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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAR 22 1988

Mr. Hyman Bzura, President
Old Bridge Chemicals, Inc.
P.O. Box 194
Old Bridge, NJ 08857

Dear Mr. Bzura:

This letter is in response to your February 3, 1988, request for a determination of the regulatory status of the copper chloride and copper ammonium chloride which you purchase as by-products from circuit board manufacturers. Under EPA's hazardous waste regulations (40 CFR Section 261.2(e)(i) promulgated on January 4, 1985), secondary materials used directly as an ingredient or feedstock are not solid waste. This is distinguished from reclamation, where distinct components of the secondary material are recovered as end products; certain types of secondary materials are solid waste when reclaimed. Id (See 40 CFR Section 261.2(c).)

From the information you provided in your February 3 letter, it appears that the copper-bearing secondary materials you use in the production of copper sulfate and copper hydroxide are being used directly, and so would not be solid waste. The Office of Solid Waste cannot provide you a definitive response, however, because solid waste determinations involve consideration of a number of facility-specific factors. For example, besides the question of whether the secondary materials are used directly, i.e., without prior processing, important questions are whether the activity in question is bonafide recycling and whether the materials you purchase are speculatively accumulated. See the discussion in the January 4, 1985 preamble. Necessarily, these questions are best addressed by EPA's Regional offices or by authorized states. (Please note that under the CFR Section 261.2(f) you are required to provide all documentation necessary to support any claim for a recycling exclusion or exemption.) Also, under RCRA Section 3009, States are free to adopt regulations more stringent than EPA's. Consequently, a facility owner or operator's primary contact on RCRA matters should be the State agency with RCRA responsibilities.

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Accordingly, we have forwarded your letter to New Jersey Department of Environmental Protection. The contact person in New Jersey for questions of this kind is Ms. Shirlee Schiffman, Chief, Bureau of Classification and Technical Assistance.

If you have any further questions regarding this matter, you may contact Michael Petruska at (202) 475-9888.

Sincerely,

Sylvia K. Lowrance
Director
Office of Solid Waste

cc: Shirlee Schiffman, New Jersey DEP
Barry Tornick, Region II
Emily Roth

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