



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

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SWER 99-0827

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. G. Gregory Stephens, P.E.
Aaron Oil Company, Inc.
P.O. Box 2304
Mobile, Alabama 36652

FEB 19 1999

Dear Mr. Stephens:

Thank you for your letter of January 5, 1999, and a subsequent phone conversation with Mitch Kidwell, of my staff, concerning the regulatory status of petroleum product contained in absorbent pads under the Resource Conservation and Recovery Act (RCRA) hazardous waste management regulations. As I understand it, these absorbent pads are used to absorb a range of petroleum products (e.g., gasoline, kerosene, fuel oil, etc.), resulting from a variety of activities including spill cleanups and the cleaning of product tanks and containers. Your facility processes these pads to recover the petroleum products. These petroleum products are then sent on either for further processing (including reprocessing by a petroleum refinery) or for burning as fuels, which is their intended use. The recovered petroleum products are never disposed of.

Your assessment of the regulatory status of the absorbent pads containing petroleum product, as well as the recovered petroleum products themselves, is correct. These materials are excluded from the definition of solid waste and are not subject to regulatory controls under the RCRA hazardous waste regulations. You are correct in interpreting 40 CFR 261.2(c)(3) as it pertains to off-specification commercial chemical products being reclaimed. Also, I would note that, as it states in 40 CFR 261.33(d), residues from spill cleanups are considered to be off-specification products for the purposes of our regulations. In addition, commercial chemical products that are not specifically listed in 40 CFR 261.33 have the same regulatory status as those commercial chemical products that are listed when using Table 1 in 40 CFR 261.2 to determine the regulatory status of a material being recycled (see 50 FR 14219, April 11, 1985).

Also, as you are aware, the regulatory determination presented in this letter is for the Federal hazardous waste regulatory program. Most State regulatory agencies are authorized to implement the hazardous waste program in lieu of the Federal program and State regulations may be more stringent than the Federal regulations. While I realize you have already received a similar confirmation of your regulatory analysis from the State of Alabama, to the extent you deal with facilities in other States, I encourage you to seek regulatory determinations from those States as well.

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Thank you for your interest in the hazardous waste regulatory program and the regulations applicable to the recycling of commercial chemical products. Should you have any further questions concerning the regulatory status of secondary materials being recycled, you may contact Mitch Kidwell, of my staff, at (703) 308-8644.

Sincerely,



Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste