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

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Randall W. Steger, Manager
Operating Permits Bureau, Permits and Enforcement
Idaho Department of Health and Welfare
1410 North Hilton, Statehouse Mail
Boise, Idaho 83720-9000

Dear Mr. Steger:

This letter is in response to your request for a written position paper concerning the primer neutralization unit "popping furnace" located at the Blount Industries, CCI Operation in Lewiston, Idaho. Specifically, you asked if this unit is exempt from RCRA permitting requirements based on Blount's claim that it is used for legitimate recycling operations. We have determined that this unit is not exempt, and is subject to RCRA permitting regulations.

According to 40 CFR 264.1(g)(2) and 40 CFR 261.6(a)(2), certain recyclable materials are regulated under Part 266 and not Part 264 or Part 265. However, this exemption from Part 264 and Part 265 standards does not apply to incineration operations. Any process that involves burning in an incinerator is regulated as incineration whether or not some energy or material recovery occurs.

The Blount Industries' popping furnace unit is classified as an incinerator. The unit uses controlled flame combustion, but is neither a "boiler" nor an "industrial-furnace" as these terms are defined in 40 CFR 260.10. Since these rules provide for only three types of controlled flame combustion units (boilers, industrial furnaces, and incinerators), the unit must be classified as an incinerator.

EPA has consistently classified munitions popping furnaces and military demilitarization furnaces as incinerators (see enclosed letters). Material recovery in these devices is secondary to the

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destruction of munitions and munitions components. These units are thus properly classified as incinerators. Burning hazardous waste in an incinerator is always subject to Subpart O requirements under 40 CFR 264 or 40 CFR 265, and is never an exempt type of recycling.

EPA explained its reasoning in the preamble to the April 4, 1983 proposed amendments to the regulations on recycling at 48 FR 14484: "Second, we wish to clarify that materials being burned in incinerators or thermal treatment devices, other than boilers and industrial furnaces, are considered to be abandoned by being burned or incinerated under 40 CFR 261.2(a)(1)(ii), whether or not energy or material recovery also occurs... In our view, any such burning (other than in boilers and industrial furnaces) is waste destruction subject to regulation under either Subpart O of Part 264 or Subpart O and P of Part 265." In the preamble to the January 4, 1985 final rule at 50 FR 625, EPA reiterated that "incinerators are built to destroy hazardous wastes, so wastes burned in them are obviously being burned for the primary purpose of destruction".

Therefore, the popping furnace unit at Blount's CCI facility is subject to the RCRA permitting regulations as an incinerator. If you have any questions on this matter, please contact Andrew O'Palko at (703) 308-8646.

Sincerely,

Frank McAlister, Chief
Assistance Branch

Enclosures

cc: Waste Combustion Permit Writers' Workgroup
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