

9444.1987(30)

JUL 21 1987

Mr. James Charley
Environmental Engineer
New United Motor Manufacturing
45500 Fremont Boulevard
Fremont, California 94538

Dear Mr. Charley:

This is in response to your letter of June 1, 1987, in which you request confirmation of the proper classification of used "paint thinner" and whether such solvent wastes are subject to the November 7, 1986, land disposal restrictions final rule. Specifically, you referred to a solvent blend called "paint thinner" which before use contains 80 percent xylene, 9 percent toluene, and 11 percent glycol ethers.

In your letter, concurrence is requested with respect to three specific questions. These questions are restated below and followed by the appropriate response.

1. "Are we correct in classifying this waste as a D001 rather than as a F003 or F005 waste?"

-- Although this solvent is used for its solvent properties, it would not be correctly classified as an F001-F005 spent solvent. In order for the waste to meet the criteria of a spent solvent mixture/blend, the solvent must include, before use, a total of ten percent or more of solvent constituents covered under Hazardous Waste numbers F001, F002, F004, and F005. Where a solvent mixture/blend (before use) contains and F003 listed solvent (i.e., xylene) and F001, F002, F004, and F005 solvent constituents, it would not constitute a listed hazardous waste unless the total of all F001, F002, F004 and F005 constituents meet the ten percent threshold. Since the concentration of toluene (an F005 listed solvent) in the solvent blend, before use, is only 9 percent, the resultant waste stream would not constitute and F001-F005 spent solvent mixture/blend. The waste "paint thinner" would be correctly classified as a D001 hazardous waste if it exhibits the characteristic of ignitability.

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2. "Are we correct in stating that this waste is not restricted under the November 8, 1986 final rule on land disposal?"

-- The hazardous wastes prohibited from land disposal effective November 8, 1986, include the F001-F005 spent solvents and certain dioxin-containing wastes. Since the "paint thinner" waste addressed in your letter does not constitute a waste covered by the spent solvent listings, you are correct in asserting that this waste would not be subject to the November 7, 1986 final rule (51 FR 40572). If this waste stream exhibits one or more of the characteristics of hazardous waste (i.e., ignitability), it will be subject to the land disposal restrictions when the Agency promulgates treatment standards for characteristic wastes by the May 1990, statutory deadline.

3. "If this waste is restricted, are there any variances provided? Specifically:
 - a) Soil contaminated with this waste
 - b) Shop rags contaminated with this waste."

The waste described above is not restricted from land disposal. However, if it were a restricted waste (i.e., as F001-F005 spent solvent), the only applicable variances are the following: 1) a 24-month statutory exemption (i.e., until November 8, 1988) from the land disposal prohibitions for solvent-containing soils generated from Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response actions and Resource Conservation and Recovery Act (RCRA) corrective actions; 2) solvent-water mixtures, solvent-containing sludges or solids, or solvent contaminated soils (non-CERCLA or RCRA corrective action) which contain less than 1% total F001-F005 solvent constituents; or 3) solvent-containing wastes from small quantity generators of 100-1000 kg/month. Soil and shop rags contaminated with solvents are only subject to a 2-year nationwide variance if they meet at least one of the above criteria.

I hope this information adequately addresses your concerns. Please feel free to contact William Fortune, of my staff at (202) 475-6715, if you have any further questions.

Sincerely,

Stephen R. Weil, Chief
Land Disposal Restrictions Branch

RO 11266