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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 7 1995

Mr. Richard W. Goodwin
Environmental Consultants Associates
14 Ramapo Lane
Upper Saddle River, New Jersey 07458

Dear Mr. Goodwin:

Thank you for your letter of October 3, 1994 requesting information about policies regarding self-certification of non-hazardous waste.

Policies do exist for self-certifying that some types of waste are non-hazardous but not for others.

If waste is not "listed" nor derived from a "listed" hazardous waste it would be hazardous only due to characteristics at 40 CFR 261, Subpart C. In this case, a generator may either test the waste or use knowledge to determine that it does not exhibit one of the regulatory "characteristics" in 40 CFR 261 and thus is not a hazardous waste.

If the waste is "listed" or derived from a "listed" hazardous waste, that is, if it appears on one of the lists in 40 CFR 261, Subpart D, then the generator cannot currently self determine that a treated or mixed waste is no longer hazardous. Instead, they must petition EPA to remove their waste under 40 CFR Sections 260.20 and 260.22. The waste is regulated until EPA grants the petition. All of this is true whether the waste is to be disposed of, or beneficially recycled, although EPA has certain special exemptions in 40 CFR 261.2(e), 261.4, and 261.6, for certain kinds of recycling.

EPA is currently developing a procedure by which listed wastes can also be self-certified as no longer hazardous. That rulemaking is referred to as the Hazardous Waste Identification Rule. We expect proposal of this rule to be published in the Federal Register by fall, 1995.

RO 13730

Thank for your interest, and I apologize for the delay in responding to your inquiry.

Sincerely yours,

Michael Shapiro, Director
Office of Solid Waste