

**EXECUTIVE SUMMARY**  
**Hazardous Waste Management System;**  
**Proposed Exclusion for Identification and Listing of Hazardous Waste**  
**25 Pa. Code Chapter 261a**

The Federal Hazardous Waste Regulations at 40 CFR 260.22, through incorporation by reference at 25 Pa. Code § 260a.1 of the Pennsylvania Hazardous Waste Regulations, provide for any person to petition the Department to amend Chapter 261a to exclude a waste produced at a particular facility.

The delisting petition process provides a mechanism to demonstrate that a particular hazardous waste generated at a particular facility, or listed waste treatment residue, does not meet any of the criteria under which the waste was listed as a hazardous waste.

On December 18, 2008, Waste Management Disposal Services of Pennsylvania (WMDSPA) submitted a petition to the Environmental Quality Board (Board) proposing to amend Chapter 261a of the Pennsylvania Hazardous Waste Regulations. The petition seeks to amend the exclusion (delisting from the lists of hazardous waste in 40 CFR 261.31) initially granted by the United States Environmental Protection Agency (EPA) to WMDSPA's predecessor, Geological Reclamation Operations and Waste Systems, Inc. (GROWS), in 1991 and amended by EPA to increase allowable annual volumes in 2001. The delisted waste is wastewater treatment sludge filter cake derived from the treatment of landfill leachate from old landfill cells (including both nonhazardous and hazardous waste landfills) and currently operating non-hazardous waste landfills. Such multisource leachate is a listed hazardous waste under 40 CFR 261.31 with a listing code of F039. The original delisting allowed for up to 1,000 cubic yards of the F039 waste to be disposed annually as non-hazardous waste, and the 2001 amendment increased that limit to 2,000 cubic yards annually.

The volume of leachate treated by WMDSPA at the treatment plant has increased coincident with increased concentrations of certain leachate constituents. Accordingly, WMDSPA is generating substantially more filter cake and, to accommodate the disposal of this increased volume as a non-hazardous waste, is requesting an increase in the volume limit established in its delisting from 2,000 to 4,000 cubic yards annually.

The Board approved the proposed rulemaking at its August 18, 2009, meeting with a 30-day public comment period. The proposed rulemaking was published in the Pennsylvania Bulletin on November 7, 2009 (39 Pa.B. 6453) and the Board received no public comments in support or opposition to the proposed rulemaking. The Solid Waste Advisory Committee was briefed on the petition and proposed rulemaking on December 7, 2009, and reviewed and endorsed the final-form rulemaking on May 27, 2010. On January 6, 2010, the Independent Regulatory Review Commission notified the Board that the Commission had no comments on the proposed rulemaking. No public meetings or hearings were held.

The final-form rulemaking makes one minor technical correction. The Department recognized that there was an error in the placement of the proposed WMDSPA delisting amendments. The Federal Appendix IX in Part 261 contains two tables, one for wastes excluded from non-specific sources (Table 1) and one for wastes excluded from specific sources (Table 2). EPA placed the original GROWS delisting that is amended by this final-form rulemaking in Table 1, not Table 2. In order to be consistent with the Federal hazardous waste regulations, the final rulemaking creates a new "Table 1a, Wastes Excluded from Non-Specific Sources" in Chapter 261a. Although two additional minor editorial corrections were made to the final-form rulemaking, it does not make any substantive changes to the proposed rulemaking.