



DIRECTIVE NUMBER: 9451.02(85)

TITLE: Activities That Constitute Hazardous Waste
Generation

APPROVAL DATE: 7-30-85

EFFECTIVE DATE: 7-30-85

ORIGINATING OFFICE: Office of Solid Waste

FINAL

DRAFT

STATUS: [] A- Pending OMB approval
 [] B- Pending AA-OSWER approval
 [] C- For review &/or comment
 [] D- In development or circulating

REFERENCE (other documents): headquarters

OSWER OSWER OSWER
VE DIRECTIVE DIRECTIVE DI

Key Words: Characteristics of Hazardous Waste

Regulations:

Subject: Activities That Constitute Hazardous Waste Generation

Addressee: Robert Renkes, Petroleum Equipment Institute, P.O. Box 2380,
Tulsa, Oklahoma 74101

Originator: Christian N. Hill

Source Doc: #9451.02(85)

Date: 7-30-85

Summary:

This letter describes the general hazardous waste regulations that generators need to apply in determining whether the waste they produce is hazardous.

7/30/85

WH-562B/Chris Hill/ch/md/s-242-382-4761/7-30-85

Mr. Robert Renkes
Petroleum Equipment Institute
P.O. Box 2380
Tulsa, Oklahoma 74101

Dear Mr. Renkes:

With reference to our recent telephone conversation, the determination of specific activities that constitute hazardous waste generation can often be complicated. I would like to clarify the general requirements that will allow your members to determine whether or not they produce hazardous waste; however, I must stress that each waste generating situation often requires individual interpretation, and that the ultimate responsibility for making such a determination rests with the generator. Furthermore, hazardous waste regulation varies considerably from State to State, meaning that your members should also contact their respective state hazardous waste management agencies to be certain that they are in compliance.

To begin the discussion with tank trucks and underground storage tanks, assuming that a steam cleaning process is used (i.e., the cleaning solution itself is not hazardous), the hazardousness of the waste stream produced is dependent on the original contents of the tank, as well as whatever else happens to be in the tank (i.e., sludge, dirt etc.). Under current regulations, if the tank contains a listed hazardous waste, or a waste which meets one of the EPA defined characteristics of hazardous waste (see enclosed 40 CFR Part 261) in a quantity of less than 1000 kilograms* (2200 pounds), then unless the resultant mixture meets a characteristic of hazardous waste, that original quantity only is counted as hazardous waste, while any non-hazardous cleaning fluid added to it is not counted. If, however, other hazardous waste is produced at the site of generation such that the total quantity generated exceeds the 1000 kg/mo exclusion level, then any waste that is a mixture of a listed hazardous

*Acutely hazardous wastes are subject to different quantity exclusion levels--see 40 CFR 261.5(e).

waste and a cleaning solution is also counted as hazardous, even though the mixture itself may not exhibit a characteristic of hazardous waste (there are some exceptions to this rule-- see 40 CFR 261.3 for more detail). In this case, all of the waste that is counted as hazardous is subject to full regulation under RCRA.

To use your example, since gasoline is hazardous because of its characteristic of ignitability, and technically does not mix with water, if 99 gallons of water are used to remove 1 gallon of gasoline from a tank, only the gasoline is counted as hazardous waste, while the water is not. Similarly, a sludge that exhibits a characteristic of hazardous waste, and is removed from a storage tank, is counted as hazardous, while any cleaning fluid is not, unless the resulting mixture itself exhibits a characteristic of hazardous waste, in which case the entire mixture is counted. A listed hazardous waste is always counted as hazardous, and if the total quantity of hazardous waste generated at a site exceeds 1000 kg/mo, then any cleaning fluid that has been mixed with a listed hazardous waste is, in most cases, also counted as hazardous.

In regard to contaminated soils and clean-up of spills, I cannot be as specific. Analysis of each situation involves a number of factors, including the type and quantity of material that is spilled, the characteristics of the soil, the method of clean-up, and the manner in which the resulting waste is disposed of. In these cases, I would suggest that your members contact their State, or the EPA RCRA/Superfund Hotline, at (800) 424-9346, for further information. For spills involving used or waste oil, EPA currently does not regulate used oil as a hazardous waste unless it is mixed with another material such that it exhibits a characteristic of hazardous waste. The Agency is, however, planning to list used oil as a hazardous waste in the near future, and some States already regulate used oil as a hazardous waste. For additional information on requirements for used oil, contact Michael Petruska, Waste Treatment Branch, (202) 382-7935.

Determination of the actual establishment that is responsible for generating a hazardous waste is based on the physical location at which the waste is generated. A waste generating operation or activity that is carried out at one of your member's own facilities would of course make the owner of that facility a hazardous waste generator. Such activities may include cleaning, repair work, or manufacturing, depending on the processes and materials utilized. On the other hand, the party responsible for proper management of waste that is generated at another facility (e.g. a gasoline service station) is the owner/operator of that facility. For example, if one of your members is contracted to clean out a storage tank at

a gasoline station, then the owner of that gasoline station is responsible for ensuring proper disposal of any hazardous waste that is generated. In any case, the responsible establishment would be required to comply with any applicable RCRA regulations for generators of hazardous waste, as well as applicable provisions of the new RCRA amendments, as described in the enclosed pamphlets and the brochure that you received earlier.

EPA is currently in the process of developing proposed regulations for generators of between 100 and 1000 kg of hazardous waste per calendar month, and we are hoping to publish them in the Federal Register in early August. These regulations, when finalized, will of course change the aforementioned 1000 kg/mo exclusion level to 100 kg/mo. Once you have determined the extent to which hazardous waste is generated in your industry, I urge you to review our proposal and comment accordingly.

I hope this clarifies the method by which wastes are counted as hazardous. As you can see, different situations require different interpretations, and contact with State hazardous waste management agencies is essential. If you have any further questions or desire additional information, please do not hesitate to contact me at (202) 382-4779.

Sincerely,

Christian N. Hill
Environmental Scientist

Enclosure

cc: Michael Petruska