

7045.0129 CRITERIA FOR LISTING HAZARDOUS WASTE.

Subpart 1. **Criteria used by agency for listing hazardous waste.** The agency shall list a waste as hazardous if:

A. the waste exhibits any of the characteristics of hazardous waste in part 7045.0131;

B. the waste has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral median lethal dose toxicity (rat) of less than 50 milligrams per kilogram, an inhalation median lethal concentration toxicity (rat) of less than two milligrams per liter, or a dermal median lethal dose toxicity (rabbit) of less than 200 milligrams per kilogram, or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness; or

C. the waste contains any of the toxic constituents listed in part 7045.0141 unless the agency concludes that the waste is not capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed, or otherwise managed. The agency shall consider the following factors when it makes this decision:

- (1) the nature of the toxicity presented by the constituent;
- (2) the concentration of the constituent in the waste;
- (3) the potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in subitem (7);
- (4) the persistence of the constituent or any toxic degradation product of the constituent;
- (5) the potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation;
- (6) the degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;
- (7) the plausible types of improper management to which the waste could be subjected;
- (8) the quantities of the waste generated at individual generation sites or on a regional or national basis;
- (9) the nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent;

(10) action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and

(11) other factors that are relevant to the agency's determination of whether the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Subp. 2. **Classes of wastes.** The agency may list classes or types of waste as hazardous waste if there is reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste in part 7045.0020.

Subp. 3. **Acute and toxic wastes.** Waste listed in accordance with the criteria of subpart 1, item B shall be designated acute hazardous waste. Waste listed in accordance with the criteria of subpart 1, item C or which exhibits the characteristic of toxicity under subpart 1, item A shall be designated as toxic waste. Substances shall be listed in part 7045.0141 only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms.

Subp. 4. **Commissioner's recommendation.** The commissioner may recommend to the agency that a specific generator's waste be classified as a hazardous waste because it meets one or more of the criteria in subpart 1, or because its quantity, concentration, or chemical, physical, or infectious characteristics may:

A. cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

B. pose a substantial present or potential hazard to human health, or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. If the commissioner makes such a recommendation, the procedures in part 7045.0218 shall be followed.

Statutory Authority: *MS s 116.07*

History: *9 SR 115; L 1987 c 186 s 15*

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