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CLARIFICATION OF NEWLY LISTED WASTES AND HAZARDOUS DEBRIS

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

November 5, 1992

Mr. W.C. Rankin, Supervisor
Environmental Affairs
Olin Chemicals
P.O. Box 248
Lower River Road
Charleston, Tennessee 37310

Dear Mr. Rankin:

Thank you for your letter dated September 8, 1992 to Mr. Larry Rosengrant of my staff in which you raised several questions concerning the final rule on newly listed wastes and hazardous debris (57 FR 37194, August 18, 1992).

You first asked for clarification as to whether after D009 debris is treated with a specified technology, is it still regulated for the treated characteristic or as a contained-in waste. Once characteristic debris is treated to meet the performance and/or design and operating standards and contaminant restrictions for each regulated constituent, and no longer exhibits the characteristic, it is no longer regulated as hazardous waste. (However, if the waste does still exhibit the characteristic, it still contains a hazardous waste and must be disposed of in a Subtitle C facility.)

Your second request was for some relief from the requirement to thermally roast materials which are non-debris because they are less than 60 mm in size. If a mixture of material is comprised primarily of debris, by volume, based on visual inspection, then the entire mixture is debris. In other words, if a mixture of items less than 60 mm in size and items greater than 60 mm in size is comprised mostly of the larger items, then the whole mixture is considered debris and would be subject to the applicable debris treatment standard if contaminated with hazardous waste. Mixtures

which are not primarily debris are subject to the LDR treatment standards in 40 CFR 268.41, 268.42 and 268.43. Relief from those standards may be obtained through equivalency demonstration (§268.42(b)), or a treatability variance (§268.44).

Your third request was for advice on how to demonstrate the leachability reduction achieved by the microencapsulation performance standard, as specified in §268.45, Table 1 (57 FR 37280, August 18, 1992). The regulation does not require a particular method for making this demonstration. One way to analyze for this reduction would be to determine the potential leachability of the toxicants before and after treatment by the TCLP test. If the leachability of the toxicants has been reduced, you have met the performance standard.

Finally, as you are probably aware, a case-by-case capacity variance for certain hazardous soils was approved on October 13, 1992, and was published in the Federal Register on October 20, 1992 (57 FR 47772). See enclosed FR notice for list of hazardous soils for which a capacity extension has been granted.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste

Enclosure