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

AUG 3 2001

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Rebecca N. Fricke
Principal Engineer
URS
Radian International
P.O. box 13000
Research Triangle Park, NC 27709

Dear Ms. Fricke:

The purpose of this letter is to correct and clarify our March 30, 2001 response to your letter of January 25, 2001 (revised), in which you requested our interpretation of certain requirements in 40 CFR 265.1081 and 40 CFR 265.1087. Copies of both letters are attached.

In addressing the issue of Level 1 controls for containers, we incorrectly cited 40 CFR 264 standards instead of 40 CFR 265 standards. Your question was for generator requirements, so the cited performance standards required for the container should have been in 40 CFR 265.1087(c)(1) and (c)(2), not 40 CFR 264.1086 (c)(1) and (c)(2).

We would like to note, however, that although your question on Level 1 controls for a container specifically addressed a situation at a generator facility, our response would apply also to treatment, storage, and disposal (TSD) facilities. In other words, the use of an integral sliding top on a container at a permitted TSD facility would be acceptable provided the performance standards in 40 CFR 264.1086 (c)(1) and (c)(2) are met.

As stated in the March 30 letter, you would, of course have to check with the State regulatory agency where the TSD facility is located.

Attachments

Sincerely,

Sonya M. Sasseville

Sonya Sasseville, Chief
Permits Branch

Faxback 14568

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

MAR 30 2001

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Rebecca N. Fricke
Principal Engineer
URS
Radian International
P.O. Box 13000
Research Triangle Park, NC 27709

Dear Ms. Fricke:

This letter is in response to your letter of January 25, 2001, in which you requested clarification of the container emission controls required under 40 CFR 265.1087 for a waste consisting of solids (e.g., rags, paint filters) contaminated with solvents. As stated in your letter, the waste is hazardous and is assumed to be subject to 40 CFR 265 subpart CC. Your letter requested our interpretation of three elements of the regulations:

1) Would the waste be considered "in light material service" as defined in 40 CFR 265.1081, and what is included in the criteria of "20 percent by weight" in that definition?

2) Where is the determination of "in light material service" made?

3) Does the use of a steel, open top roll-off box equipped with either a secured tarp or an integral sliding top closure satisfy the requirements for Container Level 1 controls?

"In Light Material Service"

Subparts AA and BB to 40 CFR parts 264 and 265 include a definition for "in light liquid service," a term used to differentiate liquids with relatively highly volatile organic content from those liquids with relatively lower volatility. Because those parts addressed process vents and equipment leaks, the waste was limited to liquid wastes. For containers under subpart CC, however, the term was changed to "in light material service" to account for any waste materials that would be in a container, not just liquids.

The definition of "light material service," in 40 CFR 265.1081, includes a determination that the total concentration of pure organic constituents having a vapor pressure greater than 0.3 kPa at 20 degrees C is equal to or greater than 20 percent by weight; the same determination required for

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"in light liquid service." The definition was intended to be consistent with the NESHAP for equipment leaks. The definition of "in light liquid service"in 40 CFR part 63, subpart H, completes the definition of "in light liquid service, by adding "by weight of the total process stream." Thus, the percent by weight criterion for 'in light material service" for containers would mean the weight of the organic portion that has a vapor pressure greater than 0.3 kPa divided by the total weight of the waste. In your specific case, the weight of the waste would include all the items in the container, i.e., rags, paint filters, etc.

Point of Determination

The determination of "in light material service" is made for the waste being managed in the container, not at the point of generation. With respect to the less-than-90-day container, the vapor pressure and weight tests for the "in light material service" determination would be made on the waste as it is in the container.

Note also that satellite accumulation drums are exempt from subpart CC requirements, provided the provisions in 40 CFR 262.34(c) are met. The drums are exempt if:

- the container is located at or near the point of generation of the hazardous waste and is under the control of the operator, and
- the container is used to accumulate up to 55 gallons of the hazardous waste.

Level 1 Controls

Assuming that the waste satisfies the definition of not being "in light material service," and that the containers need therefore only meet Level 1 standards, one of the control options, and the one you are interested in, is to use a cover and closure device and to ensure that no gaps are visible into the interior of the container. Secured tarps are allowed, as stated in 40 CFR 265. An integral sliding top, such as the one described in your letter, would be acceptable provided the performance standards in 40 CFR 264.1086(c)(1) and (c)(2) are met.

You will, of course have to check with the State regulatory agency where the generator is located, as they are more familiar with your client's facility and may have more stringent standards. If you have more questions, or require clarification, please contact David Eberly at 703-308-8645.

Sincerely,

Sonya Sasseville, Acting Chief
Permits Branch

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January 25, 2001
(Revised)

Ms. Sonya Sasseville
Acting Chief - Permits Branch
Office of Solid Waste
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

RE: Interpretation of RCRA 40 CFR § 265 Subpart CC Requirements "In Light Material Service" Definition

Dear Ms. Sasseville:

The purpose of this letter is to request an interpretation regarding the definition of "in light material service" found in 40 CFR § 265.1081.

One of our clients (a large quantity generator) is interested in establishing appropriate management practices for a waste stream consisting of a mixture of rags and other solids (paint filters, masking paper, etc.) that have been in contact with solvents. The waste is a hazardous waste under several characteristic and listed (spent solvent) waste codes and is subject to Subpart CC due to the volatile organic content that is assumed to be greater than 500 ppmw (as per applicability terms in 40 CFR § 265.1083(c)(1)).

The site would like to accumulate the waste described above in a 20-25 CY (approximately 23-cubic meters) roll-off. The compliance requirements for containers greater than 0.46-cubic meters (approximately 119 gallons) in size are broken into categories based on the characteristics of the material in the container (40 CFR § 265.1087(b)(ii and iii)), as follows:

1) A container that is **not** "in light material service" follows Container Level 1 standards including specific cover requirements, inspections and other requirements (40 CFR § 265.1087(c)).

2) A container that is "in light material service" follows Container Level 2 standards which are more complex (40 CFR § 265.1087(d)).

Therefore, it is important for our client to determine if the roll-off would be considered in the "in light material service" category. The definition of "in light material service" in 40 CFR § 265.1081 is provided below:

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URS RADIAN

In light material service means the container is used to manage a material for which both of the following conditions apply: The vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20 deg C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20 deg C is equal to or greater than 20 percent by weight.

We would appreciate USEPA's response to the following questions:

1) Does the Subpart CC "in light material service" definition apply only to wastes that are liquids, similar to the definition of "in light liquid service" found in Subpart AA (40 CFR § 264.1031), such that if a waste is not a liquid, then it could not be "in light material service?"

2) Does the term "by weight" (which appears at the end of the "in light material service" definition) refer to the weight of solvent exceeding the specified vapor pressure as compared to:

   - The total weight of the waste; OR
   - The total weight of only the solvent portion of the waste.

   It is our reading that the definition is referring to 20% by weight of the waste. Thus, if we have waste as described above that has a solvent content of less than 20% by weight of the waste/solvent combination, the threshold of being "in light material service" would not yet be reached.

3) Where does the "in light material service" determination of the waste need to be made?

   - As it exists at the point of waste origination (i.e. when placed in the satellite drums at the point of generation); OR
   - As it exists in the < 90-day accumulation container where the Level 1 or Level 2 Container Standards apply.

   It is our interpretation of this rule that the determination of "in light material service" should be made based on the condition of the waste in the regulated container. The subject definition appears to be directly related to the container when it becomes subject to Subpart CC. Therefore, the condition of our client's waste as it exists in the <90-day accumulation container (roll-off) would be the determining factor.

4) Will the Container Level 1 standard, identified in 40 CFR § 265.1087 (c)(1)(ii), be met with the use a steel, open top roll-off box equipped with either a secured tarp or an integral sliding top closure that achieves the no visible gap status?

   Pending confirmation that it is not in "light material service," our client intends to use a steel roll-off container equipped with either an integral sliding top or a secured tarp.

   - Sliding Top Roll-off: The sliding top for this type of roll-off is supported by roller bearings and runs within a fixed track. Once closed, it would achieve a "no visible gap" status, effectively controlling vapors from the accumulated waste. It is intended that the top be opened only to add waste and then reclosed. Waste removal would take place at the vendor's off-site TSDF. We believe that this method of vapor control is at least equivalent to the example control of the secured tarp identified in (c)(1)(ii) and would meet the Container Level 1 standard.

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- Roll-off with Secured Tarp: Our client would also like the option of using a secured tarp cover to comply with 265.1087 (c)(1)(ii). The plan would be to use a continuous tarp cover that is secured by elastic fasteners. One of the examples given for compliance with the Container Level 1 standard is "a separate cover installed on the container (e.g., . . . a suitably secured tarp on a roll-off box)." Our client's intention is to use a waterproof fabric tarp that will completely cover the top of the roll-off box and, except when adding or removing waste, have the tarp fastened at numerous points to preclude visible holes or gaps into the interior of the container. Again, waste removal is only planned at the vendor's off-site location. Our reading of the Subpart CC regulation is that such a roll-off box and tarp combination would meet the Container Level 1 standard.

We appreciate your help in determining and providing appropriate interpretations on this issue. Please let me know if you have any questions regarding this request.

Sincerely,

Rebecca N Fricke

Rebecca N. Fricke, PE, CHMM
Principal Engineer

cc: David Eberly, EPA Office of Solid Waste