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

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Ms. Pamela E. Savage, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart
3800 One Atlantic Center
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Atlanta, Georgia 30309

Dear Ms. Savage:

Thank you for your letter dated October 13, 1993, to Mike Petruska regarding regulation of surface impoundments under the September 10, 1992, Recycled Used Oil Management Standards. The purpose of your letter was to follow up on a November 20, 1992 meeting with Environmental Protection Agency staff in which you discussed Ravenswood Aluminum Corporation's (RAC) concerns regarding the impact of the used oil management standards on the use of surface impoundments to manage non-hazardous waste water/oil mixtures. Thank you for the detailed information you provided in response to issues discussed at the November, 1992 meeting.

According to your letter, Ravenswood operates two surface impoundments as part of the facility's waste water treatment/used oil recovery system. Your concern is that, once the used oil regulations become effective, continued use of the surface impoundments may be disallowed under the §279.12 prohibition against management of used oil in surface impoundments that are not subject to RCRA minimum technology standards for permitted (or interim status) hazardous waste surface impoundments (40 CFR Parts 264 and 265).

You ask whether continued operation could be allowed either under the 279.10(f) exemption for waste waters that contain de minimis amounts of used oil, or because Ravenswood's surface impoundments were "designed and constructed to meet RCRA minimum technology requirements." In response to your question, the following provides clarification of both the de minimis exemption (279.10(f)) and the conditional prohibition against management of used oil in surface

impoundments (279.12(a)) and explains how these provisions may apply in your situation. However, regulatory determinations such as the one you seek (i.e., specific to your client's process or products) must be made on a case-by-case basis by the appropriate State regulatory agency or EPA regional office.

Section 279.10(f) Wastewater Exemption

Under the wastewater exemption, wastewaters containing de minimis quantities of used oil are exempted from the used oil management standards (40 CFR Part 279). The de minimis exemption covers "small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or when small amounts of oil are lost to the wastewater treatment system during washing or draining operations." The exemption is intended to cover losses from drippage, minor spillage, etc., that cannot reasonably be avoided. It does not cover used oil that is intentionally introduced into the wastewater treatment system (e.g., pouring collected used oil into any part of the system).

It is difficult to determine from your letter whether the de minimis exemption would apply in your case. At a minimum, in order to qualify for the exemption, you would have to discontinue any practice of pouring used oil that is collected in tanks into your surface impoundments (as you have suggested). In addition, your letter seems to indicate that the surface impoundments are used to hold large quantities of spent coolants and lubricants. It appears from your letter that the oil/water emulsification that you spray on the aluminum ingots and rolling equipment for cooling and lubrication, is collected and recycled until spent, after which it is released to the surface impoundments. If this is the case, the spent mixture would be intentionally rather than incidentally introduced into the waste water treatment system and would therefore not be exempt under the de minimis provision. It is important to note, however, that a specific determination regarding the applicability of the de minimis exemption would have to be made on a site-specific basis by the appropriate State or Regional authority.

Section 279.12(a) Surface Impoundment Prohibition

The regulatory prohibition against management of used oil in surface impoundments states that, "used oil shall not be managed in surface impoundments or waste piles unless the units are subject to

regulation under parts 264 or 265 of this chapter." In other words, under 279.12(a), used oil may be managed in surface impoundments that have either been permitted or are authorized under interim status to manage hazardous waste in compliance with RCRA regulations. Conversely, used oil may not be managed in surface impoundments that are not permitted or are not under interim status -- even if they technically meet the minimum technology standards. (Permitted units are subject to the requirements of 40 CFR part 264 subpart K. Interim status units are subject to 40 CFR part 265 subpart K.)

Therefore, assuming the de minimis provision does not apply, Ravenswood cannot legally store or manage used oil in its surface impoundments unless those surface impoundments are operating under a RCRA permit or under interim status. You should contact John Humphries, EPA Region III, at (215) 597-7370 regarding the existing status of the surface impoundments in question at the Ravenswood site and to obtain information on obtaining a RCRA permit, if necessary.

Also, please note that EPA Regional offices and States authorized to implement the hazardous waste program make determinations regarding the requirements that apply to specific materials and facilities. Some States have programs more stringent than the Federal hazardous waste program. You may contact the appropriate Region or State with future facility-specific questions.

I hope this letter has addressed your concerns. If you have any further questions regarding the used oil management standards, please contact Eydie Pines of my staff at (202) 260-8551.

Sincerely,

David Bussard, Director
Characterization and Assessment Division

cc: John Humphries, Region III; Susan O'Keefe, Office of Regulatory Enforcement; Susan Bromm, Office of Compliance; John Rosnic, Office of Compliance