

**RCRA
FY 2012 Regulatory Agenda
Overview**

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Episodic Generators

(40 CFR 262 Subpart L)

- The rule is currently under development.
- The rule is intended to:
 - eliminate confusion over the definition of episodic generation;
 - provide an alternate regulatory framework for generators the encounter episodic generation events;
 - prevent abuse of provisional EPA ID Numbers relating to episodic generators;
 - create a national consistency by providing federal regulation on episodic generation;
 - provide oversight of any generator taking advantage of the rule through improved record keeping, and;
 - address this longstanding adequate record keeping issue with generators in a proactive and appropriate manner.
- The rule is less stringent than current regulations and adoption by authorized states is voluntary. However, the final rule must be adopted by the State in which the eligible generator is located for the rule to apply.
- EPA continues to work on this rule.

RCRA Requirements for Hazardous Carbon Dioxide (CO₂) Injectate in Geological Sequestration Activities

Proposed Rule

- The rule is currently in development.
- The rule is intended to address the regulatory uncertainty regarding the classification of supercritical carbon dioxide (CO₂) that is geologically sequestered in Class VI Underground Injection Control (UIC) wells.
- CO₂ streams that are captured/processed and injected for long term storage underground are currently deemed solid waste under RCRA (because they are discarded). The CO₂ streams are not considered “listed” hazardous waste. However, the CO₂ streams could possibly contain other “listed” hazardous waste, depending on the source of the CO₂ stream.
- Under this rule, EPA would determine whether or not a CO₂ stream is hazardous waste based on all waste contained in the stream. There are two options EPA is currently considering for this approach:
 1. Conditional Exemption from the Definition of Hazardous Waste for CO₂ Streams, and;
 2. Development of a Purity Specification for the CO₂ stream.
- The rule will also take Environmental Justice and Economic Impact into account.
- The rule was proposed on August 8, 2011 (76 FR 48073)
- EPA received and is responding to comments from States, corporations and the public.
- The Final Rule is projected to be published in February 2013.

Hazardous Waste (HW) Pharmaceuticals (Pharm) Proposed Rule

- This rule was originally known as the Amendment to the Universal Waste Rule (UWR) to include Pharmaceutical (Pharm) Waste (40 CFR Part 273). The UWR/Pharm Rule was proposed in December 2008.
- EPA decided not to re-propose the UWR/Pharm Rule but to propose a separate HW Pharm Rule to avoid revisions to the UWR.
- The HW Pharmaceuticals Rule is expected to provide relief in the management hazardous pharmaceutical wastes by-simplifying current requirements of large quantity generators. It will also encourage health care personnel to manage other pharmaceutical wastes as universal wastes, particularly those wastes that are not regulated as hazardous but which nonetheless may pose hazards.
- The rule will facilitate pharmaceutical take-back programs so that these wastes can be properly managed.
- Two Region 4 States; Florida and Tennessee, commented on the proposed UWR/Pharm Rule. Both the states' comments focused on segregation and labeling of hazardous pharmaceutical waste and reverse distributors. Florida (one of two states in the nation with a pharmaceutical waste amendment in its universal waste rule) also commented on the need to have states that have not or will not adopt the HW Pharm Rule to allow interstate transport of pharmaceutical waste through their states without standard RCRA Hazardous Waste manifests.
- The HW Pharm Rule will also address security, transporter and small quantity generator comments from the originally proposed UWR/Pharm Rule.
- The HW Pharm Rule is scheduled to be re-proposed in March 2013.
- States may, but will not be required to, adopt this rule (it will be less stringent).

Identification of Non-Hazardous Secondary Materials that are Solid Waste Final Rule (March 21, 2011 - 76 FR 15456)

- In the March 21, 2011, final rule, EPA clarified when non-hazardous materials that are burned are solid waste under RCRA. The rule is incorporated into a new Part 241 to the RCRA solid waste regulations. Solid waste is subject to Clean Air Act (CAA) Section 129 requirements.
- The rule was effective May 20, 2011.
- Under the rule, the following materials are not solid waste when combusted:
 1. Non-hazardous secondary materials that remain within the control of the generator and are used as fuel;
 2. Scrap vehicle tires managed under oversight of a tire collection program and used as fuel;
 3. Resinated wood (board trim, sander dust, panel trim, etc. generated in the manufacture process) when used as fuel;
 4. Non-hazardous secondary materials that are burned as ingredients (cement kiln dust, fly ash/other coal combustion wastes);
 5. Fuels or ingredients that are 1) produced from processing discarded non-hazardous secondary materials, and 2) combusted; and,
 6. Non-hazardous secondary materials that are used as fuel and that have been granted a non-waste determination by EPA.
- The six non-hazardous secondary materials described above are not solid waste when burned, but only if they meet specified legitimacy criteria. Non-hazardous secondary materials used as a fuel are not solid waste if they:
 1. Are managed as a valuable commodity;
 2. Have a meaningful heating value and are used as fuel in a combustion unit that recovers energy; and,
 3. Contain contaminants at levels comparable in concentration to (or lower than) those in traditional fuels which the combustion unit is designed to burn.
- Non-hazardous secondary materials burned as an ingredient in a combustion unit are not solid waste if they:
 1. Are managed as a valuable commodity;
 2. Provide a useful contribution to the production or manufacturing process;
 3. Are used to produce a valuable product or intermediate; and,

4. Result in products that contain contaminants at levels comparable in concentration to (or lower than) those found in traditional products that are manufactured without the non-hazardous secondary material.
- States may, but are not required to, adopt this rule (it is less stringent).
 - For additional information, see: <http://edocket.access.gpo.gov/2011/pdf/2011-4492.pdf>

Solvent-Contaminated Industrial Wipes Proposed Rule (40 CFR 260 and 261)

- The Solvent-Contaminated Industrial Wipes Rule (Wipes Rule) was proposed in November 2003. A Notice of Data Availability (NODA) and request for comment in October 2009 and the comment period was extended in December 2009 the comment period was extended until February 2010). Comments are being addressed.
- The Wipes Rule will affect solvent-contaminated industrial (disposable and non-disposable) wipes.
- The Wipes Rule will affect contaminated industrial wipes being sent to both landfill and non-landfill (e.g., laundries and combustion) facilities.
- The Wipes Rule will be applicable to industrial wipes exhibiting a hazardous characteristic due to use with solvents or industrial wipes contaminated with F001-F005 spent F-listed solvents or comparable P- and U-listed commercial chemical products that are spilled and cleaned up with industrial wipes.
- The Wipes Rule will: facilitate pollution prevention and waste minimization opportunities, foster improved solvents management , reduce compliance costs, increase consistency in regulations, clarify federal rules and create flexibility for generators to work with industrial laundries to ensure compliance with local pretreatment standards for POTWs.
- Recent risk analyses will limit disposal of some solvents (trichloroethylene, tetrachloroethylene) contaminated industrial wipes in landfills.
- The Contaminated Wipes Rule is scheduled to be finalized in June 2012.
- States may, but are not required to, adopt this rule (it is less stringent).

Standards for the Management of Coal Combustion Residuals (CCR) Generated by Commercial Electric Power Producers Proposed Rule

- 1980 Bevill Amendment temporarily excluded many mining and mineral processing wastes from Subtitle C regulation.
- EPA was sued for failing to timely make a final regulatory determination.
- May 2000 EPA published its determination that regulation of CCR disposal in landfills and surface impoundments is not warranted under Subtitle C.
- August 2007 EPA issued a Notice of Data Availability (NODA) which included: additional information on damage cases, a revised risk assessment and new information on industry management practices.
- The comment period on the NODA ended February 11, 2008.
- The TVA Kingston, TN, containment structure failed on December 2008.
- EPA is considering regulation of CCR under Subtitle C and/or D.
- There will be no placement of CCRs in fault zones, floodplains, and below the natural groundwater table.
- Synthetic liners will be required in new CCR disposal units.
- Groundwater monitoring at all new and existing disposal units.
- There will be fugitive dust controls.
- There will be surface impoundment integrity inspections.
- There will be closure and post-closure care of CCR disposal units.
- EPA encourages beneficial use of CCR.
- EPA proposed the CCR Rule on June 20, 2010, and held public meetings on the proposed rule.
- EPA issued another NODA on October 12, 2011. The comment period of this NODA closed on November 14, 2011.
- EPA is currently evaluating the comments received.

Definition of Solid Waste (DSW) Proposed Rule (76 FR 44094)

- On June 30, 2011, the EPA Administrator signed a rule proposing new safeguards for recycling hazardous materials to protect public health and the environment.
- The proposal modifies EPA's 2008 DSW rule, which revised hazardous waste regulations to encourage the recycling of hazardous materials.
- The proposal will improve accountability and oversight of hazardous materials recycling, while allowing for important flexibilities that will promote its economic and environmental benefits.
- The proposed rule was published in the Federal Register on July 22, 2011.
- The public comment period on the proposed rule ended on October 20, 2011. EPA held two public meetings and three webinars on the proposed rule.
- EPA has agreed to publish a final rule by December 31, 2012.