



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 28 2015

REPLY TO THE ATTENTION OF:

**FINAL DECISION  
GRANTING AN APPLICATION FOR A  
NON-WASTE DETERMINATION REGARDING BENSON POWER, LLC'S  
POULTRY LITTER**

This is the United States Environmental Protection Agency's (EPA's) final decision granting a July 1, 2013 application<sup>1</sup> submitted by FibroMinn, LLC, now known as Benson Power, LLC (Benson Power),<sup>2</sup> for a non-waste determination under the RCRA Non-Hazardous Secondary Materials Rule (Rule) found at 40 C.F.R. § 241.3(c), with regard to the poultry litter that it burns as fuel in the boiler at its Benson, Minnesota power plant to produce electricity. EPA's final decision is based upon the information contained in the Administrative Record for this matter, including, but not limited to EPA's Technical Document that contains the evaluation of Benson Power's information in support of its application, as per the Rule. EPA's Technical Document discussed information that established that Benson Power's poultry litter had not been *discarded in the first instance*; meets the three legitimacy criteria listed at 40 C.F.R. § 241.3(d)(1); and meets the five relevant criteria found in 40 CFR § 241.3(c)(1)(i)-(v). Therefore, Benson Power's poultry litter meets the Rule's requirements for determining that it is not a solid waste. EPA also considered the one written comment received during the 30-day public comment period for the tentative decision in this matter, before making this final decision. In accordance with the Rule, the effective date of this final decision is July 1, 2013, the date of the original petition submitted by FibroMinn, predecessor to Benson Power.

Susan Hedman  
Regional Administrator  
United States Environmental Protection Agency

25 September 2015  
Date

<sup>1</sup> The terms *petition* and *application* are both used in 40 C.F.R. § 241.3 to indicate the document that is submitted to EPA by an entity seeking EPA's non-waste determination for NHSM that is combusted.

<sup>2</sup> On September 15, 2015, EPA learned that FibroMinn had been acquired by Benson Power LLC on or about August 20, 2015. Therefore, this final decision on FibroMinn's original petition is being issued to Benson Power, LLC.