

9483.1986(11)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEC 19 1986

Mr. Hadley Bedbury  
Senior Environmental Engineer  
Diamond Shamrock Chemicals Company  
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Pasadena, Texas 77501

Dear Mr. Bedbury:

Thank you for your letter of August 8, 1986, in which you raised several questions related to the final hazardous waste tank systems rules (51 FR 25422).

Your first question concerned the applicability of the secondary containment requirements to production tanks during periodic cleanouts. 40 CFR 261.4(c) states that "a hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit is not subject to" the containment regulations "until it exits the unit in which it was generated, . . ., or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials." Thus, if you are able to clean out your process tank within 90 days after production or product storage is stopped, that process tank would not be considered a waste accumulation tank and, therefore, would not be subject to secondary containment standards. The waste removed, however, is subject to the hazardous waste control system if it is determined to be a hazardous waste.

A related question concerns the applicability of the hazardous waste tank system standards to process transfer equipment normally used for production purposes, but also used to transfer hazardous waste residue to either a NPDES wastewater treatment system or an onsite RCRA treatment/storage facility. Assuming it is removed within 90 days after production or product storage is stopped, the hazardous waste generated within product/raw material process tanks does not become subject to the hazardous waste tank system

standards until it exits the unit in which it was generated. The tank system standards apply to ancillary equipment used to handle the hazardous waste during transfer from its point of origin to a hazardous waste storage/treatment tank. We consider the point of exit from the process tank to be the introductory point for the hazardous waste into a hazardous waste tank system. Therefore, any process transfer equipment, even if normally used for production purposes, that is also used to transfer hazardous waste residue during equipment washout/cleanout procedures to a hazardous waste storage/treatment tank, would be considered part of a hazardous waste tank system and thus subject to the standards for such. If the hazardous waste residue is transferred to a wastewater treatment tank that is exempted from the regulations under 264.1(g)(6), the hazardous waste tank regulations now appear to apply to the ancillary equipment. The Agency is considering whether to address this issue in the near future.

Another related question concerns hose lines that are normally used in connection with product storage but are also used as loading/unloading equipment for hazardous waste. During any hazardous waste transfer operation, EPA intends that appropriate controls and practice be provided to prevent the release of hazardous waste to ground water, surface water, or soil should a leak, spill, or other incident occur during the loading/unloading process. Prior to returning hose lines that were used for this purpose to their normal use in product storage, good practice would be to clean the hoses so that all hazardous waste residues are removed or decontaminated.

Another question addresses the applicability of the closed loop recycling exclusion under 40 CFR 261.4 to tanks that are used in the reuse of materials. Given your description of the process, these reused materials that result from the incomplete conversion of raw materials to final products, would not be defined as solid wastes and thus would not be hazardous wastes (see 40 CFR 261.2(e)(1)(iii)). Thus, such reused material would not be regulated under RCRA Subtitle C.

Finally, you questioned what effect future interpretation or guidance manuals would have on the acceptability of a certification made by an independent professional engineer prior to the availability of such guidance materials. EPA is developing a technical guidance manual to assist both permit applicants and permit writers in more fully understanding the revised tank system regulations. A notice of the availability of this guidance manual will be published, in the near future, in the Federal Register. A certifying engineer, in making an assessment of a tank system, must take into account all the factors listed in Sections 264.191 and 265.191 (for existing tank systems) and Sections 264.192 and 265.192 (for new tank systems). If a tank

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system is judged by an independent, qualified, register professional engineer to be appropriate for the storage or treatment of hazardous waste, in accordance with the regulations, that certification should not be affected by guidance materials made available subsequent to the assessment.

If you need further clarification of these responses or if you have any additional questions, please call William Kline at (202) 382-7917.

Sincerely,

Joseph E. Carra  
Acting Director  
Waste Management Division

cc: Regional Hazardous Waste Branch Chiefs