

9441.1996(13)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

December 24, 1996

Mr. Norman H. Nosenchuck, Director
Division of Solid and Hazardous Materials
New York State Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233-7250

Dear Mr. Nosenchuck:

Thank you for your letter of November 18, 1996 in which you asked about the Agency's recent Solvents Study. Specifically, you wanted to know if solvents added to a paint or similar product are to be classified as regulated spent solvents based on what is printed in the Solvents Study.

The Agency regulates chemicals as spent solvents based on "solvent use," such as the ability to dissolve, mobilize, or solubilize constituents, or to be a reaction or synthesis medium (See 50 FR 53316, December 31, 1985). As you have correctly pointed out, chemicals that are reactants or ingredients in the formulation of commercial chemical products are not regulated as spent solvents, and the products themselves are not covered. This policy applies even to commercially-purchased products to which solvents have been added by the end user for viscosity adjustment, even if an unused portion of the adjusted product is later discarded.

The sentence on page 3 of the Solvents Study that states, "It is important to note, however, that solvents added as a thinner to product paints and coatings after purchase are being used for their solvent properties and, after use, will meet any applicable spent solvent listings" is incorrect. Such use is an example of addition of a solvent to modify a commercial chemical product and is thus, according to Agency policy, not a regulated

RO 14005

solvent use. Please note that this erroneous sentence also appears on page 4 of the Listing Determination Background Document that accompanied the Agency's August 14, 1996 spent solvents listing determination proposal (61 FR 42318 - 42354). The Agency will make the necessary changes in the documents in response to comments and when a final listing determination is published. In the meantime, our staff has added your letter and our response to the docket for both the listing determination proposal and for the Solvents Study.

You should be aware that addition of a spent solvent to a product should be monitored to make sure that the generator of the waste is not doing so to escape regulation. As an authorized state, you have the authority to make that determination.

Thank you for your letter. Should there be any additional questions, please have your staff contact Ron Josephson of my staff at (703)308-8890 or josephson.ron@epamail.epa.gov.

Sincerely,

David Bussard, Director
Hazardous Waste Identification Division

ATTACHMENT

New York State Department of Environmental Conservation
Division of Solid & Hazardous Materials
50 Wolf Road, Albany, New York 12233-7250
(518) 457-6934 FAX (518) 457-0629

Michael D. Zagata
Commissioner

November 18, 1996

Mr. David Bussard
Director
Hazardous Waste Identification Branch
U. S. Environmental Protection Agency
401 M-Street, S.W. (5304-W)
Washington, D.C. 20160

Dear Mr. Bussard:

We wish to thank you for recently forwarding the Study of Selected Petroleum Refining Residuals and the Solvents Study developed by EPA's Office of Solid Waste.

As a point of clarification, please note that there is one item in the Solvents Study that conflicts with prior guidance given by EPA. On the enclosed page 3 of the study, it is stated that ". . . solvents added as a thinner to product paints and coatings after purchase are being used for their solvent properties and, after use, will meet any applicable spent solvent listings." This conflicts with enclosed OSWER document number 9441.1987 (09), where Mr. Straus made no distinction between paints that have been thinned by the original supplier and those thinned by the user, and concluded that neither paint, upon being discarded, would meet the appropriate F-listed solvent classification. (Please see both the enclosed January 8, 1987 letter of inquiry and Mr. Straus' February 19, 1987 response.)

Based on this prior guidance and the enclosed December 31, 1985 Federal Register that Mr. Straus' letter appears to be based

upon, we have, for a number of years, advised the regulated community that paints legitimately thinned with F-listed solvents would not become F-listed when discarded even if the end user added the thinning solvent. Because this guidance remains in the RCRA Permit Compendium as policy, we are not expecting to revise our interpretation unless you advise us otherwise. This is an issue of some significance since the "thinning" or "cutting" of certain products with solvents is a fairly common practice.

Your review of this matter and its clarification would be appreciated .

Please call me at (518)457-6934 if we may be of assistance.

Sincerely,

Norman H. Nosenchuck, P.E.
Director
Division of Solid & Hazardous Materials

Enclosures

ATTACHMENT

QSOURCE ENGINEERING, INC.
Environmental, Mechanical and Process Engineers

January 8, 1987

Mr. Matthew Strauss
Branch Chief
Waste Characterization Branch
USEPA
401 M Street Southwest
Washington, D.C. 20460

Dear Mr. Strauss:

I am writing to request clarification on the proper classification of discarded inks, paints, and adhesives that contain listed chemicals. Much of this has been discussed with your Mr. Scarberry in a telephone conversation on December 16 1986. However, it is important for us to receive a written determination in this matter.

Several of our industrial clients use inks, paints, and adhesives that contain solvents that are listed in 40 CFR 261 Subpart D. These solvents are put into the inks, paints and adhesives by the original supplier and by the user before their use. Waste inks, paints, and adhesives are a by-product of these processes. Normally, cleaning-solvents are not mixed with their waste inks, paints, and adhesives.

Until recently we have confidently classified these waste inks, paints and adhesives as D001, ignitable hazardous waste. However, with the final rule promulgation on February 25, 1986 of revisions to 40 CFR 261 (51 FR 6537), this classification may be incorrect.

The new language in 40 CFR 261.33 suggests that any "solvent mixture/blend" that contains the listed solvents are "listed" as opposed to "characteristic" hazardous waste. Since these inks, paints, and adhesives contain such solvent mixtures/blends before

use, it appears that are "listed" hazardous wastes.

However, in a review of the 51 FR 6537 background discussion it appears that waste inks, paints and adhesives could be considered "manufacturing process wastes". As we understand this narrative these wastes are not classified by 261.33 even though the listed solvents are in the mixture. Therefore, the D001 classification seems to be the correct determination at this time. This determination was supported by Mr. Scarberry in our telephone conversation.

To summarize this matter I have prepared and attached some case scenarios with waste classifications. Please review them and acknowledge whether our determination on waste classifications are correct. If our determination is incorrect please explain the correct determination and why. Your written acknowledgment is very important to the manufacturing facilities that we are supporting.

If you need to discuss this matter further, please call me at 1-513-866-4211. Thank you for your assistance.

Sincerely,

QSOURCE ENGINEERING, INC.

Gregory A. Hemker
Vice President
Environmental Engineering

Attachment

WASTE DETERMINATIONS

CASE 1: Paint is purchased from a supplier to coat the parts produced by our plant. This paint contains 60% solvent by volume on an as received basis. It is further reduced in our plant for a final as applied solvent content of 80% by volume. Most of the solvents in this paint are listed in 40 CFR 261.31. Because of quality assurance programs unused paint is discarded at the end of each shift and at color changes. This waste paint is accumulated separate from other solvent wastes. The waste paint has a flash point of 100 oF.

Waste Classification: DOO1

NOTE: If inks or adhesives with similar solvent composition are used in a similar manor, I would classify the waste the same.

CASE 2: I have the same scenario as in Case 1, but now the waste paint is intermingled with cleaning solvent and clean-up residue. The cleaning solvent is an "F" listed material.

Waste Classification: FXXX (Select the appropriate code(s) for the solvent(s)).