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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 16, 1995

Mr. J. M. Stoneburner
Environmental Compliance Coordinator
DuPont Medical Products
P.O. Box 6101
Newark, DE 19714-6101

Dear Mr. Stoneburner:

This is in response to your August 4th letter to Michael Shapiro regarding a July 16, 1990 determination by EPA that used fixer generated as part of your photographic film developing process is a spent material and therefore subject to the definition of solid waste when being reclaimed. In your letter you request EPA concurrence that the used fixer is a "by-product" and therefore not subject to the definition of solid waste when being reclaimed.

Having reviewed the materials you sent to us, we continue to stand by our 1990 determination that the used fixer is a spent material. I have enclosed a recent letter to CPI Corporation that addresses a situation similar to yours. I have also enclosed a copy of a March 24, 1994 memo from the Director of the Office of Solid Waste that provides a detailed explanation of the definition of spent material.

I noted your concern that current classifications and regulations are discouraging silver recovery. I would like to understand better why that is, and what EPA might be able to do to address the issue, because we are very interested in removing barriers to environmentally sound recycling. At this time, we are actively working on revisions to the Definition of Solid Waste; the enclosed Program Plan gives an overview of the project. We are also considering a request by the Silver Coalition to remove silver from the TC.

If you would like to discuss this in greater detail in person, we would be happy to meet with you. To set up a meeting,

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please call Stephen Bergman of my staff at (202) 260-5944.

Sincerely,

Michael Petruska, Chief
Regulatory Development Branch

Attachment

DuPont Medical Products
Glasgow Business Community
P.O. Box 6101
Newark, DE 19714-6101

August 4, 1995

Michael H. Shapiro, Director
Office of Solid Waste
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Mr. Shapiro:

In our April 5, 1990 letter (copy attached), we asked for concurrence from EPA that the used fixer generated by the photographic film developing process was a "by-product." In EPA's letter (copy attached) dated July 16, 1990, you concluded that "the used photographic fixer solution meets the definition of a spent material even though it may still have enough ammonium thiosulfate to function effectively as a fixer." This conclusion was based on the belief that the used fixer was being removed from the process "as a result of contamination."

To the contrary, the used fixer is not removed because it is contaminated, but because some of the original active ingredients are depleted. In order to adequately "fix" the film, a certain balance of chemicals must be maintained in the "fixer" bath. When new chemicals are added to maintain this balance, some of the fixer overflows and this overflow becomes the "used fixer."

Unfortunately, our original letter may have led to this misinterpretation due to our mention of "spent" material. We used the analogy that at "a strength less than 135g/l, the solutions could be regarded as spent in much the same way that a used cleaning solvent would be regarded as spent even though it has some efficacy, if it could no longer achieve the same degree of cleanliness as could be obtained with virgin material." We were attempting to argue that the overflow fixer solution was still

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capable of performing the purpose for which it was manufactured. In no way did we intend to imply that the used fixer was contaminated. At lower concentrations of active ingredients the fixer could not serve the purpose for which it was manufactured: but at the concentration level where it is removed from the processor, it can serve the purpose for which it is manufactured.

Even though we did not agree with the original EPA classification, we have (with difficulty) developed our market within the regulatory restrictions imposed by this "spent material" classification. Unfortunately, these regulatory barriers are limiting wide spread and rapid expansion of this environmentally friendly and potentially cost effective approach to photographic processing. Many small customers continue to discharge waste to the drain rather than selecting a recycling option because they do not want to enter the hazardous waste regulatory system. Also, many large companies do not select a recycling option and continue to discharge to the drain because they do not want to move up to large quantity generators. Common sense says that the intention of the regulations is to encourage recycling versus disposal. However, the "spent material" classification encourages (if not requires) disposal rather than recycling.

In the attachments to this letter, we have discussed all of the relevant aspects of this issue including the regulatory barriers, a detailed explanation of the photographic process, the DuCare recycling program, the generation of the used fixer effluent stream, and our reasoning in support of a "by-product" designation.

A change from a "spent material" to a "by-product" classification can only have, a positive affect on the environment. There is no negative. Currently, many photo processing concerns remain outside the RCRA regulations by sending their used fixer to POTWs. At worst, under a "by-product" classification, they will continue to send used fixer to POTWs. At best, they will recycle the fixer and eliminate tons of effluent from the environment.

We feel that a re-examination of this issue is appropriate considering the potential benefits to the-environment. If you concur with our interpretation, tons of effluent will be eliminated from the environment without complicated and time-consuming paperwork as more printing companies select DuCare as an option.

I will contact you soon to request a meeting to discuss this issue.

Very truly yours,

J. M. Stoneburner
Environmental Compliance Coordinator

Enclosures