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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 14 1989

MEMORANDUM

SUBJECT: Pesticide Standards for Formaldehyde and  
Paraformaldehyde

FROM: Devereaux Barnes, Director  
Characterization and Assessment Division (OS 330)

TO: Chet McLaughlin, Chief  
State Programs Section, Region VII

This is in response to your memorandum of July 26, 1988 to Matthew Straus, in which you asked for our comments concerning an Office of Pesticides Programs (OPP's) manual entitled "Guidance for the Reregistration of Pesticide Products Containing Formaldehyde and Paraformaldehyde as an Active Ingredient." You asked about the effect of this manual on the "sole active ingredient" clause regarding P and U listed hazardous wastes included in 40 CFR 261.33(e) and (f). You also asked if many of the pesticides on the P and U lists would no longer contain a "sole active ingredient" as a result of the subject OPP document.

The intent of the regulations concerning sole active ingredients can be found at 45 FR 78532, November 25, 1980. The concept of sole active ingredient was used for the purpose of "removing all trade names from the lists of 40 CFR 261.33(e) and (f), but clarifying that the scope of the 40 CFR 261.33(e) and (f) includes, in addition to the commercially pure grades of the chemicals, all technical grades and all formulated products in which the listed chemical is the sole active ingredient" (emphasis added). The Federal Register Notice explains that "many of the trade products regulated under this section are pesticides or fungicides, produced for the express purpose of destroying plant or animal life. It is evident that such a substance, when discarded, meets the RCRA definition of hazardous waste" (45 FR 78539). The Federal Register Notice also states (FR 78538 that "the product is considered to be the chemical comprising its active portion," and refers to the

Farm Chemicals Handbook, which "lists all trade products having a generically-named chemical as the sole active ingredient as 'other names' for that chemical." The Federal Register Notice clearly states that, under RCRA, the term "active ingredient" refers to the pesticide constituent on which the commercial product and the 40 CFR 261.33 regulations are based, not "inert ingredients which tend to magnify its toxic effects (e.g., solvents and surfactants)" (45 FR 78539).

The OPP Guidance Manual states that formaldehyde and paraformaldehyde, when added to preserve the formulation, in the past had been classified as inert ingredients. However, according to FIFRA Section 2(a), an active ingredient is "an ingredient which will prevent, destroy, repel, or mitigate any pest." Therefore, when these chemicals are added to preserve the formulation by preventing deterioration by bacteria and fungi, the Guidance Manual concludes that formaldehyde and paraformaldehyde are active ingredients. The Guidance Manual also directs that the following statement appear on the label for such products: "Formaldehyde (or paraformaldehyde) is present solely to preserve the pesticide formulation and does not otherwise contribute to the product's pesticidal activity." (p. 21)

When formaldehyde (or paraformaldehyde is added solely to preserve the activity of a pesticide formulation, it is not considered an active ingredient for purposes of the sole active ingredient requirement of 40 CFR 261.33. Thus, the OPP Guidance Manual's determination that formaldehyde and paraformaldehyde are pesticidally active and the requirement that the labels state they are "pesticidally active when used as a preservative in pesticidal formulation" does not affect the determination of whether a waste is hazardous under 40 CFR 261.33.

Thank you for your inquiry. If you have any further questions, please contact Ron Josephson at FTS 475-6715.

cc: Juanita Wills, OPP (H7505C)