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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 2 1989

Wm. Roger Truitt
Schmeltzer, Aptaker and Sheppard, P.C.
2600 Virginia Avenue NW, Suite 1000
Washington, D.C. 20037-1905

Dear Mr. Truitt:

This letter responds to your April 4, 1989 request for clarification of the regulatory status under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of your client's metal galvanizing process residues.

As I understand your client's process, metals parts are placed in a kettle of molten zinc (the first step in the galvanizing process) and then placed in a chromic acid quenching bath for chrome passivation. During this process, zinc and charcoal residues are carried over from the molten zinc bath into the chromic acid bath (the passivation solution). As a result of this continuous process, fine particles of chrome-coated zinc and charcoal accumulate in the passivation solution. These particles settle out of the passivation solution and are then partially dewatered and reintroduced to the molten zinc kettle as a substitute for raw material feedstock for the process. These chrome-coated zinc and charcoal particles would otherwise be considered hazardous wastes because they exhibit a hazardous characteristic (chromium).

You presented three different regulatory interpretations that would exclude these secondary materials from regulation as a hazardous waste. Based on the information you supplied in your letter, I concur that these secondary materials are not solid wastes; however, I will only respond with the most straightforward regulatory provision that excludes these materials from regulation as a solid waste, namely, 40 CFR 261.2(c)(3), which states that a by-product exhibiting a characteristic of hazardous waste that is being reclaimed is not a solid waste.

Based upon the information in your letter, the particles of chrome-coated zinc and charcoal meet the definition of a by-product found at 40 CFR 261.1(c)(3). The dewatering process of the accumulated by-product is defined as reclamation (see 40 CFR 261.1(c)(4)). Thus, the chrome-coated particles are reclaimed from the liquid portion of the by-product to make those particles available for use in the zinc kettle (or, as

stated in your letter, more amendable for reintroduction into the process). As 40 CFR 261.2(c)(3) states, a by-product, hazardous solely because it exhibits a characteristic of a hazardous waste, that is reclaimed, is not defined as a solid waste and, therefore, is not a hazardous waste.

You should be aware that State and local regulatory agencies may have applicable regulations that differ from the Federal regulations. Also, you should contact the appropriate EPA Regional Office or State regulatory agency for a more specific determination regarding your client's facility. Should you have further questions, please contact the RCRA Hotline at (202) 382-3000, or Mitch Kidwell, of my staff, at (202) 475-8551.

Sincerely,

Original Document signed

Robert W. Dellinger
Chief
Waste Characterization Branch