

US EPA ARCHIVE DOCUMENT

Office of Solid Waste



# Environmental Fact Sheet

## Hazardous Waste Identification Rule: Proposed Rule

*The Environmental Protection Agency (EPA) seeks to amend its regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) by revising the mixture and derived from rules. EPA is requesting public comments on this proposed action and on the discussion to establish a concentration-based exemption.*

### Summary

The focus of this proposal is to retain and amend the mixture rule at 40 CFR 261.3(a)(2)(iii) and (iv) and the derived-from rules at 40 CFR 261.3(c)(2)(i). The mixture and derived-from rules ensure that hazardous wastes that are mixed with other wastes or treated in some fashion do not escape regulation as long as they are reasonably likely to continue to pose threats to human health and the environment. This proposal also includes a discussion of two regulatory options for concentration-based exemption, (i.e., a "generic" exemption and a "landfill-only" exemption). In addition this notice also discusses the possibility of revising the Land Disposal Restrictions (LDRs) by replacing technology-based treatment standards in 40 CFR 268.40 and 268.48 with risk-based treatment standards. The consent decree requires EPA to promulgate a final rule on April 30, 2001.

### Background

The original Mixture and Derived-From Rules were promulgated in 1980 but were vacated by the D.C. Circuit Court of Appeals in 1991 based on the courts belief that these rules had been promulgated without adequate public notice and opportunity for comments. The court recommended that EPA reinstate these rules on an emergency basis to ensure the continued protection of human health and the environment. Shortly after these rules were reinstated, Congress enacted a mandate to revise the mixture and derived-from rules by the deadline of October 1, 1994. That deadline was not met by the Agency and thus EPA is subject to the consent decree dated April 1997 (*Environmental Technology Council v. Browner*, C.A. No. 94-2119, 94-2346). This consent decree requires

the Agency to propose revisions to the mixture and derived-from rules by October 31, 1999.

## **Action**

The purpose of this Proposed Rule is to revise the mixture and derived-from rule and to provide potential relief from hazardous waste management requirements. Through this action we are requesting public comments on our proposed revision to the mixture and derived-from rules and on our discussion of these concentration-based exemptions.

## **For More Information**

The *Federal Register Notice* and this fact sheet are available in electronic format on the Internet at <<http://www.epa.gov/hazwaste/id/>>. To order copies of this document, call the RCRA Hotline, weekdays, 9:00 a.m. to 6:00 p.m.. Callers within the Washington Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long-distance callers may call 1-800-424-9346 or TDD 1-800-553-7672. Write to the RCRA Information Center (5305W), US EPA, 401 M Street SW, Washington, DC 20460. Address e-mail to <[rcra-docket@epa.gov](mailto:rcra-docket@epa.gov)>.