

PPC 9441.1991(05)

CHLORIDE-ILMENITE PROCESS WASTES

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

APR 22 1991

Ms. Corinne A. Goldstein  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20044

Dear Ms. Goldstein:

This letter is in response to your correspondence to Randolph Hill dated November 16, 1990, and December 13, 1990, concerning DuPont's "chloride-ilmenite process." As you are aware from telephone conversations with Mr. Hill and the brief filed by the Agency with the U.S. Court of Appeals for the D.C. Circuit in Solite Corp. v. EPA, the Agency continues to believe that wastes from this process are appropriately classified as mineral processing, not beneficiation wastes. This letter specifically addresses DuPont's proposed changes in the process discussed in the November 16 and December 13 letters, and the impact that these process changes would have on the Bevill status of the new wastes produced.

The Agency's determination that chloride process waste acids (including DuPont's chloride-ilmenite process waste acids) are a processing waste was a one-time decision based on a "snapshot" of the industrial processes in place at the time of the decisions. It was, and remains impossible for us to address the Bevill status of wastes from proposed changes in current processes. The Agency clearly stated this in the September 1, 1989, Final Rule (54 FR 36592). Such new wastes, unless determined to be either a beneficiation waste or among the 20 temporarily exempt mineral processing wastes (which DuPont's proposed wastes would not be), would be non-exempt mineral processing wastes and would need to be managed in accordance with RCRA Subtitle C if they are characteristically hazardous.

If DuPont implements the changed it has proposed (or other changes), the Agency will evaluate the resulting wastes to determine if some portion is indeed a beneficiation waste. We cannot, however, guarantee that a decision that these are beneficiation instead of processing wastes would be made. Based

RO 13464

-2-

on process descriptions in your November and December letters, along with other information you provided in our November 20, 1990, meeting, the Agency already has some reservations as to DuPont's ability to generate a waste only containing residues from beneficiation. Operations producing combined beneficiation and processing wastes are appropriately classified as processing operations for purposes of determining whether or not they produce wastes that are exempt mineral processing wastes.

If you have further questions concerning this matter, please contact Bob Tonetti at (703) 308-8426.

Sincerely,

Original Document signed

Sylvia K. Lowrance  
Director  
Office of Solid Waste