

PPC 9441.1984(32)

HAZARDOUS WASTE CHARACTERISTIC - BASIS FOR LISTING

NOV 7 1984

Mr. Stephen S. Odojewski  
Waste Resource Associates, Inc.  
2576 Seneca Avenue  
Niagara Falls, New York 14305

Dear Mr. Odojewski:

This letter responds to your September 18, 1984 request for clarification of the RCRA regulations that apply to waste that are only hazardous on the basis of a characteristic.

If a waste that is hazardous because of a characteristic is not a listed waste, then 40 CFR 261.3(a)(2)(i) says it is not a hazardous waste when it no longer meets that characteristic. Your understanding of 40 CFR 261.3(c)(2) and 261.3(d)(1) is correct in saying that this treated waste residue is no longer hazardous when it no longer is hazardous by characteristics. The treatment itself may or may not require a RCRA facility permit, depending on if the treatment is subject to regulation. Exceptions to treatment can generally be found in §264.1(g).

On the other hand, some wastes are listed solely because of a characteristic, such as F003 (ignitables). In this case the waste is no longer hazardous when it is mixed with solid waste and the mixture does not exhibit any characteristic according to 261.3(a)(2)(iii). On the other hand, if a waste like F003 is not mixed with solid waste during treatment, 40 CFR 261.3(c)(2) and 261.3(d)(2) says the treatment residue remains a listed waste until the waste has been excluded under §§260.20 and 260.22. Specifically, 40 CFR 260.22(c) requires a "delisting" petition to demonstrate that the waste no longer meets the characteristic criteria.

I do want to point out that all but 7 States and 3 territories have programs that operate in lieu of the Federal RCRA program -- and 8 of these programs have received full authorization. When a State has been granted authority to operate the RCRA program, you are subject to the State regulations which may have a slightly

different viewpoint. The RCRA/Superfund Hotline at 800-424-9346 can send you a copy of the State hazardous waste agency addresses and phone number if you need it.

In most cases, characteristic wastes would no longer be a RCRA hazardous waste when they no longer exhibit the characteristic, except as previously mentioned. Please do not hesitate to contact me again if I may be of further assistance.

Sincerely,

Alan S. Corson  
Chief  
Studies and Methods Branch