



North Carolina Department of Environment and Natural Resources

Dexter R. Matthews, Director

Division of Waste Management

Michael F. Easley, Governor
William G. Ross Jr., Secretary

December 8, 2004

Tim Hylla
Environmental Management Alternatives
10627 Midwest Industrial Blvd.
St Louis, MO 63132

RE: Use of nail polish in virgin paints and coatings

Dear Mr. Hylla:

This letter is in response to your request of October 8, 2004 to the North Carolina Hazardous Waste Section (HWS) concerning the use of nail polish as an effective ingredient or substitute in the manufacturing of virgin paints and coatings. Environmental Management Alternatives (EMA) is trying to market the nail polish as a commercial raw material without manifesting it as a hazardous waste.

You stated that EMA currently markets the ignitable wastes such as fingernail polish, and colognes and other household items ("nail polish material") to third parties as an effective substitute. The material has historically been managed as a hazardous waste and shipped off-site for fuel blending, incineration, and subsequent treatment. EMA has found a market for the "nail polish material" for use in fragrance-containing paints and coatings. The nail polish material does not contain any toxicants and it will be analyzed to ensure that there will be no "toxics along for the ride."

The nail polish material can be managed as a non-hazardous waste as long as EMA and its clients ensure compliance with the following rules and guidelines:

1. The nail polish material is an effective substitute used or reused in manufacturing virgin paints and coatings without prior reclamation. Thus, it is not considered a solid waste; thus it is not a hazardous waste as noted in 40 CFR 261.2(e)(1)(ii), adopted by reference at 15A NCAC 13A .0106.
2. The nail polish material must be managed as a valuable commodity. You mentioned that the nail polish material would have its own material safety data sheets (MSDS), there would be quality control procedures associated with the production of the material, that is consistent in its composition, and it is managed as a commodity. In addition, it must be properly accumulated, stored, and labeled at the generator and recycler site as a valuable product.

3. Only container and tank storage will be allowed for the storage of the nail polish material. While being stored or accumulated on-site, the nail polish material must be managed in a manner consistent with the use of commercial products.
4. Before starting this operation the HWS requires documentation to be submitted stating that there is known market for the product and that there is a contract in place to purchase the fragrance-containing paints and coatings. [9441.1989(19) US EPA Memorandum dated April 26, 1989 under "Criteria for Evaluating Whether a Waste is Being Recycled"].
5. There must be no hazardous impurities/contaminants in the nail polish materials that do not provide a beneficial contribution to the virgin paints and coatings. You stated that the nail polish material will be only ignitable waste and there will be documentation kept on-site to prove that there are no "toxics along for the ride." [9441.1989(19) US EPA Memorandum dated April 26, 1989 under Criteria same as above].
6. The nail polish material must not be speculatively accumulated. A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, if it can be shown that the material is potentially recyclable and has a feasible means of being recycled. During the calendar year (commencing on January 1) -- the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. See 40 CFR 261.1(c)(8), adopted by reference at 15A NCAC 13A .0106. EMA or the generator must maintain on site records to document that the distillate is not being accumulated speculatively.

If you have any questions you can contact Lebeed Kady of my staff at (919) 733-2178 extension 217.

Sincerely,



Elizabeth W. Cannon, Chief
Hazardous Waste Section
Division of Waste Management

cc:	Lebeed Kady	Helen Cotton	Ann Preston
	Doug Roberts	Jesse Wells	Mike Williford
	Doug Holyfield	Elisabeth Chopinet	Central Files