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MEMORANDUM

SUBJECT: Refractory Wastes at U.S. EPA Combustion
Research Facility

FROM: Jeffery D. Denit, Acting Director
Office of Solid Waste (WH-562)

TO: Sam Becker, Chief
Hazardous Waste Compliance Branch (6H-C)

This is in response to your memorandum to Robert Scarberry dated December 22, 1987, regarding the regulatory status of refractory waste at EPA's Combustion Research Facility (CFR). Solid waste that is generated from the treatment of a hazardous waste is a hazardous waste if it: (1) contains a listed waste, (2) is derived from a listed waste, or (3) exhibits a characteristic of a hazardous waste. See 40 CFR 261.3(c) and (d).

According to 40 CFR 261.3(c)(2)(i) "any solid waste generated from the treatment, storage or disposal of a hazardous waste... is a hazardous waste." EPA interprets this provision to mean that the "derived from" waste carries the same EPA Hazardous Waste designation as the original waste. (See 50 FR 37338 (Sep. 12, 1985); 50 FR 1995 n. 26 (Jan 14, 1985); cf. 50 FR 619 n. 7 (Jan. 4, 1985)). This is important because apparently dioxin-containing waste (F020) was burned at the facility; and F020 is subject to special requirements in 40 CFR 264.317. (As you suggested, residue resulting from the treatment of many different listed wastes should be handled as the most restricted of the listed wastes.)

As related to us by Johannes Lee of CFR and Jerry Truitt of your staff, the wastes generated from the rotary kiln incinerator at CFR during the time that the dioxin waste (F020) was incinerated are the following: (1) removed refractory material, (2) dismantled pieces of the former scrubber system, (3) dearticulate air filters, (4) scrubber wastewater, (5) soil contaminated with scrubber

wastewater, and (6) ash. Based on the following assessment, we have determined that all of these wastes are acute hazardous (H) wastes, or contain acute hazardous wastes, and are thus, subject to the special requirements of 40 CFR 264.317.

The wastes listed above which are hazardous because they were "derived from" waste are: (1) decontaminated air filters, (2) scrubber wastewater, and (3) ash. These wastes may be delisted under Section 260.22: otherwise they must be managed as dioxin-containing hazardous waste (i.e., under Section 264.317, as well as other applicable requirements).

With regard to materials that are contaminated with listed waste, and thereby contain hazardous waste (i.e., hazardous constituents from the waste), EPA has determined that such materials must be managed as hazardous waste for as long as they contain any of the listed waste. (You should note that for contaminated materials, a formal delisting is not necessary; rather, the generator of the contaminated material must manage the material as hazardous waste, or must be able to demonstrate that the material has been decontaminated so that it no longer contains any listed waste.) Following the same logic as cited above for "derived-from" waste, material contaminated by a listed waste carries the same designation as the most restricted listed waste that it contains, i.e., in this case, EPA Hazardous Waste No. F020.

The wastes listed above that are designated as contaminated materials include: (1) refractory material, (2) dismantled pieces of the former scrubber system, and (3) soil contaminated with scrubber wastewater. These wastes must be treated as acute hazardous (H) wastes, unless and until they are decontaminated and no longer contain the listed waste (i.e., F020). 1/ A detailed description of decontamination procedures should be part of the facility's closure plan as described in Section 264.112(b)(4) and Section 264.112(e)

1/ If the material is decontaminated so it no longer contains F020, but it still contains constituents from other listed wastes, the material would be managed as nonacute hazardous waste.

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All hazardous waste generated at the CFR must be managed in accordance with Section 262.34 or under the facility's permit. If on-site storage of hazardous waste for time periods greater than 90 days is necessary, and is not addressed in the permit, then the permit must be modified to address the on-site storage of these wastes.

Please feel free to call Emily Roth, of my staff, if you have any further questions; her telephone number is FTS 382-4777.