

9442.1990(01)

MAY 3 1990

Dr. Bodo Diehn
Science and Technology Professionals
Environmental Services
Post Office Box 3128
Scottsdale, Arizona 85271

Dear Dr. Diehn:

This is in response to your letter dated March 27, 1990, requesting an interpretation regarding the regulatory status of paint spray booth air filters containing toluene and xylene.

It is my understanding that your client's painting process generates an air filter which becomes contaminated by overspray that is inherent in the paint spraying process. This filter is replaced when it becomes "spent." Your letter also indicates that your client's paint contains the solvents toluene and xylene as ingredients in the paint formulation. Your letter does not indicate that these solvents (or any other solvents listed in 40 CFR 261.31) are utilized for cleaning purposes, nor that your client's air filters capture overspray generated during paint spray booth cleaning operations.

Based on the information provided, it appears that your client is not generating spent air filters that contain a hazardous waste listed in 40 CFR 261.31. Process wastes containing solvents where the solvent is used as an ingredient in the formulation of a commercial chemical product, do not fall within the scope of the spent solvent listings. Additionally, the products themselves do not meet the listings. This point is stated in the preamble to several solvent rules (see 50 FR 53316, 51 FR 40606) as well as in the listing background document. However, should a spent solvent, (i.e., a solvent that can no longer be used for its intended purpose without first being reclaimed) be mixed with the filter, the resultant mixture is a hazardous waste pursuant to 40 CFR 261.3(a)(2)(iv).

Your letter does not provide enough information to determine if your client's air filter would exhibit any of the four characteristics of hazardous waste. Each generator is responsible for evaluating his individual waste stream to determine if it meets a listing of hazardous waste in Subpart D of 40 CFR Part 261, or if it exhibits any characteristic of hazardous waste identified in Subpart C of 40 CFR Part 261. Furthermore, State and local regulatory agencies may have regulations that are more stringent than those at the Federal level. Your client should contact the appropriate State agency to determine what, if any, additional regulations may be applicable.

Sincerely,

Original Document signed

Sylvia K. Lowrance
Director
Office of Solid Waste