



**DIRECTIVE NUMBER:** 9441.05(83)

**TITLE:** Exemptions from Presumption of Hazardousness

**APPROVAL DATE:** 7-12-83

**EFFECTIVE DATE:** 7-12-83

**ORIGINATING OFFICE:** OSW

☒ **FINAL**

☐ **DRAFT**

**LEVEL OF DRAFT**

- ☐ A — Signed by AA or DAA
- ☐ B — Signed by Office Director
- ☐ C — Review & Comment

**REFERENCE (other documents):**

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Key Words: Exclusions, Mixture Rule

Regulations: 40 CFR 260.20, 260.22 and 261.3(9)(2)(iii)

Subject: Exemptions from Presumption of Hazardousness

Addressee: J.E. Seavy, Plant Manager, Hercules Incorporated, P.O. Box 249,  
Nock Road, Burlington, N.J. 08016

Originator: Eileen B. Claussen, Acting Director, Characterization and  
Assessment Division

Source Doc: #9441.05(83)

Date: 7-12-83

Summary:

RCRA has exempted certain categories of mixtures of solid wastes and hazardous wastes from the presumption of hazardousness. Where solid waste is listed solely for exhibiting a characteristic of hazardousness and this waste is then mixed with nonhazardous wastes, a new test should be performed to determine if the mixture still exhibits hazardous waste characteristics.

As a result, it is no longer necessary to petition the Agency for exclusion of such wastes. Each generator is ultimately responsible for determining whether his/her waste exhibits any of the characteristics of a hazardous waste. If so, the waste must be managed in a manner consistent with the hazardous waste management regulations. The Agency will soon propose to revoke this provision and require all generators of listed hazardous waste to petition the Agency.

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JUL 12 1983

Mr. J.E. Seavy, Plant Manager  
Hercules, Incorporated  
P.O. Box 249  
Rock Road  
Burlington, N.J. 08016

RE: WCBLG0344

Dear Mr. Seavy:

This letter is written in reference to the exclusion petition submitted by Hercules, Incorporated of Burlington, New Jersey. Hercules requested an exclusion for the wastewater stream generated at its Burlington facility, presently listed for containing methanol, a spent solvent. This waste is produced when the solvent (EPA Hazardous Waste No. F003), which is used in the manufacturing operation, is discharged to the plant's wastewater treatment system for treatment.

On November 17, 1981, EPA amended the hazardous waste regulations under the Resource Conservation and Recovery Act to exempt certain categories of mixtures of solid wastes and hazardous wastes from the presumption of hazardousness (see 46 FR 56582). In one case certain wastes are listed in Subpart D solely because they exhibit one or more of the characteristics of hazardous waste identified in Subpart C of the regulations. Mixtures of any of these wastes and other solid wastes, prior to the amendment, were presumptively hazardous by application of the mixture rules and remained hazardous unless the waste mixtures were excluded pursuant to 40 CFR 260.20 and 260.22. The Agency has, however, exempted mixtures of solid (non-hazardous) wastes and listed (hazardous) wastes that are listed solely for exhibiting a characteristic from the presumption of hazardousness since these waste mixtures can be tested to determine whether they still exhibit the hazardous waste characteristics. Therefore, mixtures of these wastes listed solely for exhibiting a characteristic and other solid wastes are no longer considered to be presumptively hazardous.

Hercules has stated that they have reviewed the treated waste stream generated at their facility in light of the November 17, 1981, amendment to the mixture rule and have concluded that this waste would no longer be considered hazardous. The Agency has not made an independent evaluation of your situation but, rather is accepting your statement as fact.

As a result, it is no longer necessary for you to petition the Agency for exclusion of your wastes. Therefore, this letter is to indicate to you that, based on your interpretation, we are closing your file.

However, if the manufacturing or wastewater treatment system at your facility undergoes any process changes, this waste could once again be considered a hazardous waste. Each generator is ultimately responsible for determining whether his waste exhibits any of the characteristics of a hazardous waste (i.e., ignitability, corrosivity, reactivity, and EP toxicity) as described in 40 CFR 261, Subpart C. If the waste must be managed in accordance with the hazardous waste management regulations.

If I can be of any further assistance to you in this matter, please do not hesitate to contact Mr. Matthew Straus or Mr. William Sproat of my staff at (202) 382-4770.

Sincerely yours,

Eileen B. Claussen  
Director  
Office of Management, Information,  
and Analysis

cc: Ms. Sonya Shashoua  
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Division of Environmental Quality  
Solid Waste Administration  
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