UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

APRIL 20, 1988

H. David Bowes, President
Finish Engineering Company, Inc.
921 Greengarden Road
Erie, PA 16501-1591

Dear Mr. Bowes:

This is in response to your letter of April 12, 1988, concerning generator determinations (i.e., "counting rules") for users of solvent stills. EPA provided a very relevant example of how the counting rules work in the preamble of the March 24, 1986, Federal Register (51 FR 10153) which I have enclosed for your information. Basically, the rules (40 CFR Section 261.5(a)) state that if a generator reclaims (e.g., distills spent solvent) but does not store the spent solvents prior to reclamation, he need only count the still bottoms. If he stores the spent solvents before reclamation, however, he must count the spent solvent as noted in 40 CFR 261.5(d)(3), but then he need not count the still bottoms.

Finally, the letter you enclosed from Mr. Claunch has been entered in the docket for EPA's Definition of Solid Waste rulemaking, and will be considered as we develop final amendments for the Definition. If you have further questions in this area, please contact Michael Petruska at 475-9888.

Sincerely,

Matthew A. Straus
Deputy Director
Characterization and Assessment Division

Enclosure

FINISH ENGINEERING CO.
Distillation Equipment · Coating Machinery

April 12, 1988

Mr. Matt Strauss
U.S. Environmental Protection Agency
Department WH562B
Room 240 SE
401 M Street
Washington, DC SW 20460

Mr. Strauss, recall within the past few weeks, I called about a letter written by Ms. Marcia E. Williams to Recyclene Products, Inc. of San Francisco, who makes solvent recovery equipment similar to our equipment. A copy of Ms. Williams letter is attached.

Regarding this letter:

Is the 100 Kg figure the determining amount left after the recycling process (residue)?

If I might answer my own question, I feel the 100 Kg is the residue. I draw my conclusion from the fact that in the dry cleaning industry, their solvents are recycled continuously but eventually leave a residue. A recent EPA regulation stipulates that their residue is the determining volume used to calculate waste.

When I called a few weeks ago, I pointed out our particular industry... manufacturers of batch and continuous small volume (5 to 500 gallons contaminated solvents per 8 hours) are being pressed by the resolution of the definition of still bottoms. The residue remaining after distillation is the topic of this letter. My associate C. Kenneth Claunch, recently wrote to the EPA on this subject. I have also enclosed a copy of his March 21 letter.

I shall phone you the week of April 19th to ask your guidance on the definition of still bottoms from our stills and how those still bottoms must be treated.

Sincerely,

H. David Bowes
President

HDB:pb
Enclosures

FINISH ENGINEERING CO.
Distillation Equipment · Coating Machinery

March 21, 1988

FEDERAL EXPRESS

U.S. Environmental Protection Agency
Public Docket, Room LG-100
401 M Street, SW
Washington, DC 20460

REFERENCE: Docket No. F-87-SWRP-FFFFF

Gentlemen:

Relative to your proposed rule published in the Federal Register, Vol. 53, No. 5, Friday, January 8, 1988, I make the following comments urging you to recognize that your proposed rule will cause (1) a huge increase in hazardous wastes, (2) an unnecessary economic burden to many industries and (3) strongly discriminates against small companies (favoring large companies).

Background: You propose to regulate under RCRA essentially all materials that are not instantly useful unless they are involved in a closed (piped, etc.) process. (The two other exceptions relating to petroleum refining and primary smelting are highly specific to those types of large industries and to the specifics of the court's ruling. The comments here are directed to the impact of your proposed ruling on the rest of the industrial world).

You are overlooking a large number of industries that involve materials, especially wash-up solvents, that are an integral part of a continuous process. They may not be large enough companies, in most cases, to have a closed (piped, etc.) loop system; but, in fact, they handle materials that nave NO ELEMENT OF DISCARD. These materials are recycled daily. They never leave the manufacturing area. For economic reasons, they must be returned to the process where they are simply separated, contaminants from unchanged virgin material, e.g. paint from solvent via heat distillation (solvent still), tramp oil from unchanged machine coolants via filtration, etc.

Following are examples:

Degreasing:

Figure 1 shows a typical metal part manufacturing process involving solvent washing - usually called degreasing. In many, many, many plants, this washing process and the solvent recovery are as integral to the overall process as is the metal machining step. There is no element of discard; it is economically foolish to consider discard. The EPA authors may have had facts from the 1970's in mind when developing their position. Solvents then were nearly free (0 to $.25 per gallon). Today, their cost is $2 to $15 per gallon. most are in the $7 range for degreasing. As a result, the solvent is not discarded (and if it is, it comes under RCRA). The solvent does not leave this manufacturing area before it is separated via solvent distillation which is the heat separation of contaminants from the unchanged. perfectly good solvent, yielding often a solid residue, and crystal clear solvent. Solvent yields to 100% are common!

Your proposed rule (p. 524) under a. (degreasing) states:

> "Here, not only is the spent solvent being disposed from the operation, but is not part of a manufacturing process at all. There is no continued extraction of material values from a raw material, but rather it is a needless waste until restored through treatment to a usable condition."

There are elements of correctness to the above quote, but relative to the original intention of Congress and to the court's opinion (Am. Mining, Congress vs. EPA), this quote (1) doesn't state the facts correctly and (2) uses extremely restrictive definitions of certain words, contrary to the court's opinion which is clearly stated. I comment:

-It is not "disposed from the operation"; it is part of the operation, usually a few feet away.

-"not part of the manufacturing process"; by the common engineering definition, it IS part of the process.

-"there is no continued extraction." Not true, simply wrong.

-"a useless waste." This material has value, usually high value. The plant manager involved considers it to be an expensive in-process stream that is easily and simply restored to full usefulness.

Coatings Manufacture

Figure 2 shows a typical paint, coatings, ink, etc. manufacturing process. Every 0.5 to 2 hours for each batch blending operation, something changes for the next batch; i.e. color change, type paint, specification, etc. The tank and equipment must be washed. This process is clearly part of the manufacturing process. I can take you to large companies wherein it is all piped to a solvent still, storage tanks, and to the blending tanks known by EPA as a loop system in a large company. However, one can visit hundreds of small companies where it is done in a batch system-- or not a closed loop by strict definition. But, in essence, the small company uses a "closed system" because the solvent NEVER LEAVES the processing area. Example: Figure 3 is a nearly exact layout of a coating manufacturer (mainly ink) in Cleveland, Tennessee. An integral part of the process is the solvent to the still and back via portable tanks for washing the blending tanks. It never leaves the manufacturing area. There is NO element of discard. This company and hundreds of others meets the intention of Congress and of the court ruling that in-process secondary materials are not to be regulated by the EPA because there is no need or right to so regulate.

What is a Waste?

The writer agrees with much of the EPA's definition of what is a waste. The use of the words "element of discard" is far too broad and subject to vast misunderstanding.

Typical Wastes

-Waste occurs if the material's original purpose is gone and can only be recovered by very complex steps, usually in some separate, central, specialized chemical processing location. Examples: off specification paints, used lubricating oils, chemically changed products (e.g. polymers vs. monomers). These and similar materials require very complex chemical and physical changing to revert to their original state. Usually so complex, it is never done.

-Waste occurs if the material's proposed purpose is different than its original purpose. A dirty oil proposed to be incinerated is obviously a waste.

What is Not a Waste

A material should not be considered a waste if it meets the following criteria:

(a) it is returned to the process without leaving the process site. There is minimal or no storage (e.g. 0 to 2 days). (This could be the sole criteria.)

(b) The returned material is essentially identical to new material; i.e. it replaces (saves) raw materials.

(c) the correction of the material so it can be returned to the process is a physical correction, not a chemical one. Examples of physical correction: filtration, distillation, centrifuge, adsorption, etc.

I urge you to reconsider your proposed ruling to allow, without regulation, the processing of in-process material discussed above.

I present several reasons for this very reasonable exception below:

1. It is simple and definable (note (a) above).

2. It will cause huge quantities of solvents to be reclaimed (over 100,000,000 gallons per year) and perhaps other materials with no risk to mankind or the EPA.

3. #2 above saves natural resources - crude oil, etc.

4. If not done, in-plant, in-process regulation by the EPA will greatly demotivate industry to do #2 and #3. The result is that such wastes will go to less desirable processes; e.g. incineration (air pollution), illegal but common dumping (little here, little there type), etc.

5. Finally, the EPA recognized the correctness of the position herein with its p. 527 (C. Exclusion …in Closed Systems …" Gentlemen, this is an exception for LARGE BUSINESSES (can afford closed systems) WHICH CLEARLY DISCRIMINATES AGAINST SMALL BUSINESSES. Such discrimination will put small businesses at an economic disadvantage. I can prove this is true. (The company in Figure 3 competes against larger companies that have a closed system still.)

Very truly yours,

FINISH COMPANY, INC.

C. Kenneth Claunch
Chief Executive Officer

CKC:kac

FaxBack # 11341