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

AUGUST 30, 1991

William J. Kaiser, Jr.
McHale, Cook and Welch
1100 Chamber of Commerce Building
320 North Meridian Street
Indianapolis, Indiana 46204

Dear Mr. Kaiser:

Thank you for your letter of July 12, 1991 regarding the circumstances under which a treatment, storage or disposal facility (TSDF) would be considered a generator for purposes of the Resource Conservation and Recovery Act (RCRA). You stated correctly that residues from the treatment of hazardous waste could cause a TSDF to be classified as a generator, and you asked whether other resultant waste from a TSDF would have the same effect.

If a TSDF generates other kinds of waste than those generated as a result of treatment, the TSDF would be considered a RCRA generator to the extent that the other wastes met the regulatory definition of solid and hazardous wastes under 40 CFR Part 261. For example, if the TSDF discarded used solvents (such as solvents used to clean equipment) that were listed in 40 CFR Part 261, it would be considered to have generated a hazardous waste and would have to comply with the regulatory requirements applicable to generators in 40 CFR Part 262.

This interpretation reflects the federal regulations governing hazardous waste. States with authorized RCRA programs may impose more stringent requirements. Such States also have the authority to make regulatory determinations about the materials which constitute hazardous wastes under their programs.

I hope this letter has addressed your concerns. If you have any further questions, please contact Mitch Kidwell of my staff at (202) 475-8551.

Sincerely,

Sylvia K. Lowrance,
Director
Office of Solid Waste