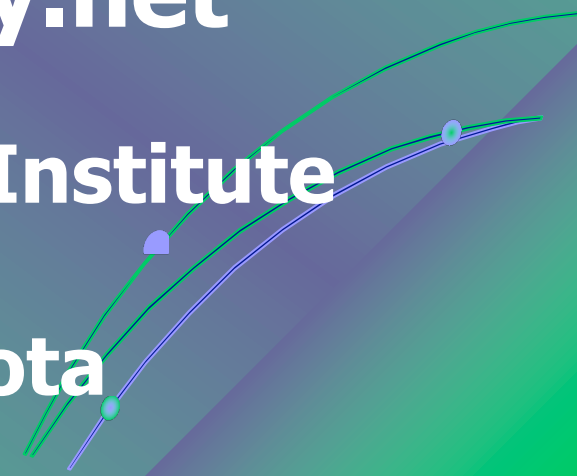


Resource Conservation and Recovery Act (RCRA) Basics

**Joseph G. Maternowski
Hessian & McKasy, P.A.
www.enviroattorney.net**

**Minnesota Environmental Institute
April 17, 2014
Minneapolis, Minnesota**



RCRA's Purpose

To Ensure The Proper
Management of Hazardous Wastes
From “Cradle to Grave”



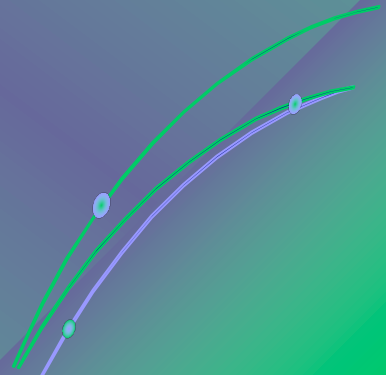
RCRA Regulations

Federal:

40 C.F.R. 240 – 280

Minnesota:

Minn. Rules Ch. 7045



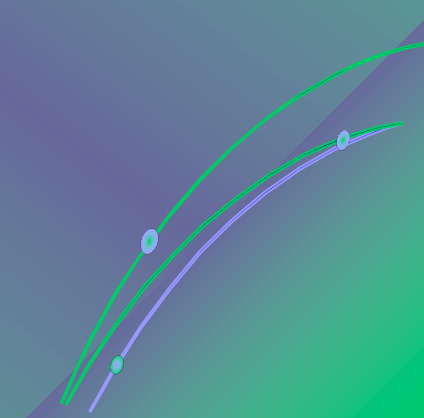


“WASTE”: Any discarded solid, liquid or contained gas that can no longer be used

“SOLID WASTE”: Discarded material that is:

- Abandoned
- Inherently Waste-Like
- Recycled

Hazardous Waste Exclusions

- **Domestic Sewage**
 - **Wastewater Discharges**
 - **Recycled Scrap Metal**
 - **Secondary Materials – Returned to Original Process**
 - **Household Hazardous Wastes**
 - **Mining Processing Materials**
 - **Petrochemicals Recovered/
Reinserted in process**
- 

What Wastes Are “Hazardous”?

Wastes May Be Hazardous Due To:

- **Characteristic (Wastes That Are: Ignitable, Corrosive, Reactive, Toxicity)**
- **Listed by EPA**
- **Mixed with a Waste That is Hazardous**
- **Declared “Hazardous” by Generator**



Common Hazardous Wastes

- **Used Batteries**
- **Spent Plating and Cyanide Wastes**
- **Acid/Bases**
- **Ignitable Wastes**
- **Ink Sludges (Chromium/Lead)**
- **Dry Cleaning Filtration Residues**
- **Heavy Metals and Inorganics**



Common Hazardous Wastes

(cont.)




- Pesticides
- Reactives
- Wood Preserving Agents
- Solvents
- Contaminated Shop Towels/Absorbents
- Volatile Organic Compounds
- Used Oil

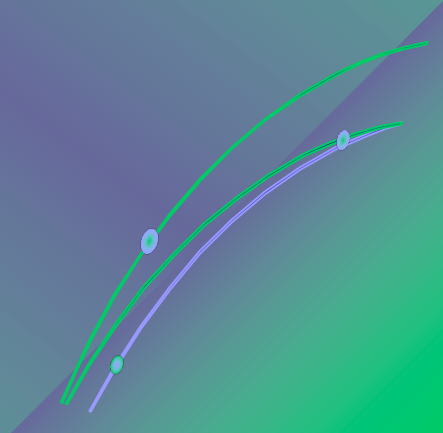
Hazardous Waste Handler Categories

- **Conditionally Exempt Small Quantity Generator (CESQG)**
- **Small Quantity Generator (SQG)**
- **Large Quantity Generator (LQG)**
- **Transporter**
- **Treatment, Storage and Disposal Facility (TSD)**

LQG Requirements

- 1. Identify all types of hazardous wastes**
 - 2. Transport to permitted facility (TSDF)**
 - 3. Obtain U.S. EPA Identification Number**
 - 4. Use manifests for off-site shipments**
 - 5. Certify waste minimization**
- 

LQG Requirements *(cont.)*

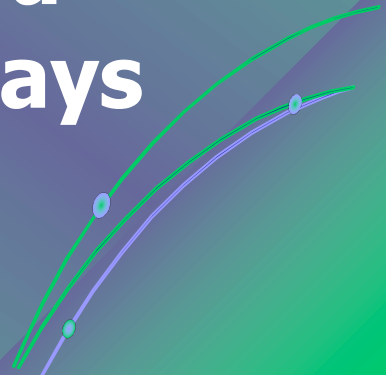
- 6. Develop a contingency plan**
 - 7. Prepare for/prevent releases of hazardous wastes**
 - 8. Personnel training**
 - 9. File biennial report**
 - 10. Comply with Land Disposal Restrictions**
 - 11. Retain records**
- 

Hazardous Waste Storage Limits

CESQGs: Up to 2,200 lbs at one time

SQGs: Up to 13,200 lbs for up to 180 days

LQGs: Any amount without a permit for up to 90 days



Hazardous Waste Storage Requirements

- Label containers as “Hazardous Waste”
- Mark accumulation start date



- Containers must be in good condition/closed

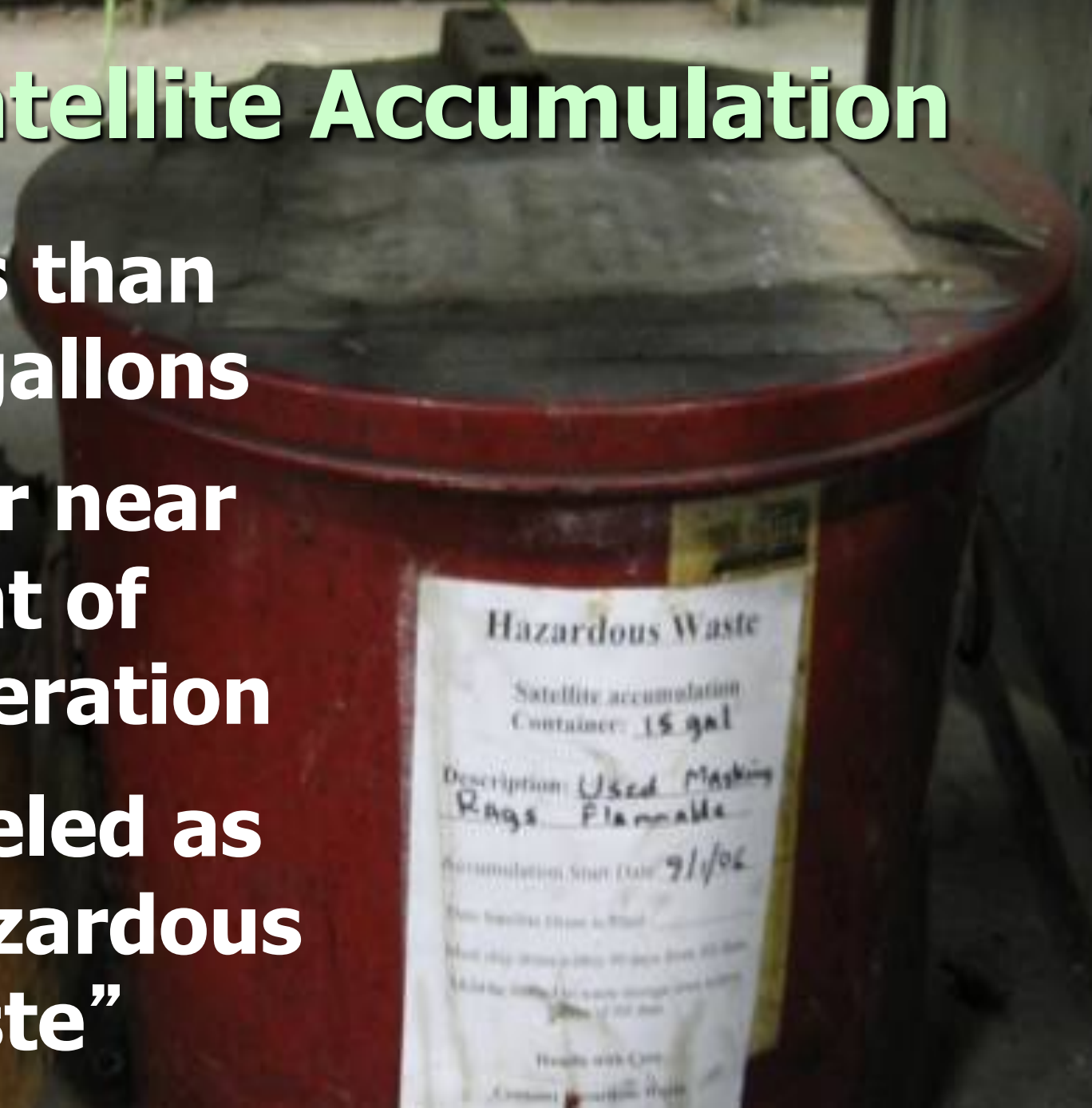
Hazardous Waste Storage Requirements *(cont.)*



- Weekly inspections with documentation
- Store ignitables and reactive wastes separately
- Maintain aisle space
- Limit access

Satellite Accumulation

- Less than 55 gallons
- At or near point of generation
- Labeled as “Hazardous Waste”



Transportation of Hazardous Wastes

- Find Appropriate TSD facility
- Waste Analysis/
Acceptance
- Packaging/Labeling
- Placarding



Hazardous Waste Manifest

- **Specify Generator Location**
- **EPA Identification Number**
- **Waste Type/Quantity**
- **TSD Facility**
- **Certification**
- **Land Disposal Restriction Notification**

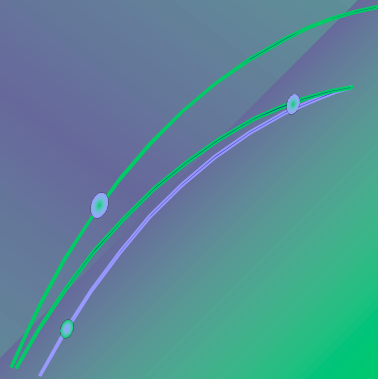
RCRA Enforcement Actions

- **Administrative Actions**
- **Civil Judicial Actions**
- **Criminal Actions**



Administrative Actions

- **Informal Actions**
- **Formal Actions**
- **Administrative Complaint**



Civil Judicial Actions



**Penalties up to
\$32,500 Per Day of
Violation**

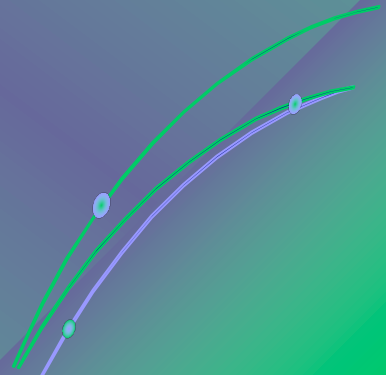
Injunctive Relief

Criminal Actions

“Knowing” Violations

Targets:

- Corporations
- Responsible Corporate Officers
- Managers
- Employees



State/Local RCRA Enforcement

**Minnesota Pollution Control
Agency**

Metropolitan Counties



MPCA – Administrative Penalty Orders

**Minn. Stat.
§ 116.072**

**\$10,000 per
Inspection**

**Corrective
Actions**



MPCA – Stipulation Agreements

- **\$25,000 per day**
- **Requirements**
 - **Return to Compliance**
 - **Investigate Release**



Civil Judicial Actions

- **Filed by MN Attorney General's Office**
- **Minn. Stat. § 115.071**
- **\$25,000 per day**
- **Injunctive Relief**
- **Attorney Fees if Violations Willful**
- **Recovery of Attorneys' Fees - Minnesota Equal Access to Justice Act (MEAJA)**

Criminal Actions

- **Minn. Stat. § 609.671**
- **Brought by County Attorney**
- **Felony**
- **Gross Misdemeanor**
- **Misdemeanor**

Local Enforcement

**Minnesota/St. Paul Metropolitan Counties
Hazardous Waste Ordinances
Minn. Stat. § 473.811, subd. 5b**

- **Inspection/Order Authority**
- **Criminal Prosecution**
- **References**

EPA Overfiling

Harmon Industries, Inc. v. Browner
(8th U. S. Cir. Ct. App.)

EPA may be precluded from taking enforcement action if RCRA authorized state has already entered into a settlement with regulated party.



Environmental Audits

- **Check on compliance status**
- **Possible protection from civil penalties**
- **EPA Audit Policies**
- **MPCA Environmental Improvement Program**

**Minn. Stat. § § 114C.20 to
114C.28**

A decorative graphic in the bottom right corner consisting of three curved lines (green, blue, and purple) with small circles at their ends, curving upwards and to the right.

Questions?

Thanks

Joseph G. Maternowski
Hessian & McKasy, P.A.

(612) 746-5754

jmaternowski@hessianmckasy.com

www.enviroattorney.net

