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July 20, 1987

MEMORANDUM

SUBJECT: Enforcement of Applicable RCRA Regulations at Facilities
with Pending Delisting Petitions

FROM: Gene A. Lucero, Director
Office of Waste Programs Enforcement

Marcia E. Williams, Director
Office of Solid Waste

TO: Waste Management Division Directors
Regions I, IV, V, VII, & VIII

Air & Waste Management Division Director
Region II

Hazardous Waste Management Division Director
Region III, VI & X

Toxics & Waste Management Division Director
Region IX

The purpose of this memorandum is to restate Agency policy regarding the enforcement of applicable RCRA regulations at hazardous waste handlers that have pending delisting petitions. It has come to our attention that some Regions and States may be allowing non-compliance with some or all of the RCRA Subtitle C requirements pending a decision on active delisting petitions. We are reaffirming here that these wastes remain hazardous wastes and that they, and the units in which they are managed, are subject to all applicable RCRA regulations, including financial responsibility, groundwater monitoring and closure requirements, until the delisting is officially granted. In addition, facilities are still subject to the 1988 and 1989 statutory deadlines for permit issuance.

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Sections 260.20 and 260.22 establish a petition process which allows a facility to demonstrate that its waste, although captured by the broad listings of Section 261 Subpart D, does not meet any criteria under which the waste was listed, including the presence of additional constituents. Decisions on waste delisting have always been based on a chemical characterization of the waste itself and of the processes generating that waste, not on facility design, management practices or site conditions. Therefore, until a final decision is made to grant the petition, the waste is hazardous and the facility remains subject to enforcement of all applicable regulations (including compliance with Subpart F groundwater monitoring requirements). Facilities that are not in compliance with RCRA regulations are subject to enforcement action.¹

Concomitantly, facilities (excluding those with temporary or informal exclusion) that had pending delisting petitions on November 8, 1985, were subject to the Loss of Interim Status (LOIS) provision of the Hazardous and Solid Waste Amendments of 1984 (HSWA). Facilities that failed to validly certify compliance with Subparts F and H and submit a Part B application for an operating permit on or before November 8, 1985 were required to cease operating their hazardous waste land disposal units and submit a closure plan for those units by November 23, 1985. Facilities with pending delisting petitions that failed to retain interim status and continued to operate after November 8, 1985, and/or failed to submit the required closure plan are subject to enforcement actions under Section 3008 of RCRA.

¹ Facilities whose only waste was subject to a temporary or informal exclusion were not required to meet Part 265 standards during the effective time of the exclusion. However, all temporary and informal exclusions that had not previously been acted on expired by statute on 11/8/86 (Section 3001(f)(2)(8)). Facilities that had either a temporary or informal exclusion were in one of four categories on 11/8/86: (1) the final delisting was granted and that waste is no longer subject to regulation under RCRA; (2) the petition was denied when, after repeated requests from the Agency, the facility failed to provide additional information for the petition; these facilities had to be in compliance with Part 265 regulations immediately; (3) the completed petition was denied based on the merits of the petition (i.e., the waste was determined to be hazardous); these facilities had six months from the date of publication of the denial in the Federal Register to come into compliance with Part 265 standards; or (4) the exclusion expired by statute; these facilities petitions moved back into the standard delisting process and the facilities were immediately subject to all applicable RCRA requirements.

Attachment 1 is a listing of all pending delisting petitions, broken down by Region. Please assure that these facilities are in full compliance with all applicable RCRA regulations. If you have any questions regarding the iteration of this policy, please call Steve Heare at 382-2207.

cc: Elaine Stanley
Bruce Weddle
RCRA Branch Chiefs, Regions I-X

ATTACHMENT 1

REGION I

PETNUM	PETNAME	CITY	ST
0570	GENERAL ELECTRIC COMPANY	BRIDGEPORT	CT
0607	HONEYWELL, INC./SKINNER VALVE DIV.	NEW BRITAIN	CT
0685	LIGHT METALS COLORING COMPANY, INC.	SOUTHINGTON	CT

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REGION II

PETNUM	PETNAME	CITY	ST
0315	DIGITAL EQUIPMENT CORP DE PUERTO RICO	SAN GERMAN	PR
0435	UNION CARBIDE CORPORATION	TONAWANDA	NY
0503	YABUCOA SUN OIL COMPANY	YABUCOA	PR
0505B	KEYMARK CORPORATION	FONDA	NY
0547	BETHLEHEM STEEL CORP	SOUTH LACKAWANNA	NY
0602	BERLEX LABORATORIES, INC.	WAYNE	NJ
0603	BETHLEHEM STEEL CORPORATION/LACKAWANNA PLANT	LACKAWANNA	NY
0658	UNION CARBIDE CARIBE, INC. (UCCI)	PENUELAS	PR
0667	CHEVRON U.S.A. INC. (DRAFT)	PERTH AMBOY	NJ
0676	BENDIX AEROSPACE/BENDIX FLUID POWER DIVISION	UTICA	NY
0687	STEPAN COMPANY	FIELDSBORO	NJ
0694	YABUCOA SUN OIL COMPANY (SAMPLING PLAN)	YABUCOA	PR
0697	EAGLE ELECTRIC MANUFACTURING COMPANY, INC.	LONG ISLAND CITY	NY

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REGION III

PETNUM	PETNAME	CITY	ST
0368	WEIRTON STEEL CORP.	WEIRTON	WV
0373	MERCK & CO., INC.	ELKTON	VA
0377	MERCK & COMPANY, INCORPORATED	ELKTON	VA
0440	UNION CARBIDE CORPORATION	SISTERSVILLE	WV
0528	KOPPERS COMPANY, INCORPORATED	FOLLANSBEE	WV
0598	HARSCO CORPORATION	YORK	PA
0613	ARMCO/BUTLER WORKS	BUTLER	PA
0617	BETHLEHEM STEEL CORP. STEELTON PLANT	STEELTON	PA
0639	SHARON STEEL	SHARON	PA
0650	KELLER EXTRUSIONS OF VIRGINIA	MILFORD	VA
0672	G.R.O.W.S., INC.	MORRISVILLE	PA
0673	ALLIANCE OF TEXTILE CARE ASSOC.	WASHINGTON	DC
0679	UNION CARBIDE CORPORATION/HOLZ IMPOUNDMENT	SOUTH CHARLESTON	WV
0681	BETHLEHEM STEEL CORPORATION	JOHNSTOWN	PA
0688	ROANOKE ELECTRIC STEEL CORPORATION	ROANOKE	VA
0691A	STOREYS TRANSPRINTS, INC.	HARRISONBURG	VA
0691B	STOREYS TRANSPRINTS, INC.	COLONIAL HEIGHTS	VA
0693	WHELLING-PITTSBURGH STEEL CORPORATION	WHEELING	WV

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REGION IV

PETNUM	PETNAME	CITY	ST
0316	GENERAL ELECTRIC COMPANY	HENDERSONVILLE	NC
0583	EMCO, INC.	EAST GADSDEN	AL
0587	GENERAL ELECTRIC COMPANY	FLORENCE	SC
0590	BOMMER INDUSTRIES, INC.	LANDRUM	SC
0622	O&S PLATING CO.	GLEASONT	TN
0635	NAVAL CONSTRUCTION	GULFPORT	MS
0636	ETC/MOLEX INCORP	ST. PETERSBURG	FL
0640	JOHN BOYLE & COMPANY, INC.	STATESVILLE	NC
0651	FAULTLESS HARDWARE DIVISION/AXIA ENTERPRISE	HOPKINSVILLE	KY
0657A	UNIVERSAL FASTENERS CENTERVILLE FACILITY	CENTERVILLE	TN
0657B	UNIVERSAL FASTENERS LAWRENCEBURG FACILITY	LAWRENCEBURG	KY
0662	GOODYEAR TIRE AND RUBBER COMPANY	RANDLEMAN	NC
0666	TENNESSEE EASTMAN COMPANY (TEC)	KINGSPORT	TN
0668	VIRGINIA CHEMICALS INCORPORATED	LEEDS	SC
0669	VIRGINIA CHEMICALS INCORPORATED	BUCKS	AL
0670	GENERAL ELECTRIC COMPANY	LOUISVILLE	KY
0675	REYNOLDS METALS COMPANY	SHEFFIELD	AL
0678	VAW OF AMERICA INCORPORATED	ST. AUGUSTINE	FL
0682	MASON CHAMBERLAIN INC/ARMY AMMUNITION PLANT	NSTL BASE	MS
0690	BFG INTERMEDIATES COMPANY INC.	CALVERT CITY	KY
0699	NORTH AMERICAN PHILIPS CONSUMER ELECT. CORP.	KNOXVILLE	TN
0700	ASHLAND PETROLEUM COMPANY	ASHLAND	KY

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REGION V

PETNUM	PETNAME	CITY	ST
0237	ROCK ISLAND REFINING CORP.	INDIANAPOLIS	IN
0269	DELCO MORAINÉ DIV/GMC	DAYTON	OH
0334	FISHER BODY-DIVISION OF GENERAL MOTORS C	FLINT	MI
0366	MIDWEST STEEL	PORTAGE	IN
0367	MIDWEST STEEL	PORTAGE	IN
0456	STANDARD OIL COMPANY	LIMA	OH
0469	STANDARD OIL COMPANY	OREGON	OH
0492	WASTE RESEARCH & RECLAMATION	EAU CLAIRE	WI
0506	UNITED STATES STEEL CORP. GARY WORKS	GARY	IN
0539	FEDERAL CARTRIDGE CORPORATION	ANOKA	MN
0540	CONTINENTAL STEEL CORP.	KOKOMO	IN
0549	S.K. WELLMAN CORPORATION	BEDFORD	OH
0556	ARVIN AUTOMOBILE .	MOUNT VERNON	IN
0559A	ELI LILLY AND COMPANY CLINTON LABORATORIES	CLINTON	IN
0559B	ELI LILLY AND COMPANY CLINTON LABORATORIES	CLINTON	IN
0564A	ELI LILLY AND COMPANY	CLINTON	IN
0566	CONTINENTAL STEEL CORPORATION	KOKOMO	IN
0573	BRUSHWELLMAN INCORPORATED	ELMORE	OH
0575	WICKES MECHANICAL COMPONENTS DIVISION	MANCELONA	MI
0580	TAU LABORATORIES, INDIANA, INC.	KOKOMO	IN
0584	MCGRAW-EDISON COMPANY	ALBION	MI
0585	AMERICAN RECOVERY CO., INC.	EAST CHICAGO	IN
0591	CITY OF BELLEFONTAINE/D.A.B. INDUSTRIES	BELLEFONTAINE	OH
0621	PHILWAY PRODUCTS INCORPORATED	ASHLAND	OH
0627	RAYMARK INDUSTRIAL DIVISION	CRAWFORDSVILLE	IN
0629	RANCO	DELAWARE	OH
0630	NATIONAL METALWARES, INC.	LASALLE	IL
0633	QUANEX CORPORATION/MI SEAMLESS TUBE DIVISION	SOUTH LYON	MI
0643	VULCAN MATERIALS COMPANY	PORT EDWARDS	WI
0646	GENERAL MOTORS CORPORATION FLINT OPERATIONS	FLINT	MI
0652	ALLEGAN METAL FINISHING COMPANY	ALLEGAN	MI
0655	UNION CARBIDE-LINDE DIVISION	ASHTABULA	OH
0663	MARQUETTE ELECTRONICS, INC.	MILWAUKEE	WI
0671	NSM, INC.	OGLESBY	IL
0680	APOLLO PLATING, INC.	ROSEVILLE	MI
0683	JAY PLASTICS, INC.	MANSFIELD	OH
0695	STANDARD OIL (SAMPLING PLAN)	CLEVELAND	OH
0698	KAISER ALUMINUM & CHEMICAL CORPORATION	TOLEDO	OH

REGION VI

PETNUM	PETNAME	CITY	ST
0261	TEXACO USA	PORT NECHES	TX
0286	BELL HELICOPTER TEXTRON, INC.	FORT WORTH	TX
0344	LAKE CITY ARMY AMMUNITION PLANT	INDEPENDENCE	MO
0351	BLOOMFIELD REFINING COMPANY	BLOOMFIELD	NM
0396	EXXON COMPANY, BATON ROUGE REFINERY	BATON ROUGE	LA
0409	TEXAS EASTMAN COMPANY	LONGVIEW	TX
0453	TEXACO INCORPORATED	EL PASO	TX
0486	UNION OIL COMPANY OF CALIFORNIA	NEDERLAND	TX
0545	IBM CORPORATION	AUSTIN	TX
0563	KOPPERS CO. HOUSTON FACILITY	HOUSTON	TX
0571	GENERAL ELECTRIC COMPANY	SHREVEPORT	LA
0606	USEPA COMBUSTION RESEARCH FACILITY	JEFFERSON	AR
0625	UNION OIL COMPANY OF CALIFORNIA	NEDERLAND	TX
0648	LAKE CITY ARMY AMMUNITION PLANT	INDEPENDENCE	MO
0649	TEXAS EASTMAN COMPANY (DRAFT)	LONGVIEW	TX
0654	KAWNEER COMPANY, INC.	SPRINGDALE	AR
0660	HOLLOMAN AIR FORCE BASE	HOLLOMAN AFB	NM
0684	U.S. EPA RELEASES CONTROL BRANCH	MCDOWELL	MO
0692	CELANESE CHEMICAL COMPANY, INC/BAY CITY PLANT	BAY CITY	TX

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REGION VII

PETNUM	PETNAME	CITY	ST
0532	JOHN DEERE COMPONENT WORKS	WATERLOO	IA
0543	VIKING PUMP DIVISION\HOUDAILLE INDUSTRIES	CEDAR FALLS	IA
0578	U.S. NAMEPLATE COMPANY INC.	MOUNT VERNON	IA
0616	PUEBLO CHEMICAL & SUPPLY COMPANY	GARDEN CITY	KS
0618B	MONROE AUTO EQUIPMENT/DIV. OF TENNECO AUTO	COZAD	NE
0624	SELECT PRODUCTS CO./DIV. OF HALLMARK CARDS	LEAVENWORTH	KS
0641	THERMEX ENERGY CORPORATION	HALLOWELL	KS
0656	CLAY EQUIPMENT CORPORATION	CEDAR FALLS	IA

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REGION VIII

PETNUM	PETNAME
0542	JIM'S WATER SERVICE

CITY	ST
GILLETTE	WY

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REGION IX

PETNUM	PETNAME	CITY	ST
0615	U.S. AIR FORCE - ENGINEERING & SERVICES	PACIFIC OCEAN	
0677	ACME FILL CORPORATION	MARTINEZ	CA

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REGION X

PETNUM	PETNAME	CITY	ST
0393	BOEING COMMERCIAL AIRPLANE CO.	AUBURN	WA
0552	CHEVRON U.S.A. INC.	KENAI	AK
0588	BAYLINER MARINE CORPORATION	ARLINGTON	WA
0620	BOEING COMMERCIAL AIRPLANE COMPANY	AUBURN	WA

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