

EXECUTIVE SUMMARY
Hazardous Waste Management System;
Proposed Exclusion for Identification and Listing 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 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 non-hazardous 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 accepted the petition at its April 21, 2009 meeting and directed the Department to review the contents of the petition under 25 Pa.Code § 23.6 (relating to acceptance of petition and department report). The Department carefully reviewed the information contained in the petition, as well as subsequent information submitted by WMDSPA at the Department's request. The information demonstrates that the disposal of increased volumes of F039 filter cake sludge wastes at the WMDSPA facility is acceptable under the substantive delisting criteria set forth in 40 CFR 260.22. The Department presented this report to the Board at its June 16, 2009 meeting and the Board directed the Department to develop a proposed rulemaking amending Chapter 261a and granting the request in the WMDSPA petition.

A public comment period of 30 days is recommended. No public meetings or hearings are currently scheduled, but may be if sufficient interest is identified during the comment period.