

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

MARCH 20, 1989

Honorable Wyche Fowler, Jr.
United States Senate
Washington, D. C. 20510

Dear Senator Fowler:

Thank you for your February 16, 1989, letter regarding W. Steve Thomas's concerns about the regulatory status of the canceled herbicide dinoseb.

Remaining stocks of canceled pesticide products containing dinoseb are solid wastes subject to Resource Conservation and Recovery Act (RCRA) regulation if they have been "discarded" or are intended for discard, as defined in 40 CFR Section 261.2 and 261.33. As I understand the situation in question, R. W. Griffin Feed, Seed & Fertilizer, Inc., is going to transport its dinoseb product to a disposal facility in Memphis, Tennessee. At the point that the canceled dinoseb product is to be sent for disposal (i.e., discarded), it becomes a solid waste.

Historically, inadequate standards for transportation of hazardous wastes have contributed to many instances of environmental contamination. Congress, when establishing legislative authorities for regulating management of hazardous waste, clearly intended that transportation be covered. In fact, the hazardous waste management system is frequently referred to as a "cradle-to-grave" program. Redesignation of the point at which canceled pesticides or other wastes become hazardous for purposes of regulation would contradict both statutory intent as EPA has interpreted it and the existing regulatory framework under which RCRA is implemented.

Once a canceled pesticide becomes a solid waste, it may be regulated as a hazardous waste if it is a technical grade of any commercial chemical product listed in 40 CFR Section 261.33 (e) and (f), the "U" and "P" listed wastes, or if it contains as the sole active ingredient a commercial chemical product listed in 40 CFR 261.33 (e) or (f). Dinoseb is listed waste U015. Thus, once the canceled dinoseb is to be shipped for disposal, it becomes both a solid and a hazardous waste and is subject to all of the requirements in 40 CFR Part 262 dealing with the transport of hazardous wastes.

If you have any further questions on this matter, please call me or have your staff contact Devereaux Barnes, Director of the Characterization and Assessment Division, at 382-4637.

Sincerely,

Jonathan Z. Cannon
Acting Assistant Administrator
FaxBack # 11409