

To: Distribution
From: Joe Ledvina
Date: March 11, 1992
Subject: Benzene Waste Operations

I talked with Bob Lucas of EPA today regarding several questions that came up during our meeting on March 6. Lucas confirmed that benzene in wastewater containing less than 10 ppm or in streams treated to less than 10 ppm do not need to be included in the 1 Mg/yr. Section 61.342(c)(3)(ii)(C) says that only streams chosen for exemption in 61.342(c)(3)(ii) are included in the 1 Mg/yr. Streams that are treated to below 10 ppm are exempt under 61.342(c)(1) and streams that are less than 10 ppm without treatment are exempt under 61.342(c)(2). Since both of these are exempt for reasons other than 61.342(c)(3)(ii), the benzene in those streams does not need to be counted in the 1 Mg/yr.

It was pointed out that this interpretation may be in conflict with the recordkeeping requirements. Lucas said it was not EPA's intent to include the less than 10 ppm streams even if it is implied in the recordkeeping section. However, after carefully reading 61.356(b)(2), I am convinced there is no conflict. That section says that records substantiating that certain streams are exempt from 61.342(c)(1) under 61.342(c)(3) must be kept. This section does not say that streams exempt because they have been treated to less than 10 ppm under 61.342(c)(1) or contain less than 10 ppm benzene and are exempt under 61.342(c)(2) must be included in the 1 Mg/yr.

We discussed whether soil excavated for reasons other than a RCRA corrective action, Superfund clean-up, or voluntary clean-up is subject to Benzenewoper. Lucas said such soil is not intended to be covered by the standard. Excavation soil generated for reasons other than an on-purpose clean-up is not subject to Benzenewoper. Despite Lucas' opinion, I can't see how we could ship any waste soil containing 10 ppm benzene or more off site and not notify the disposal company. For now, our practice should be to provide notice until some rational basis for not notifying becomes apparent.

Lucas admitted that nowhere in the standard do they say when the year starts for purposes of accruing the 1 Mg/yr. He agreed, the most likely answer is that the

year starts 90 days after promulgation and runs for 365 days from that date.

We did not talk about the status of co-products such as HAD, LAC, or raw materials like kerosene. If you recall, there was a question of whether these are subject to the offsite notice provisions. It appears that notice is required and that it is EPA's intention these streams be covered by Benzenewoper.

I was also assigned some research on accidental spills. I believe the question was whether benzene in spills needs to be included in the 1 Mg/yr tabulation. I think the answer is no. On p.8318 (col. 3) of the 3/7/90 Federal Register EPA says that spills and leaks to stormwater are specifically excluded from Benzene Waste Operations. On p.8322 it goes on to say "... The benzene waste operation rule does not address the same type of emission source as Subpart J ...". Subpart J is the benzene fugitive rule which covers leaks. Also, nowhere in the recordkeeping or reporting rules is there any reference to leaks and spills. I conclude that leaks and spills are not to be included in the tabulation. I have a call into Bob Lucas at EPA asking his opinion.

Give me a call if you would like to discuss any of this.


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