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

November 10, 1992

R. Brian Burke
Rode & Qualey
295 Madison Avenue
New York, New York 10017

Dear Mr. Burke:

Thank you for your letter of June 8, 1992 in which you requested EPA's opinion on the regulatory status of spent photoconductor drums from photocopying machines. I apologize for the delay in our response. For ease of explanation, I will separate your questions into two categories. First, I will address the regulatory status of the drums, then I will address their export status.

The spent drums meet the definition of spent material, and are therefore solid waste. They may also be characteristic hazardous waste due to the presence of cadmium [the characteristic regulatory level for cadmium is 1.0 mg/l (40 CFR 261.24)]. In your letter you describe the drums as cadmium sulfide-coated aluminum pipes. Based on your description, the drums would also meet the federal definition of scrap metal at 40 CFR 261.1(c)(6) ["... bits and pieces of metal parts, (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled."] Secondary materials that meet the definition of scrap metal are excluded from RCRA regulation if they are recycled [40 CFR 261.6(a)(3)(iv)]. If the drums are managed as you have described, then they would qualify for the exemption from the definition of solid waste. As you know, it is the generator's responsibility to make these determinations.

The export regulations at 40 CFR Part 262 are triggered by the federal program; in other words, only wastes considered hazardous under the federal program are subject to the export regulations.

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However, other state regulations may apply to wastes considered hazardous by a particular state while they are in that state. You should contact each state in which you conduct your operations for more information regarding applicable state regulations.

If you have further questions on the domestic RCRA regulatory status of spent photo-conductor drums, please call Ross Elliott of my staff at (202) 260-8551. If you have questions regarding the RCRA export regulations, you may call Angela Cracchiolo at the same number.

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