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

December 30, 1992

MEMORANDUM

SUBJECT: Application of the BIF Rule to Heritage
Environmental Services, Inc., Lemont Illinois

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste (OS-300)

TO: Karl E. Bremer, Chief
RCRA Permitting Branch
Office of RCRA, Region 5 (HRP-8J)

This is in response to your memorandum of November 20, 1992 regarding Heritage Environmental Services, Inc. in Lemont, Illinois, and the burning of a propellant mixture (mostly butane and propane) in the company's boiler. You specifically asked whether the burning of this mixture constitutes burning of a hazardous waste which would require them to comply with the boiler and industrial furnace (BIF) regulations.

Subpart H of 40 CFR Part 266 regulates the burning or processing of hazardous waste in boilers and industrial furnaces. However, before a substance can be classified as a hazardous waste, it must first meet the definition of a solid waste. In determining whether the butane and propane propellants are solid wastes, it must also be decided whether the burning of these materials constitutes the burning for energy recovery of a propellant (is a solid waste), or use as a fuel (is not a solid waste) for the reasons stated below.

As stated in your memo, Heritage plans to recover the materials from the aerosol cans and separate them into three streams: (1) scrap metal (crushed cans), (2) a liquid phase (household chemicals), and (3) a gaseous phase (propellants, mostly butane and propane). Heritage then plans to burn the recovered propellants from the aerosol cans in their on-site boiler for

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energy value.

According to 40 CFR Section 261.2(c)(2)ii regulations, commercial chemical products that are listed in 40 CFR Section 261.33 as well as non-listed commercial chemical products that exhibit hazardous waste characteristics (see attached April 11, 1985 Federal Register notice explaining the regulatory status of non-listed commercial chemical products), are not classified as solid wastes when burned for energy recovery if they are themselves fuels. Since propane and butane are materials that are normally both used as fuels, when unused, they can be burned as fuels without being considered solid wastes.

Therefore, if the aerosol cans are full (not used), or partially full (in which case they would be considered off specification with the remaining propellants in the cans also being unused), then the butane and propane propellants would be classified as commercial chemical products. Since these products are fuels and being burned for energy recovery, they would not fall within the definition of a solid waste and would consequently not be considered a hazardous waste.

For the reasons stated above, Heritage would not be required to comply with the BIF regulations to burn the butane and propane propellants in their on-site boiler. However, this determination assumes that other hazardous constituents have been separated from the butane and propane propellants, and that the butane and propane are indeed being burned for energy recovery rather than to destroy other hazardous constituents contained in the aerosol cans.

If you have any additional questions or would like to discuss this further, please contact Karen Randolph of my staff on (703) 308-8651.

Attachment

cc: Christine Dibble, OSW; Mike Petruska, CAD; Steve Silverman, OGC; Bob Holloway, WMD; Sonya Sasseville, PSPD

bcc: Juana Rojo, Region 5; Waste Combustion Permit Writers' Workshop; Karen Randolph PSPD