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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 26 1988

Gary L. Ford  
Assistant Director of Law  
Stauffer Chemical Company  
P.O. Box 0852  
Westport, CT 06881-0852

Dear Mr. Ford:

This letter is in response to your April 5, 1988, letter requesting clarification of the RCRA Subtitle C regulations. These are Federal regulations. The States where your facilities are located may have more stringent regulations which would apply. Consequently, a facility owner or operator's primary contact on RCRA matters should be the State Agency with RCRA responsibilities.

As you note in your letter, spent sulfuric acid which is accumulated speculatively does not qualify for the exclusion in section 261.4(a)(7). If the person accumulating the material can show that it can feasibly be recycled, and that at least 75% (by weight or volume) is recycled or transferred for recycling in a calendar year, the material is not accumulated speculatively. Once removed for recycling, materials are no longer considered to be accumulated speculatively. The definition of speculative accumulation is found in Section 261.1(c)(8).

Translating the regulations to cover your situation, spent sulfuric acid which is accumulated speculatively is a solid waste per Section 261.2(c)(4). If the acid is a listed hazardous waste, or if it exhibits a characteristic of hazardous waste, it must be handled as a hazardous waste. If it is removed from accumulation for recycling, it ceases to be accumulated speculatively, and the exclusion in Section 261.4(a)(7) may become available. If it is actually recycled by being used to produce virgin sulfuric acid, the Section 261.4(a)(7) exclusion may be exercised in States which recognize the exclusion. However, if it is removed from accumulation for recycling, but the recycling is not the production of virgin sulfuric acid, the Section 261.4(a)(7) exclusion is not exercised, and the regulation in Section 261.2 govern the material's status.

It should also be noted that materials accumulated in land-based storage units may leach into the ground, and thus would be considered to be disposed. Storage of spent sulfuric acid in a surface impoundment, for instance, may result in some portion of the spent acid being disposed. Although the material stored in the surface impoundment might qualify for the exclusion in Section 261.4(a)(7), the portion which leaches into the ground, if not recovered, has been disposed. If the acid is a listed or characteristic hazardous waste, the disposal/storage unit is a hazardous waste management unit.

Please feel free to contact Mike Petruska at (202) 475-9888 if you have further questions.

Sincerely,

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Devereaux Barnes, Director  
Characterization and Assessment  
Division