UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D.C. 20460

March 1, 1994

Mr. Thomas J. Dolce, Principal
GZA-AET Regulatory Services
140 Broadway
Providence, RI 02903

Dear Mr. Dolce:

This letter responds to your letter dated December 22, 1993, in which you requested clarification of the land disposal restrictions (LDR) requirements. Three questions were included in the letter. Each question is summarized and answered below.

1) Can spent paint that displays the characteristics of ignitability (D001) and toxicity for lead (D008) be blended and used as a hazardous waste fuel, or would it be considered illegal dilution of the lead component?

The LDR regulations require that all hazardous components in a waste stream be treated to meet the applicable treatment standards before they are land disposed. Because the waste paint would fall into the D001 high total organic constituents (TOC) subcategory, the treatment standard is expressed in 40 CFR 268.42 as required methods of treatment (fuel substitution, incineration, or recovery of organics); however, because the waste must be treated to meet the treatment standard for the hazardous lead component (assuming that because the waste failed the toxicity characteristic for lead it would also fail the extraction procedure (EP)), fuel substitution alone in this case would not be sufficient. The combustion residual must be treated to meet the treatment standard for EP lead found at 40 CFR 266.41. However, combustion would not be considered impermissible dilution of lead.

2) Technical grade toluene solvent is used to clean paint spray guns. The paint contains xylene and methyl ethyl ketone. The waste, therefore, contains toluene and xylene and methyl ethyl ketone. Does just the F001-F005 toluene treatment standard apply or do the standards for xylene and methyl ethyl ketone also apply? Does the treatment standard for D001 also apply?

The treatment standards for F001-F009 apply only to spent solvents, thus compliance would be required with only the toluene treatment standard because it is the only spent solvent component (the xylene and methyl ethyl ketone were ingredients in the paint and are thus not spent solvents). Furthermore, there is no need to meet the D001 treatment standard in addition to the F005 toluene

treatment standard because the treatment standard for the listed waste will address the hazardous characteristic of ignitability.

3) A debris is contaminated with an F005 solvent, 2-ethoxysthenol. Is it subject to the treatment standard in § 268.42, or to the alternative treatment standards for hazardous debris in § 268.45 (that references §§ 268.41 and 268.43, but does not reference § 268.42)?

While it is acceptable to meet the treatment standard in 40 CFR 268.42 for this hazardous debris, the alternative treatment standards in 40 CFR 268.45 may also be used. Section 268.42 lists those wastes for which EPA established a treatment method as the standard. The Agency fully intends that debris contaminated with those wastes be subject to the alternative debris standards.

The applicability of the alternative debris standards to debris contaminated with wastes for which EPA has specified a required method of treatment has been a source of confusion not only to you but to others as well. The confusion stems from the fact that only the wastes themselves, and not the waste constituents, are listed in 268.42. The Agency will be publishing a clarification of the confusing language of 268.45(b) (2) so that it will read; "The contaminants subject to treatment for debris that is contaminated with a prohibited listed hazardous waste are those constituents or wastes for which BDAT standards are established for the wastes under §§ 268.41, 268.42, and 268.43.".

I hope you find these responses helpful. If you have further questions, please contact Rhonda Craig of the Waste Treatment Branch on 703-308-8771.

Sincerely,

Michael Shapiro, Director
Office of Solid Waste

cc: Rhonda Craig

FaxBack # 11815