

9452.1993(03)

United States Environmental Protection Agency  
Office of Solid Waste and Emergency Response  
Washington, D.C. 20460

October 20, 1993

Mr. Jeff R. Bowman, REA  
Operations Manager  
Environmental Dynamics  
1916 Grandstand Drive  
San Antonio, Texas 78238

Dear Mr. Bowman:

Thank you for your letter dated July 16, 1993, regarding the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). I will also take this opportunity to respond to the letter your attached from Mr. Andrew B. Wallace dated March 31, 1993. I apologize for the delay in responding to both letters. In both letters, specific questions were asked regarding the hazardous waste identification and generator regulations, and I have attempted to answer each one based on the federal RCRA regulations using the information you have provided. For convenience, I have enumerated the answers to match the incoming questions.

1. Assuming that the waste you have described is a solid waste (as defined in 40 CFR 261.2), and that this waste does not meet the other definitions of ignitable in 40 CFR 261.21(a)(2) through (4), this waste does not appear to meet the definition of ignitability in 40 CFR 261.21(a)(1). You are correct in asserting that the absence of free liquids precludes the application of the ignitability characteristic as defined in 261.21(a)(1) (see footnote 1). However, you should be aware that EPA has recently proposed amending SW-846 with respect to how the presence of free liquids is determined when testing a waste for ignitability and corrosivity. I have enclosed a copy of this proposed rule, dated August 21 1993, and encourage you to comment on it if you wish. [Note: this response is applicable to the questions raised in the March 31, 1993 letter from Mr.

RO 11787

Wallace.]

2. The relative proportions of the chemicals you described in the paint stripper add up to only 90 percent. Assuming that the other 10 percent consists of inert materials that do not contribute to the function of the product, the paint stripper being disposed that you described would be classified as U080 if the methylene chloride were the sole active ingredient of the product, or as U220 if the toluene were the sole active ingredient. In each of these cases, the hazardous characteristics of this waste would need to be evaluated in order to comply with the Part 268 LDRs (see 40 CFR 262.11(c)). If both methylene chloride and toluene are active ingredients, neither listing applies and the material would need to be evaluated as to whether or not it exhibits any RCRA characteristic.
3. If the material described were used to strip paint, it would be classified as F002 and F005, due to the presence of at least 10 percent before use of each of these chemicals. The hazardous characteristics of this waste would need to be evaluated in order to comply with the Part 268 Land Disposal Restrictions (LDRs) (See 40 CFR 262.11(c)). If this particular paint stripper contains any amount of a solvent listed under F003 as well, that listing would also apply.
4. The federal RCRA regulations do not specifically address this situation. The regulations in 40 CFR 262.20(d) describe the general situation where hazardous waste shipped under a Uniform Hazardous Waste Manifest is redirected to an alternate facility. Because you are asking about compliance with a State hazardous waste manifest (the use of which is mandated by that State), I would recommend contacting the RCRA-authorized State(s) where the alternate TSD facilities are located, as well as the State in which the generator is located. Where a State is not RCRA-authorized, the EPA Regional office would be appropriate contact for making situation-specific determinations such as these.
5. The federal RCRA regulations do not specifically address this situation. The proper labelling and marking of containers is outlined in 40 CFR 262.31, 262.32, and 262.34(a). I would suggest that you label and mark

containers holding hazardous waste clearly and in a manner that avoids any confusion.

6. I cannot make any generic determinations as to whether or not the situation you described is a violation of RCRA. The federal RCRA regulations do not specify the number of drums that may be open at any one time in a container storage area. If a facility has a RCRA Part B storage permit, this permit might delineate specific procedures tailored to that particular facility. Otherwise, generators must comply with the requirement in 40 CFR 265.173(a) that containers remain closed except when adding or removing hazardous waste.
7. See number 6 above.
8. The RCRA generator regulations do not preclude the consolidation (or bulking) of several small containers into a larger container, provided the larger container is clearly labelled and marked, and the wastes are compatible. If you planned to ship the large container containing the smaller containers, you would need to ensure that this configuration meets applicable State and federal DOT requirements, and that the manifest identifies all applicable EPA hazardous waste codes.
9. The generator must designate on the manifest all of the transporters that will be used to transport hazardous waste. The federal RCRA regulations do not address the situation where, for whatever reason, another transporter not identified on the original manifest is needed to continue the transportation of the shipment. The regulations in 40 CFR 263.20(d) describe the requirements for one transporter delivering a manifested shipment to another transporter.
10. The regulation at 40 CFR 262.11(c) requires that generators must determine whether or not any listed hazardous waste also exhibits a hazardous characteristic, for purposes of compliance with the Part 268 LDRs. This is because the LDRs require that if a listed waste also exhibits one or more hazardous characteristics, the waste must be treated to meet the treatment standard for each of the waste codes, with one exception. Where the Part 268 treatment standard for a listed hazardous waste also addresses the characteristic(s)

exhibited by that waste, the treatment standard for the listed waste operates in lieu of the standard for the relevant characteristic(s). I have enclosed a copy of some preamble language from one of the final rules on LDRs (June 1, 1990 Federal Register; 55FR 22659) that explains in more detail the overlap of listed and characteristic waste codes.

With regard to how waste codes should be entered on the manifest, please note that information in the section of the Uniform Hazardous Waste Manifest for Waste Number (Section I) is not required by Federal law, but that States may require one or more waste codes in this section. Of course, the RCRA waste codes(s) may be part of the proper U.S. DOT Shipping Description, and should be entered in Line 11 if required by DOT. If you have additional questions on the U.S. DOT regulations, please contact the DOT helpline at (202) 366-4488.

11. See Number 10 above.
12. See Number 10 above.
13. The Uniform Hazardous Waste Manifest requires that the information required in Item 11 of the manifest be entered for each waste. If addition space is needed, use the appropriate continuation sheet.

Please be aware that under Section 3006 of RCRA (42 U.S.C. Section 6926) individual States can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. When States are not authorized to administer their own program, the appropriate EPA Region administers the program and is the appropriate contact for any case-specific determinations. Please also note that under Section 3009 of RCRA (42 U.S.C. Section 6929) States retain the authority to promulgate regulatory requirements that are more stringent than federal regulatory requirements.

I hope that the answers I was able to provide will help clarify some or most of your questions. In some cases I could not provide a complete answer; many of your questions appear to be derived from specific circumstances at your facility or facilities, or those of your clients. I would therefore

recommend that to the extent any of your questions are situation-specific, and particularly for the questions that I did not address completely, that you contact the State agency authorized for the hazardous waste program in the State where your facility, or your client's facility, is located. Where a State is not RCRA-authorized, the EPA Regional office would be the appropriate contact for making situation-specific determinations such as these.

If you have any additional questions concerning the information I have provided, please contact Ross Elliott of my staff at 202/260-8551. Thank you for your interest in the safe management of hazardous waste.

Sincerely,

Bruce Weddle  
Acting Director  
Office of Solid Waste

cc: Mr. Andrew B. Wallace, Environmental Dynamics, Inc.

Enclosures (2)

- 1 I should also point out that although there may be instances where a solid waste does not contain free liquids (and therefore would not be classified as D001 under §261.2(a)(1)), some type of flashpoint determination may still be required by waste management facilities as a condition of accepting the waste.