

CAFB 93

State of New Mexico

ENVIRONMENT DEPARTMENT

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**CERTIFIED MAIL -- RETURN RECEIPT REQUESTED**

September 1, 1993

Colonel Lance L. Smith  
Commander  
27th CSG/CC  
Cannon Air Force Base, New Mexico 88103

**RE: Solvent and Oil Contaminated Rags**

Dear Colonel Smith:

During a settlement meeting, held on July 8, 1993, between the New Mexico Environment Department (NMED) and Cannon Air Force Base (CAFB) officials concerning the Compliance Order (NMEWA #93-05) dated April 21, 1993, NMED committed to consult with EPA Region VI and establish an official decision on the regulatory status of solvent and oil contaminated rags, particularly those being laundered for reuse. This letter explains NMED's position on how such rags will be regulated as hazardous waste in the state of New Mexico.

On July 16, 1993, NMED sent a letter to EPA Region VI outlining its position and concerns regarding the regulation of contaminated rags. Upon receipt of this letter, and after subsequent conversations between NMED and EPA staffs, EPA responded to NMED with a letter dated August 30, 1993. In this letter EPA concurred with NMED's position on how contaminated rags should be regulated under RCRA. Further, EPA provided three memorandums from EPA Headquarters supportive of NMED's position. Specifically, NMED will regulate contaminated rags in the following manner:

1. If a spent rag contains a listed hazardous waste or exhibits a hazardous waste characteristic under any circumstance, then the rag will be regulated as a hazardous waste. NMED has not made in the past, and does not make at the present time, a distinction as to when a solvent comes into contact with the rag. Once the rag is no longer being used, it must be handled as a hazardous waste if it meets the definition of hazardous waste.

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2. Laundering of rags is considered a form of reclamation since the spent material, i.e. the rags containing the contaminants, has been used and as a result of contamination can no longer serve as a cleaning agent without first being cleaned by removing the contaminants. Therefore, rags that are stored on-site prior to shipment off-site or reclaiming on-site must be stored in compliance with the hazardous waste regulations.
3. In the case of contaminated rags being shipped to a laundry for cleaning and reuse, other regulations, such as the Clean Water Act, may apply to the wash water. However, the hazardous waste regulations apply to the rags until they are actually placed into the laundry process. The exception would be when rags are placed directly (i.e., in the same day) into an on-site laundry process after becoming spent, and the wastewater is discharged to a Publicly Owned Treatment Works (POTW).
4. Unless the generator is a conditionally exempt small quantity generator, the rags would have to be manifested as hazardous waste to a facility having an EPA identification number.

Regarding the EPA Region IV memo brought to NMED's attention, NMED provided EPA Region VI with a copy of the memo. EPA Region VI discussed its origin and intent with Region IV, and determined that the memo was for internal purposes and was not a guidance document for the regulated community. In any event, Region VI is not bound by interpretations that another Region may make on a particular issue. In fact, in a letter dated January 23, 1991 to Lance R. Miller, Division of Hazardous Waste Management, New Jersey Department of Environmental Protection, from Sylvia K. Lowrance, Director, Office of Solid Waste, EPA stated that "... the Regions and authorized States remain in the best position to determine the hazardous waste regulations' applicability in specific cases." NMED will enforce the hazardous waste regulations as it deems necessary to protect human health and the environment in New Mexico.

As per the above discussion, NMED considers the referenced compliance order to be effective as issued. Therefore, settlement negotiations should resume within fifteen (15) working days upon receipt of this letter, at a mutually agreed upon time, or the case must be assigned to a hearing officer.

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If you have any questions, please contact Mr. Edward Horst, RCRA Inspection/Enforcement Program Manager, Hazardous and Radioactive Materials Bureau at (505) 827-4308.

Sincerely,



Kathleen M. Sisneros  
Director  
Water and Waste Management Division

KMS:CGM:cm

cc: Major Jaster, 27th FW/JA, Cannon AFB  
Benito Garcia, Chief, Haz. & Rad. Materials Bureau  
Edward Horst, RCRA Insp./Enf. Program Mgr., HRMB  
Susan McMichael, Office of General Counsel, NMED