

October 21, 1986

Mr. J. Patrick Berry
Baker and Botts
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-5805

Dear Mr. Berry:

This is in response to your letter of October 6, 1986, regarding the regulatory status of pentachlorophenol that has been previously used in a wood preservative operation, and that is currently stored on-site. As it has previously been stated to you, used formulations of pentachlorophenol are not covered by EPA Hazardous Waste No. F027. Therefore, used formulations (when discarded) are not currently defined as hazardous, unless they have been mixed with another listed hazardous waste or they exhibit one or more of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity). You should be aware, however, that as part of the Agency's proposal to modify EP toxicity (see 51 FR 21648, June 13, 1986), pentachlorophenol was proposed to be added as one of the constituents that will be part of the characteristic; thus, when this proposal is made final, it is likely that these formulations will be defined as hazardous.

With respect to your concern regarding mixtures of used and unused formulations of pentachlorophenol, these mixtures (as indicated above) would be defined as hazardous under RCRA. However, they would only be defined as wastes and regulated when the mixture is spilled, disposed of, or intended for disposal. Thus, the storage of this mixture for use or reclamation would not be subject to the hazardous waste rules.

Please feel free to give me a call at (202) 475-8551 if you have any further questions.

Sincerely,

Matthew A. Straus
Chief
Waste Characterization Branch

Faxback 11187

October 6, 1986

Ms. Eileen Claussen
Director, Characterization & Assessment Division
Office of Solid Waste
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

RE: Request for Clarification of Regulations

Dear Ms. Claussen:

The Agency's regulations at 40 C.F.R. § 261.31 define Hazardous Waste No. F027 as follows:

Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2, 4, 5-trichlorophenol as the sole component.).

During recent telephone discussions with both personnel in EPA and with individuals on the RCRA Hotline, it was explained that F027 does not include any of the listed formulations that have been previously used. If this is the case, we would appreciate receiving a written clarification to that effect. We are particularly interested in determining whether volumes of pentachlorophenol that have been previously used in a wood preservative operation, and that are currently stored on site, would fall into the F027 category. We would also appreciate your indicating what happens when an unused formulation is combined with a used formulation. Specifically, is the entire mixture excluded from the F027 designation?

Your prompt response would be deeply appreciated. Should you have any questions, please do not hesitate to contact me at 457-5546.

Very truly yours,

Patrick Berry

