by the South Carolina Department of Health and Environmental Control.

Eagle emptied the fourteen drums containing the used wipes and processed their contents, along with approximately twenty-three drums of non-hazardous industrial waste, by shredding the combined material and mixing it with sawdust to absorb any free liquids that may have been present. On February 22, 2002, the processed material, totaling 47,380 pounds, was shipped in a single container under a non-hazardous waste manifest to SPSA's RDF plant in Portsmouth, Virginia. Here, this material was mixed with other non-hazardous solid waste and then burned in SPSA's Power Plant.

The ash resulting from combustion of this batch of RDF was delivered to the SPSA Regional Landfill in Suffolk, Virginia, on February 23, 2002. Following standard procedure, the ash was stockpiled there for use as daily cover in the Landfill.

According to Onyx, on February 26, 2002, it discovered its error and notified the Ohio Environmental Protection Agency and Eagle that the drums had been shipped to Eagle without the required hazardous waste manifest. On February 27, 2002, Eagle notified Chesapeake Waste Solutions, the waste broker that had arranged the shipment from Eagle to SPSA, and Chesapeake Waste Solutions notified SPSA. SPSA then notified the Virginia Department of Environmental Quality.

Approximately 510 tons (835 cubic yards) of this ash had been used as daily cover at the SPSA Regional Landfill

before SPSA received notification on February 27, 2002, that the ash was subject to regulation as a hazardous waste. The remaining ash (about 250 tons or 575 cubic yards) has been segregated and stored on a liner under a water- and wind-tight cover on an adjacent area of the Landfill. The area of the Landfill where the material was used as cover is cordoned off and operations remain suspended in this area.

B. What Information Did SPSA/Onyx Submit To Support Their Petition?

In order to support their petition, SPSA/Onyx submitted detailed descriptions of the chemicals used and the wastes generated by Logan, detailed information related to the material shipments received for destruction at SPSA's Power Plant during the period of time between receipt of the shipment of material from Eagle and notification of the shipping error, and validated analytical results from representative samples of the ash obtained by SPSA/Onyx on October 15, 2002 and January 28, 2003.

Because of the number and variety of waste streams that were processed at the SPSA waste-to-energy facility, we requested that SPSA/Onyx analyze the ash for the entire list of constituents found in Appendix IX to 40 CFR part 264.

On October 15, 2002, SPSA/Onyx collected eight samples and one duplicate sample from ash being stored in a segregated waste pile at the SPSA Regional Landfill. The ash that was used for daily cover in the Landfill was not sampled. The ash has been homogenized by several processes such as loading out at the power plant, transportation and stockpiling, and, therefore, the ash currently stored in the waste pile (which is lined with a geosynthetic liner and covered with a high-density polyethylene cap) was determined to be representative of that portion of the ash which was used as daily cover.

Total analysis was performed on all samples for the entire list of Appendix IX constituents, which include volatiles, semi-volatiles, pesticides, herbicides, PCBs, polychlorinated dibenzodioxins (PCDDs), polychlorinated dibenzofurans (PCDFs) metals, cyanide, and sulfide. Toxicity Characteristic Leaching Procedure (TCLP) leachate analysis was performed on all Appendix IX metals. TCLP leachate analysis was not performed on the organic constituents or cyanide, since allowable holding times were exceeded, and any results obtained from such samples may not be reliable. Holding time requirements