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Environmental Protection Agency
1200 Pennsylvania Ave, NW
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The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on *Modernizing Ignitable Liquids Determinations; Proposed Rule*. 84 FR 12,539 (April 2, 2019). CRWI is a trade association comprised of 27 members representing companies that own and operate hazardous waste combustors and companies that provide equipment and services to the hazardous waste combustion industry.

Attached are specific comments on the proposed changes.

Thank you for the opportunity to comment on this proposed rule. If you have any questions, please contact me at (703-431-7343 or mel@crwi.org).

Sincerely yours,

Melvin E. Keener, Ph.D.
Executive Director

cc: CRWI members
D. Fagnant, EPA

Specific comments

1. Updating flash point test methods.

EPA is proposing to update Method 1010A to 1010B. This will add ASTM D 93-18 to the list of flash point methods. In addition, EPA is proposing to update Method 1020B to Method 1020C. This will add ASTM D 8174-18. CRWI supports both of these changes. We believe that these updates will bring the methods more in line with current flash point testing devices.

2. Guidance on multiphase materials

EPA is proposing to add 40 CFR 261.21(5) which they state would codify long standing guidance on how to test multiphase wastes. The proposed language is

(5) It is a multiphase mixture, where any liquid phase has the flash point described in paragraph (a)(1) of this section, or any non-liquid phase has the properties described in paragraph (a)(2) of this section.

In the preamble (12,547), the Agency states

EPA's existing guidance on multiphase mixtures, which applies at initial generation and during the course of normal management, as applicable, in SW-846 states to break up and separate phases when possible (SW-846 Chapter 2, pp 8-9).

However, when one goes to Chapter 2, the guidance on multiphase samples is not quite as simple as depicted in either the preamble or proposed language. The language from the guidance is as follows.

2.3.1.5 Multiphase samples

Choice of the procedure for separating multiphase samples is highly dependent on the objective of the analysis. With a sample in which some of the phases tend to separate rapidly, the percent weight or volume of each phase should be calculated and each phase should be individually analyzed for the required analytes.

An alternate approach is to obtain a homogeneous sample and attempt a single analysis on the combination of phases. This approach will give no information on the abundance of the analytes in the individual phases other than what can be implied by solubility.

A third alternative is to select phases of interest and to analyze only those selected phases. This tactic must be consistent with the sampling/analysis objectives or it will yield insufficient information for the time and resources expended. The phases selected should be compared with Figure 2.1 and Table 2-41 for further guidance.

As can be seen from section 2.3.1.5, the guidance allows for three alternatives depending upon the objectives of the analysis. It does not require the laboratory to “break up and separate phases when possible” as stated in the preamble but gives the facility three options depending upon the objectives of the analysis. CRWI does not have a concern about the language in the guidance document. We believe the three options in the guidance document give facilities the flexibility to match the test to the objectives of the analysis. However, we are concerned that both the regulatory language and the preamble language will force facilities to always separate the phases before testing for ignitability. We do not believe that the Agency intended to restrict these options but are concerned that the proposed language inadvertently does so. As such, we suggest that the Agency clearly state in the preamble of the final rule that all three options listed in the guidance are allowed, depending upon the objectives of the analysis, and make the following modifications to paragraph (5).

(5) It is a multiphase mixture, ~~where any liquid phase has~~ that meets the flash point criteria described in paragraph (a)(1) ~~of this section,~~ or ~~any non-liquid phase has the properties described in paragraph (a)(2) of this section.~~

3. Cross-references to DOT regulations

EPA is proposing to remove outdated and inaccurate references and notes and replace them with current ones. CRWI agrees that the specific references and notes in the proposed rule regarding Department of Transportation regulations in 40 CFR 261.21 are obsolete and need modification. We support the proposed modifications.

4. Alternatives to mercury thermometers

EPA has identified five SW-846 methods that require mercury thermometers. These are Methods 0010, 0011, 0020, 0023A, and 0051. EPA is proposing to allow the use of alternative mercury-free thermometers similar to what is allowed under the various forms of Method 5. CRWI supports this proposed modification. Stack testers routinely substitute mercury-free methods when using Method 5 and other methods. This substitution has not created any QA/QC issues and should be encouraged.