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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

JUN 21 1991

Mr. Basil G. Constantelos, Director  
Environmental Affairs  
Safety-Kleen  
777 Big Timber Road  
Elgin, Illinois 60123

Dear Mr. Constantelos:

Thank you for your letter of April 17, 1991, requesting comments on a position paper on spent absorbent materials.

We have completed reviewing your paper and have included a number of comments in the enclosure to this letter for you to consider, as this is a complex area of the Resource Conservation and Recovery Act. Please note that these comments are of a generic technical nature and are therefore not specific to a given factual situation.

We appreciate the opportunity to review your position paper. The Environmental Protection Agency is glad to help ensure the safe and effective disposal of hazardous waste.

Sincerely yours,

Original Document signed

Sylvia K. Lowrance, Director  
Office of Solid Waste

Enclosure

## ENCLOSURE

The opening statement (basis) of the paper states that absorbents used to collect used oil, fuels, or solvents may not be disposed of in a sanitary landfill when they are generated by a small or large generator. This is not entirely correct. Under federal rules, a conditionally exempt small-quantity generator (SQG producing less than 100 kg/mo.) in compliance with 40 CFR 261.5 may dispose of hazardous waste in a sanitary landfill if that facility is permitted, licensed, or registered by the state to manage municipal or industrial solid waste per 40 CFR 261.5.

In the discussion pertaining to mixtures of spent absorbent and "F or U" listed hazardous waste, it says that these mixtures must be shipped and manifested as "F or U" wastes. There is an exception to this classification, however, for mixtures of listed wastes that are listed only for a characteristic. If the listed hazardous waste is mixed with contaminated absorbents (a solid waste), and those mixtures no longer exhibit a hazardous characteristic, the mixture rule exclusion in 40 CFR 261.3(a)(2)(iii) applies, and these mixtures are not classified as listed "F or U" wastes and are not subject to further regulation. The deliberate mixing of absorbent and hazardous waste to render the mixture non-hazardous may, however, be interpreted as "treatment" per 40 CFR 260.10 and may require a permit and compliance with Part 268 land disposal restrictions.

The discussion of absorbents and non-listed waste mixtures addresses mixtures involving flammable liquids. The discussion on flammable liquids, test methods, and resulting classification is hard to follow. A waste liquid or mixture containing a free liquid phase (as defined by our paint filter liquids test-method 9095) is ignitable under the Resource Conservation and Recovery Act (RCRA) if the waste (or liquid phase) has a flashpoint < 140°F using the methods specified in 40 CFR 261.21(a)(1). If the mixture has no free liquid phase, then it is considered a solid. Solids that meet the criteria in §261.21(a)(2) concerning the ability to cause fire through friction, absorption of moisture, or spontaneous chemical changes such that they ignite and burn vigorously thereby creating a hazard are classified as ignitable hazardous wastes. If a mixture of a characteristic waste absorbent has a free liquid phase with a flashpoint < 14°F, it is ignitable. If there is no free liquid phase, then the qualitative criteria for solids apply; if the mixture meets those criteria, it is classified as ignitable.

With respect to Department of Transportation (DOT) classification of these materials, please note that the definitions and criteria for hazardous materials under DOT are often different from those of RCRA hazardous wastes. RCRA hazardous wastes are, in fact, a subset of DOT hazardous materials. However, the DOT hazard classes do not directly correspond to RCRA hazard characteristics. For example, DOT

classifies materials as "flammable" if the liquid has a flashpoint < 100°F, and classifies liquids with flashpoints between 100° and 200°F as "combustible." EPA classifies hazardous wastes as "ignitable" with a flashpoint < 140°F. Therefore, some EPA ignitibles may be DOT flammable, and some may be DOT combustible, depending on flashpoint. You should consult DOT to further clarify its nomenclature and criteria.

In that same discussion of absorbent mixtures, there is also a reference to liquids containing TCLP constituents. The mixture would be classified as TC hazardous if it exceeded the regulatory levels in §261.24.

In the discussion on used oil, there also seems to be some confusion. The basis for the statement that "used oil is assumed to exhibit a characteristic of hazardous waste due to its use..." is unclear. Such a blanket statement is not supported by recently collected EPA data, which will be noticed and discussed in an upcoming used oil proposal in September. Generators are responsible for making a hazardous waste determination if they plan to dispose of used oil. If the oil or oil/absorbent mixture exhibits a hazardous characteristic, then disposal options depend on the generator's status (i.e., conditionally exempt SQG waste may be disposed of in municipal or industrial landfill that is permitted, licensed, or registered by the state). If a used oil/absorbent mixture is to be burned for energy recovery, then 40 CFR 266 Subpart E applies.