

9433.1985(06)

OCT 29 1985

Mr. Verrill M. Norwood, Jr.  
Vice President, Environmental Affairs  
Olin Chemicals  
P.O. Box 248  
Lower River Road  
Charleston, Tennessee 37310

Dear Mr. Norwood:

This is in response to your letter to me dated October 8, 1985, regarding the applicability of a variance from classification as a solid waste for a spent material which is regenerated and then recycled at the facility which produced the original commercial product. Before I respond to your specific request, I would like to define the facts (as I understand them):

A commercial alkaline etchant (produced by the Philip A. Hunt Chemical Company) is distributed for use to manufacturers of printed circuits. After a period of use, the alkaline etchant is reduced below acceptable levels and therefore becomes spent (i.e., a material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing). This material (as you indicated) would be defined as hazardous because of its corrosive nature. This spent material is then returned to the manufacture of the alkaline etchant where copper is first recovered (defined as reclamation); the remainder of the etchant (after reclamation) is then used as a raw material to produce additional alkaline etchant. (Although not germane to the decision, you indicate that the recovered copper salts are sold providing additional economic benefits.)

Based on this description, I do not believe that you qualify for a variance under the modified closed-loop provision. In particular, to qualify for a variance pursuant to §260.31(b), the material that is reclaimed must be used as a feedstock within the original primary production process in which the waste was generated. You are correct that the regulations do not require that this all occur at a single production/regeneration facility; however, the material (after reclamation) must be returned to the process from which it was generated. In your

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situation, the process which generated the waste is the use of the etchant by the printed circuited board manufacture, the reclaimed material is not returned and used as an etchant but rather used as an ingredient to make additional etchant. (It should also be noted that if you were to return the etchant to the printed circuit board manufacturer after reclamation, you still would not qualify for a variance since the material is not being used as a feedstock/ingredient.) Thus, since you do not return the reclaimed material to the process which generated the waste, your particular situation does not meet the basic conditions of the modified closed-loop provision. 1/

Therefore, the spent alkaline etchant is subject to regulation by the generator (which includes the manifest), must be transported by a hazardous waste transporter, and the reclamation facility must comply with the appropriate standards regarding storage of the spent alkaline etchant. I had discussed this with several of the Regions when you originally sent in your petition and, therefore, I believe we are all being consistent.

Please feel free to give me a call if you have any questions; my telephone number is (202) 475-8551.

Sincerely yours,

Matthew A. Straus  
Chief  
Waste Identification Branch

1/ Although you do not qualify for a variance pursuant to §260.31(b), the reclaimed material that is used as a raw material to produce the alkaline etchant is not a waste, and thus is not subject to regulation.