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FARMER EXEMPTION INTERPRETATION

JUL 7 1982

MEMORANDUM

SUBJECT: Interpretation of Farmer Exemption 40 CFR 262.51

FROM: Bruce Weddle
Deputy Director
State Programs and Resource Recovery Division (WH-563)

TO: David A. Wagoner
Director, Air and Hazardous Management Division
Region VII

I am writing in response to John Franke's May 25 memo to Rita Lavelle concerning the applicability of 40 CFR 262.51 to the University of Nebraska's (Lincoln) research farming activity. The farms which the University of Nebraska use to conduct research qualify the University for the farmer exemption, because a farmer is a person who raises crops or livestock. Section N of the 3002 Background Document includes a detailed discussion of the farmer exemption and the Agency's rationale for exempting farmers from the RCRA regulations (copy attached).

Farmers have a vested interest in their crop land and have sufficient amounts of land onto which rinsate or wash-down water may be applied. For these reasons we believe that the quantity and degree of risk associated with a single farmer's operation is minimal and deserves conditional exemption. Finally, farmers generally generate small quantities of empty containers and unused solutions relative to the size of their operation.

In evaluating the University of Nebraska's farm or farms, it is clear that their operation meets the intent of the farmer exemption activity. Although the word "research" is used to describe the University farms, this is an institutional word indicating their primary farming interest is in the investigation of growth and yield information rather than production per se. Thus, the words "research farm" do not preclude them from farming but delineate an interest or activity. However, to be eligible for the farmer

exemption, a farmer must also dispose of his hazardous waste pesticides from his own use on his own property in accordance with the disposal instructions on the label (40 CFR 262.51).

I hope this answers your questions on this matter. If you have any other questions, please contact me or Rolf Hill on FTS-382-4753.

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#516 Controlled Correspondence
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