

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

Mr. John D'Aloia, Jr.
Deuel and Associates, Inc.
7300 Jefferson St, N.E.
Albuquerque, NM 87109

Dear Mr. D'Aloia:

I am responding to your letter of March 2, 1983 to Alan Corson requesting a clarification of why the Agency does not identify as a hazardous waste any manufacturing waste that contains any of the compounds listed in 40 CFR 261.33.

The commercial chemical products regulated under 261.33 are generally products containing high concentrations of toxic chemicals or, in the case of pesticides, products of high toxic activity. Thus, there is no question that such materials are likely to meet the criteria for listing as hazardous wastes.

Manufacturing process wastes, on the other hand, generally contain only low levels of these materials. Thus, expanding the hazardous waste identification regulations to encompass all manufacturing wastes containing the S261.33 compounds is likely to result in many false positives (i.e., wastes identified as hazardous which do not actually contain hazardous levels of the toxicants of concern) unless, and until, minimum concentration thresholds can be established for each compound. At this time, due to the lack of data, the Agency is unable to set thresholds for all the compounds. As the comment to S261.33 explains, where the Agency deems a manufacturing process waste to be a hazardous waste because it contains low levels of these compounds, such a waste will be listed in §§261.31 and 261.32.

In summary, §§261.33 was not broadened to include all process wastes due to the problem outlined above and the

technical difficulties in establishing de minimis
concentration thresholds for all the compounds.

I hope that I have answered your question. If you need additional background information on these regulations, I suggest that review the §261.33 Background Document may be useful.

Sincerely yours,

David Friedman
Manager
Waste Analysis Program

cc: Hotline