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RCRA/Superfund/OUST Hotline Monthly Report Question

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1. Wastewater Treatment Units: Regulatory Status of Waste

According to 40 CFR §§264.1(g)(6), 265.1(c)(10), and 270.1(c)(2)(v), wastewater treatment units (WWTUs) as defined in §260.10 are exempt from Parts 264/265 permitted and interim status requirements for treatment, storage, and disposal facilities. If the WWTU itself is exempt from Subtitle C regulation, what is the status of the hazardous waste that it treats?

As stated in an internal Agency memorandum, "[o]nly the wastewater treatment unit (i.e., the tank) is exempt; the exemption does not 'follow' or attach to the waste." Consequently, all applicable hazardous waste management standards apply to the waste prior to treatment in the WWTU, and to any residue generated by the treatment of that waste. In other words, solid waste resulting from the treatment of a listed hazardous waste in an exempt WWTU will remain a listed hazardous waste, and solid waste resulting from the treatment of a characteristic hazardous waste in an exempt unit will remain hazardous as long as the solid waste continues to exhibit a characteristic (§§261.3(c) and (d)).