

ATTACHMENT 1

Division of Solid & Hazardous Materials
New York State Department of Environmental Conservation

Proposed Federal Rules to be Included in this Rulemaking

Following is a listing of Final Rules of Title 40 of the Code of Federal Regulations (40 CFR) Hazardous Waste Management from September 30, 1999 through December 19, 2008 proposed for adoption into New York State regulation. Starred rules (*) relate to Standards for Hazardous Waste Combustors (MACT rules).

1. *NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (64 FR 52827, September 30, 1999) (checklist 182)

This rule provides revised standards for hazardous waste combustors, under the Clean Air Act and RCRA. The standards limit emissions of chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas, and particulate matter. These standards reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by the Clean Air Act.

2. Deletion of Five Waste Streams (64 FR 56469, October 20, 1999) (checklist 183)

As discussed and finalized in the May 26, 1998 and October 20, 1999 Federal Registers, USEPA delisted five waste streams (K064, K065, K066, K090, and K091) stating that these wastes are either no longer generated, or managed in a fashion not warranting listing. When adopting changes from these federal registers, the State chose not to delist these wastes as the State used the listing of hazardous waste for authority for cleanup of inactive hazardous waste sites as well as managing present practices. Since that time, State law has been revised to use the list of hazardous substances as well as the listing of hazardous waste for authority for cleanup of inactive hazardous waste sites. With the addition of hazardous substances, these wastes no longer need to be included in the listing of hazardous wastes. Therefore, the State proposes to revise 371.4(c) to delist K064, K065, K066, K090, and K091 from the listing of hazardous waste.

3. *NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Technical Correction (64 FR 63209, November 19, 1999) (checklist 182.1)

This rule corrects a typographical error in the comparable fuels specification table and an omission pertaining to residue testing requirements.

4. *NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Technical Correction (65 FR 42292, July 10, 2000) (checklist 188)

This rule corrects several errors from the September 30, 1999 rule, the June 19, 1998 rule, and the November 19, 1999 technical correction. These corrections and clarifications will make the NESHAP final rule easier to understand and implement.

5. *Hazardous Air Pollutant Standards: Technical Corrections (66 FR 24270 May 14, 2001) (checklist 188.1)

Corrections to the NESHAPs rule of July 10, 2000.

6. *Hazardous Air Pollutants Standards; Technical Correction (66 FR 35087 July 3, 2001) (checklist 188.2)

Corrections to the NESHAPs rule of July 10, 2000.

7. * Hazardous Air Pollutants for Combustors: Interim Standards (67 FR 6792, February 13, 2002) (checklist 197)

This action amends the September 30, 1999 NESHAP rule to control emission standards, due to a U.S. Court of Appeals decision. It is an Interim Standards Rule which adopts a less stringent policy than the September 1999 rule, but is believed to achieve most of the emission gains of that original rule. It also fulfills the statutory requirement to have national emission standards in place by a specified time.

8. * Hazardous Air Pollutants for Combustors: Corrections (67 FR 6968, February 14, 2002) (checklist 198)

This rule corrects several technical errors which were made on the September 30, 1999 National Emissions Standards for Hazardous Air Pollutants (NESHAP) rule.

9. Vacatur of Mineral Processing Spent Materials being Reclaimed as Solid Wastes and TCLP Use with MGP Waste (67 FR 11251, March 13, 2002) (checklist 199)

This action is in response to a Court ruling which vacates two parts of the May 26, 1998 Phase IV Land Disposal Restrictions rule. The first part requires the deletion of regulatory language classifying mineral processing characteristic sludges & by-products being reclaimed as solid wastes. The second part disallows the use of the Toxicity Characteristic Leaching Procedure to determine whether manufactured gas plant waste is hazardous. *This second part is not proposed to be adopted. Division of Environmental Remediation TAGM-4016, issued January 11, 2002, will continue to be used.*

10. Inorganic Chemical Manufacturing Wastes Identification and Listing: Corrections to Rule Document (67 FR 17119, April 9, 2002) (checklist 195)

This rule provides editorial corrections to pages 58298 & 58299 of the November 20, 2001 issue of the Federal Register.

11. Zinc Fertilizers made from Recycled Hazardous Secondary Materials (67 FR 48393, July 24, 2002) (checklist 200)

This rule establishes EPA regulations governing new product specifications for contaminants in zinc fertilizers, and provides a more consistent regulatory framework for the recycling of hazardous secondary materials used to make zinc fertilizer products.

The final pollutant standards in these regulations are consistent with the State's standards for solid waste-derived fertilizers.

12. Treatment Variance for Radioactively Contaminated Batteries (67 FR 62618, October 7, 2002) (checklist 201)

This action grants a national treatability variance from the Land Disposal Restrictions standards for the treatment of radioactively contaminated cadmium, mercury & silver batteries. It also designates new waste/treatment subcategories for the safe disposal of residual radioactive contaminated materials.

13. * NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combusters - Corrections (67 FR 77687, December 19, 2002) (checklist 202)

This rule provides corrections to technical errors made in three regulations relating to NESHAP : 1) Direct Final Rule, 2) Interim Standard Rule, and 3) Final Amendment Rule.

14. Recycled Used Oil Management Standards; Clarification (68 FR 44659, July 30, 2003) (checklist 203)

This rule clarifies three aspects of the used oil management standards regulated by RCRA: used oil contaminated with PCB's, used oil mixed with CESQG waste, and the records that the initial marketer of on-specification used oil is required to keep.

not adopting: National Environmental Performance Track Program (69 FR 21737, April 22, 2004)

National Environmental Performance Track Program Corrections (69 FR 62217, October 25, 2004) (checklist 204, 204.1)

This rule applies only to members of EPA's National Environmental Performance Track Program. It includes provisions that increase the amount of time a hazardous waste generator may accumulate waste without a permit or interim status. It also simplifies reporting for some generators. USEPA is no longer supporting this program, so this rule will not be adopted.

15. *NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (69 FR 22601, April 26, 2004) (checklist 205)

This action establishes national emissions standards for the reduction of emissions of hazardous air pollutants from automobile & light-duty truck surface coating operations located at major sources of hazardous air pollutants.

16. Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants (70 FR 9138, February 24, 2005)

17. Dyes and Pigments corrections (70 FR 35032, June 16, 2005) (checklist 206, 206.1)

With this rule EPA is listing as hazardous, under the RCRA rule, nonwastewaters generated from the production of certain dyes, pigments & FD&C colorants. It provides that EPA determine whether these wastes pose a substantial present or future hazard to human health or the environment when they are improperly managed. In addition, this rule adds five components that serve as a basis for classifying wastes as hazardous substances and it establishes land disposal restrictions treatment standards for these wastes.

18. Methods Innovation Rule and SW-846 Final Update IIIB (70 FR 34538, June 14, 2005)

19. Methods Innovation Rule and SW-846 Final Update IIIB Correction (70 FR 44150, August 1, 2005) (checklist 208, 208.1)

The EPA is amending a variety of testing and monitoring requirements in the RCRA hazardous & nonhazardous regulations and for certain Clean Air Act regulations that relate to hazardous waste combustors, in order to allow more flexibility when conducting RCRA related sampling & analysis. *New York may choose not to adopt all aspects of this rule.*

20. Universal Waste: Mercury Containing Equipment (70 FR 45508, August 5, 2005) (checklist 209)

This rule adds mercury-containing equipment to the federal list of universal wastes regulated under the RCRA hazardous waste regulations. The EPA has concluded that this change will lead to better management of this equipment and facilitate compliance with hazardous waste requirements. *The rule is already implemented in the State using enforcement discretion pursuant to Commissioner Policy.*

not adopting: **Standardized Permit for RCRA Hazardous Waste Management Facilities** (70 FR 53420, September 8, 2005) (checklist 210)

This rule finalizes the proposal for a standardized hazardous waste permit. This will streamline the permitting process by allowing facilities to obtain & modify permits more easily, while achieving the same level of environmental protection as individual permits. New York has regulations in place with a similar goal, 6 NYCRR Part 621 Uniform Procedures. *This rule is not compatible with the existing State standardized permit requirements.*

21. Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks Exemptions") (70 FR 57769, October 4, 2005) (checklist 211)

This action by the EPA finalizes the addition of benzene & 2 ethoxyethanol to the list of solvents whose mixtures with wastewaters are exempted from the definition of hazardous waste under RCRA. In addition, the Agency also allows generators to directly measure solvent chemical levels at wastewater treatment systems. It also extends the eligibility for the *de minimis* exemption to other hazardous wastes and to non-manufacturing facilities.

22. * NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) (70 FR 59402, October 12, 2005) (checklist 212)

This rule finalizes national emission standards for hazardous air pollutants (NESHAP) for hazardous waste burning incinerators, combustors, cement & lightweight aggregate kilns, industrial/commercial/institutional boilers & process heaters, and hydrochloric acid production furnaces.

23. * NESHAP: Final Standards for Hazardous Waste Combustors - Administrative Stay (71 FR 14655, March 23, 2006) (checklist 213)

24. RCRA Burden Reduction Incentive (71 FR 16861, April 4, 2006)(checklist 213)

This rule promotes changes to the regulatory requirements of the RCRA hazardous waste program to reduce the paperwork burden to states, EPA and the regulated community. EPA has estimated the annual savings will range from 22,000 to 37,500 in man hours and \$2 million to \$3 million in cost. It will streamline the information collection requirements of the RCRA program. *Only parts of this rule will be adopted. New York will remain more stringent in some cases.*

25. Hazardous Waste & Used Oil: Corrections to Errors in the Federal Regulations (71 FR 40253, July 14, 2006)(checklist 214)

This rule provides corrections to technical errors in typing, printing, spelling, deletions, syntax, etc., in the final rules appearing in the Federal Register regarding hazardous waste & used oil.

26. Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis (73 FR 57, January 2, 2008) (checklist 216)

To further promote the environmentally sound recycling of oil-bearing hazardous secondary materials generated by the petroleum refining industry and capture as much energy from a barrel of oil as possible, this rule amends an exiting exclusion from the definition of solid waste for oil-bearing hazardous secondary materials when they are processed in a gasification system at a petroleum refinery for the production of synthesis gas. As a result, the gasification of these materials will have the same exclusion as oil-bearing hazardous secondary materials that are reinserted into the petroleum refining process.

27. *NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (73 FR 18970, April 8, 2008) (checklist 217)

This rule provides amendments to the October 12, 2005 rule clarifying several compliance and monitoring provisions, and also corrects several omissions and typographical errors in that final rule.

28. Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019 (73 FR 31756, June 4, 2008) (checklist 218)

The scope of F019 (wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process) is amended to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal, and the wastes are placed in landfill units that are subject to or meet the specified landfill design criteria.

Amending the F019 hazardous waste listing will facilitate the use of aluminum in vehicles, to produce lighter vehicles capable of increased gas mileage and decreased exhaust air emissions, including a reduction in the emission of green house gases.

not adopting: Revisions to the Definition of Solid Waste (73 FR 64668, October 30, 2008) - on May 5, 2009, USEPA announced plans for a public meeting to discuss possible revisions to this rule.

This rule redefines “hazardous secondary materials”. It streamlines regulation of hazardous secondary materials to encourage beneficial recycling and help conserve resources. By removing unnecessary regulatory controls, it is expected to make it easier and more cost-effective to safely recycle hazardous secondary material. This rule is not going to be adopted at this time.

29. Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities (73 FR 72912, December 1, 2008)

An alternative set of regulations is added which allows eligible academic entities the flexibility to make hazardous waste determinations in the laboratory; at an on-site central accumulation area; or at an on-site treatment, storage, or disposal facility (TSDF). Also, this rule provides incentives for eligible academic entities to clean-out old and expired chemicals that may pose unnecessary risk. Further, this rule requires the development of a Laboratory Management Plan (LMP) which is expected to result in safer laboratory practices and increased awareness of hazardous waste management. Eligible academic entities may also choose to remain subject to the pre-existing hazardous waste generator requirements. Eligible academic entities are colleges and universities, and teaching hospitals and nonprofit research institutes that are either owned by or formally affiliated with a college or university.

not adopting: **Expansion of the RCRA Comparable Fuel Exclusion** (73 FR 77954, December 19, 2008) - on May 5, 2009 USEPA announced plans to withdraw this rule.

This rule adds a new exclusion to the hazardous waste management rules, which already provide exclusions for comparable fuels and synthesis gas. These fuels are energy-rich hazardous secondary materials which would otherwise be hazardous wastes, but which have the same hazardous constituent concentrations as fossil fuels that would be burned in their place. This rule establishes a new category of excluded fuel that has its own set of conditions, some of which overlap with the comparable fuels exclusion. These newly excluded hazardous secondary materials are called "emission-comparable fuel" (ECF). ECF is a hazardous secondary material that, when generated, is handled in such a way that it is not discarded in any phase of management, but rather is handled as a valuable commodity. ECF meets all of the hazardous constituent specifications (over 160) for comparable fuel, with the exception of those for oxygenates and hydrocarbons (constituents which contribute energy value to the fuel). The rule specifies conditions on burning ECF which assure that emissions from industrial boilers burning ECF are comparable to emissions from industrial boilers burning fuel oil. The ECF exclusion also includes conditions for tanks and containers storing ECF to assure that discard does not occur.