

HAZARDOUS WASTE MANAGEMENT IN FLORIDA

Hazardous Waste and You



The management of hazardous waste is one of the most significant environmental issues in Florida. Hazardous waste, a type of solid waste, may pose a threat to human health and the environment if not managed properly. Paint products, solvents, some batteries, household cleaners and pesticides are typical examples. Hazardous waste generators, transporters, and treatment, storage, and disposal facilities are

carefully regulated by the State of Florida to protect the public and the environment.

Hazardous Waste Regulation

Hazardous wastes are regulated under federal and state law. Federal statutes, including the Resource Conservation and Recovery Act ("RCRA"), address the problems of hazardous waste disposal and seek to control the entire hazardous waste stream from generation to disposal. This regulatory framework is often referred to as the "cradle to grave" approach for the management of hazardous waste and is accomplished by imposing management requirements on generators and transporters of hazardous materials and upon owners and operators of treatment, storage, and disposal facilities. Under the "cradle to grave" approach, the generator of hazardous is ultimately responsible for the waste and can be held liable for improper management of hazardous waste even though it may have been sent to a "proper" hazardous waste management facility using a licensed transporter. The regulations are designed to ensure accountability and to keep hazardous wastes from getting lost or disposed of in an environmentally unsustainable way.

In Florida, the Hazardous Waste Regulation Section ("HWRS") of the Florida Department of Environmental Protection ("DEP"), in cooperation with the U.S. Environmental Protection Agency ("EPA"), implements hazardous waste management programs. Since the state programs must be "as stringent as" those of the federal government, many of the requirements of the federal regulatory system have been adopted by the state. In some instances, the state regulations are more stringent than the federal ones. The DEP has established standards for the management of hazardous waste from generation through final disposal. In addition, the DEP has established a permitting program for hazardous waste facilities and developed financial responsibility requirements for owners and operators of such facilities. For information about permit

application, contact Anthony Tripp at 850-245-8766 (Anthony.Tripp@dep.state.fl.us); or Bryan Baker at 850-245-8787 (Bryan.Baker@dep.state.fl.us).

The Players

The federal regulatory framework, adopted by the State of Florida, divides those who deal with hazardous waste into three groups: (1) generators; (2) transporters; and (3) treatment, storage, and disposal facilities ("TSD's"). These designations are then used to determine what management standards and requirements are to be applied to regulate their particular activity.

A Generator is defined as any person whose acts or processes produce hazardous waste or whose act first causes hazardous waste to become subject to regulation. Generators are responsible for determining if their solid waste should be characterized as hazardous waste so as to be subject to federal and state regulation.

A Transporter is any person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water. This includes not only common carriers of hazardous waste, but also the private company that occasionally transports hazardous waste on its own trucks solely within the state.

A Treatment, Storage, or Disposal Facility is any facility which is engaged in activities to alter the physical, chemical, or biological character of any hazardous waste so as to neutralize such waste, recover energy from it, render it nonhazardous, or reduce its volume. In addition, any facility which holds a hazardous waste for a temporary period or which discharges or places hazardous waste into or on any land or water so that it may enter the environment is likewise included.

If you would like to discuss hazardous waste compliance and enforcement, contact Glen Perrigan at 850-245-8749 (Glen.Perrigan@dep.state.fl.us).

Hazardous Waste Definitions

As in many environmental statutes, the definitions contained in the federal regulatory framework are important to understanding its operation. Under RCRA, a waste must be both a "solid waste" and a "hazardous waste" in order for the federal regulatory requirements to become applicable. Accordingly, it is important that these definitions be considered. To read the definitions in their entirety, look at Title 40 of the Code of Federal Regulations § 261.3, available as a PDF document through www.gpo.gov.

A "solid waste" is defined as a solid, liquid, semi-solid, or contained gaseous material which has been discarded. To be considered discarded, the solid waste must be abandoned (disposed of, burned or incinerated, or accumulated prior to disposal), recycled (burned for energy recovery, reclaimed, etc.), inherently waste-like, or military munitions identified as solid wastes.

"Hazardous waste" is solid waste which poses a substantial hazard to human health or the environment when improperly managed. Though a number of EPA regulations exempt certain solid waste from being considered hazardous, in most instances, a solid waste will be deemed a "hazardous waste" if: (1) it is listed as such; (2) it exhibits any of the four hazardous waste characteristics of ignitability, corrosivity, reactivity, or toxicity; or (3) it is a mixture of a listed waste and a solid waste. Accordingly, "hazardous waste" is solid waste with hazardous characteristics or which has been listed as hazardous waste.

Hazardous Waste Lists

A solid waste may come to be considered a "hazardous waste" if it is included in one of the EPA hazardous waste lists. If so listed, then the federal and state regulations relating to hazardous waste will apply.

If a listed hazardous waste is spilled, the spilled waste and any contaminated material, including dirt and other residue, will then become a hazardous waste.

Characteristic Hazardous Waste

Non-listed waste is covered by federal regulations if it possesses one of four hazardous waste characteristics: ignitability, corrosivity, reactivity, or toxicity.

Mixtures of Hazardous Waste and Solid Waste

Under two rules, a non-hazardous waste can become subject to the federal and state regulatory requirements for hazardous waste. First, under the "mixture" rule, any mixture of a solid and hazardous waste is considered to be a hazardous waste. Second, under the "derived from" rule, any solid waste generated from the treatment, storage, or disposal of a hazardous waste is a hazardous waste.

Notable Exemptions

Some materials, though meeting these definitions, have been specifically exempted from federal and state regulations. These include, for example, domestic sewage, household waste, and others.

Additionally, generators who produce small quantities of hazardous waste are considered conditionally exempt small quantity generators under federal regulations and are exempt from most state regulations.

Contact Information & Resources

To find out how your community scores with regard to environmental health, check out Environmental Defense Fund's Environmental Scorecard webpage. You input your zip code and it will tell you how your county ranked in terms of a variety of environmental factors including air and water pollution, toxic exposure and an environmental justice report. The link is <http://scorecard.goodguide.com/>.

DEP's Waste Management

 <http://www.dep.state.fl.us/waste/default.htm>

DEP's District Offices

-  Northwest District - Pensacola, 850-595-8300
<http://www.dep.state.fl.us/northwest/>
-  Northeast District - Jacksonville, 904-256-1700
<http://www.dep.state.fl.us/northeast/>
-  Central District - Orlando, 407-897-4100
<http://www.dep.state.fl.us/central/>
-  Southwest District - Tampa, 813-632-7600
<http://www.dep.state.fl.us/southwest/>
-  South District - Ft. Myers, 239-344-5600
<http://www.dep.state.fl.us/south/>
-  Southeast District - West Palm Beach, 561-681-6600
<http://www.dep.state.fl.us/southeast/>

Prepared by the Environmental and Land Use Law Section, Committee on Access to Justice

The Environmental and Land Use Law Section ("ELULS") is an organization within the Florida Bar. One of the ELULS's major purposes is to promote increased knowledge and understanding of environmental and land use law. In response to the need for increased legal services to people who are unable to afford legal counsel, the ELULS has created a Committee on Access to Justice to encourage pro bono activities in the areas of environmental and land use law. Right now, the ELULS is sponsoring a variety of activities, including *Legal Assistance through Legal Services, Inc. and the Florida Pro Bono Coordinators Association, Public Workshops on Environmental and Land Use Law, and Educational Materials for Citizens.*

For more information, visit the Florida Bar at <http://www.flabar.org/>; or contact the Environmental and Land Use Law Section, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, 904/561-5623, <http://www.eluls.org>.

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