

# Confusing HazWaste Management Issues

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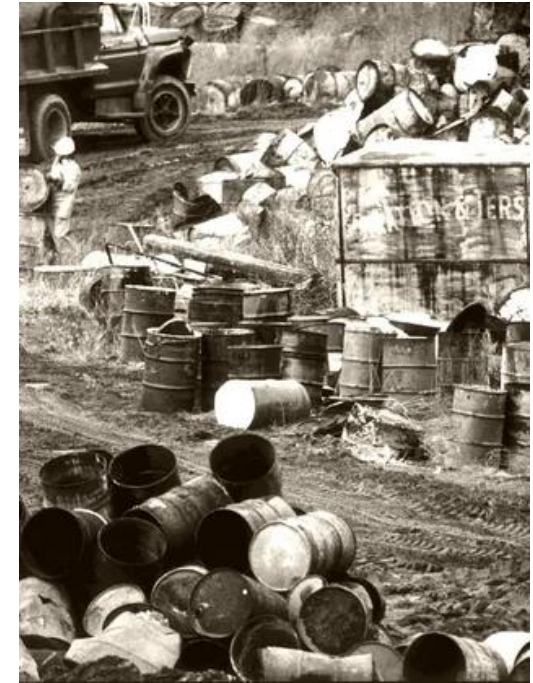
# We Get Questions



- “I don’t really like environmental anything. It defies logic.”
- “Who sat down and decided that a solid waste doesn’t have to be solid?”
- “Why do you keep talking about laws and regulations as if they’re different things?”
- “Why can’t I use my waste profile as my waste determination?”
- “In that pipe it’s not a waste. In this pipe it’s a hazardous waste. This makes absolutely no sense at all.”
- “Why are hazardous waste RQs all different?”
- “What about PFAS? Will they be hazardous waste?”

# “Who sat down and decided that a solid waste doesn’t have to be solid?”

- All hazardous waste is a subset of solid waste.
  - ▶ The RCRA definition of solid waste is not based on physical form.
  - ▶ Solid waste includes “solid, liquid, semisolid or contained gaseous material ...”
- *“But why?”*
  - ▶ Defined by Congress in 1976.
  - ▶ Congress directed EPA to develop criteria to define “hazardous waste” as a sub-set of this broad definition of “solid waste.”
  - ▶ The RCRA act addressed “hazardous wastes” in Subtitle C, and “solid wastes” in Subtitle D.



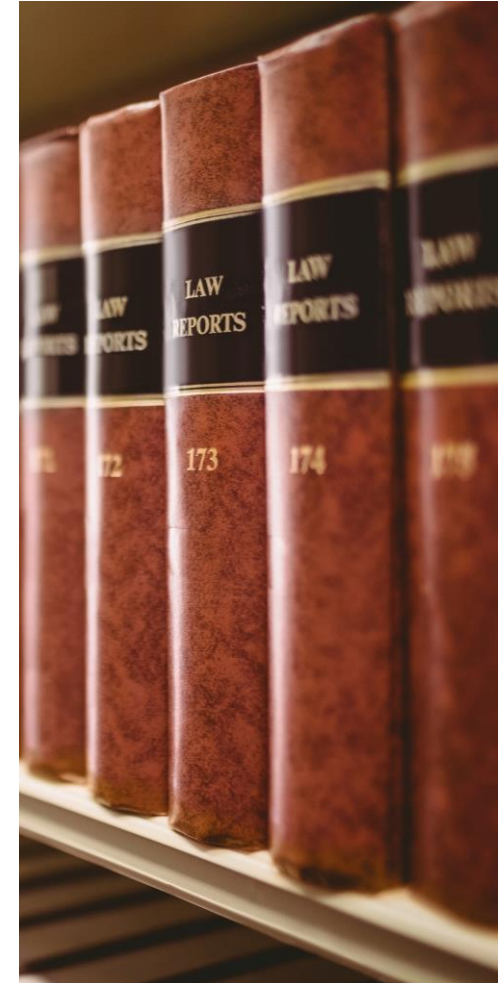
- *“But it’s not all solid! Why call it solid waste?”*

- ▶ Convenience?
- ▶ All wastes now considered “solid waste” used to go to sanitary landfills, dumps, or any nearby undesirable piece of land
  - Household wastes, construction wastes, industrial wastes including chemicals, sludges, drums, gas canisters, etc.



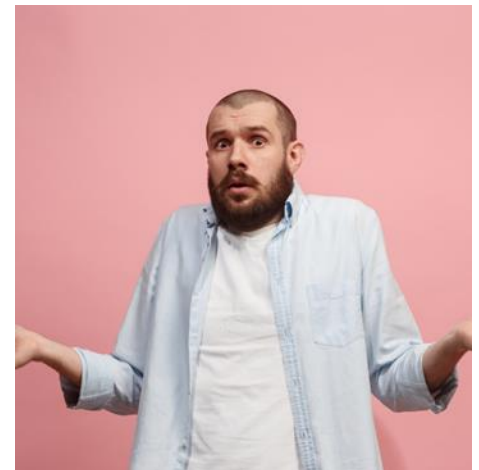
# “Why do you keep talking about laws and regulations as if they’re different things?”

- A **bill** is a proposed law. It has no force of law unless it passes by vote of the legislative body.
- A **law** is a bill that has been voted on and passed.
  - ▶ A **statute** or **act** is a law enacted by a legislative body of the government. All acts and statutes are laws.
  - ▶ Laws establish requirements and prohibitions, but do not typically establish the conditions of compliance.
- A **regulation** is the standards and rules that an administrative agency adopts, to create a means of enforcing laws.
  - ▶ This effectively gives regulations the same force as laws.
  - ▶ Development of new regulations usually involves a public participation component, allowing citizen input into the creation of regulations.
  - ▶ Regulations, proposed regulations, and notices from Federal agencies are published in the Federal Register.
  - ▶ In-force regulations are found in the Code of Federal Regulations.

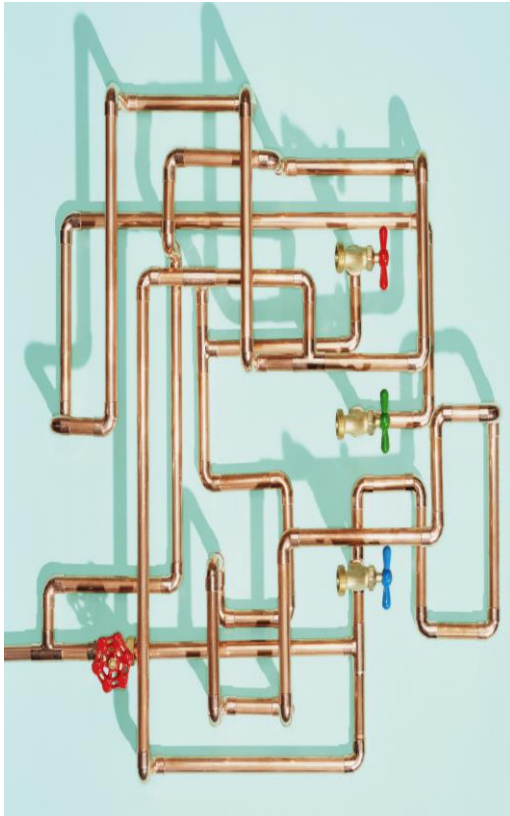


# “Why can’t I use my waste profile as my waste determination?”

- Waste Determinations and Waste Profiles contain similar information for different purposes
- Waste Determinations are a regulatory requirement for generators of hazardous waste
  - ▶ Categorize and describe the waste at the Point of Generation
    - Point of Generation: the point at which a material becomes a hazardous waste, i.e., the point of discard
  - ▶ Assists in determining whether a waste is hazardous or non-hazardous, applicable waste codes, proper management, whether there are risks to be mitigated, etc.
- Waste Profiles are used for proper management of “as disposed” wastes, particularly at facilities receiving wastes from off-site
  - ▶ Can describe an individual stream or a consolidated stream
  - ▶ Specifies waste type, codes, risks, etc.
- Example: Facility with three process streams hard-piped and consolidated into one tank, prior to off-site disposal
  - ▶ Three waste determinations (one for each process stream)
  - ▶ One waste profile (for the “as disposed” waste)



**“In that pipe it’s not a waste. In this pipe it’s a hazardous waste. This makes absolutely no sense at all.”**



- Some materials are excluded from the definition of solid waste. If it’s not a solid waste, it can’t be a hazardous waste.
- Some solid wastes are conditionally exempt from full hazardous waste regulation, as long as designated conditions are met. Some examples:
  - ▶ Recycling exemptions
  - ▶ Alternate management strategies
  - ▶ 90-day storage
  - ▶ Satellite accumulation
- *“You said our recycled solvent is not a hazardous waste in the pipe but then you said it would be a hazardous waste release if there was a leak. Seriously?”*
  - ▶ If a material is managed under a conditional recycling exemption, it is exempt from the definition of solid waste or the definition of hazardous waste as long as the conditions are met
  - ▶ One universal condition is that the material remains contained.
  - ▶ Loss of containment (spill or release) violates the condition and the material loses the exemption, so once it leaves the pipe, it’s a hazardous waste.

## Why are hazardous waste RQs different?”

- Reportable Quantity: the threshold quantity of specified hazardous substances, that triggers reporting of a spill or release. 40 CFR 302
- Hazardous Waste RQs
  - ▶ Physical characteristic (D001-D003) waste RQs are 100 lbs
  - ▶ Toxicity characteristic (D004-D043) waste RQs are defined by waste code
  - ▶ Listed hazardous waste RQs are defined by waste code – 1 lb, 10 lbs, 100 lbs, 1000 lbs, or 5000 lbs
  - ▶ Hazardous waste “not otherwise specified” – 100 lbs
  - ▶ If more than one waste code, the lowest RQ applies
  - ▶ (Plus the occasional special exemption)
  - ▶ Important: The RQ applies to the waste stream, not merely the toxic contaminant
- Additional State Reporting requirements can be found in statutes, regulations, and permits



## “What about PFAS? Will they be hazardous waste?”

### ■ **Proposed RCRA rule, 2/8/2024, PFAS Hazardous Constituent Rule**

- ▶ Adds 9 PFAS compounds to the RCRA list of hazardous constituents (including their salts and isomers)
- ▶ Increases responsibility of TSDFs for SWMUs where PFAS have been released
- ▶ Under RCRA, listing as a hazardous constituent is a first step to listing as a hazardous waste.

### ■ **Proposed rule, 2/8/2024, Hazardous Waste Corrective Action Rule**

- ▶ Modifies the definition of hazardous waste applicable to corrective actions
  - Broadens the regulatory definition.
  - Clarifies that hazardous constituents are subject to corrective action, even for contaminants that have not yet been designated as hazardous wastes
  - Allows corrective action to be imposed for other emerging contaminants
- ▶ Will affect corrective actions at permitted TSDFs, and likely also state cleanups

- Final rule content and publication date as yet unknown, probably 2025. EPA is working through the extensive comments that were submitted.



# QUESTIONS?

