Mr. Christopher Jones, Director
Ohio EPA
Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

Dear Mr. Jones:

This letter is in response to your August 9, 2001 letter seeking a regulatory determination as to whether purge monomer generated from NOVA Chemicals' ("NOVA") polystyrene manufacturing process is a regulated hazardous waste when it is burned on-site for energy recovery. The issue is whether the purge monomer produced by NOVA is a byproduct, subject to regulation under RCRA when burned for energy recovery or a co-product not subject to RCRA subtitle C jurisdiction. We have reviewed the information you provided in your letter as well as additional information provided in a meeting between NOVA and my staff. Based upon this information, we have determined that NOVA's purge monomer is a co-product, produced for the general public's use and ordinarily used in the form it is produced by the process (see 40 CFR 261.1(c)(3)).

Our evaluation centered on whether the purge monomer is intentionally produced, produced to market specifications, and sold to the general public "as is" without substantial processing[1]. The production process in which raw liquid styrene monomer is polymerized to produce both the polystyrene product and the purge monomer is run under strictly controlled conditions of temperature and pressure. NOVA controls the conditions of the reaction so as to optimize both the production of the polystyrene and the production of the purge monomer. The purge monomer has value as both a feedstock for a lesser grade of polystyrene and as a fuel both in NOVA's process heaters and off-site by other parties.

Secondly, there is a history of marketing the material for an intended use with no contrary evidence of discard. NOVA's manufacturing process was specifically designed to produce a purge monomer that can be used in three ways: (1) as a chemical intermediate or raw material feedstock as part of a separate on-site manufacturing process that produces a different

[1]Letter from Michael Shapiro to Mr. Bruce S. Gelber, January 31, 1995 (faxback 11936); and 40 CFR 261.1(b)(3)

type of styrene product; (2) as a feedstock sold to third parties and used as a raw material to produce a competitive polystyrene product, such as to Deltech Corporation in Baton Rouge, Louisiana or (3) as a fuel in NOVA's on-site polystyrene production process. Recently, NOVA has identified a purchaser for their purge monomer who will use this material as a fuel. The ultimate use of the purge monomer by NOVA depends on market forces.

Also, data provided by NOVA shows that when the purge monomer is used as a fuel, it displays essentially the same characteristics as other fuel sources, such as natural gas. There is no ready inference that the purge monomer is burned to destroy unwanted and unnecessary hazardous constituents.

Please let me know if I can be of further assistance.

Sincerely yours,

Elizabeth A. Cotsworth, Director
Office of Solid Waste