

T.L. Nebrich, Jr., CHMM, QEP, REM
Technical Director
Waste Technology Services, Inc.
640 Park Place
Niagara Falls, New York 14301

Dear Mr. Nebrich:

Thank you for your letter of October 11, 2001 regarding clarification of how the revisions to the Mixture and Derived-From Rules published on May 16, 2001 (66 FR 27284) apply to the 40 CFR 261.3(g) exclusion. Specifically, you asked what would happen to the F003 waste code and F003 Land Disposal Restriction (LDR) requirements for a given waste under the following scenarios:

1. A waste that meets the F003 listing contains 10% or more of the other F-listed solvents (F001, F002, F004 and/or F005) but is not ignitable, and
2. A waste that meets the F003 listing is mixed with another listed waste (i.e., "F," "K," "P," or "U" listed wastes) and is not ignitable.

40 CFR 261.3(g)(1) generally exempts hazardous waste originally listed as F003 if it no longer exhibits the characteristic of ignitability. Under 40 CFR 261.3(g)(2), mixtures of solid waste and F003 wastes, and derived-from wastes generated from the treatment, storage and/or disposal of F003 wastes are specifically exempted if the subsequent wastes no longer exhibit the characteristic of ignitability. In these cases, the F003 waste code is removed from the waste, and it is treated as a nonhazardous waste with the sole exception of LDR requirements. Under 40 CFR 261.3(g)(3), F003 LDR requirements are still applicable to the exempted waste if it exhibited the characteristic of ignitability at the point of generation, regardless of whether it still is ignitable at the point of land disposal.

Your scenarios, where F003 wastes are mixed with other hazardous wastes, are not explicitly discussed in the regulations. However, the intent of the exclusion is clearly to remove waste codes that no longer apply to mixtures or derived-from wastes, while still retaining LDR requirements based on the characteristics of the waste at the point of generation. Therefore, in both of your listed scenarios, the

F003 waste code would be dropped from the waste, all other hazardous waste codes would be retained, and the F003 LDR requirements would be applicable if the waste exhibited the characteristic of ignitability at the point of generation.

If you have any further questions concerning this matter, please contact Ms. Laura Burrell of my staff at (703) 308-0005.

Sincerely,

Elizabeth A. Cotsworth, Director
Office of Solid Waste

cc: Robert Dellinger, HWID
Frank McAlister, HWID
Laura Burrell, HWID