



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9360.4-12

MEMORANDUM

SUBJECT: CERCLA Reporting Requirements for Releases of Ethylene Glycol from Airplane De-icing Operations

FROM: Don R. Clay
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TO: Director, Waste Management Division
Regions I, IV, V, VII, VIII
Director, Emergency and Remedial Response Division
Region II
Director, Air and Waste Management Division
Region II
Director, Hazardous Waste Management Division
Regions III, VI, IX
Director, Hazardous Waste Division
Region X
Director, Environmental Services Division
Regions I, VI, VII

PURPOSE

This directive provides the interpretation of the U.S. Environmental Protection Agency (EPA or Agency) with respect to reporting requirements under section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for ethylene glycol releases that occur in connection with airplane de-icing operations. Specifically, this directive sets forth the Agency's position on the applicability of the federally permitted release exemption and the continuous release reporting regulation to releases of ethylene glycol from airplane de-icing operations.

BACKGROUND

Ethylene glycol was added to the list of hazardous air pollutants under section 112 of the Clean Air Act (CAA) pursuant to the CAA Amendments of 1990. Under CERCLA section 101(14), any hazardous air pollutant listed under CAA section 112(b) also is a CERCLA hazardous substance and, therefore, ethylene glycol is

subject to the reporting requirements set forth in section 103 of CERCLA. Section 102(b) of CERCLA assigns a reportable quantity (RQ) of one pound to ethylene glycol unless and until the Administrator promulgates an adjusted RQ.

In addition, such releases may be reportable under section 304 of the Emergency Planning and Community Right-to-Know Act and 40 CFR 355.40 to the State emergency planning commission and the local emergency planning committee for any area likely to be affected by the release.

Ethylene glycol is used extensively by the airline industry to de-ice aircraft prior to flight. Representatives of the airline industry have expressed concern about the potential high volume and frequency of reports that may be required as a result of the statutory one-pound RQ for ethylene glycol.

OBJECTIVE

In response to airline industry concerns about CERCLA reporting requirements, EPA hereby sets forth its position on the applicability of the federally permitted release exemption and continuous release reporting regulation to releases of ethylene glycol resulting from airplane de-icing operations.

IMPLEMENTATION

CERCLA section 101(9) defines "facility" broadly. As applied to the use of ethylene glycol during aircraft de-icing, the facility arguably may include the truck applying the de-icer, the airplane to which the de-icer is applied, the entire airport, or other entities depending on individual circumstances. Currently, the person in charge of any facility from which a release into the environment of one pound or more of ethylene glycol in any 24-hour period occurs must report that release to the National Response Center (NRC). See 40 CFR 302.6(a).

The Agency's primary concern is that all such releases of ethylene glycol properly be reported in accordance with applicable regulations, whether those reports are filed by one or by several persons. Persons in charge of different facilities may coordinate their actions to ensure that releases of an RQ or more of ethylene glycol into the environment are reported. Each person in charge of a facility, however, bears the burden of ensuring that releases from that facility are reported properly and accurately.

As explained below, certain releases of ethylene glycol from airplane de-icing operations may qualify as federally permitted releases under CERCLA section 101(10). Additionally, certain such releases also may qualify for reduced reporting pursuant to

the continuous release reporting regulation under CERCLA section 103(f)(2) and 40 CFR 302.8.

Federally Permitted Releases

Federally permitted releases are defined in CERCLA section 101(10); CERCLA section 103 exempts federally permitted releases from CERCLA notification requirements. Federally permitted releases include, among others, releases specified in and in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to section 402 of the Clean Water Act (CWA) (CERCLA section 101(10)(A)), and releases into a publicly owned treatment works (POTW) when those releases are specified in and in compliance with applicable pretreatment standards and local limits issued pursuant to section 307 of the CWA (CERCLA section 101(10)(J)). Federally permitted releases may also include continuous or anticipated intermittent point source discharges, identified in an NPDES permit or permit application, where the discharge is caused by events occurring within the scope of relevant operating systems (CERCLA section 101(10)(C)). Any federally permitted release under CERCLA section 101(10) is exempt from CERCLA notification requirements.

If an ethylene glycol release to the storm water collection system is specified in and in compliance with an NPDES permit limitation (including storm water permits), that release would be federally permitted under CERCLA section 101(10)(A). Similarly, if ethylene glycol is discharged from a point source which has been specifically identified in a permit or permit application (including storm water permits and permit applications) and the discharge is continuous or anticipated intermittent and the result of normal operations, the release would be federally permitted under CERCLA section 101(10)(C). If ethylene glycol is released into a collection system leading to a POTW and is subject to and in compliance with pretreatment standards and local limits (as specified, for example, in an individual control mechanism applicable to the discharge) issued pursuant to section 307 of the CWA, the release would be federally permitted under CERCLA section 101(10)(J).

At present, because no federal permits are issued that address releases of ethylene glycol to the air or soil, no releases of ethylene glycol to those environmental media that equal or exceed the one-pound RQ in a 24-hour period come within the federally permitted release exemption.

Continuous Release Reporting

Even if releases of ethylene glycol during aircraft de-icing operations are not federally permitted, they nonetheless may qualify for reduced release reporting under the continuous release reporting regulation (40 CFR 302.8, 55 FR 30166,

July 24, 1990). This regulation applies to releases that are "continuous" and "stable in quantity and rate." EPA has defined "continuous" in 40 CFR 302.8(b) to include releases from facilities that are "routine, anticipated, and intermittent and incidental to normal operations" EPA has defined "stable in quantity and rate" in 40 CFR 302.8(b) as releases that are "predictable and regular in amount and rate of emission."

Under 40 CFR 302.8, the person in charge of a facility from which a continuous release of hazardous substances is occurring must make one telephone call to the NRC, must submit to the appropriate EPA Region a written report characterizing the release, and must submit to the appropriate EPA Region a follow-up report one year later. At other times, EPA only must be notified if there is a change in the release, or an increase in the release above the normal range during any 24-hour period, as discussed in 40 CFR 302.8(g).

For continuous release purposes only, 40 CFR 302.8(1) provides that "multiple concurrent releases of the same substance occurring at various locations with respect to contiguous plants or installations upon contiguous grounds that are under common ownership or control may be considered separately or added together in determining whether such releases constitute a continuous release" Section 302.8(1) allows the person in charge to aggregate release data from separate, contiguous, adjacent facilities or to consider each facility separately. Persons in charge, however, must aggregate multiple concurrent releases of the same substance from a particular facility, to determine if an RQ has been equaled or exceeded. (See 50 FR 13456, April 4, 1985.) Therefore, in appropriate circumstances, releases of ethylene glycol during airplane de-icing from different facilities may be considered separately or added together for purposes of continuous release reporting. For example, in appropriate circumstances, releases from a fleet of de-icing trucks, if under common ownership or control, may be aggregated for continuous release reporting purposes. In addition, in appropriate circumstances, different types of facilities (such as the de-icing trucks, the airplanes that are being de-iced, and the airport) that are owned by different entities may be regarded as under the "control" of a single entity (e.g., the airport), and releases from those facilities may be aggregated for purposes of continuous release reporting. However, as noted above, the person in charge of each separate facility bears the legal responsibility of ensuring that releases from that facility properly and accurately are aggregated with other releases under the continuous release reporting regulation, or properly are reported separately.

In the event that an airline requests additional information on the reduced reporting requirements for continuous releases, a guidance document entitled, Reporting Requirements for Continuous

Releases of Hazardous Substances: A Guide for Facilities and Vessels on Compliance, is available from the National Technical Information Service (NTIS) at (703) 487-4650. A computer diskette that facilitates reporting of continuous releases also may be obtained by telephoning the Resource Conservation and Recovery Act/Superfund Hotline at (800) 424-9346. Both the guidance document and the diskette have been provided to Regional staff.

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