

Overview of the Derived-From Rule

**Iowa Strategic Goals Program Workshop
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The Derived-From Rule

- **Hazardous waste often must be treated in order to meet the land disposal restrictions (LDR) treatment standards before they may be land disposed.**
- **The regulatory status of residues derived from treating, storing, or disposing can be determined from §261.3(c-d) and (g) or “the derived-from rule”**

The Derived-From Rule

- **Three main elements that run parallel to the “mixture rule.”**
- **Those are:**
- **Residues from treating, storing, or disposing characteristic wastes.**
- **Residues from treating, storing, or disposing a listed hazardous waste (261.31-261.33) solely because it exhibits the characteristic**

The Derived-From Rule 40 CFR 261.3(c)(2)(i)

- **The Rule was promulgated in 1980 to ensure that hazardous wastes that are mixed with or derived-from in some fashion do not escape regulation.**
- **The rule was vacated by the U.S. Circuit Court of Appeals in 1991.**
- **Shortly Reinstated but Congress (March 1992) enacted a mandate to revise the rule by a October 1, 1994, deadline.**

The Derived-From Rule

- **EPA did not meet the deadline therefore, a Consent Decree dated April 1997 was issued to EPA.**
- **The CD required the Agency to propose revisions to the rule by October 31, 1999.**
- **On October 3, 2001, EPA published revisions to the rule.**
- **The new rule went into effect on December 3, 2001.**

The Derived-From Rule

- **Reinserted certain exemptions to the rule which had been inadvertently deleted (40 CFR 261.3(g)(4)).**
- **Listed hazardous wastes that have been listed solely for the characteristic of ignitibility, corrosivity, and/or reactivity, are exempt once the characteristic has been removed.**
- **Contaminated soils with a listed waste are regulated under the “contained-in policy” not the “mixture or derived-from” rules.**

40 CFR 260.1 Table 1

	Use Constituting Disposal (261.2(c)(1)) 1	Energy Recovery/Fuel (261.2(c)(2)) 2	Reclamation (261.2(c)(3)) 3	Speculative Accumulation (261.2(c)(4)) 4
Spent Materials	(*)	(*)	(*)	(*)
Sludges (listed in 40 CFR part 261.31 or 261.32)	(*)	(*)	(*)	(*)
Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	(*)
Byproducts (listed in 40 CFR part 261.31 or 261.32)	(*)	(*)	(*)	(*)
Commercial chemical products listed in 40 CFR 261.33	(*)	(*)	(*)
Byproducts exhibiting a characteristic of hazardous waste	(*)	(*)
Scrap metal	(*)	(*)	(*)	(*)

F-Listed

- **Non-specific sources**
- **“F_{xxx}” listed waste codes**
- **Halogenated or non-halogenated solvents or solvent mixtures used in cleaning or degreasing and containing 10% or >10% solvent constituent, before use.**

F-Listed

- **F-listed wastes include:**
 - **trichlorethylene (TCE), methylene chloride, chlorinated fluorocarbons used for degreasing (F001)**
 - **xylene, acetone, methyl isobutyl ketone (MIBK) (F003)**
 - **toluene, methyl ethyl ketone (MEK), benzene (F005)**
 - **materials, such as rags or sorbants, contaminated with these solvents.**

K-Listed

- **Specific sources**
- **“Kxxx” listed waste codes**
- **various types of treatment sludges**
- **certain distillation wastes**
- **specific types of manufacturing wastes**

P- and U-Listed

- **discarded commercial chemical or off-specification product listed in 40 CFR 261.33**
- **container residues or spill cleanup waste from such products**
- **“Pxxx” listed waste codes for acute hazardous wastes**
- **“Uxxx” listed waste codes for non-acute hazardous wastes**

Examples

- **API separator sludges from Thickner Treatment Trains (exempt).**
- **Slag at Secondary Lead Smelter that process/reclaim K061 baghouse dust from primary steel manufacturers (exempt).**
- **Wastewater treatment sludge generated by treating characteristic wastes (F006).**
- **Residues derived from treating, storing, or disposing listed HW other than ICR-only remain listed HW.**

UNUSED AND UNKNOWN CHEMICALS



Tank farm filling station after fire



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Contained Out for Soil, in the regulations - 40 CFR§ 268.49(c)

- **Contained out determination must be done prior to removing soil from ground and for all 261 Appendix VIII constituents**
- **Contained out levels compared to concentrations of soil in ground, prior to removal**
- **If in ground < contained out, soil can go to Subtitle D landfill**
- **If > contained out in ground, even after treatment to standards, must go to Subtitle C**