

**REPORT TO THE ENVIRONMENTAL QUALITY BOARD
CONCERNING THE RULEMAKING PETITION SUBMITTED BY
WASTE MANAGEMENT DISPOSAL SERVICES OF PENNSYLVANIA
ON DECEMBER 17, 2008 TO AMEND AN
EXISTING HAZARDOUS WASTE LISTING EXCLUSION**

On December 17, 2008, Waste Management Disposal Services of Pennsylvania (WMDSP) submitted a petition to the Environmental Quality Board (EQB) proposing to amend Chapter 261a of the Pennsylvania Hazardous Waste Regulations, which incorporates 40 CFR Part 261 and its appendices by reference. The petition seeks to modify an existing exclusion from the lists of hazardous waste in 40 CFR 261.31. The existing exclusion is contained in 40 CFR Part 261, Appendix IX, Table 1 – Wastes Excluded from Non-Specific Sources and was originally promulgated by the U.S. Environmental Protection Agency (EPA) in 1991 and subsequently amended by EPA in 2001. Pennsylvania is now authorized by EPA to implement and administer the waste listing exclusion program as part of our Federally-authorized hazardous waste program. The petitioned waste exclusion modification regards wastewater treatment sludge filter cake generated from the treatment of hazardous waste leachate at the WMDSP commercial landfill in Morrisville, Pennsylvania. Leachate from the landfill is considered multi-source hazardous waste leachate (listed hazardous waste code F039) since it contains leachate from a closed portion of the landfill that accepted both hazardous and non-hazardous waste. WMDSP is requesting that the maximum annual volume of excluded filter cake covered under the current exclusion be increased from 2,000 cubic yards to 4,000 cubic yards.

On April 21, 2009, the EQB accepted the delisting petition for review. The Department then began a complete technical review of the data and documentation submitted by WMDSP to support the petition. Supporting data included with the petition included three years of sampling data from WMDSP's verification testing program required under the current listing exclusion. An explanation regarding how WMDSP used this data in the nationally recognized Delisting Risk Assessment Software (DRAS) program to assess whether the risk associated with landfill disposal of an increased annual quantity of the waste is within acceptable ranges is included in the petition. Detailed results of the DRAS modeling were provided to demonstrate how revised concentration limits for the petitioned waste were back-calculated using the requested increased annual filter cake volume to ensure that only waste meeting the maximum allowable concentration limits is disposed as non-hazardous.

The Department has reviewed the information contained in the petition. The conclusion of this review is that the information demonstrates that the requested increase annual volume of wastewater treatment sludge filter cake, meeting the maximum allowable concentration limits identified in the petition, satisfy the hazardous waste listing exclusion criteria set forth in 40 CFR 260.22 and incorporated by reference at 25 Pa. Code § 260a.1. The data reviewed by the Department demonstrates that, under these circumstances, the filter cake waste will continue to no longer meet the criteria for which F039 or F039 treatment residues were originally listed as a hazardous waste. The data also demonstrate that the filter cake wastes will not possess hazardous characteristics of ignitability, corrosivity, reactivity or toxicity as defined by state and federal hazardous waste regulations. Finally, the data submitted in the petition, coupled with modeling using the DRAS model, show that the increased annual volume of wastewater treatment sludge filter cake will not pose a threat to human health or the environment when meeting the revised concentration limits and disposed in a RCRA Subtitle D/Pennsylvania Class I residual waste landfill.

After careful review of the petition and the information provided, the Department recommends that the EQB approve the delisting action requested in WMDSP petition. Approval of the petition requires an

amendment to the Pennsylvania Hazardous Waste Regulations in 25 Pa. Code Chapter 261a, Appendix IXa. Wastes Excluded Under 25 Pa. Code § 260a.20 and 40 CFR 260.20 and 260.22., which will detail the waste description and specify delisting levels and conditions. Upon EQB approval, the Department anticipates a draft rulemaking to be proposed to the EQB in late summer or early fall 2009.