



Hazardous Waste Program Management Decision: Exclusion of Some Characteristic Wastes Under Certain Conditions

Waste/Hazardous Waste #8.01, July 2004

Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties have their own hazardous waste program authorities and may differ in their views of this decision.

Background

The MPCA will apply an existing federal hazardous waste exclusion in anticipation of adopting it into Minnesota Rules.

Before the exclusion, these wastes were considered hazardous, even when the waste did not exhibit a hazardous characteristic.

This exclusion applies to any of 29 wastes federally listed solely due to one or more characteristics of ignitability, corrosivity or reactivity when the waste no longer exhibits the subject characteristics (see Table 1).

The wastes eligible for this exclusion remain subject to evaluation for all hazardous waste characteristics.

Note that mixtures of wastes are already excluded when the waste no longer exhibits any characteristic.

Media contaminated with eligible wastes are also eligible for the exclusion when they no longer exhibit the characteristic.

Consistent with other decharacterized waste, excluded wastes may need to meet Land Disposal Restriction treatment requirements.

Example

EPA lists products containing nitroglycerin as P081 “acute” hazardous waste--based on nitroglycerin exhibiting the characteristic of “reactivity.”

However, nitroglycerin in medical dose forms does not exhibit reactivity—even at the point of manufacture.

While subject to evaluation for other characteristics, the exclusion regarding reactivity removes onerous “large quantity generator” requirements for managing as

little as 1 kg/mo of this waste and associated contaminated media that are not reactive.

Table 1.—Wastes Listed For Ignitability, Corrosivity, And/Or Reactivity

Waste Code	Description	Hazard Code
F003	Spent xylene and other non-halogenated solvents	I
K044	Wastewater treatment sludges from the manufacturing and processing of explosives	R
K045	Spend carbon from the treatment of waste-water containing explosives	R
K047	Pink/red water from TNT operations	R
P009	Ammonium Picrate	R
P081	Nitroglycerine	R
P112	Tetranitromethane	R
U001	Acetaldehyde	I
U002	Acetone	I
U008	Acrylic Acid	I
U031	n-Butyl alcohol	I
U020	Benzenesulfonyl chloride	C,R
U055	Cumene	I
U056	Chclohexane	I
U057	Cyclohexanone	I
U092	Dimethylamine	I
U096	Cumene Hydroperoxide	R
U110	Di-n-propylamine	I
U112	Ethyl Acetate	I
U113	Ethyl Acrylate	I
U117	Ethyl Ether	I
U124	Furan	I
U125	Furfural	I
U154	Methanol	I
U161	Methyl isobutyl ketone	I
U 186	1,3 Pentadiene	I
U 189	Sulfur phosphide	R
U213	Tetrahydrofuran	I
U239	Xylene	I

I = ignitability; C = corrosivity; R = reactivity

Minnesota Pollution Control Agency (MPCA) program management decision to reduce regulation for certain wastes, which no longer exhibit the hazardous characteristics for which they were originally listed.

Decision Statement: The MPCA hereby implements a decision to apply regulations equivalent to those found at Code of Federal Regulations, title 40, section 261.3(g) until the MPCA amends its hazardous waste rules to include similar provisions. This provision excludes wastes listed solely for ignitability, corrosivity, and/or reactivity, once the waste no longer exhibits the hazardous waste characteristics for which it was originally listed. The waste remains regulated if it exhibits any of the characteristics of hazardous waste described in Minn. R. 7045.0131. The MPCA plans to propose adopting this exclusion into the MPCA's hazardous waste rules in Minn. R. ch. 7045. Until the MPCA adopts this exclusion in rules, the MPCA will allow generators to follow this federal rule with certain exceptions (see the lethality characteristic discussion below).

Since Minnesota Metropolitan Area counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington have their own hazardous waste ordinances, generators in those counties should verify whether those respective hazardous waste programs will implement this decision.

Extract of subject federal rule:

“Sec. 261.3 Definition of hazardous waste.

[...]

(g)(1) A hazardous waste that is listed in subpart D of this part solely because it exhibits one or more characteristics of ignitability as defined under Sec. 261.21, corrosivity as defined under Sec. 261.22, or reactivity as defined under Sec. 261.23 is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in subpart C of this part.

(2) The exclusion described in paragraph (g)(1) of this section also pertains to:

(i) Any mixture of a solid waste and a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section; and

(ii) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (c)(2)(i) of this section.

(3) Wastes excluded under this section are subject to part 268 of this chapter (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.”

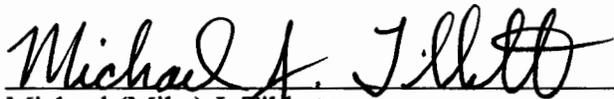
Background: The EPA amended its rules to exclude mixtures or derivatives of wastes listed as hazardous solely because they exhibit one or more characteristics of ignitability, corrosivity or reactivity when the waste no longer exhibits the characteristic for which it was originally listed. The MPCA intends to adopt this exclusion into Minnesota Rules. Meanwhile, the MPCA intends to apply the federal exclusion in Minnesota.

Wastes eligible for this exclusion remain subject to evaluation for all hazardous waste characteristics. Contaminated media are eligible for the exclusion and would no longer need to be managed as hazardous waste when the contaminated media no longer exhibits the excluded

characteristic. Consistent with the regulation of other decharacterized waste (and decharacterized contaminated media); excluded wastes may remain subject to LDR requirements.

Example: EPA originally listed products containing nitroglycerin as P081 “acute” hazardous waste based on nitroglycerin exhibiting the hazardous characteristic of “reactivity.” However, in the form of a finished medical dosage, the nitroglycerin component is so dilute that it does not exhibit reactivity — even at the point of manufacture. While this waste remains subject to proper management for any other characteristics, the non-reactive exclusion applies. This removes onerous “large quantity generator” requirements for generating just 1 kg/mo of acute waste/contaminated media.

You can find the *Federal Registers* proposing and finalizing this federal rule amendment respectively at these Web sites: <http://www.epa.gov/fedrgstr/EPA-WASTE/2001/May/Day-16/f11411.htm> and <http://www.epa.gov/fedrgstr/EPA-WASTE/1999/November/Day-19/f29067.htm>.



Michael (Mike) J. Tibbetts
Major Facilities Section Manager
Majors & Remediation Division


Date