OhioEPA
State of Ohio Environmental Protection Agency

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December 7, 2004

Re: Update on rule adoption for low-level mixed waste and naturally occurring and/or accelerator-produced radioactive material container hazardous waste

Dear Low-Level Mixed Waste Generators and Facilities:

On July 16, 2002, Ohio EPA's Division of Hazardous Waste Management (DHWM) sent a letter to inform you of Ohio EPA's plan to adopt federal rules pertaining to a conditional exemption for certain low-level mixed wastes (LLMW) from the regulatory definition of hazardous waste. This letter is being written to let you know that these rules are effective today.

These rules conditionally exempt certain low-level mixed wastes from the regulatory definition of hazardous waste. The storage and treatment exemption requires the use of tanks or containers to store or treat the waste and applies only to LLMW that meets the specified conditions and is generated and managed under a single Nuclear Regulatory Commission (NRC) or NRC Agreement State license. It also exempts LLMW and hazardous naturally occurring and/or accelerator-produced radioactive material (NARM) waste from the regulatory definition of hazardous waste when specified conditions are met. Under this conditional exemption, the waste remains subject to manifest, transport and disposal requirements under the NRC (or NRC Agreement State) regulations for low-level radioactive waste or eligible NARM.

The conditional exemption for LLMW storage and treatment applies to any mixed waste generator that has an NRC or NRC Agreement State license to possess radioactive material or to operate a nuclear reactor, as long as the waste is eligible and the generator can satisfy the conditions in Ohio's rules. The transportation and disposal exemption applies to generators of LLMW and eligible NARM so long as they meet all specified conditions of the rules.

In order to qualify for the storage and treatment, you must notify Pamela Allen, Manager, Regulatory and Information Services, DHWM, in writing by certified delivery that you are claiming a conditional exemption for the LLMW stored at your facility. The dated notification must include your name, address, EPA ID number, NRC or NRC Agreement State license number, the waste code(s) and storage unit(s) for which you are seeking an exemption, and a statement that you meet the conditions of this subpart. Your notification

must be signed by your authorized representative who certifies that the information in the notification is true, accurate and complete. You must notify us of your claim by March 8, 2005, or within 90 days of when a storage unit is first used to store conditionally exempt LLMW [see OAC rule 3745-266-220(C)(1)].

In order to qualify for the transportation and disposal conditional exemption in Ohio, you must provide a one-time notice to Pamela Allen, Manager, Regulatory and Information Services, DHWM stating that you are claiming the transportation and disposal conditional exemption prior to the initial shipment of an exempted waste from your facility to a low-level radioactive waste disposal facility. Your dated written notice must include your facility name, address, phone number and EPA ID number, and be must sent by certified delivery [see OAC rule 3745-266-345(A)].

If you fail to meet any of the conditions in OAC rule 3745-266-220, your LLMW is no longer exempt from the regulatory definition of hazardous waste in Ohio. As a hazardous waste, your LLMW is subject to Ohio's hazardous waste laws. Any waste will automatically lose the transportation and disposal exemption if you fail to manage it in accordance with all the conditions specified in OAC rule 3745-266-315(A).

Ohio EPA has changed their Web site. The new address is: http://www.epa.ohio.gov/dhwm/laws_regs.aspx

To view these rules, see DHWM's Web page at www.epa.state.oh.us/dhwm/rulesmegaset.html. To view their federal counterpart or any addressed Federal Registers, please see DHWM's Web page at www.epa.state.oh.us/dhwm/ipdr.html. http://www.epa.ohio.gov/dhwm/fedregs.aspx

I've enclosed a copy of U.S. EPA's fact sheet. If you have any questions concerning these requirements, please feel free to contact Jeff Mayhugh at (614) 644-2950 or via e-mail at jeff.mayhugh@epa.state.oh.us.

Sincerely,

Michael A. Savage, Chief
Division of Hazardous Waste Management

Enclosure

cc: Roger Suppes, Ohio Department of Health, Bureau of Radiation Protection
Ruth Vandegrift, Ohio Department of Health, Bureau of Radiation Protection
Graham Mitchell, Ohio EPA, OFFO
DHWM Central Office/District Office Managers

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United States Environmental Protection Agency
Solid Waste and Emergency Response (5305W)
EPA530-F-01-008
May 2001
www.epa.gov/osw

Office of Solid Waste

Environmental Fact Sheet

LOW-LEVEL MIXED WASTE CONDITIONALLY EXEMPT FROM HAZARDOUS WASTE REGULATION

The Environmental Protection Agency (EPA) is reducing regulatory burdens by exempting qualified mixed-waste generators from certain hazardous waste management requirements.

Background

Mixed waste is hazardous waste containing radioactive material. This waste is regulated by both the Resource Conservation and Recovery Act (RCRA) and the Atomic Energy Act. The Department of Energy or the Nuclear Regulatory Commission (NRC) regulate the radiological components of the waste.

Summary

EPA is providing increased flexibility to facilities for managing low-level mixed waste (LLMW) and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The Agency is exempting low-level mixed waste from RCRA storage and treatment requirements as long as the waste is generated under a single NRC license, meets the conditions specified, and is stored and treated in a tank or container. In addition, LLMW and NARM, which meet applicable treatment standards, may be conditionally exempt from RCRA transportation and disposal requirements. This waste may be disposed of at low-level radioactive waste disposal facilities which are licensed by NRC. The rule also provides additional flexibility for manifesting these wastes when they are destined for disposal at such facilities. Although mixed waste meeting the applicable conditions is exempt from certain RCRA requirements, it must still be managed as radioactive waste according to NRC regulations. Note that DOE disposal facilities are not eligible to accept the exempt waste since they are not subject to NRC regulation.

For More Information

The *Federal Register* notice, this fact sheet, and related documents are available on the Internet at <http://www.epa.gov/radiation/mixed-waste>. For additional information, or to order paper copies of any documents, call the RCRA Call Center. Callers within the Washington Metropolitan Area please dial 703-412-9810 or TDD

703-412-3323 (hearing impaired). Long-distance callers please call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Call Center operates weekdays, 9:00 a.m. to 5:00 p.m. Address written requests to: RCRA-Docket@epa.gov or RCRA Information Center (5305W), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0001.