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APR 5 1989

Adrienne J. Bzura  
Corporate Counsel  
Old Bridge Chemicals, Inc.  
P.O. Box 194  
Old Bridge, New Jersey 08857

Dear Ms. Bzura:

This letter responds to your March 21, 1989 correspondence requesting a written determination on the regulatory status of material known as "drove" by the brass industry. Specifically, you requested a statement that drove is considered a "scrap metal" under the Resource Conservation and Recovery Act (RCRA).

Based on the description of drove provided in the National Association of Recycling Industries (NARI) Circular, I cannot conclusively state that drove, in the generic sense, is a scrap metal as defined in 40 CFR 261.1(c)(6), although some components of drove may meet the regulatory definition of scrap metal.

Similarly, based on the NARI description and information gathered in phone conversations, drove would not be considered a "spent material" under RCRA. And, provided that the drove is not derived from a pollution control device (e.g., the drove is not mixed with bag house dust), it would also not be a "sludge." Drove most clearly fits the description of either a co-product or a by-product. Because the distinction between the two classifications is not always clearly defined, I will only address the scenario of drove being classified as a by-product.

As stated at 40 CFR 261.2(c)(3), a non-listed by-product (i.e., a by-product that exhibits a characteristic of hazardous waste defined at 40 CFR Part 261 Subpart C) that is reclaimed is not a solid waste under RCRA. As you stated in our phone conversation, all of the drove is reclaimed and therefore is not defined as a solid waste (and, thus, not a hazardous waste). [NOTE: Because the regulatory status is the same whether a material is a reclaimed non-listed by-product or a co-product, the distinction is moot.]

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You should note that State and local regulatory agencies may have applicable regulations that differ from Federal regulations. You should also contact your State regulatory agency, as well as the appropriate EPA Regional Office for further information on the regulatory status of the drive.

For more information, please contact the RCRA Hotline at 1-800-424-9346, or the EPA Region II office. You may also call me at (202) 382-4805.

Sincerely,

Mitch Kidwell  
Environmental Protection Specialist  
Review Section