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

JUNE 10, 1994

Mr. Robert S. McLaughlin
Bond, Schoeneck & King
One Lincoln Center
Syracuse, New York 13202-1355

Dear Mr. McLaughlin:

This is in response to your letters of April 26 and October 13, 1993, in which you ask for an interpretation of the mixture rule exemption (40 CFR 261.3(a)(2)(iv)(B)) as it relates to scrubber water from the incineration of certain solvents. Specifically, you wanted to know if such scrubber water could be discharged to the headworks of a facility's wastewater treatment system under the provisions of this mixture rule exemption.

As you correctly point out, the mixture rule exemption was promulgated on November 17, 1981 to provide regulatory relief from some of the broader effects of the mixture rule regulation. The spent solvents exempted in §261.3(a)(2)(iv)(A) and (B) are small amounts discharged to wastewaters, not "principal wastestreams" (46 FR 56584, November 17, 1981). The types of spent solvents discharged to wastewater are typically from maintenance or manufacturing operations, in which small amounts of spent solvents are not easily separable from a wastewater stream or are washed down a sump or drain. Because of dilution (by other plant streams) and treatment of total plant wastewaters, the likelihood is that very little of the solvents will exist in a wastewater treatment sludge and threaten human health or the environment. Thus the Agency decided to deal with the situations mentioned above by promulgating the exemption for these wastes when they reach the headworks of the plant wastewater treatment system.

In the situation you present, spent solvents have already been separated from other plant process streams and are sent to an incinerator (or other thermal treatment unit). The scrubber water from the unit is flushed to the wastewater treatment system. In

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this case, the wastewater is not of the type described above (or in the rule). The rule itself specifically covers solvent usage and does not list F001 - F005 still bottoms or their treatment residuals. The Agency stands by the interpretation provided by Matthew Straus in a letter of December 17, 1985. No inconsistency exists between what Mr. Straus stated and Agency policy as expressed in the wastewater treatment exemption of §261.3(a)(2)(iv)(A) - (E). The other EPA regulatory interpretation letters which you provided are primarily concerned with wastes listed solely because they exhibit a characteristic. Those situations are different from the December 17, 1985 interpretation by Matt Straus at issue here.

You state in your letter your desire for "derived from" wastes (such as the scrubber water mentioned above) to have a similar mixture rule type of exemption. The Agency is in the process of examining the applicability of waste listings to a variety of wastes and the scope of the mixture and derived from rules. The Agency is currently examining this issue and is exploring alternative regulatory schemes that may be of interest to you and your clients. We will welcome comments from you at that time.

Please be aware that the environmental regulatory agency for the State in which your client's facility is located may have other more stringent regulations. You should consult with them to find out if such regulations exist and if they apply to the situation(s) you confront.

Thank you for your inquiry. If you have any other questions on this subject, please call Ron Josephson or Anthony Carrell of my staff at (202)260-4770.

Sincerely,

Michael H. Shapiro,
Director, Office of Solid Waste

cc: Larry Starfield, OGC (2366)
Mary Jones, OECA (2246)
John Gorman, EPA Region II (2AWM-HWCB)