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Dear Mr. Dana and Ms. Becker:

Thank you for your letter of April 23, 2002, addressed to Steve Shimberg, Tom Gibson, and me, in which you presented a proposed resolution to the ongoing enforcement action involving the spray painting operations at automobile assembly plants. I agree with you completely that the prolonged process of bringing the spray booth situation to a resolution should conclude. You have already received a response from Steve Shimberg addressing the enforcement and compliance portions of your letter. I will respond below to the regulatory aspects.

As you pointed out in your letter, EPA and the member of the Alliance disagree on the point at which the solvent used in the purging operation becomes a hazardous waste and thereby subject to regulation under Subparts J and BB of 40 CFR part 265. EPA contends, and will continue to contend, that the "point of generation" of the hazardous waste is at the emergence from the spray paint gun. I understand that the Alliance has proposed to concede this point, while strongly disagreeing with the Agency position.

We are, as you know, proposing to work within the automotive topcoat MACT to avoid duplicative regulations, as the MACT will consider emissions from transporting the waste inside the auto plant building as part of the overall regulated emissions. Similarly, we will be working on Subpart J guidance to reduce or eliminate unnecessary burdens on the industry and still ensure that any leaks will be captured and contained properly.

I believe we can arrive at a resolution to the regulatory aspects of this issue that is protective of human health and the environment while avoiding redundant regulatory controls. I also appreciate your efforts in developing a proposed solution, and I look forward to a continued dialogue with you and the member companies.

Sincerely,

Marianne Lamont Horinko  
Assistant Administrator

cc: Steven Shimberg, OECA  
Thomas Gibson, OPEI

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