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

September 4, 1992

Angus MacBeth, Esq.
Sidley & Austin
1722 Eye St. N.W.
Washington, D.C. 20006

Dear Mr. MacBeth:

Thank you for your letter dated May 12, 1992 regarding your request for a determination on the regulatory status under the Resource Conservation and Recovery Act (RCRA) of absorbent material such as uncontaminated sawdust product or similar natural fibrous material when mixed with hazardous waste prior to incineration. You ask two specific questions:

- 1) Is the process of mixing raw material sawdust, or similar material with hazardous waste prior to incineration in order to facilitate incineration, "treatment" as that term is defined in 40 CFR Section 260.10? and,
- 2) Does the volume of raw material sawdust which has been mixed with the hazardous waste that is being staged for incineration become a hazardous waste and therefore count against the TSD facility's maximum permissible hazardous waste inventory or mass feed limits (i.e., hazardous waste management limits)?

In response to your first question, on the basis of the information you have provided in your letter, it appears that the mixing of raw material sawdust or other absorbent material prior to incineration does constitute treatment as defined in the 40 CFR Section 260.10. EPA does not consider the mixing to be a separate process independent of the treatment train. Rather, the mixing of the absorbent material with hazardous waste that is destined for incineration is the first step in the treatment train and part of the incineration process. Because incineration constitutes treatment as defined in 40 CFR Section 260.10, the mixture of

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absorbent material and hazardous waste destined for incineration constitutes treatment.

In the first part of your second question, you asked EPA whether the mixture of sawdust or absorbent material with hazardous waste prior to incineration itself becomes a hazardous waste. Based upon information provided in your letter, the mixture of absorbent material and hazardous waste does become a hazardous waste. 40 CFR Part 261.3(c)(2) provides:

"...any solid waste generated from the treatment (emphasis added)...of hazardous waste...is a hazardous waste".

Because the mixture of sawdust or absorbent material and hazardous waste is a solid waste generated from the treatment of hazardous waste, the mixture itself is a hazardous waste. In addition, in any case, the mixing of a listed waste does not render the waste non-listed.

In the second part of your second question you ask whether the entire volume of the mixture of absorbent material and hazardous waste is counted against the facility's maximum permissible hazardous waste inventory or mass feed limits. Because this determination requires more detailed information generally contained in the incinerator's operating permit, EPA requests that you contact the EPA Region or state that has issued the incinerator's operating permit.

You should also consult with the appropriate EPA Region or state on the other questions mentioned above because this determination may depend upon case specific factors as well as applicable state law. Under RCRA, individual states may be authorized to implement the RCRA Subtitle C program and to specify additional regulatory requirements that are at least as stringent as the Federal regulations. If you have any questions regarding this letter, please call Mike Petruska of my staff at (202) 260-8551.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste

cc: Incinerator Permit Writers' Workgroup

Subpart X Permit Writers' Workgroup
Devereaux Barnes
Matthew A. Straus