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Mr. Gary D. Strassell
Environmental Manager
The Sheppard Color Company
4539 Oves Drive
P.O. Box 465627
Cincinnati, Ohio 45246

Dear Mr. Strassell:

This is in response to your November 20, 1987, letter to Michael Petruska of my staff concerning the regulatory classification of your chromium wastes. The remainder of this letter explains the exclusions in 40 CFR Section 261.4(b)(6) for certain chromium wastes, and answers the questions you raised.

The exclusion from the definition of hazardous waste under 40 CFR 261.4(b)(6) presently applies to those wastes specifically listed in Section 261.4(b)(6)(ii). Those wastes identified in subparagraphs (A) through (H) of Section 261.4(b)(6)(ii) are excluded because members of the leather tanning and titanium dioxide production industries submitted evidence to EPA that successfully demonstrated that their wastes were not hazardous. The October 30, 1980 Federal Register (45 FR 72035) describes this exclusion in greater detail (see Enclosure).

The criteria for excluding a waste under Section 261.4(b)(6) requires that the chromium in the waste must be trivalent or nearly exclusively trivalent, that the industrial process producing the waste use trivalent chromium exclusively or nearly exclusively, and that the waste can typically and frequently be managed in a non-oxidizing environment. See Section 261.4(b)(6)(1). Presently, the only wastes that are included in the Section 261.4(b)(6) exclusion are those listed in subparagraphs (A) through (H) of paragraph (ii). The only pigment manufacturing waste exclusion is in subparagraph (H). This exclusion applies to wastewater treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process. The chromium in this waste originates from the entirely trivalent chromium in the rutile or ilmenite ores used as

a raw material in the process (45 FR 72036). If your customer generates a waste meeting the description in (H), then that waste would be excluded under Section 261.4(b)(6) provided the waste does not fail the EP toxicity characteristic for any constituent other than chromium or does not fail any other hazardous waste characteristic.

Any individual or group of generators whose waste meet the criteria under Section 261.4(b)(6)(i), but are not specifically designated under paragraph (ii)(A)-(H) may submit a rulemaking petition to EPA in accordance with Section 260.20(a) to demonstrate that their waste is not hazardous. If EPA agrees with the petition, it will amend Section 261.4(b)(6) to exclude those wastes from regulation as well. (As already indicated, wastes meeting the existing descriptions in subparagraphs (A) through (H) of Section 261.4(b)(6) is only non-hazardous if it exhibits no other hazardous characteristics in Subpart C of Part 261.) If you choose to submit a rulemaking petition, you will have to submit data showing that the waste or wastes in question is exclusively (or nearly exclusively) trivalent chromium, that the industrial process producing the waste use trivalent chromium exclusively or nearly exclusively, and that the waste is typically managed in a non-oxidizing environment.

If you have additional questions in this area, please continue to communicate with Mike Petruska at (202) 475-8551.

Sincerely,

Marcia E. Williams
Director
Office of Solid Waste

Enclosures