

9441.1992(24)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

August 17, 1992

Mr. Jack E. Wilson, P.E.
Vice President Engineering
The Environmental Company, Inc.
1230 Cedars Court, Suite 100
P.O. Box 5127
Charlottesville, Virginia 22905

Dear Mr. Wilson:

This is in response to your letters of May 22 and July 22, 1992, in which you request confirmation of the characterization of one of your client's waste streams. Specifically, you wish to know if a waste generated in the manufacture of polyurethane foam products is considered hazardous under the Resource Conservation and Recovery Act (RCRA).

According to your description of the process, your client sprays a base coat and a top coat of polyurethane to make their product. The base coat consists of a polyurethane resin mixture in toluene and a separate polyurethane curative mixture in ethyl acetate. When these mixtures meet in the nozzle of the spray gun, they begin reacting to form the polyurethane elastomer. The polyurethane elastomer hardens on the sprayed surface shortly after contact. The top coat is made up of a more dilute mixture of polyurethane resin in toluene as well as a more dilute mixture of polyurethane curative in toluene. These two mixtures are sprayed and react in much the same way as the base coat mixtures do.

In your letter, you stated that your client needs to clear the residual of one mixture from the nozzle of the spray gun before spraying another mixture. This is accomplished by directing the spray gun towards a waste drum and then using a top coat mixture to clear out base coat or vice versa. After the spray gun is cleared, the nozzle may be used for normal spraying applications. You wished to know if the material in the waste drum is classified as a listed hazardous waste under RCRA.

The spent solvent regulations cover those solvents that are used for their solvent properties, i.e., to solubilize, mobilize,

RO 11685

degrease, dilute, extract, etc. other constituents. (See 50 FR 53315, December 31, 1985.) The definition of spent solvent does not extend to cases in which the solvents are strictly reactants or ingredients in a commercial chemical product formulation. From what you described of the process, your client is using a product formed by the solvent-containing materials to clear the spray gun nozzle thus, the waste in the drum is not considered a listed hazardous waste according to the Federal interpretation. Our analysis, however, is based solely on the description you provided us, and assumes that your client is not, in clearing the spray gun nozzle, using either toluene or ethyl acetate for their solvent properties. We therefore reserve the right to abandon this assumption, should an inspection or other fact-specific evaluation of the process present information to lead us to a different conclusion.

You should be aware of a few provisions which could affect this interpretation. If your client uses either the resin or the curative mixture individually to clean the spray gun, the waste in the drum could be considered F003 and/or F005 hazardous waste since the solvent constituents are greater than 10% before use. If your client uses the pure solvent (such as toluene or ethyl acetate), the waste in the drum would be considered a listed hazardous waste. Moreover, if the waste in the drum, regardless of its composition or the process from which it originates, exhibits any characteristic of hazardous waste identified in 40 CFR 261.20 - 261.24 (i.e., ignitability, reactivity, corrosivity, and/or the toxicity characteristic), the waste would be considered hazardous under RCRA.

We further recommend you advise your client of the limitations of a Federal interpretation of the Federal RCRA regulations. In states which have the final authorization to operate the RCRA base program, the approved State program becomes the RCRA program in that State (RCRA § 3006). Also please be aware that the State in which you client operates may have stricter regulations than those of the Federal government (RCRA § 3009). Accordingly, we recommend you consult with the appropriate State government agency.

Thank you for your inquiry. If you have any additional questions or concerns, please call me at (202)260-4770.

Rick Brandes
Chief
Waste Identification Branch