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DECHARACTERIZATION AND DISPOSAL OF HAZARDOUS WASTES THAT
HAVE UNDERGONE CHEMICAL SOLIDIFICATION

Mr. Michael D. Boruch
P.O. Box 236
East Setauket, New York 11733

Dear Mr. Boruch:

This letter is in response to your inquiry of October 25, 1985, regarding the de-characterization and disposal of hazardous wastes that have undergone chemical solidification. Per our discussion, the waste treatment scenario you have described would result in a waste which the Agency classifies as a "recycled material to be used in a manner that constitutes disposal." The latest regulations addressing such a waste product can be found, in full, in 50 FR 614-668, dated January 4, 1985 and 40 CFR, Part 266, revised date of July 1, 1985. To briefly summarize, the Agency's jurisdiction over waste products extends to all hazardous secondary materials, when they are applied to land or used in water as fill or support material. This jurisdiction extends to all such material, whether or not the waste has been mixed with other materials or chemically altered before disposal. The type of processing or treatment of the waste may be relevant in determining what regulatory scheme to adopt for the waste or in deciding if the derived product is still hazardous, however, the act of processing, in and of itself, does not deprive the Agency of RCRA Subtitle C jurisdiction when the waste containing product will be disposed of. Thus, such products as fertilizers, asphalt, and building foundation materials that use hazardous wastes as ingredients are subject to RCRA jurisdiction.

In essence, the Agency maintains that if a waste product is fully or partially composed of a hazardous material, then it is under RCRA jurisdiction and must be managed accordingly unless and until an exclusion is petitioned for and granted pursuant to 49 CFR §§260.20 and 260.22. It should be noted however, that the Agency, while having jurisdiction over these wastes, has decided not to regulate these materials when they

are formulated into fertilizers that we sold to the general public. (see §266.20(b))

I hope this letter and the referenced regulations will provide you more insight into the Agency's responsibilities for hazardous waste management, and in particular, for wastes that have been chemically treated. Should you have any further questions regarding this, or any other subject, please do not hesitate to contact me.

Sincerely,

James A. Poppiti
Manager
Waste Identification Branch