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United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

May 24, 1994

Mr. Mark Veckman
Comprehensive Environmental Assessments
8662H Lee Highway
Fairfax, Virginia 22031

Dear Mr. Veckman:

This letter addresses the questions raised in your Freedom of Information request of March 11, 1994. You requested information on the applicability of information provided in 1990 by EPA Region V to the State of Ohio. The issue centered on the status of wastes generated from abatement of lead-based paint (LBP).

Since the enactment of the Residential Lead Paint Hazard Reduction Act of 1992 requiring the elimination of lead paint hazards to children, there has been a significant increase in the generation of LBP waste. Several federal agencies, States, and advocacy groups have raised concerns about the effect the RCRA hazardous waste management regulations may have on residential LBP abatements. The Agency is currently evaluating various disposal alternatives for LBP waste resulting from abatement, rehabilitation, and demolition. EPA may amend the existing RCRA regulations or may propose different rules governing LBP waste disposal.

In response to your specific request on the applicability of household waste exemption under RCRA to the disposal of LBP waste, we have reviewed the information contained in the September 12, 1990 letter from EPA Region V. Disposal of LBP waste has been subject to RCRA Subtitle C since 1980 and some LBP wastes may be hazardous due to Toxicity Characteristic for lead (see 40 CFR 261.24). In the preamble to a Federal Register notice addressing this issue (49 FR 44998, November 13, 1984, copy enclosed), EPA discusses the limited scope of the RCRA exemption for household wastes. This notice indicates that the EPA Region V letter should be clarified on the following key points.

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Household waste, to be excluded pursuant to 40 CFR Section 261.4(b)(1) must fulfill two criteria: first, household waste has to be generated by individuals on the premises of a household and, second, "the waste stream must be composed primarily of materials found in the waste generated by consumers in their homes." LBP waste from construction, demolition, or renovation does not meet these two criteria. Therefore, these wastes are not excluded from RCRA Subtitle C as household waste.

EPA does not distinguish between waste generated at a household by a homeowner and waste generated at a household by a person other than the homeowner (e.g., contractor) provided that the waste is generated as part of daily living (e.g., routine residential maintenance). Under EPA's current reading of the household waste exemption, LBP waste is not similar to the waste typically generated by household (e.g., household trash comprising of discarded consumer goods), and should, therefore, be evaluated for its potential to be RCRA hazardous waste. However, solid waste generated by a homeowner, resident, or a contractor at a home as part of routine residential maintenance (as opposed to building construction, renovation, and demolition) would be part of the household waste stream, and thus would be covered under the RCRA household waste exemption.

LBP waste that is hazardous (i.e., exceeds the toxicity characteristic limit of 5 ppm for lead in waste leachate), is generated in small quantities (i.e., less than 100 kg per month of hazardous waste), may be exempted from RCRA Subtitle C as the conditionally exempted small quantity generator waste, if State programs provide the Federal exemption. Nearly all States are authorized to implement the RCRA program. Therefore, you should contact the State waste management agency where the LBP waste would be generated and disposed, for further assistance in determining the appropriate waste management and disposal requirements.

If you have any other questions on this issue, feel free to call Ms. Rajni Joglekar of my staff at 202-260-3516.

Sincerely,

Michael Shapiro, Director
Office of Solid Waste

Enclosure

cc: Directors, Hazardous Waste Division, EPA Regions I - X
Chief, Ohio Permitting Section, EPA Region V
Mr. E.A. Kitchen, RCRA Technical Assistance Section, OSHWM, Ohio
EPA