

DEC 1 1992

Ref: 8EWM-HW

Mr. Marion Loomis
Executive Director
Wyoming Mining Association
Hitching Post Inn
P.O. Box 866
Cheyenne, Wyoming, 82003

Re: Regulatory Compliance Issues affecting
the Wyoming Mining Association, second
response regarding the questions raised
during the Pollution Prevention seminar

Dear Mr. Loomis:

This is an additional response to the questions raised in the WMA regulatory clarification letter and during the pollution prevention/waste minimization seminar. This response addresses the questions raised regarding waste greases, the Clean Air Act, and OSHA 1910 training requirements for SARA, CERCLA and RCRA. The staff responding to the questions have requested clarification on some of the questions. The questions are answered in the order asked, beginning with the waste grease questions from the original WMA letter and concluding with the questions asked at the seminar.

GREASE

1. In determining whether grease fits within the definition of used oil, we referred to the preamble to Part 279 (57 Federal Register 41574, September 10, 1992) used oil recycling rules. In this section, EPA refers to a three-part test to determine whether a particular material fits within the definition of used oil:

A. Used for the same purpose as used oil

According to the new used oil regulations, the definition of used oil includes "lubricants of all kinds" that are used for a purpose of lubrication and become contaminated as a result of such use. Grease is used to lubricate moving parts to avoid friction and wear, much the same as oil.

B. Usually mixed and managed in the same manner after use

Assuming used grease may legally be defined as a used oil, it would be managed in the same manner as used

oil, and in many cases, be put directly into the used oil storage container.

C. Presents the same level of hazard

A review of Material Safety Data Sheets (MSDS) and analytical data for grease indicates that both the product form and the waste form (at least as generated by coal mining operations) present the same level of hazard.

On this basis, we think used grease may properly be treated as used oil. Is this interpretation consistent with your reading of the Part 279 rules?

ANSWER Yes, we agree with your interpretation that the used grease may be considered as a used oil fuel provided that the management practice employed is recycling in accordance with 40 CFR Part 279 and not disposal. In addition, the used grease must meet the 1000 ppm total halogen criteria in 40 CFR 279.10 and 279.11.

2. In the preamble to the solvent mixture rule, EPA states that a waste is not regulated by the "F" List if the "F" List substance is an ingredient in the formulation of commercial chemical products not covered by the listing (50 Federal Register 53316, December 31, 1985). The EPA Hotline has said that products covered by the listing are limited to commercial chemical products used as solvents. Examples such as methanol used to prevent freeze-ups of cooling systems have been held by EPA to not fall within "F" Listing. On this basis, is it correct to say that grease which is formulated by the manufacturer to contain 10% or more of an "F" List ingredient is not regulated by the "F" List since it is used as a lubricant rather than a solvent?

ANSWER According to Ms. Eydie Pines at U.S. EPA Headquarters, this interpretation is similar to that applied to the ingredients used in paints and is valid unless the manufacturer has indicated in the product information that the "F" list ingredient is used for its solvent properties. When provided by U. S. EPA Headquarters, a written reference for this interpretation as it relates to paints will be forwarded.

3. Some greases used by the industry are formulated to contain ingredients which are included on the "F" List. These ingredients are part of the product as manufactured and do not exist because of mixing spent solvents into the grease. Assuming we can document this fact, is this sufficient to rebut the presumption raised by test results showing total halogens to be 1000 ppm or more (40 CFR 279.10(b)(1)(ii))?

ANSWER Yes, if you can document the use of "F" list solvents used as ingredients by the manufacturer of the grease products for other than their solvent properties as discussed in the answer to question 2 above.

SEMINAR QUESTIONS

1. How will the Clean Air act affect used oil burners?

ANSWER The responding staff, Mr. Cory Potash, Air programs section, did not fully understand the question and requested clarification. Based upon the information in the question, he offered this response:

If the facility is burning the used oil in an incinerator as a means of disposal, in terms of the Clean Air Act a facility such as this would most likely be affected by the MACT standards for hazardous waste incinerators which is scheduled to be promulgated by November 15, 2000. This depends upon the size of the facility and how the waste oil is categorized prior to burning, (spec. oil, off spec. oil, hazardous waste fuel etc...). There are many other factors that may affect this regulatory interpretation relating to the CAA and used oil burners. For additional information please contact Mr. Cory Potash at 1 800 227-8917 extension 1886.

2. What is happening to the contaminated debris regulations?

ANSWER The Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris Rule was issued on Tuesday, August 18, 1992, Federal Register Vol. 57, No. 160, pages 37194-37282. We have enclosed a copy of these regulations.

3. What are the training requirements for SARA, CERCLA, OSHA 1910 inclusion in SARA and RCRA?

ANSWER The OSHA 1910 training requirements are an OSHA requirement not an EPA requirement. OSHA 1910.120 training is required on all CERCLA listed sites, RCRA permitted sites, and all uncontrolled hazardous waste sites, including any emergency response sites.

The SARA Title III and OSHA Hazardous Communication Standards (HAZCOM) relate to the public's right to know what hazardous chemicals are being used in the work place and in the community. Each statute has separate training requirements for facility personnel working within a defined workspace. These requirements are statute specific and do not overlap between statutes

additional information regarding the statute and situation in which the regulations are being applied is needed.

4. What are the new regulations for refrigerants and coolants (R-12 and R-33)?

ANSWER Enclosed is the Final Rule Summary for the Stratospheric Ozone Protection and all applicable Federal Registers which incorporate the regulations regarding R-12 and R-22.

5. What are the records to be kept for the mining exemption under zero release? Note: The Clean Air Act did not make exemptions but OMB did. This is a conflict because the '91 law uses standards which are in direct conflict with the exemption.

ANSWER The staff, Mr. Cory Potash, responding to this question, requested additional clarification from the WMA on what is meant by zero release, the OMB exemption and which 1991 law created the conflict referred to in your question. Please contact Mr. Potash at telephone number 1 800 227-8917 extension 1886.

We are in receipt of your letter dated November 11, 1993, and will respond to the issues raised in that correspondence with an additional reply. If you have any additional questions regarding this matter, please contact Mr. Jim Kiefer or Mr. John Works of my staff at 1-800-227-8917 extension 1705 or 1799.

Sincerely,

Terry L. Anderson, Chief
Hazardous Waste Branch

Enclosures

cc: Dave Finley, WDEQ
John Sweet, WDEQ, Land Quality, Sheridan
Eric Pinke, SMO
John Geidt, SERB
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bcc: Larry Wapensky, Ch, UT/ND Section
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