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RCRA/Superfund/OUST Hotline Monthly Report Question

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3. Alcohol-Content Exclusion for the Ignitability
Characteristic

A generator produces a wastestream with a flash point of 54 degrees Celsius that contains the following three components: water (77 percent), alcohol (13 percent), and a non-alcoholic liquid component (10 percent). According to the "alcohol exclusion" in 40 CFR §261.21(a)(1), the characteristic of ignitability will not apply to an aqueous solution that contains less than 24 percent alcohol and which has a flash point less than 60 degrees Celsius. Does the presence of a non-alcoholic component cause the aqueous solution to be regulated as an ignitable waste (D001)?

No, the additional non-alcoholic liquid component will not cause the wastestream to be regulated as a D001 waste. Despite the presence of the non-alcoholic liquid component, the wastestream continues to qualify for the alcohol exclusion in 40 CFR §261.21(a)(1). According to the May 19, 1980, Federal Register (45 FR 33108), EPA originally intended for the alcohol exclusion to exempt alcoholic beverages and some types of latex paints, which exhibit low flash points due to the alcohol content, but do not sustain combustion because of the high water content. The alcohol exclusion in 40 CFR §261.21(a)(1), however, is not limited to those wastes mentioned in the May 19, 1980, Federal Register. It applies to all aqueous solutions containing less than 24 percent alcohol, even if additional non-alcoholic components are present. EPA clarified in the June 1, 1990, Federal Register (55 FR 22543) that the term "alcohol" in §261.21(a)(1) refers to any alcohol or combination of alcohols. The Agency notes, however, that if the alcohol is one of those alcohols specified in EPA hazardous waste codes F001-F005 and has been used for its solvent properties, the waste must be evaluated to determine if it should be classified as an F listed spent solvent waste.

The alcohol exclusion for the ignitability characteristic was adopted from the Department of Transportation's (DOT) definition of "combustible liquids" in 49 CFR §173.115(b). The alcohol exclusion

in 49 CFR §173.115(b)(2)(ii) applies to aqueous solutions containing 24 percent or less alcohol by volume which contain no less than 50 percent water. Since EPA originally intended to be consistent with DOT regulations when promulgating the alcohol exclusion in §261.21(a)(1), the 50 percent water stipulation may be applied to the ignitability characteristic. Therefore, as clarified in an internal EPA memorandum, for the purpose of the ignitability characteristic in §261.21(a)(1), "aqueous" means a solution containing at least 50 percent water by weight.