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

March 4, 1994

Mr. John J. Stocker, President
Shipbuilders Council of America
4301 N. Fairfax Drive, Suite 330
Arlington, Virginia 22203

Dear Mr. Stocker:

Thank you for your letter of February 14, 1994, requesting that the Environmental Protection Agency (EPA) issue generator identification numbers to the Department of Defense (DOD), in particular the Navy. Further, you request that the Navy's ID number always appear on the hazardous waste manifest, along with a contractor's number, if a contractor is used to prepare waste for shipment. This would then make the Navy liable, in your view, should the waste be mismanaged.

EPA certainly shares your concern that hazardous waste be managed properly. As we have explained in previous letters, the presence or absence of someone's ID number on the Manifest is not the determining factor in assessing liability. Liability under CERCLA is determined based on the statute, and the facts in the case in question. The Navy may or may not be liable in a specific case, regardless of whether their ID number or someone else's ID number was on the manifest. Under RCRA, EPA allows "co-generators" to decide between themselves who should take primary responsibility for filling out the manifest and fulfilling other generator responsibilities. As the preamble discussions we have sent you explained, this does not mean that one party has assumed liability for both parties. In fact, both parties may be liable for any violations or for damages, depending on all the facts in question. This is EPA's longstanding policy, and we do not view 10 USC 7311 to require any change of EPA's policy.

I understand that the Manifest Regulatory Negotiation committee did spend considerable time debating this issue before

deciding not to craft any specific provisions to deal with it. The Committee decided, as I understand it, that the manifest as presently structured can accommodate the situation where more than one party are co-generators, and in fact a second ID number can be placed on the manifest in the "other information" block. The Committee decided against requiring an ID number to appear on the manifest for each and every entity that may be a co-generator in every situation.

In some instances EPA does issue ID numbers to DOD installations. If a DOD facility is a site that produces hazardous waste, they would normally be considered a generator and (provided they generate more than 100 kilograms of hazardous waste in a month) they would need to obtain an EPA ID number. At this time, EPA does not have a national policy on how to handle ID numbers for waste generated on ships. In some instances, EPA has issued ID numbers to the ship, and in others the shore facility or contractor providing service to the ship is issued the ID number.

I hope this information is of assistance to you.

Sincerely yours,
Michael Shapiro, Director
Office of Solid Waste