

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

JULY 15, 1993

SUBJECT: Comments on Draft Memorandum of Understanding Between
EPA and U.S. Customs Service

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste

TO: Earl Devaney, Director
Office of Criminal Enforcement

We have reviewed the draft Memorandum of Understanding Between EPA and the U.S. Customs Service, dated June 7, 1993, and have the following comments.

Our main comment regards collection of hazardous waste manifests at the border for imported waste shipments. Current regulations do not require importers to drop a copy of the manifest at the border, and it may not be possible to require its collection, since this requirement was not included in any Information Collection Request or approved by OMB. We do agree that it could be useful to collect these manifests, and, in fact, understand that they are already being collected voluntarily at some Customs checkpoints. However, until our regulations require that importers or transporters submit a copy of the manifests to Customs, we think the MOU should reflect the fact that importers or transporters are under no regulatory obligation to submit these manifests. We will need to discuss this further with OGC.

Other comments include the following: first, we suggest placing the U.S./Mexico Agreement and the U.S./Canada Agreement in the "EPA Authorities" section on page 1 of the MOU, rather than in the "Customs Authorities" section.

Please also note that the U.S. is not yet implementing either the OECD Council Decision or the Basel Convention, and technically has no authority under these agreements. These agreements should also be listed under the "EPA Authorities" section, rather than the "Customs Authorities" section, with a proviso that these are authorities we expect in the future, rather than have currently.

The authority section on page 6 also discusses the Basel Convention but could be easily misinterpreted by someone not familiar with the Convention. We suggest either deleting the reference to Basel or replacing it with “. . . transboundary shipment of hazardous wastes. We anticipate that these authorities will be expanded once additional waste import/export legislation is enacted and the U.S. ratifies the Basel Convention.”

Page 9 also discusses efforts between EPA and Customs regarding identification of Harmonized Tariff Schedule numbers for merchandise subject to EPA requirements and guidelines regarding the merchandise in these categories. To the extent that this includes hazardous wastes, what specifically does this entail? Who in EPA will be responsible for this? It is not an activity that the Office of Solid Waste is currently budgeted to do or in a position to commit doing.

Thank you for the opportunity to comment on the draft MOU. If you have any questions regarding my comments, please contact me or Angela Cracchiolo of my staff at 260-4779.