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STILL BOTTOM WASTE GENERATED DURING THE PRODUCTION OF
POLYSTYRENE

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

SEP 1 1988

MEMORANDUM

SUBJECT: Regulatory Interpretation

FROM: Marcia E. Williams, Director (WH-562)
Office of Solid Waste

TO: Judy Kertcher, Acting Director (5HS-B)
Solid Waste Branch, Region V

Our office has reviewed the information you provided in your July 29th memo, in which you requested an interpretation of 40 CFR 261, as it applies to a still bottom waste generated during the production of polystyrene at the Chevron Chemical Company, Marietta, OH. We have decided that toluene is used as a solvent in the process; therefore, the tower 201 still bottoms are a F005 hazardous waste that is generated during the recovery of spent toluene.

The following information was used to make our decision and to address the concerns outlined in your memo.

1. In a document submitted by Squire, Sanders, and Dempsey on behalf of Chevron, it was stated that the toluene is "added as a diluent" in the process. The toluene is also used as a carrier, or diluent, for the additives which are used in the process. The property of a RCRA diluent.
2. Both styrene and toluene are recovered in Tower 201; they are separated from the tars in this column. Therefore; the waste generated at this point in the process are still bottoms from the recovery of spent toluene, an F005 waste.

3. The closed loop recycling process exemption does not apply to this process. (See attached discussion)
4. Chevron made several arguments (e.g., the waste is not ignitable and, consequently, not hazardous; the waste does not contain toluene) that have not been addressed by this decision. We feel that the three determinations above resolve the issue of, whether the material in question is hazardous waste.

Additional discussion on items 1-4:

1. Peter Oxenbol of Chevron Chemical Company commented that the term "diluent" had been used by them before they realized that it has carried with it such a weighty connotation (that use as a diluent constitutes use as a solvent.) He suggested that a different word or description could be used which would not be as sensitive as the word "diluent". The definition of the word "diluent", however, is quite clear, and it was chosen previously as an accurate description of the role that toluene plays in the reaction. Chevron wishes to use a different word now, but toluene's function will not be changed by doing so.
2. Of the feed that enters Tower 201, roughly 83% is unreacted styrene and 4% is toluene. They are both separated, together, from the tars in the column. Toluene may not be the major component in the feed stream to the column, but it is nonetheless being recovered at this point in the separation from the styrene.
3. The Federal Register excerpt on the closed loop recycling process reads as follows: "It should be noted that, under today's rule, although secondary materials stored in closed-loop reclamation processes that fit within the exclusion of §261.4(a)(8) are not solid waste, wastes from their management are solid wastes. Thus, still bottoms from solvent reclamation, if an exclusion applies for another reason, can be hazardous wastes if they are identified or listed. In this regard, the Agency notes that many still bottoms from solvent reclamation are listed wastes; as are the residual

spent solvents themselves (Hazardous Wastes F001-005)."
(FR Vol. 51, No. 134, 25443).

4. Chevron's other arguments, that toluene is present in the waste in only *ae minimis* quantities, and that toluene "is an essential ingredient in the process from a kinetic standpoint", etc., became moot points because it was decided that the waste was the listed waste, F005.

If you wish to discuss the above in further detail, please call Yvonne Garbe on FIS 475-6679.