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

January 3, 1989

MEMORANDUM

SUBJECT: Status of Personnel Protective Equipment as a
RCRA Waste

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste

TO: Timothy Fields, Jr., Director
Emergency Response Division

This memo is in response to your inquiry about our planned "de minimis" rule and about the status of personnel protective clothing and other debris in the interim.

The "de minimis" rule is intended to define levels of contamination below which wastes are not hazardous. In concept, this could apply to any type of material, including clothing and debris. However, there could be some difficulty in applying this approach to all of the materials of concern to you since test methods needed to determine the level of contamination may not be appropriate for all of the materials encountered. I have asked the staff responsible for developing the rule to consider this aspect of the "de minimis" determination as they proceed.

Until the time that a "de minimis" approach is available, there are several options for dealing with contaminated clothing and other similar debris.

Since clothing and the other materials of concern are not considered solid wastes, they can be dealt with through the "contained in" policy. That is, if the hazardous contaminant can be removed, the underlying material is no longer considered to be a hazardous waste and its disposal is not restricted. As you noted in your memo, this may not be appropriate in all situations, since it

may generate large volumes of contaminated rinsate which must be treated before disposal.

Where it is impossible or impractical to remove the contamination, the materials must be treated in accordance with the applicable land disposal restriction (LDR) standards and other applicable requirements of Subtitle C. If the waste is one for which treatment standards have been set, the material must be treated to the applicable LDR levels, or a treatability variance must be granted. The determination of which option is more appropriate will depend on the nature of the underlying material and on the treatment methods available.

If the method of treatment necessary to meet the LDR treatment standards is inappropriate for the material in question, another method of treatment can be proposed through treatability variance. Since the underlying materials vary greatly, it is not possible to give general guidance on what methods of treatment are appropriate in these circumstances. This decision must be made on a case by case basis.

If the waste in question is a soft hammer waste, as is the case in the situation described in the Region V memo which you attached, then the soft hammer provisions described in the August 17, 1988 Federal Register Notice on the First Third Final Rule should be followed. You should note that, although cost may be used to some extent in determining the practicability treatment for soft hammer wastes, it is not a consideration in determining treatment for wastes which have standards in effect.

Finally, you cite the empty container rule as relevant here. While it is possible that the amount of hazardous waste remaining in a container could exceed that contained in clothing or other materials there is no "empty" rule for anything but containers, and that concept would not apply to the situations you have described.