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QUESTION: A facility with an API separator sends its effluent to surface impoundments prior to discharge at an NPDES permitted outfall. The sludge is taken to a land treatment site nearby. Precipitation run-off from the active tilling portion of the land treatment operation is collected in the impoundments. Is the waste in the impoundments deemed K051 because the effluent comes in contact with the sludge in the separator tank?

ANSWER: No; the effluent must prove to be hazardous by characteristic. K051 is the sludge generated in an API separator. The supernatant cannot be K051 by definition and separation does not constitute mixing. On April 10, 1983, OSW issued a memo describing the policy on run-off from active portions of hazardous waste management units. For land treatment units, this memo suggests that the run-off from active portions be presumed to be a hazardous waste because it is likely to have mixed with listed waste leachate. This policy, however, is currently being reevaluated due to concerns raised by industry. Comments from industry, EPA Regional offices, and States are being examined now. For additional information on this issue, contact Mike Flynn, 382-4489.

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