

9444.1989(09)

## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

AUGUST 89

### 1. Waste Identification of Discarded Thermometers

A manufacturer of mercury thermometers produces a batch of contaminated thermometers that must be discarded. If the manufacturer discards the unused thermometers intact, would the waste need to be managed as U151 or would the manufacturer need to test the waste to see if it exhibits a hazardous waste characteristic?

40 CFR Section 261.33 contains a listing of commercial chemical products that are hazardous wastes if and when they are discarded. Under Section 261.33(d), the phrase "commercial chemical product is defined as a chemical substance which is manufactured or formulated for commercial or manufacturing use ...." Furthermore, according to the final rule preamble in the November 25, 1980 Federal Register (45 FR 78541), the Agency did not intend for the phrase commercial chemical product to apply to manufacturing articles that contain a chemical listed in Section 261.33. The intent was to regulate only those commercial chemical products and manufacturing chemical intermediates that are known by the generic name listed in Sections 261.33(c) or (f). Thus, a thermometer containing mercury is not itself a commercial chemical product and would not meet the U151 listing. The manufacturer would then need to check the discarded thermometers for the hazardous waste characteristics, specifically to see if the waste would exhibit EP toxicity and thus need to be managed as RCRA hazardous waste D009. Waste not subject to federal regulations may be regulated under specific state requirements which are more stringent.

Source: Ron Josephson (202) 475-6715

Research: Mary Beth Clary

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