**Section 808.245 Classification of Wastes**

Special wastes which are subject to this Subpart shall be classified or declassified based on toxic score as follows:

a) Compute the toxic score for the wastestream pursuant to Appendix B or, where applicable, pursuant to Section 808.431, utilizing a data base which meets the standards of Section 808.302. However, if use of Appendix B or Section 808.431 is demonstrated to the Agency to be inapplicable or unavailable for the wastestream, the generator may employ a bioassay procedure approved by the Agency pursuant to Section 808.302, solely for the purpose of determining if the waste in its undiluted form results in no behavioral response from the exposed test organisms and, thus, warrants a toxic score of 0 (zero). Where applicable, the toxic score shall include the maximum volume of waste to which such score applies.

b) Except as authorized under subsection (e), a wastestream receiving a toxic score of 3 shall be deemed a Class A special waste.

c) Except as authorized under subsection (e), a wastestream receiving a toxic score of 1 or 2 shall be deemed a Class B special waste; however, such waste shall be deemed a Class A special waste if the Agency determines that it exhibits one or more of the following characteristics:

1) The physical form of the waste renders it difficult to manage in transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such form are wastes containing free liquids, and wastes in finely divided form which are susceptible to airborne dispersal.);

2) The chemical properties of the waste, if exposed to the atmosphere or to an aqueous environment, render it difficult to manage in the event of a leak, spill or other loss of containment during transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such properties are wastes which produce noxious or toxic fumes or gases in sufficient concentration and quantity to pose a threat to the public health or the environment, wastes which are ignitable or flammable, wastes which are readily soluble in water, and wastes which are highly moble in an aqueous environment, including in groundwater.); or

3) The unstable nature of the waste renders it difficult to contain during transport, storage or handling prior to final disposition, or in a landfill (Examples of wastes possessing such an unstable nature are wastes which are corrosive or reactive, and any other wastes which, under foreseeable conditions, may cause the premature failure of waste containment devices and structures.).

d) A wastestream receiving a toxic score of 0 shall be declassified, except that such a waste that is determined by the Agency to be a special handling waste shall be deemed a Class B special waste

e) Notwithstanding a wastestream's toxic score, the Agency may condition a lowered classification or a declassification of a special waste under this Section. Such conditions imposed by the Agency shall be limited to measures by which the generator shall, by particular modes or forms of containment or treatment, assure that the dangerous characterictics of the wastes are avoided or reduced. (Examples of such measures are neutralization of acidic wastes prior to shipment, containment or encapsulation of finely divided wastes, and treatment of ignitable wastes so as to preclude ignition.) However, under no circumstances shall a wastestream with a toxic score of 3 be declassified based solely upon its mode of containment.

f) All conditions or limitations imposed by the Agency that relate to the toxic score (including, where applicable, maximum wastestream volume) and classification or disclassification of a wastestream shall be specified in the Agency's determination.