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Everette Wyatt
Wire Division Engineer
Leggett & Platt, Inc.
P.O. Box 695
No. 1 - Leggett Road
Carthage, Missouri 64836

Dear Mr. Wyatt:

Our office has received your letter dated July 29, 1985, requesting a decision from the Agency in regard to the proper classification of the liquid micronutrient fertilizer ("Ferrous Green") produced by Leggett & Platt from your spent sulfuric acid pickle liquors. Based on the Agency's recent amendment to the definition of solid waste published in the Federal Register on January 4, 1985, the fertilizer produced from your Pickle liquor is not presently subject to regulation (although the material is still a solid and hazardous waste).

The raw material for the fertilizer production, waste pickle liquor, is both a solid waste (since it is a spent material; see the Federal Register; January 4, 1985-§261.2) and a hazardous waste (EPA Hazardous Waste No. K062). If a fertilizer is produced from this waste, the fertilizer (if hazardous) is normally regulated under Subpart C of Part 266 (see 50 FR 666; January 4, 1985). If the fertilizer is produced for use by the general public, however, this product is exempt from regulation (see §266.20(b)).

As you know, Leggett & Platt originally received a temporary exclusion for their spent pickle liquor on December 16, 1981. This exclusion was for treated K062 waste, and was based on the Agency's proposal to change the EP toxicity characteristic from total chromium to hexavalent chromium. This proposal has not been made final by the Agency, nor do we expect to make that proposal final. After treatment, the pickle liquor has pH values ranging from 2.5-3.5, and hexavalent chromium levels are low (<0.005 mg/1). The treated liquor, however, contains 16-19 mg/1 total chromium, which exceeds the EP toxicity limit for chromium (5 mg/1). Leggett & Platt's treated pickle liquor is, therefore, classified as hazardous due to the characteristic of EP toxicity, and so it cannot be delisted under §§260.20 and 260.22 of the RCRA regulations.

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The chromium levels in the untreated liquor (28-63 mg/l) also exceed the EP toxicity limit for chromium. Due to its exceptionally low pH level (0.3-1.7), the untreated liquor is also classified as a corrosive waste. Such a characteristically corrosive and EP toxic waste is likewise not delistable under §§260.22 and 260.22. Leggett & Platt's untreated pickle liquor is also considered a hazardous waste, and must be handled and stored in accordance with 40 CFR Parts 262 to 265 and the permitting requirements of 40 CFR Part 270, that is, the spent pickle liquor is subject to regulation before it is used to produce a fertilizer. Since the pickle liquor, when treated, becomes a commercially available fertilizer product, the treated pickle liquor is exempted from regulation, although the treated liquor is still a hazardous waste. Should any portion of Leggett & Platt's pickle liquor not be handled in this manner, that portion would be subject to regulation under RCRA.

As mentioned above, the Agency has not acted on the proposal to alter the EP toxicity characteristic from total chromium to hexavalent chromium, and your treated waste is, therefore, not delistable due to the high levels of total chromium. Due to this finding, the Agency will recommend to the Assistance Administrator for Solid Waste and Emergency Response that the temporary exclusion granted for your treated waste on December 16, 1981 be withdrawn and that your petition be denied. This action does not have any bearing on the regulatory status of your fertilizer product, but indicates that because of the characteristics that the treated waste exhibits, the waste is not eligible to be removed from the Agency's list of hazardous waste (§261.32).

At this time, we would like to close our files. The Agency is required to publish all delisting decisions in the Federal Register, so our office will recommend to the Assistant Administrator that a denial notice be published in the near future. We, however, have been offering petitioners the option of withdrawing their petitions rather than having the Agency publish a denial in the Federal Register. If you would like to exercise this option, we require that a letter be sent to us retracting your petition and stating that the waste is hazardous and will be managed appropriately. We would appreciate that if such a letter is sent, it be forwarded to our office within one month from the date of today's correspondence.

As indicated above, the Agency is not currently regulating

commercial, hazardous waste-derived fertilizers. As more information becomes available about these products, the Agency may propose to regulate their use. We will keep you advised of any further developments in this area.

If you have any questions, please contact Scott Maid, of my staff, at (202) 382-4783.

Sincerely yours,

Eileen Claussen
Director
Characterization and Assessment Division (WH-562B)

cc: Joe Davis, Missouri DNR
Chet McLaughlin, EPA Region VII