



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

July 21, 1993

E. Michael Thomas
Goodwin, Proctor and Hoar
Exchange Place
Boston, MA 02109-2881

Dear Mr. Thomas:

This is in response to your letter of November 17, 1992, addressed to Region I's Office of Regional Counsel. Your letter requested clarification of several issues relating to the treatment standards for those F-listed wastes which also exhibit a hazardous characteristic. The Region's responses are presented in the same order as set out in your letter.

1. According to 40 C.F.R. § 268.9(a) and (b), if a hazardous waste constituent has been determined to be from a listed source and also possesses a hazardous characteristic, then only the listed waste code need be entered on the LDR notification.¹ Also, the more specific treatment standard will apply.

The treatment standard for acetone as a constituent in a characteristic high TOC ignitable liquid is technology based. However, only the numerical treatment standard for acetone must be met as listed in 40 C.F.R. § 268.43, Table CCW.²

In contrast to the above scenario, when a listed waste contains a constituent which is characteristic, but not included as a constituent of the listed waste, then the waste code and the associated treatment standard for that characteristic waste must be entered on the notification, in addition to the listed waste code on the notification.³

¹ The Agency has determined that the treatment standards in effect for listed wastes are more specific than treatment standards for characteristic wastes. See 55 Fed. Reg. 22659 (June 1, 1990).

² However, one would not necessarily need to use the treatment technologies required for D001 ignitable liquids to achieve adequate treatment for acetone. Also, please note that the treatment standards for most F001-F005 constituents have been revised. See 57 Fed. Reg. 37194, 37204 (August 18, 1992).

³ e.g., lead (D008) contained in waste acetone (F003).



2. Yes, for the same reason cited above. If spent methyl ethyl ketone has been determined to be F005, then it does not need a D001 waste code. If the constituent methyl ethyl ketone has been determined to be a spent solvent, then the F005 designation is correct and the specific treatment standard listed in 40 C.F.R § 268.43, Table CCW, must be met before land disposal of such waste.

3. The same principle applies to notification requirements and biennial reporting. Only the listed waste code should be included in these documents since it is more specific. Again, if there is a constituent in the listed waste which is characteristic but is not covered under the listing, then the characteristic waste code must be reported. With regard to the manifest, federal regulations require that only the U.S. Department of Transportation (DOT) description be set out on the manifest. If the state requires the inclusion of the waste code on the manifest, then the appropriate code(s) must be entered.

I hope these comments prove useful. If you have further questions or comments please contact Elaine Stanley of my staff at 223-5515.

Sincerely,



Bruce Marshall, Chief
RCRA Support Section

cc: Joshua Secunda
Elaine Stanley

Joel

Etienne -

*Here's the letter
from Josh -*

*Please coordinate
w/ Bryan on this
Thanks*

Joel

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November 17, 1992

Deborah Brown, Esq.
Chief, RCRA/EPCRA Section
U.S. Environmental Protection Agency, Region 1
Office of Regional Counsel
JFK Federal Building
Boston, MA 02203

Dear Ms. Brown:

I am writing to inquire about the procedures for filing Land Disposal Restriction (LDR) notifications and hazardous waste manifests concerning wastes which are F-listed wastes which also exhibit a hazardous characteristic. According to 40 C.F.R. § 268.9(b),

[w]here a prohibited waste is both listed under 40 C.F.R. part 261, subpart D, and exhibits a characteristic under 40 C.F.R. part 261, subpart C, the treatment standard for the waste code listed in 40 C.F.R. part 261, subpart D, will operate in lieu of the standard for the waste code under 40 C.F.R. part 261, subpart C, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

This provision is discussed in general terms in the Third Third Preamble at 55 Fed. Reg. 22659 (June 1, 1990). However, we have been unable to find any specific discussion of how this provision would apply to F-listed wastes which also exhibit the characteristic of ignitability. Moreover, we understand that different waste management vendors reach different conclusions about the proper paperwork concerning such wastes. We therefore request confirmation of our interpretation of the LDR regulations in the following cases:

1. Is it true that F003 waste comprised solely of spent acetone (which thus is listed only for its ignitable properties) does not also need a D001 waste code entry on the LDR notification because the F003 treatment standard

GOODWIN, PROCTER & HOAR

Deborah Brown, Esq.
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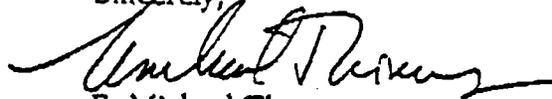
specifically addresses the constituent (acetone) that causes the ignitability, even though the technology-based treatment standard for high TOC D001 (FSUBS, RORGS or INCIN) is not precisely the equivalent of the CCW treatment standard of 160 mg/l acetone?

2. Is it true that F005 comprised solely of spent methyl ethyl ketone, which is ignitable and toxic, does not need a D001 waste code for the reason cited in Case 1 above? Is it also true that the D035 treatment standard, when published, will not need to be additionally shown on the LDR notification because the constituent (methyl ethyl ketone) causing toxicity for D035 has already been addressed in the F005 treatment standard?

3. Assuming that the F-list treatment standards operate in lieu of the characteristic treatment standards for the waste streams described above, please confirm that for all purposes other than compliance with the LDR requirements, e.g., for purposes of the hazardous waste manifests accompanying such shipments and for other descriptive purposes like Part A applications, only the F-list waste codes are necessary to provide a complete description of the waste stream.

Your assistance with this inquiry will be greatly appreciated.

Sincerely,



E. Michael Thomas