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JAN 14 1988

Mr. Paul D. Sylvestri
Versar Inc.
6850 Versar Center
P.O. Box 1549
Springfield, VA 22151

Dear Mr. Sylvestri:

This letter is a response to your letter of October 8, 1987 to Robert Scarberry. In it you request clarification of the regulatory status of the waste generated by an incinerator trial burn of sand spiked with reagent grade trichlorobenzene and hexachloroethane. Specifically, you were concerned about the hazardous waste status of the incinerator residue, since hexachloroethane is a commercial chemical product that becomes a hazardous waste when it is disposed (U131).

In determining whether the incinerator residue is a hazardous waste, the threshold question is whether the sand, which was spiked with a commercial chemical product that is listed in 40 CFR 261.33 (as U131), as part of the trial burn, was a solid waste within the meaning of 40 CFR 261.2 at the time it was spiked with the chemicals. When the sand was mixed with the chemicals, the sand becomes a solid waste and the chemical becomes a hazardous waste (U131) because the intent is to incinerate the mixture. 40 CFR 261.2 clearly indicates these materials are solid wastes, unless excluded by 40 CFR 261.4(a) or by variance under 40 CFR 260.20, 260.22, or 260.31. Accordingly, the mixture of U131 with sand is a hazardous waste by virtue of the "mixture rule", which provides that the mixture of a listed hazardous waste with a solid waste constitutes a hazardous waste. (See 40 CFR 261.3(a)(2)(iv)).

As a result, the residue from the trial burn also would be a hazardous waste (via the "derived-from" rule, 40 CFR 261.3(c)(2)(i)) because the residue is derived from a listed waste.

If you require additional information, please call Edwin F. Abrams at (202) 382-4787.

Sincerely,

Marcia E. Williams
Director, Office of Solid Waste

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