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United States Environmental Protection Agency
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Office of Solid Waste and Emergency Response

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Mr. James V. Noles
General Manager, Remedial/Removal Operations Group
Four Seasons Industrial Services, Inc.
3107 South Elm-Eugene Street
P.O. Box 16590
Greensboro, North Carolina 27416-0590

This is in response to your letter of August 1, 1992, in which you asked several questions related to the classification of F003 wastes (ignitable non-toxic spent solvents). Specifically, you presented us with two scenarios: 1) the spilling of containerized spent solvent onto soil, and 2) the proper classification and applicable treatment standards for paint cleaning wastes in which xylene and acetone were used as solvents.

In the first situation described in your letter, xylene and acetone (F003) spent solvent wastes were containerized in drums for storage and ultimate incineration at a permitted treatment, storage, and disposal (TSD) facility. During loading of the drums for shipment, some of the spent solvent waste was spilled onto soil. The affected soils were excavated, containerized, sampled, and analyzed. You presented us with two questions concerning this incident:

- 1) Would this spent solvent contaminated soil be regulated as a hazardous waste?

ANSWER: Under Federal regulation, contaminated soils and other environmental media, when they contain a listed hazardous waste, must be handled as a hazardous waste until the medium no longer contains the listed waste. The determination as to whether or not the medium "contains" the listed waste or what treatment would be sufficient to remove the waste is decided by the EPA Region or authorized State agency. Please be aware that a state's laws and regulations may differ from the Federal program. In this case you should contact the State of North Carolina.

- 2) If yes, please explain why the waste mixture rule as defined in 40 CFR 261.3(a)(2)(iii) would not apply. The rule basically states that a solid waste (in this case,

the soil), mixed with a hazardous waste (in this case the solvent) . . .

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it exhibits a characteristic of a hazardous waste as identified in Subpart C, would no longer be a hazardous waste should the mixture (the contaminated soil) not exhibit a hazardous characteristic.

ANSWER: Environmental media (such as soil or ground water) are not considered wastes, and, therefore, the "mixture rule" (40 CFR 261.3(a)(2)(iii)) does not apply. However, under the Agency's "contained-in" policy, such media contaminated with listed hazardous waste must itself be treated as listed hazardous wastes until the listed waste has been removed. Please note that with regard to your reference to §261.3(a)(2)(iii), the procedures in that section have been updated in accordance with Land Disposal Restrictions rules (see answer to #4 below).

In the second situation, according to your letter, xylene and acetone are used as solvents to clean excess paint and paint sludges from tools and equipment. The wastes generated, as described in your letter (classified as F003) are subsequently placed in a drum for disposal. An analysis of the waste reveals that the waste contents from these drums do not exhibit any characteristic of hazardous waste; however, the waste has constituent levels above those specified in the Land Disposal Restrictions treatment standards for xylene and acetone (0.15 ppm and 0.59 ppm, respectively). You presented us with two questions concerning this scenario:

3) Would this spent solvent paint waste be regulated as a hazardous waste?

ANSWER: Yes. Given that this waste is a spent solvent waste that meets the listing description, it is classified under current regulations as a listed F003 waste. The listing description applies to the containerized waste, which includes both the spent solvents and the paint residual removed by the solvents in the containers.

(4) If this spent solvent paint waste sludge is a hazardous waste, how would you apply the fact that this type of spent solvent (F003) is listed in 40 CFR 261, Subpart D, due to its ignitability, and this waste no longer exhibits the ignitability characteristic?

ANSWER: From your letter and discussions our staff has had with

you, we understand your question to concern the applicability of the Land Disposal Restrictions (LDR) treatment standards to this waste and mixtures involving this waste. Thus, our response is based on this understanding of your question. The LDR treatment standards are applicable to wastes as generated. As described above, the waste as generated in the situation you present, since it has not been mixed with another solid waste, is a listed hazardous waste because of the use of solvents identified in F003, and their disposal subsequent to their being spent. The fact that the waste does not exhibit the characteristic of ignitability after storage does not alter its status as a listed waste when generated. As the Agency recently reiterated (57 FR 37210, August 18, 1992), "... such wastes cannot be land disposed until treated to meet the applicable treatment standards, and cannot be diluted to meet those treatment standards (56 FR 3871). This would also be true of mixtures involving such listed wastes, since otherwise the prohibitions would have no real meaning." Thus, the waste you have described above must be treated to meet the Land Disposal Restrictions treatment standards for constituents such as xylene and acetone if they contain levels of these constituents higher than those prescribed in the regulations and are destined for land disposal.

Thank you for your inquiry. If you have any questions concerning the solvent listings, please contact Mr. Ron Josephson of my staff at (202)260-6715. For answers to policy questions concerning the Land Disposal Restrictions, please contact Ms. Rhonda Craig at (703)308-8434.

Sincerely,
Sylvia K. Lowrance
Director
Office of Solid Waste

cc: Ken Gigliello, OWPE
Rhonda Craig, WMD
Waste Management Division Directors, EPA Regions I-X