

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

OFFICE Of
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Michael Benoit
Executive Director
Cement Kiln Recycling Coalition
1225 Eye St. N.W.
Suite 300
Washington, D.C. 20005

Dear Mr. Benoit:

Thank you for your letter which I received on November 10, 1997 regarding the criteria used by the Environmental Protection Agency (EPA) to determine energy recovery under the Resource Conservation and Recovery Act (RCRA.) You mentioned a draft letter dated August 28, 1997 from EPA to Mr. Lester Sotsky about recycling of spent aluminum potliners, and you expressed concern that the letter could be read to imply that the Agency will use a "bright line" test of 5000 Btu for determining legitimate recycling and other kinds of energy recovery under the RCRA regulations.

Although EPA's regulations state that a heating value of 5000 Btu or more for a hazardous waste is a test for determining the applicability of standards for boilers and industrial furnaces (see 40 CFR 266.103(a)(5)(ii)(B)), it was not EPA's intent to state that 5000 Btu should be a "bright line" test for determining whether a secondary material meets the definition of solid waste. Our view continues to be that such determinations should be made on a case-by-case basis. We will take your comments into consideration when we revise our preliminary draft and develop the final letter on spent aluminum potliners to Mr. Sotsky.

Thank you for your interest in this matter, and we appreciate your efforts to obtain better clarification of Agency policy. If you have any further questions, please contact Marilyn Goode of my staff at 703-308-8800.

Sincerely,

Elizabeth, A. Cotsworth
Acting Director
Office of Solid Waste

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