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BUREAU OF PETROLEUM
STORAGE SYSTEMS

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PETROLEUM CLEANUP
SECTION 3

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November 20, 1997

Mr. Chris McGuire
Assistant General Counsel
Florida Department General Counsel
2600 Blair Stone Road
Tallahassee, Florida 32399-1024

Re: Proposed Rule Development; Rule 62-701.300, Florida Administrative Code; March 28, 1997 F.A.W.

Dear Chris:

This will confirm our past discussions regarding the proposed rule amendments referenced above. On behalf of Rinker Materials Corporation, I have previously filed a request for a rule development workshop pursuant to Section 120.54(2)(c) and Rule 28-103.002, Florida Administrative Code. In subsequent discussions we have attempted to resolve the issues without the need for a formal rule development workshop. Unfortunately, it does not appear that the Department has been able to address Rinker's concerns, and I hereby renew my request that the workshop be scheduled and held.

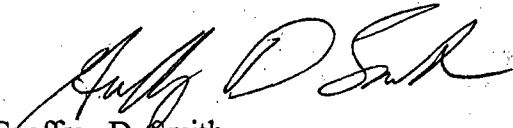
Our main concern here is consistency in Department policy. Under the proposed rule amendments, "oily wastes" including absorbents, rags, kitty litter, etc., could be disposed of in a landfill, without the necessity of laboratory analysis to determine whether or not the materials are characteristically hazardous. This is directly contrary to recent correspondence received by Rinker in response to an alternate procedures request to accept these same type materials for treatment at Rinker's thermal treatment facility (copy enclosed). Apparently, the Department will require that Rinker conduct or obtain a laboratory analysis and hazardous waste determination for each shipment of these materials received at Rinker's facility.

We request that the Department formulate a consistent policy for handling of these "oily waste" type materials. If a hazardous waste analysis is required for Rinker to manage these materials at its permitted treatment facility, then the same standard should be applied to landfills which accept the same type of materials.

Mr. Chris McGuire
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Please notify me of the Department's decision on Rinker's request for public workshop.

Sincerely,



Geoffrey D. Smith

GDS/meh

Enclosure
cc: Mike Vardeman
Raoule Clarke
Tom Conrardy

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Department of Environmental Protection

Lawton Chiles
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
October 22, 1997

Virginia B. Wetherell
Secretary

Mr. Steven C. Cullen, P.E.
Koogler and Associates, Inc.
4014 NW Thirteenth Street
Gainesville, Florida 33416

Re: Request for Approval of Alternate Procedures
Rinker Materials Thermal Treatment Facility

Dear Mr. Cullen:

The Division of Waste Management staff have reviewed your July 16, 1997 letter which requested an Approval of Alternate Procedures to allow the thermal treatment of a number of types of materials that are not considered to be "petroleum contaminated soil" as defined by Rule 62-775.200(9), F.A.C. The Hazardous Waste Regulation Section in the Bureau of Solid and Hazardous Waste and the Technical Review Section in the Bureau of Waste Cleanup jointly provided input into our determination on this matter.

A primary consideration of this request was the nature of the recordkeeping requirements for treatment and disposal of petroleum contaminated soil contained in Chapter 62-775, F.A.C. The rule does not require that records be maintained of either the source of contaminated soil or the location of disposal of treated soil. We assumed that this would be the case if the Department allowed treatment of the types of contaminated materials described in your letter.

Your letter indicated that the pre-acceptance sampling and analysis requirements of Rule 62-775.410(3) and (4), F.A.C., would be followed. Rule 62-775.410(4), F.A.C., states that "The soil must not be thermally treated pursuant to this Chapter if it is classified as a hazardous waste. If any soil is suspected of containing a hazardous waste, then screening analyses for other contaminants may include, but are not limited to the following: volatile organic halogens; corrosivity; reactivity; toxicity characteristic constituents by the TCLP, which includes metals, pesticides, and additional organics." This language which includes the word "suspected" in the rule allows discretion in determining whether additional analysis of the petroleum contaminated soil is necessary to determine whether it is a hazardous waste. Such discretion is appropriate for conventional petroleum contaminated soil because there is a deferment of petroleum contaminated media from the RCRA rules. This deferment is what allows the FDEP to regulate the treatment of petroleum contaminated soil without regard

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to Federal RCRA regulation considerations. The materials listed in your letter are not covered by this deferment.

Due to the combined considerations that the materials are not covered by the RCRA deferment provisions, and that Chapter 62-775 does not require that records be maintained of the source or nature of petroleum contaminated soil, the analysis of the contaminated materials described in your letter by TCLP would not be discretionary and would be required in all instances if we allowed the thermal treatment of those materials. A TCLP analysis would be required for each individual generator source of contaminated material. In addition, the material must not exhibit the characteristic of ignitability, corrosivity and reactivity as defined in Subpart C of 40 CFR 261. Finally, the material must not be a F001, F002, F003, F004, or F005 listed waste as defined in 40 CFR 261.31. Records would have to be maintained of the TCLP analysis results. Also, assurance would have to be provided to the Department that the soil was not classified as ignitable, corrosive, reactive or a F001 through F005 waste. It is suggested that your facility create a form for the generator of the waste to certify the waste material did not fall under any of these categories and that the form would be attached to the manifest for the material. If you are agreeable to these requirements, please notify this office in writing and we will prepare an alternate procedure order to allow the thermal treatment of the materials.

If you have any questions, please call me at (850)488-3935.

Sincerely,

Thomas W. Conrardy

Thomas W. Conrardy, P.E.
PE Administrator
Bureau of Petroleum Storage
Systems

TC/tc

cc: Mike Vardeman, Rinker Materials
John Ruddell
Satish Kastury, Hazardous Waste Regulation Section
William Neimes, Bureau of Waste Cleanup
Paul Wierzbicki, FDEP Southeast District