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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

June 19, 1995

Mr. James Mallory, Executive Director  
Non-Ferrous Founders' Society  
455 State Street  
Suite 100  
Des Plaines, Illinois 60016

Dear Mr. Mallory:

In your letter to me of May 4, 1995, you express your concern about EPA's March 8, 1995 letter to the American Foundrymen's Society (AFS) in which EPA reiterated its interpretation that under current regulations spent foundry sands used as molds in the casting process become solid wastes when the mold is broken and the casting is separated from the sands. You are concerned that this finding is not consistent with current EPA hazardous waste regulations as well as ongoing efforts to redefine RCRA jurisdiction and the definition of solid waste. Our letter did not, apparently, provide a rational basis or explanation of why spent foundry sands are regulated under RCRA that was satisfying to you. Finally, you believe that EPA's position will result in a great expense to the casting industry, without providing a tangible environmental benefit.

Our March 8 letter reiterates and explains in detail our longstanding understanding of our current rules. Moreover, because non-thermal sand reclamation processes are not regulated under RCRA (40 CFR 261.6(c)), we do not believe that our policy will affect the reclamation of sand within the sandloop and should not significantly affect foundry costs unless other activities, such as disposal, are occurring at a site. If you have specific data that indicates otherwise, we would be happy to receive it.

I understand that from your perspective it is inappropriate for our Agency to apply RCRA Subtitle C jurisdiction (though not regulation) to spent foundry sand in the sand loop at a point when these materials are not released to the environment, and I agree that this is an issue EPA should pursue as we examine ways to

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improve the definition of solid waste. However, the current regulations try to distinguish between different types of materials and recycling processes. These distinctions are intended to manage environmental risks posed by recycling potentially hazardous secondary materials which are similar to environmental risks posed by conventional hazardous waste treatment and disposal such as groundwater contamination, air releases and releases to surface water bodies.

In the past, the category of materials we call "spent materials" (e.g. sands that were used and picked up contaminants) have caused environmental problems. The Agency sought jurisdiction over spent materials to be able to prevent recurring environmental problems, and then to reduce regulatory burdens we allowed generators to recycle on-site under minimal controls. The Agency outlined three environmental concerns specific to spent foundry sands in our March 8 letter to AFS. EPA is aware of the possibility that current RCRA Subtitle C jurisdiction over recycling activities may be overlybroad in some situations where recycling operations incur costs of regulation without commensurate environmental gain.

Because of issues like this, EPA is currently in the process of looking at ways to amend the definition of solid waste and hazardous waste recycling requirements in the future to encourage environmentally sound recycling. A major issue we'll be looking at is how on-site recycling should be regulated, if at all. We will seriously consider options that would allow manufacturers to recycle their secondary materials at their own sites without applying RCRA jurisdiction. The Agency hopes to have a proposed rule completed by the summer of 1996. I have enclosed a copy of our Program Plan, which describes in some detail our plans to reassess how we define "solid waste".

Also, EPA committed to working with the foundry industry and the Agency's Regional office in Dallas has begun compliance outreach to assist foundries in understanding their responsibilities under RCRA. We would welcome your Society's assistance in that effort. If you have any further questions regarding the definition of solid waste or hazardous waste recycling, please call Paul Borst of my staff at (202) 260-6713.

Sincerely,

Michael Shapiro, Director  
Office of Solid Waste

Enclosure

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Attachment  
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May 4, 1995

Mr. Michael H. Shapiro  
Director of EPA Office of Solid Waste  
401 M Street, S.W./5301  
Washington, D.C. 20460

Dear Michael:

On behalf of the Non-Ferrous Founders' Society (NFFS) and its member foundries, I am writing in response to your letter to the American Foundrymen's Society dated March 8, 1995.

On page three (3) of the correspondence, you state "[I]t appears that spent foundry-sands are spent materials being reclaimed, and are therefore solid waste". This finding is not consistent with existing EPA regulations. The finding is also inconsistent with EPA's own efforts to redefine the term "solid waste" under the Resource Conservation and Recovery Act (RCRA) via its Definition of a Solid Waste Task Force.

Part of the problem is that the foundry industry's definition of reclamation is synonymous with EPA's definition of recycling. It is this semantic conflict that is the premise of the Region VI determination. The question of whether or not spent foundry sand is a spent material is moot. Whether or not the subsequent physical or mechanical separation and screening of return-sand constitutes a reclamation process is also a moot question. The

shakeout process itself represents the first step in foundry sand being used beneficially by the foundry. Thus, entering shakeout represents the first step in the reclamation process - the point at which the product is removed, scrap metal is recovered, and the sand is reclaimed by removing process materials. This conclusion is supported by the following statement in your letter:

When the spent sand enters the shakeout process, they are reclaimed through regeneration, which involves the removal of contaminants, including core sand butts, fines, tramp metal and other clumps of sand too large to fit through the screens. As a spent material being reclaimed, the spent foundry sand constitutes a solid waste ... [h]owever, the fact remains that foundry sands are spent materials being reclaimed from the moment that they are separated from the castings.

Since foundry sands "[a]re being reclaimed from the moment that they are separated from the castings, all foundry sand materials exiting the shakeout process have been reclaimed. Thus, foundry sand exiting the shakeout process would no longer fall under RCRA jurisdiction per 40 CFR 261.3(c)(2)(i). In addition, because the mechanical process of screening and separating spent foundry-sand is a reclamation process, it is generally exempt from regulation under RCRA (40 CFR 261.6(c)(1)).

The issue of whether foundry sand is a spent material being reclaimed in a shakeout process is irrelevant. All materials resulting from the shakeout reclamation process (which is exempt from RCRA regulation) would be exempt from RCRA per 40 CFR 261.39(c)(2)(i).

According to EPA, only the portion of sand which is not returned to the mold-making process remains a solid and, in certain circumstances, a hazardous waste. In the most practical sense, the reuse of foundry sand has become an integral part of the mold-making process in modern foundries. These foundries incorporate a sand loop-return design, the complex portion of a foundry where return sand is reused and mixed with new sand and various binding agents to produce a casting mold. Thus, the process of sand reclamation is an inseparable, integral and generally contiguous portion of the sand mold making, process. The agency concluded foundry sand entering shakeout represents the point at which the product (casting) is captured for further

processing and the sand is returned (via the RCRA exempt reclamation system to an ongoing production process (mold making). Clearly, foundry sands are returned in an ongoing production process, making these materials exempt from the definition of a solid waste.

I find it absolutely counter-intuitive to reason that spent foundry sands "have become part of the waste disposal problem, are discarded and therefore can be solid waste under RCRA. " If foundry sands were intended to be discarded by foundry's at the shakeout table, would not all materials be collected in a trash dumpster for disposal rather than processed through, in some cases, elaborate systems for subsequent reuse in the ongoing mold-production process? EPA provides no rational explanation or basis for why these materials should be subject to the onerous requirements of RCRA management.

Finally your position in the March 8 letter regarding foundry sands illustrates why Mrs. Browner's Common Sense Initiative should be implemented by the Office of Solid Waste. EPA itself has recognized the need to encourage the recycling and reuse of industrial materials. In fact, the Office of Solid Waste has established a task force to redefine the term solid waste under RCRA and to provide recommendations that would result in more industrial materials being recycled.

Your determination seems to take a counter-position to EPA policy, at a great expense to the casting industry, without providing a tangible environmental benefit. Naturally, this matter is of grave concern to NFFS and its approximately 200 member-companies. I look forward to your prompt response to the arguments presented here.

Sincerely yours,  
James Mallory  
Executive Director