

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460**

MAR 25 1997

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Barton Day
Bryan Cave, LLP
700 13th Street, N.W., Suite 700
Washington, DC 20005

Dear Mr. Day:

You have requested guidance regarding the following situation. High Total Organic Carbon (TOC) D001 ignitable wastes are introduced into a tank-based wastewater treatment system where the resulting effluent is discharged to a POTW or under a NPDES permit, and the resulting sludge is then land disposed. Your questions are: 1) are systems that are entirely tank-based (i.e., that do not include surface impoundments) subject to Land Disposal Restrictions (LDR) requirements, 2) what LDR requirements, if any, apply with respect to the sludge, and 3) are there any LDR restrictions on the management of high-TOC ignitable wastes in entirely tank-based NPDES or POTW discharge systems.

The LDR requirements do not apply to wastes managed in NPDES or POTW discharge systems that are entirely tank-based. If the discharge system does not include a surface impoundment, the system is not subject to LDR requirements, regardless of the treatability group of the wastes managed in the system.

It is EPA's view that the change of treatability group principle applies to situations where liquid wastes, which are technically nonwastewaters, are placed in wastewater treatment systems in small quantities for legitimate wastewater treatment. Subsequently, the wastes become wastewaters (as defined in the rules), and the treatment then generates a sludge. See 58 FR 29871, May 24, 1993 ("In the Third Third final rule, EPA stated that for characteristic wastes, each change of treatability group in a treatment train marked a new point of generation for determining if a characteristic waste was prohibited from land disposal"). Consequently, because the sludge generated from the tank-based wastewater treatment system is a different treatability group from the wastewater from which it is generated, it is a newly generated waste that should be evaluated at its point of generation. If hazardous, the appropriate LDR standard then must be determined.

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There are no LDR regulations that specifically prohibit the management of high-TOC ignitable wastes in entirely tank-based NPDES or POTW discharge systems. In the Third Third final rule (55 FR 22656) EPA stated: "The high TOC ignitable wastes, in particular, are inappropriate for wastewater treatment systems as the high TOC levels would overwhelm the capacity for most biological treatment systems." In the example you have cited, where the treatment train does not contain a land-based unit prior to discharge, LDR regulations do not apply. However, the generator is still required to comply with 40 CFR 268.7 (a)(6), which requires the generator to place a one-time notice in the facility's file stating the facts of the generation of the waste and the disposition of the waste.

I hope you find this information helpful. If you need further assistance please call Nick Vizzone of my staff on 703/308-8460.

Sincerely,

James R. Berlow, Director
Hazardous Waste Minimization and
Management Division