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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

FEB 15 1991

Francis S. Blake, Esq.
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Dear Mr. Blake:

This letter responds to your January 18, 1991 correspondence requesting a follow-up response to the October 28, 1990 meeting between representatives of Texas Industries, Inc. (TXI) and EPA. The meeting focused on TXI's use of hazardous wastewaters as quenchwater in the production of cement, as well as on the use of such wastewaters as a slurring agent in the production process.

The Agency presented its position under current regulations on the use of hazardous wastewaters as slurry water used in the production of cement in the final rule regulating the burning of hazardous waste in boilers and industrial furnaces (BIF rule) which was promulgated December 31, 1990. Basically, EPA has ruled that the practice of using hazardous wastewaters in this manner is a form of waste management that is subject to regulation as treatment, rather than a recycling activity that is exempt from regulation. (I note that there may be cases for which a hazardous wastewater could legitimately be used in this manner, but such a determination would be case-specific.) The main consideration in this determination is that, in general, the hazardous constituents in the wastewater are not necessary to the operation of the production process, but are being treated in the process.

While the preamble to the BIF rule did not specifically address the use of hazardous wastewaters as a quenchwater in the production of cement, the determining factors would be the same as in all such regulatory determinations regarding the use of a hazardous secondary material as an ingredient in a production process, or as a substitute for a commercial product. To the extent that the hazardous constituents in the wastewater are not also present in the analogous raw material or product that the wastewater is replacing and are also not necessary to the production process, but are being destroyed or otherwise treated in the process (or incorporated into the product), the process

itself would be regulated as a treatment process. The Agency agrees that the use of the wastewaters as a quenchwater in the hot end of the kiln may be conducted in an environmentally safe manner, provided that adequate controls are in place. The BIF rules will ensure that the process is, in fact, safe. However, the fact that the hazardous wastewater may adequately serve as a quenchwater and that the hazardous constituents are efficiently destroyed in the process without detrimental effect to the product does not, in itself, demonstrate that such use of the wastewater is legitimate recycling, unregulated under the current Federal requirements. The destruction of hazardous constituents without any significant benefit to the process or the product identifies the process as hazardous waste treatment, subject to regulation under Subtitle C of RCRA.

As you noted in your letter, the Agency is currently reevaluating the regulatory provisions applicable to the recycling of hazardous wastes. The discussion of regulatory determinations regarding the use of the hazardous wastewaters presented in this letter reflects the application of the current regulations. While EPA is continuing to explore possible alternative regulatory approaches to encourage environmentally sound hazardous waste recycling, we are unable to state with certainty at this time whether the answer to the question you pose would be different under a new regulatory scheme. In the meantime, of course, the existing regulations are applicable.

I hope this letter has answered your questions regarding the factors used to determine the regulatory status of using hazardous wastewaters as a quenchwater and as a slurring agent. If you have any further questions, feel free to contact me at (202) 382-4637.

Sincerely,

Original Document signed

David Bussard
Director
Characterization and
Assessment Division