

RCRA, SUPERFUND & EPCRA CALL CENTER MONTHLY REPORT
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1. Applicability of Hazardous Waste Identification Rule (HWIR) to As-Generated Wastes

A facility generates spent carbon from the treatment of wastewater containing explosives (K045). K045 waste is listed solely for the characteristic of reactivity in 40 CFR Section 261.32; however, this particular waste does not exhibit any characteristic of hazardous waste at the point of generation. Is the as-generated waste still considered a RCRA hazardous waste since it meets the listing description of K045? If so, would this waste be subject to the land disposal restrictions (LDR) requirements in Part 268?

The as-generated waste would not be considered a hazardous waste even though it meets the listing description for K045. A waste listed solely for the characteristic of ignitability, reactivity, and/or corrosivity is excluded from regulation as a hazardous waste once it no longer exhibits a characteristic of hazardous waste (Section 261.3(g)(1)). The same rationale applies when a waste meets such a listing description, but does not exhibit a characteristic of hazardous waste at the point of generation. In the Hazardous Waste Identification Rule, EPA stated that extending this exclusion to as-generated wastes that do not exhibit a characteristic of hazardous waste remains protective of human health and the environment (66 FR 27266, 27283; May 16, 2001).

Additionally, the as-generated waste would not be subject to the LDR requirements in Part 268 (51 FR 40572, 40620; November 7, 1986). EPA has clarified that when a waste has been listed solely because it exhibits a characteristic of ignitability, corrosivity and/or reactivity and that waste does not exhibit any hazardous waste characteristic at the point of generation, then that waste is not subject to the LDR requirements (66 FR 27266, 27269; May 16, 2001). If, however, the waste exhibits a characteristic at the point of generation and subsequently becomes decharacterized, then it would be subject to the LDR requirements (Section 261.3(g)(3)).