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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

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Ms. Jacqueline E. Schafer  
Assistant Secretary  
(Installations and Environment)  
Department of the Navy  
Washington, D.C. 20360-5000

Dear Jackie:

Thank you for your letter of April 12, 1991, regarding issues concerning the Naval Air Station (NAS) in Pensacola, Florida. Specifically, I understand that you are troubled by the Environmental Protection Agency's (EPA's) interpretation that volatilization of solvents must be counted as solvent use in calculating a facility's ability to qualify for the solvent exemption in 40 CFR 261.3(a) (2) (iv) (B).

As you may be aware, current regulations establish that any mixture of a solid waste with a listed hazardous waste renders the mixture a hazardous waste. The purpose of this regulation is to prevent hazardous waste generators from loading the environment with pollutants by simple dilution. In 1981, however, EPA promulgated a set of regulations designed to exempt certain dilute mixtures of solvents or other listed hazardous wastes from regulation as a hazardous waste when these mixtures reach the headworks of the facility's wastewater treatment system (46 FR 56582, November 17, 1981). The purpose of the rule was to keep the large volumes of treatment sludges from falling within the scope of the listing(s) when, in fact the wastewater treatment system could handle the amount of solvents contained in the wastestream as it entered the headworks of the treatment system.

In the preamble to the rule, EPA outlined certain procedures for calculating whether a facility meets the criteria for an exemption (for example, containing no more than 25 ppm of methylene chloride in the untreated wastewater stream). EPA said that a facility must use its records of solvent consumption (such as from invoices) to establish the amount of solvent in the

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wastewater, but may subtract the amount of solvent that does not flow into the headworks of the wastewater treatment system. In a footnote to the preamble, EPA stated that the amount of solvent volatilized may not be subtracted from the calculation. This language was added to prevent facilities from qualifying for the exemption by volatilizing their solvents, and thus causing negative environmental impacts.

I appreciate very much the detailed information you have provided, showing that the wastewater mixture entering the headworks at NAS contains far less solvent than the 25 ppm threshold described in the rule. However, according to the information collected by EPA staff in our Region IV office and at Headquarters, much of the solvent used at Pensacola NAS for aircraft paint stripping volatilizes during use and is not otherwise collected. Our current regulations do not allow me the flexibility to permit a subtraction of the volatilized amount. As a result, it appears that Pensacola NAS cannot qualify for the exemption, unless the Navy can show that the solvents that do not go to the wastewater treatment system are not otherwise volatilized.

There is another important aspect to this issue. When the 25 ppm provision was promulgated, none of the solvents to which it applies was considered a suspected carcinogen. Now, however, methylene chloride is considered to be a probable human carcinogen. Any reassessment of this regulatory provision would necessarily reflect this new information and possibly further restrict this wastewater exemption.

I realize that very little solvent goes to the wastewater treatment system. The Navy has made an outstanding effort to reduce the amount of such pollutants being managed as hazardous wastes. I urge you to continue your efforts in this regard. We will continue to work with the Navy as it addresses the next steps for the Pensacola NAS.

Sincerely yours,

Original Document signed

Don R. Clay  
Assistant Administrator