



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waste Management

# **Proposed Rulemaking: Hazardous Waste Delisting**

## **MAX Environmental Technologies, Inc. Bulger Facility Petition Yukon Facility Petition**

### **Solid Waste Advisory Committee September 10, 2020**

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Purpose of Delisting

- What is a Delisting Petition?
  - A request to exclude waste generated by a particular facility from the list of hazardous wastes under the Resource Conservation and Recovery Act of 1976 (RCRA) and the Solid Waste Management Act (SWMA).

# Authority to Delist

- Under 40 CFR 260.20 and 260.22, a person may petition to remove waste from hazardous waste control by excluding the waste from the lists of hazardous wastes in 40 CFR 261.31 and 261.32.
- Federal regulations are incorporated by reference under 25 Pa. Code 260a.1

# Authority to Delist

- Under the commonwealth's hazardous waste regulations at § 260a.20, these petitions are to be submitted to the Environmental Quality Board in accordance with the procedures established in the Board's Petition Policy at 25 Pa. Code Chapter 23.

# Receipt of Petitions

- DEP received the Delisting Petitions; Leachate Treatment System Sludge, for both the Bulger Facility and Yukon Facility on May 2, 2019.

# Facility Information

- MAX Environmental Technologies, Inc.
  - Bulger Facility
  - Yukon Facility
- Each facility has entered into a COA with DEP to manage their Waste Water Treatment Plant sludge as F039
- The discharge from each facility is regulated under separate NPDES permits

# Evaluation: Petition Criteria

- For the purposes of these facilities, the leachate and resultant sludge(s) are considered to be an “F039” listed hazardous waste
- F039 – Multisource leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D (Lists of Hazardous Wastes)

# Delisting Petition Process

- DEP reviewed the petitions in accordance with the EQB Petition Policy in 25 Pa. Code Chapter 23 and determined the petitions met the conditions in Section 23.2 for further review:
  - The petitions were complete as required by Section 23.1.
  - The petitions requested an action that could be taken by the EQB.
  - The requested actions do not conflict with federal law.



# Notification

- The Department notified the petitioners and the EQB that the petitions meet the requirements for acceptability as defined in § 23.2 of the EQB's Petition Policy.

# EQB Acceptance of Petition

- At the June 18, 2019, EQB meeting, the Department recommended that the EQB accept each Petition for further study. The EQB voted unanimously to accept this recommendation.
- On June 29, 2019, the Department published notice of acceptance of the Petitions in the *Pennsylvania Bulletin*. (49 Pa.B. 3316 (June 29, 2019)).

# Delisting Guidance

- The guidance for delisting petitions is the EPA RCRA Delisting Program Guidance Manual for the Petitioner (3/2003).
- Submittals include the following:
  - Administrative Information,
  - Waste Management Information,
  - Waste Process,
  - Delisting Analytical Plan,
  - Delisting Sampling Plan,
  - Waste Sampling, and
  - Analysis Plan

# Evaluation Reports

- The Department prepared individual evaluation reports based on each petition under § 23.6 of the EQB's Petition Policy.
- Petitions were evaluated for:
  - Completeness/Accuracy
  - Conformance with Delisting Analytical Plan, Delisting Sampling Plan, Waste Sampling and Analysis Plan, Quality Assurance Project Plan
  - Compliance with Delisting Risk Assessment System (DRAS)

# Findings

- Analysis included:
  - pH - low variability, neutral;
  - Metals - below TCLP values;  
below Universal Treatment Standards (UTS)
  - VOCs – below UTS;  
below DRAS
  - SVOCs – below UTS;  
below DRAS
  - Cyanide, Fluoride, Sulfide – below DRAS

## § 23.7 Response to Reports

- Upon completion of the Evaluation Reports, a copy of the reports was sent to the Petitioner (April 29, 2020).
- The Petitioner responded within 30 days (May 11, 2020) that they had no comments on the reports.

# Recommendations

- For both facilities, sampling and analysis indicated that each sludge does not meet the criteria for listing as an F039 hazardous waste as set forth in 40 CFR 261.31.
- It is the recommendation of DEP that the sludge generated in the leachate treatment system at the MAX Bulger facility and the MAX Yukon facility both be delisted as an F039 waste.
- On June 16, 2020, the EQB approved these petitions for proposed rulemaking.

# Next Steps

- Per DEP Policy for Development and Review of Regulations, the Proposed Rulemaking process involves discussion of the draft of the proposed regulation (Annex A) with the appropriate advisory committee(s) (SWAC)
- Tentative goal to present the Proposed Regulation at the January 2021 EQB meeting





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