

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p>	
<p>(1) Agency: Department of Environmental Protection</p>		<p>3325 IRRC Number:</p>	<p>RECEIVED JAN 4 2012</p>
<p>(2) Agency Number: 7 Identification Number: 566</p>			
<p>(3) PA Code Cite: 25 Pa. Code, Part I, Subpart D, Article VII. Hazardous Waste Management, Chapter 261a (Identification and Listing of Hazardous Waste)</p>			
<p>(4) Short Title: Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Laura Griffin, (717) 783-8727, laurgriffi@pa.gov Secondary Contact: Jessica Shirley, (717) 783-8727, jessshirley@pa.gov</p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>A delisting petition is a request to exclude waste from a particular facility from the list of hazardous wastes identified under the Resource Conservation and Recovery Act (RCRA) of 1976. This proposed rulemaking is the result of two delisting petitions submitted by MAX Environmental Technologies, Inc. (MAX Environmental) for the wastewater treatment sludge filter cake currently listed as hazardous wastes generated at the MAX Bulger and Yukon facilities. The petition process required MAX Environmental to demonstrate that the wastewater treatment sludge filter cakes generated at their Bulger and Yukon facilities did not meet any of the criteria for which the waste was originally listed as hazardous and does not exhibit any hazardous waste characteristics (ignitability, corrosivity, reactivity and toxicity).</p> <p>The delisting petition process and associated analysis by the Department demonstrated that the wastewater treatment sludge filter cake from both the MAX Bulger and Yukon facilities did not meet the criteria for being listed as hazardous wastes nor did it exhibit any hazardous waste characteristics. As such, this proposed rulemaking would amend Chapter 261a Appendix IXa, Table 1a to remove (delist) the wastewater treatment sludge filter cake at the MAX Bulger and Yukon facilities from the list of hazardous wastes as long as specific conditions demonstrating the filter cake does not exhibit any hazardous waste characteristics are met.</p>			

(8) State the statutory authority for the regulation. Include specific statutory citation.

This proposed rulemaking is adopted under the authority of sections 105, 402 and 501 of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.402 and 6018.501), section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), and Section 303 of the Hazardous Sites Cleanup Act (35 P.S. §§ 6020.303), which grants the Board the authority to promulgate regulations to carry out the provisions of that Act. Under sections 105, 402 and 501 of the SWMA, the Environmental Quality (Board) has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety, welfare and property, and the air, water and other natural resources of this Commonwealth. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, this regulation is not mandated by any federal or state law or court order or federal regulation. This proposed rulemaking is the result of two petitions to amend the hazardous waste regulations to exclude a particular waste generated at the MAX Bulger and MAX Yukon facilities from the lists of hazardous wastes.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Federal regulations, incorporated by reference by Pennsylvania, allow a person to submit a petition to remove certain wastes from a particular facility from the lists of hazardous waste in 40 CFR 261.31 and 261.32 (relating to hazardous wastes from non-specific sources; and hazardous wastes from specific sources) if the petitioner can demonstrate that the waste does not meet any of the criteria for which the waste was originally listed as a hazardous waste in 40 CFR 261.11. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for the Department to decide whether factors other than those for which the waste was originally listed warrant retaining it as a hazardous waste. If the petitioner can make that demonstration, then the Department must proceed with a rulemaking to delist the waste so it may be managed as a non-hazardous waste.

MAX Environmental submitted two petitions to delist the wastewater treatment sludge filter cake derived from the treatment of EPA Hazardous Waste No. F039 (multi-source leachate) generated at the MAX Bulger and Yukon facilities from the list of hazardous wastes found in 40 CFR 261.31. In accordance with the petition process, the Department conducted an independent review of the Delisting Petitions and found that the sludge filter cake from both MAX Bulger and MAX Yukon did not meet the criteria for being listed as an F039 hazardous waste nor did it exhibit any of the hazardous waste characteristics. This regulation will take the Board's direction and continue the appropriate management of the sludge filter cake from the MAX Bulger and MAX Yukon facilities in a manner to prevent detriment to the environment or public health and safety.

The main beneficiary of this proposed regulation is MAX Environmental. Presently, MAX Environmental incurs significant economic impact by having to manage the wastewater treatment plant

sludge filter cake as a hazardous waste (see questions #17 and #18 for greater detail). There are both transportation and disposal costs incurred for each facility. MAX Environmental has provided figures of \$1,439 per ton of dry sludge (disposal and transportation) for management as a hazardous waste. If the rulemaking is adopted, disposal of the sludge would be allowed onsite. The estimate provided for disposal of non-hazardous sludge is \$40/ton.

Under the terms of the rulemaking, MAX Environmental would still be required to conduct sampling to verify the sludge does not exhibit hazardous waste characteristics and provide assurance via recordkeeping and record submittal to the Department that the terms and conditions of the delisting are being met prior to disposal of the sludge. The terms of the delisting also provide procedures for waste handling prior to verification sampling and provides procedures for changes in operations or reopeners should that need arise. However, even with the added laboratory expenses from the monitoring and coordination required as part of the regulation, MAX Environmental would still realize a financial savings for both the MAX Bulger and MAX Yukon facilities that would approach \$950,000 annually due to the reduced transportation and disposal costs noted above.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

This proposal is not more stringent than federal standards. It is a provision that has been authorized by the EPA for the Department to implement in Pennsylvania in lieu of the federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Not all states are authorized to process hazardous waste delisting petitions, in which case the EPA processes the petitions. This specific proposal will not put Pennsylvania at a competitive disadvantage with other states. The proposed rulemaking would only be effective in Pennsylvania.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not impact any other regulations of the Department. The structure for the proposed regulation already exists at 25 Pa. Code Chapter 261a through incorporation by reference of the federal hazardous waste regulations, and Pennsylvania has also previously approved a different delisting petition. Regulations of other state agencies will not be affected.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

This proposal was developed in response to two (2) delisting petitions to amend the regulation. Under the Commonwealth's hazardous waste regulations in 25 Pa. Code § 260a.20, delisting petitions shall be submitted to the Board in accordance with the procedures established in Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). In keeping with these procedures, the Department alerted the Board that the petitions met the requirements for acceptability, and at the June 18, 2019 Board meeting, recommended that the Board accept both petitions for further study. The Board voted unanimously to accept this recommendation. Notice of

acceptance of the petitions was published in the *Pennsylvania Bulletin* on June 29, 2019 (49 Pa.B. 3316). Following the Department's evaluation of both petitions, the Board unanimously approved both petitions for rulemaking on June 16, 2020.

The petitioner, MAX Environmental, provided the analytical data and other information that was reviewed by the Board and used to draft the proposed rulemaking.

Additionally, the Department's Solid Waste Advisory Committee (SWAC) was briefed on the petition and shown a draft Annex A of the proposed rulemaking on September 10, 2020. SWAC works with the Department to develop programs, policies and regulations to effectively implement Pennsylvania's solid waste management and recycling programs. SWAC's current membership includes individuals representing municipal solid waste authorities, local government interests, solid waste management industry groups, consulting firms and private citizens. At its September 10, 2020 meeting, SWAC concurred with the Department's recommendation to proceed to proposed rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Only the petitioner, MAX Environmental, will be affected by this proposed rulemaking. The proposed rulemaking is to provide a specific conditional delisting of wastewater treatment sludge filter cake generated at the MAX Bulger and MAX Yukon facilities. MAX Environmental will benefit from reduced costs associated with the delisted waste streams as they will now be able to dispose of the filter cake in their own permitted Subtitle D landfill after performing certain verification testing to verify the sludge is not exhibiting hazardous waste characteristics.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Only the petitioner, MAX Environmental, will be required to comply with the conditions included in the proposed rulemaking. The proposed rulemaking provides a specific conditional delisting of wastewater treatment sludge filter cake generated at the MAX Bulger and MAX Yukon facilities and is therefore not applicable to other facilities.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The primary beneficiary of this proposed rulemaking is MAX Environmental. Under the terms of the proposed rulemaking, MAX Environmental would have the ability to dispose of the filter cake from the MAX Bulger and MAX Yukon facilities in their own permitted Subtitle D landfill after performing certain verification testing to confirm the sludge is not exhibiting hazardous waste characteristics. Based on the costs incurred by MAX Environmental to properly dispose of the hazardous filter cake sludge currently, the company will save over \$850,000 annually for the Bulger facility waste and over \$100,000 annually for the Yukon facility waste in disposal, transportation and laboratory costs as a result of this delisting amendment. Specifically, MAX Environmental has provided the following breakdown of the economic and social impacts of this proposed rulemaking on their operations and the surrounding public. The Department independently reviewed these impacts and concurs with the analysis below, which describes the anticipated economic impact from the MAX Yukon facility:

1. Shipping the waste to a hazardous waste landfill: Currently, if the waste has to be shipped in a wet slurry form, the cost per gallon is \$2.38, or about \$12,157 per tanker truck (disposal and transportation) or \$1,439 per ton for dry sludge (disposal and transportation), based on invoice data from American Waste Management Services/US Ecology. If the waste was classified as non-hazardous, there would only be an internal labor cost for disposal of the sludge at the MAX Yukon facility with a cost of approximately \$1.25/ton. Off-site shipping and disposal of this waste as non-hazardous would cost \$40/ton based on current rates that MAX Environmental has obtained from third party area landfills and trucking companies. Hence, the impact is at least a savings of \$1,439 per ton as hazardous compared to \$40 per ton as non-hazardous, a difference in cost of about \$1,399 per ton.

Based on the average annual quantity of sludge generated, it costs MAX Environmental \$115,120 to ship 80 tons of MAX Yukon sludge off-site as a hazardous waste. Conversely, it would cost MAX Environmental \$3,360 to ship 80 tons of MAX Yukon sludge off-site as non-hazardous. It would cost about \$100 annually if the MAX Yukon sludge is disposed on-site as non-hazardous.

2. Laboratory Testing: The delisting proposal requires TCLP metals testing for each batch of sludge generated to confirm that the sludge meets the proposed delisting limits. Using a typical third-party laboratory rate for TCLP metals testing of \$150 and assuming 20 tons per batch, lab analyses would cost \$600 for MAX Yukon annually using average annual sludge generation amounts.

3. Unnecessary Truck Traffic Increasing Safety and Environmental Impacts. In addition to the costs savings described above, the delisting may potentially avoid over 12,000 truck miles on the highways in western Pennsylvania and elsewhere currently accumulated while transporting the waste as hazardous for appropriate disposal.

Summary:

Annual Costs	Hazardous	Delisted	Difference/Savings
Offsite Disposal and Transportation	\$115,120 (min)	\$3,360 (min)	\$111,760 (min)
Laboratory Analysis	\$0	\$600	(\$600)
Total Impact	\$115,120 (min)*	\$3,960 (max)*	\$111,160

* Minimum assumes that the waste can be managed as dry hazardous; maximum assumes cost for off-site shipment of delisted sludge.

Plus: Increased truck traffic impact to safety.

Below describes the anticipated economic impact from the MAX Bulger facility:

1. Shipping the waste to a hazardous waste landfill: If the waste has to be shipped in a wet slurry form, the cost per gallon is \$2.38, or about \$12,157 per tanker truck (disposal and transportation) or \$1,439 per ton for dry sludge (disposal and transportation), based on invoice data from American Waste Management Services/US Ecology. If the waste was classified as non-hazardous there would only be an internal labor cost for disposal of the sludge at the MAX Bulger facility, if the MAX Bulger residual waste landfill is appropriately permitted, which works out to about \$1.25/ton. Off-site shipping and disposal of this waste as non-hazardous would cost \$40/ton based on current rates obtained from third party area landfills and trucking companies. Hence, the impact is at least \$1,439 per ton as hazardous compared to \$40 per ton as nonhazardous, a difference in cost of \$1,399 per ton.

Based on the annual quantity of sludge generated, it would cost MAX Environmental about \$863,400 to ship MAX Bulger's sludge off-site as hazardous. Conversely, it would cost MAX Environmental approximately \$24,000 to ship 600 tons of MAX Bulger sludge off-site as non-hazardous.

2. **Laboratory Testing:** The delisting proposal requires TCLP metals testing for each batch of sludge generated to confirm the sludge meets the proposed delisting limits. Using a typical third-party laboratory rate for TCLP metals testing of \$150 and assuming 20 tons per batch, lab analyses would cost \$4,500 for MAX Bulger annually at the delisting petition annual quantity of sludge generated amount. At approximately \$7.50 per ton, this is an insignificant cost compared to the costs shown above of treating the material as hazardous.

3. **Unnecessary Truck Traffic Increasing Safety and Environmental Impacts.** In addition to the costs savings described above, the delisting may potentially avoid over 12,000 truck miles on the highways in western Pennsylvania and elsewhere currently accumulated while transporting the hazardous waste for appropriate disposal.

Summary:

Annual Costs	Hazardous	Delisted	Difference/Savings
Offsite Disposal and Transportation	\$863,400 (min)	\$24,000 (max)	\$839,400
Laboratory Analysis	\$0	\$4,500	(\$4,500)
Total Impact	\$863,400 (min)*	\$28,500 (max)*	\$834,900

* Minimum assumes that the waste can be managed as dry hazardous; maximum assumes cost for off-site shipment of delisted sludge.

Plus: Increased truck traffic impact to safety.

The sample frequency and verification sampling provide assurance that the terms and conditions of the delisting are being met by the MAX Bulger and MAX Yukon facilities. Recordkeeping and record submittal procedures to the Department also provide that assurance. The terms of the delisting also provide procedures for waste handling prior to verification sampling and provides procedures for changes in operations or reopeners should that need arise.

In conclusion, MAX Environmental incurs significant economic impact by having to manage the wastewater treatment plant sludge as a hazardous waste. There are both transportation and disposal costs incurred for each facility. If the rulemaking is approved, disposal of the sludge would be onsite. The offset of laboratory expenses for delisting against managing the waste as hazardous is more than recuperated by eliminating transportation costs and disposal as a hazardous waste. Combined, MAX Environmental estimates that financial savings for both the MAX Bulger and MAX Yukon facilities would approach \$950,000 annually. The application of this proposed regulation would therefore provide a cost-effective and environmentally responsible method of disposal for the proposed non-hazardous waste.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The main benefit of this proposed rulemaking is that the petitioner, MAX Environmental, would be able to dispose of the filter cake from their Bulger and Yukon facilities at their own permitted Subtitle D landfill, which will allow MAX Environmental to save over \$850,000 annually for the Bulger facility

waste and over \$100,000 annually for the Yukon facility waste in disposal, transportation and laboratory costs.

Under the terms of the rulemaking, MAX Environmental would still be required to conduct sampling to verify the sludge does not exhibit hazardous waste characteristics and provide assurance via recordkeeping and record submittal to the Department that the terms and conditions of the delisting are being met prior to disposal of the sludge. The terms of the delisting also provide procedures for waste handling prior to verification sampling and provides procedures for changes in operations or reopeners should that need arise. However, even with the added laboratory expenses from the monitoring and coordination required as part of the regulation, MAX Environmental would still realize a financial savings for both the MAX Bulger and MAX Yukon facilities of approximately \$950,000 annually due to the reduced transportation and disposal costs.

As such, the proposed regulation would allow MAX Environmental to appropriately manage the filter cake from their Bulger and Yukon facilities while the sampling and recordkeeping components of the proposed rule ensure continued protection of public health and the environment.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Based on the cost data provided by MAX Environmental, the proposed rulemaking will result in savings for the company of approximately \$950,000 annually if the wastewater treatment sludge filter cake generated at the MAX Bulger and MAX Yukon facilities are found to be non-hazardous after sampling is completed as outlined in the proposed regulation and disposed of accordingly.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed rulemaking is not expected to have an impact on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed rulemaking is not expected to have any significant impact on state government. No additional recordkeeping, inspection, report review, etc., beyond what is currently required by regulation, is anticipated.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed rulemaking includes a section on data submittal by the petitioner as a condition of the delisting. The company currently maintains similar but more extensive data and reports, including manifests, for the filter cake waste generated at the petitioner's facility that must be managed as hazardous wastes. The proposed rulemaking provides the sampling criteria and delisting levels that

must be met in order to meet the conditions of the exclusion. Further, the proposed rulemaking outlines verification testing frequency and sets volume maximums. Upon sample analysis, sample results will be submitted to the Department for verification, inclusive of a certification as to the truth and accuracy of that data. Also, as noted, the management of the sludge is to be maintained as a hazardous waste until verification analyses is complete.

(22a) Are forms required for implementation of the regulation?

There is no specific form for the submission of the data required as a condition of the delisting.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

N/A

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 2021/22	FY +1 2022/23	FY +2 2023/24	FY +3 2024/25	FY +4 2025/26	FY +5 2026/27
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	946,060	946,060	946,060	946,060	946,060	946,060
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	946,060	946,060	946,060	946,060	946,060	946,060
COSTS:						
Regulated Community	32,460	32,460	32,460	32,460	32,460	32,460
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Costs	32,460	32,460	32,460	32,460	32,460	32,460
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 2018/19	FY -2 2019/20	FY -1 2020/21	Current FY 2021/22
RCRA Grant	\$4,740,000	\$4,740,000	\$4,703,028	\$4,666,344
State Match (HSCA)	\$1,580,000	\$1,580,000	\$1,567,676	\$1,555,448

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.

The proposed regulation will not impact small businesses. The proposed rulemaking is for wastes excluded from specific sources and will therefore only be applicable to the MAX Bulger and MAX Yukon facilities.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

The proposed regulation will not impact small businesses. The proposed rulemaking is for wastes excluded from specific sources and will therefore only be applicable to the MAX Bulger and MAX Yukon facilities. Recordkeeping and administrative costs would only be borne by MAX Bulger and MAX Yukon. These costs are already being incurred and represent no significant change in activity.

- (c) A statement of probable effect on impacted small businesses.

The proposed regulation will not impact small businesses. The proposed rulemaking is for wastes excluded from specific sources and will therefore only be applicable to the MAX Bulger and MAX Yukon facilities.

- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The proposed rulemaking is the less intrusive method of handling the wastewater treatment sludge versus current handling methods. The proposed regulation would minimize cost to the facility while also minimizing transportation costs.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

Due to the site-specific nature of the proposed regulation, no special provisions are necessary.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory process was considered. The petition process as outlined in the Hazardous Waste Regulations is allowed by the EPA. (See response in paragraph 10.)

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

This proposed rulemaking only effects the MAX facilities and will not have any adverse impact on small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

See attached data, linked below. Files include:

- 1) EPA RCRA Delisting Program, Guidance Manual for the Petitioner (March 23, 2000), https://archive.epa.gov/region6/6pd/rcra_c/pd-o/web/pdf/delist23.pdf
- 2) Bulger Sampling and Analysis Plan – October 2017, https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2021/September%2021/03_7-566_MAX%20Delisting_Proposed%20RM/04b.1_Bulger%20SAP%20Complete%20-%20October%202017.pdf
- 3) MAX Bulger Facility – F039 Delisting Petition 05-02-19, http://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2019/June%2018/02_HW_Delisting_Petitions/MAX%20Bulger%20Facility%20-%20F039%20Delisting%20Petition.pdf
- 4) MAX Bulger Delisting Evaluation Report, https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2021/September%2021/03_7-

566 MAX%20Delisting Proposed%20RM/04b.2 MAX%20Bulger%20Delisting%20Eval%20Report.pdf

- 5) Yukon Sampling and Analysis Plan – October 2017,
https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2021/September%2021/03_7-566_MAX%20Delisting_Proposed%20RM/04b.3_Yukon%20SAP%20Complete%20-%20October%202017.pdf
- 6) MAX Yukon Facility – F039 Delisting Petition 05-02-19,
http://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2019/June%2018/02_HW_Delisting_Petitions/MAX%20Yukon%20Facility%20-%20F039%20Delisting%20Petition.pdf
- 7) MAX Yukon Delisting Evaluation Report,
https://files.dep.state.pa.us/PublicParticipation/Public%20Participation%20Center/PubPartCenterPortalFiles/Environmental%20Quality%20Board/2021/September%2021/03_7-566_MAX%20Delisting_Proposed%20RM/04b.4_MAX%20Yukon%20Delisting%20Eval%20Report.pdf

(29) Include a schedule for review of the regulation including:

- | | |
|---|--|
| A. The length of the public comment period: | <u>45 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>January 19, 20 and 26, 2022</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 1, 2023</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication in the PA Bulletin</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Upon publication in the PA Bulletin</u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The proposed rulemaking represents a conditional exclusion, meaning that there will be post-exclusion testing requirements that must be met by the petitioner prior to waste disposal. The sludge material would continue to be managed as a hazardous waste until to sample verification. Only after sample verification could the sludge be managed as non-hazardous waste. This sludge would then be managed under DEP's Residual Waste Regulations at 25 Pa. Code Article IX.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

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Copy below is hereby approved as to form and legality.
Attorney General

By: **Amy M. Elliott**
(Deputy Attorney General)
Digitally signed by Amy M. Elliott
DN: cn=Amy M. Elliott,
o=Pennsylvania Office of Attorney
General, ou=Chief Deputy
Attorney General,
email=ajelliott@attorneygeneral.gov,
c=US
Date: 2021.11.05 15:44:57 -0400

11/5/21
DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-566

DATE OF ADOPTION September 21, 2021

BY 

TITLE **PATRICK MCDONNELL**
CHAIRPERSON

EXECUTIVE OFFICER CHAIRPERSON OR SECRETARY

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY 

October 6, 2021
DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel - Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

Exclusion for Identification and Listing Hazardous Waste at
MAX Environmental Technologies, Inc. Bulger and Yukon Facilities

25 Pa. Code Chapter 261a

**PROPOSED RULEMAKING
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CHAPTER 261a]**

Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities

The Environmental Quality Board (Board) proposes to amend Chapter 261a (relating to identification and listing of hazardous waste) to conditionally exclude the wastewater treatment sludge filter cake derived from EPA Hazardous Waste No. F039 (multi-source leachate) generated at MAX Environmental Technologies, Inc. Bulger and Yukon facilities from the list of hazardous wastes found in 40 CFR 261.31 (relating to hazardous wastes from non-specific sources). The proposed rulemaking is the result of two Petitions to Delist F039 (Delisting Petitions) leachate from MAX Environmental Technologies, Inc.

This proposed rulemaking was adopted by the Board at its meeting of September 21, 2021.

A. Effective Date

This proposed rulemaking will go into effect upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

B. Contact Persons:

For further information, contact Thomas Mellott, Chief, Division of Hazardous Waste Management, P.O. Box 69170, Rachel Carson State Office Building, Harrisburg, PA 17106-9170, (717) 787-6239; or Nikolina Smith, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8501. Persons with a disability may use the Pennsylvania Hamilton Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website at www.dep.pa.gov (Select "Public Participation," then "Environmental Quality Board" and then navigate to the Board meeting of September 21, 2021).

C. Statutory Authority

This proposed rulemaking is adopted under the authority of sections 105, 402 and 501 of the Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.105, 6018.402 and 6018.501), section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), and section 303 of the Hazardous Sites Cleanup Act (35 P.S. § 6020.303), which grants the Board the authority to promulgate regulations to carry out the provisions of that Act. Under sections 105, 402 and 501 of the SWMA, the Board has the power and duty to adopt rules and regulations concerning the storage, treatment, disposal and transportation of hazardous waste that are necessary to protect the public's health, safety, welfare and property, and the air, water and other natural resources of this Commonwealth. Section 1920-A of The Administrative Code of 1929 grants the Board the authority to promulgate rules and regulations that are necessary for the proper work of the Department.

D. Background and Purpose

Hazardous Waste Delisting

As defined in 40 CFR 261.3 (relating to definition of hazardous waste), a hazardous waste is 1) a solid waste that is not excluded from regulation as a hazardous waste under 40 CFR 261.4(b), 2) exhibits any of the characteristics of hazardous waste (ignitability, corrosivity, reactivity or toxicity) or 3) is listed in 40 CFR Part 261 subpart D (Lists of Hazardous Waste). A delisting petition is a request to exclude waste from a particular facility from the list of hazardous wastes under the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C.A. §§ 6901—6986) and the Solid Waste Management Act (SWMA) (35 P.S. §§ 6018.101—6018.1003). Under 42 U.S.C.A. § 6926, any state which seeks to administer and enforce a hazardous waste program may submit an application for approval to the United States Environmental Protection Agency (EPA) to implement an EPA-approved program. The Commonwealth received final authorization from EPA to implement its base hazardous waste program effective January 30, 1986 (51 FR 1791), and EPA approved the Commonwealth's most recent Program Revision III effective June 29, 2009 (74 FR 19453).

Under 40 CFR 260.20 and 260.22 (relating to general; and petitions to amend part 261 to exclude a waste produced at a particular facility), which are incorporated by reference in the Department's regulations at 25 Pa. Code § 260a.1 (relating to incorporation by reference, purpose, scope and applicability) and modified by § 260a.20 (relating to rulemaking petitions), a person may petition the EPA or a state administering an EPA-approved hazardous waste management program to remove a waste or the residuals resulting from effective treatment of a waste from a particular generating facility from the lists of hazardous wastes in 40 CFR 261.31 and 261.32 (relating to hazardous wastes from non-specific sources; and hazardous wastes from specific sources). Specifically, 40 CFR 260.20 allows a person to petition to modify or revoke any provision of 40 CFR Parts 260—266, 268 and 273. Section 260.22 of 40 CFR provides a person the opportunity to petition to exclude a waste on a "generator specific" basis from the hazardous waste lists.

The delisting process exists due to a national recognition that a specific listed waste produced at a particular facility may not meet the standards for which the waste was originally listed as hazardous. The intent of the delisting process was to ease the regulatory burden on handlers of listed waste improperly captured by the broad listing definitions under 40 CFR 261.3. Delisting has since evolved to also include listed wastes that are sufficiently treated so that they no longer pose a health threat. The delisting process provides a mechanism that allows the Department to work with a facility to evaluate their waste and ensure appropriate waste management while reducing over-regulation. If the delisting analysis shows that a currently listed waste meets those delisting criteria in 40 CFR 260.22(a), then the Department must move forward with the delisting process. It is important to emphasize that a delisting does not exclude a hazardous waste from hazardous waste regulation. More accurately, a delisting excludes a waste that is not hazardous from being managed as a hazardous waste.

Under the Commonwealth's hazardous waste regulations in 25 Pa. Code § 260a.20, delisting petitions shall be submitted to the Board in accordance with the procedures established in

Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy) instead of the procedures in 40 CFR 260.20(b)—(e).

In a delisting petition, the petitioner must demonstrate that waste generated at a particular facility does not meet any of the criteria for which the waste was originally listed as a hazardous waste in 40 CFR 261.11 (relating to criteria for listing hazardous waste). In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e. ignitability, corrosivity, reactivity and toxicity) and present sufficient information for the Department to decide whether factors other than those for which the waste was originally listed as hazardous warrant retaining it as a hazardous waste. Only after the Department's analysis has shown that the waste does not meet the criteria for being listed as a hazardous waste, nor does it exhibit any of hazardous waste characteristics, may amendments be pursued to exclude the waste from the lists of hazardous wastes in 40 CFR 261.31 and 261.32.

For background information related to the wastes discussed in these delisting petitions, the federal definition of leachate is "...any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste." 40 CFR 260.10 (relating to definitions). Sludge is defined as "...any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant." *Id.* Filter cake is the solids that result after the sludge has been dewatered by a filter press.

MAX Environmental, Bulger Facility

MAX Environmental Technologies, Inc. (MAX) owns and operates the Bulger facility (MAX Bulger), which is located approximately 18 miles west-southwest of Pittsburgh, Pennsylvania, in Smith Township, Washington County, Pennsylvania. MAX Bulger (Solid Waste Disposal/Processing Facility Permit - 301359) operates under a Consent Order and Agreement (COA) with the Department. A COA is generally a voluntary agreement negotiated between two or more parties to resolve a disagreement. Select solids are managed at the facility to create a cap support zone for closure of a historical impoundment. The facility is currently used for beneficial placement of a wide range of materials from the energy, construction, and manufacturing industries, as well as metal-impacted materials (e.g., soil, dredging wastes) from site remediation projects. More recently, the largest volume wastes received at the facility for placement consist of metal-impacted soils from remediation projects and drill cuttings from the oil and gas industry.

Due to the nature of the wastes disposed of at MAX Bulger, the leachate that is generated from MAX Bulger has been presumed to be hazardous (by definition) and therefore has been classified as an F039 listed hazardous waste. Under 40 CFR 261.31(a), F039 is defined as "Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous."

MAX Environmental, Yukon Facility

MAX also owns and operates the Yukon facility (MAX Yukon), which is located approximately 30 miles southeast of Pittsburgh, Pennsylvania, in Yukon, Westmoreland County, Pennsylvania.

MAX Yukon operates as a RCRA Subtitle C permitted treatment facility (PAD004835146) and as an on-site commercial residual waste landfill (Solid Waste Permit No. 301071). High-volume stabilization and solidification, chemical treatment of waste dusts and liquids, and crushing and resizing of slag and refractory brick for treatment and disposal are conducted at the facility. The residual waste landfill at MAX Yukon is used for disposal of a wide range of materials from the energy, construction, and manufacturing industries, as well as metal-impacted materials (e.g., soil) from site remediation projects. More recently, the largest volume wastes received at the facility for treatment and disposal consist of metal-impacted soils from remediation projects and drill cuttings from the oil and gas industry.

Similar to MAX Bulger, due to the nature of the wastes, the leachate that is generated from MAX Yukon has been classified as an F039 listed hazardous waste under 40 CFR 261.31.

MAX Environmental Delisting Petitions

In May 2019, MAX submitted two petitions: a petition to delist the F039 sludge generated from the leachate treatment plant at MAX Bulger (Bulger Petition) and a petition to delist the F039 sludge generated from the leachate treatment plant at MAX Yukon (Yukon Petition). The petitions were based on the framework described in the EPA RCRA DELISTING PROGRAM GUIDANCE MANUAL FOR THE PETITIONER, March 23, 2000 (EPA Delisting Guidance Manual).

Both the Bulger Petition and the Yukon Petition were prepared to satisfy the requirements of two COAs entered by and between the Department and MAX on April 6, 2018, for MAX Bulger and on March 28, 2018, for MAX Yukon. The COAs required MAX to manage the sludge at both facilities as F039 hazardous wastes unless and until such time that the sludges are delisted as being hazardous wastes. Under the terms of each COA, MAX agreed to submit a full and complete petition in accordance with 40 CFR 260.22 to request the delisting of the sludge derived from the treatment of leachate from the Bulger and Yukon facilities. Based on historical data regarding leachate and subsequent sludge generation, the volume of filter cake generated for MAX Bulger may not exceed 150 cubic yards per three-month period. MAX also agreed to submit a full and complete petition in accordance with 40 CFR 260.22 to request the sludge derived from the treatment of leachate from Yukon Impoundment 5 or sludge derived from the treatment of leachate that has been mixed with leachate from Yukon Impoundment 5 be delisted. Based on historical data regarding leachate and subsequent sludge generation, the volume of filter cake generated for MAX Yukon may not exceed 20 cubic yards per three-month period.

For both Delisting Petitions, MAX requested a specific conditional delisting of the wastewater treatment sludge filter cake at MAX Bulger and MAX Yukon. A conditional delisting means MAX would be required to test samples of the sludge filter cake and verify that the samples on a volume basis do not exhibit any hazardous waste characteristics as described in Chapter 261a Appendix IXa, Table 2a (1) (relating to delisting levels) prior to waste disposal. Prior to sample verification, the sludge material would continue to be managed as a hazardous waste and only after sample verification could the sludge be managed as non-hazardous waste.

Upon receipt of the Delisting Petitions, the Department reviewed each in accordance with the Board's Petition Policy in 25 Pa. Code Chapter 23, including verifying that the Petitions were

administratively complete as required by 25 Pa. Code § 23.1 (relating to petitions); the Petitions requested actions that could be taken by the Board; and the requested actions did not conflict with Federal law. Based on this verification, the Department determined that the Delisting Petitions met the conditions in 25 Pa. Code § 23.2 (relating to departmental review) for further review. The Department then notified the petitioners and the Board that the Delisting Petitions met the requirements for acceptability. At the June 18, 2019 Board meeting, the Department recommended that the Board accept both Delisting Petitions for further study. The Board voted unanimously to accept this recommendation. On June 29, 2019, the Department published notice of acceptance of the Delisting Petitions in the *Pennsylvania Bulletin* (49 Pa.B. 3316) and began its evaluation.

MAX Bulger Petition Evaluation

To determine whether the sludge from MAX Bulger should be delisted as a hazardous waste, a Sampling and Analysis Plan (SAP) based on historical knowledge of the materials handled at MAX Bulger and a Quality Assurance Project Plan (QAPP) were developed during pre-application meetings and approved by the Department in October 2017 and February 2018, respectively, to be used to complete the Delisting Petition analysis. In accordance with the SAP and QAPP, MAX submitted samples obtained from four sampling events performed over a one-year period to reflect potential variations in constituent concentrations under various seasonal conditions. Samples were collected as composites for total metals and toxicity characteristic leaching procedure (TCLP) metals. Grab samples were analyzed for Volatile Organic Compounds (VOCs) and Semi-Volatile Organic Compounds (SVOCs).

The SAP was designed to provide enough data to prepare a Delisting Risk Assessment System (DRAS) simulation to aid in the Delisting Petition analysis. DRAS is a risk assessment software program that calculates the potential risks associated with disposing a given waste stream to a landfill or surface impoundment. It can only provide risk analyses based on the information entered into the program. The user assigns a target cancer risk and hazard index, and DRAS calculates both the waste's aggregate risks and back-calculates each waste constituent's maximum allowable concentration permissible for delisting it as a hazardous waste. The risk-based approach combines state-of-the-art fate and transport modeling with standardized exposure assessment algorithms to provide sound risk assessment. However, the risk assessment results from DRAS are only one factor in a delisting decision.

The analytical results from the DRAS simulation were evaluated via two mechanisms. The first mechanism is a direct comparison of the concentrations identified in the samples provided by MAX in accordance with the SAP to the Universal Treatment Standards (UTS) table at 40 CFR 268.48 (relating to universal treatment standards). For any given hazardous waste, the “underlying hazardous constituents” (UHC) are any constituents listed in the UTS table which can reasonably be expected to be present at the point of generation at a concentration above the UTS level. A characteristic hazardous waste that is going to be land disposed must first be treated to reduce the concentration of any underlying hazardous characteristic to below the levels in the UTS table.

The second is a simulation of potential human health or ecological risks via the use of a conservative multimedia exposure model. The MAX Bulger Petition was prepared using the

DRAS to identify constituents that could pose a threat to humans or ecological receptors. Constituents of interest for the purposes of execution of the DRAS simulations were also selected. DRAS was run assuming a target cancer risk level of 1×10^{-6} and a target hazard quotient of 1 (non-carcinogenic human health effects and ecological receptors).

The MAX Bulger Petition is limited to a maximum annual volume of 600 cubic yards of filter cake and is conditioned upon the petitioner performing certain verification testing of the filter cake to demonstrate compliance with maximum allowable concentration limits. The maximum allowable concentration limits were selected for organic and inorganic constituents of the filter cake and must be met before the delisted waste can be disposed in a RCRA Subtitle D (non-hazardous waste) landfill.

This sampling and analysis evaluation indicated that the sludge does not meet the criteria for listing as an F039 hazardous waste in 40 CFR 261.31.

The samples that were collected reveal that metals are the most commonly detected constituents of the material accepted at the facility. Sporadic detections of VOCs and SVOCs have also been observed. However, analysis of the sludge indicates that the concentrations of constituents of interest do not exceed the UTS promulgated at 40 CFR 268.48. In fact, they are one or more orders of magnitude below the chemical specific UTS.

The analyses also revealed that the sludge at MAX Bulger does not exhibit the characteristics of hazardous waste. The pH of the additional sludge samples show that the material is not corrosive and the nature of the material together with generator knowledge demonstrates that the sludge is also non-reactive and non-ignitable. The analytical data confirmed that none of the target pesticides, herbicides or polychlorinated biphenyls (PCBs) were detected. The EPA Delisting Guidance Manual also stipulates that reactive sulfide and reactive cyanide should be analyzed if their total concentrations results exceed 500 and 250 parts per million, respectively. The maximum concentration measured for total cyanide was 3.42 mg/kg, and total sulfide was not detected for the leachate treatment system sludge. Cyanide and sulfide concentrations are below the calculated DRAS limits.

The maximum and average concentrations of total metals in the sludge samples are also below the calculated limits. A comparison of the TCLP analysis of the leachate concentrations with the concentrations from the DRAS simulation model shows that the constituents of interest are non-carcinogenic for human health effects and ecological receptors, because they are significantly lower than the DRAS model acceptable concentrations limits.

MAX Yukon Petition Evaluation

For the MAX Yukon Petition, MAX submitted samples that were obtained and analyzed in accordance with the same SAP and QAPP approved for use in the Bulger Petition.

The MAX Yukon Petition was prepared using the DRAS to identify constituents that could pose a threat to humans or ecological receptors. Constituents of interest for the purposes of execution of the DRAS simulations were also selected. This was a relatively straightforward process given that a decision was made to simulate any targeted and detected constituent accommodated by the

DRAS software. DRAS was run assuming a target cancer risk level of 1×10^{-6} and a target hazard quotient of 1 (non-carcinogenic human health effects and ecological receptors).

The Yukon Petition is limited to a maximum annual volume of 80 cubic yards of filter cake and is conditioned upon the petitioner performing certain verification testing of the filter cake to demonstrate compliance with maximum allowable concentration limits. The maximum allowable concentration limits were selected for organic and inorganic constituents of the filter cake and must be met before the delisted waste can be disposed in a RCRA Subtitle D (non-hazardous waste) landfill.

Sampling and analysis indicate that the sludge from MAX Yukon does not meet the criteria for listing as an F039 hazardous waste in 40 CFR 261.31.

The samples that were collected reveal that metals are the most commonly detected constituents of the material accepted at the facility. Sporadic detections of VOCs and SVOCs have also been observed. However, analysis of the sludge indicates that the concentrations of constituents of interest do not exceed the UTS promulgated at 40 CFR 268.48. In fact, they are one or more orders of magnitude below the chemical specific UTS.

The analyses also revealed that the sludge does not exhibit the characteristics of hazardous waste. The pH of the additional sludge samples show that the material is not corrosive and the nature of the material together with generator knowledge demonstrates that the sludge is also non-reactive and non-ignitable. The analytical data confirmed that none of the target pesticides, herbicides, or PCBs were detected. The EPA Delisting Guidance Manual also stipulates that reactive sulfide and reactive cyanide should be analyzed if their total concentration results exceed 500 and 250 parts per million, respectively. The maximum total sulfide and total cyanide concentrations measured for the leachate treatment system sludge were 13.4 mg/kg and 23.5 mg/kg, respectively, which are below the calculated DRAS limits.

The maximum and average concentrations of total metals in the sludge samples are below the calculated limits. A comparison of the TCLP analysis of the leachate concentrations with the concentrations from the DRAS simulation model shows that the constituents of interest are non-carcinogenic for human health effects and ecological receptors because they are significantly lower than the DRAS model acceptable concentrations limits.

Delisting Petition Approval for Rulemaking

On June 16, 2020, the Department presented to the Board the two evaluation reports that included the findings from the Department's careful and independent review of the Delisting Petitions as summarized above. Based on the Department's conclusion that the sludge from both MAX Bulger and MAX Yukon did not meet the criteria for being listed as F039 hazardous wastes nor did it exhibit any of the hazardous waste characteristics, the Board unanimously approved both Delisting Petitions for rulemaking.

E. Summary of the Proposed Rulemaking

Chapter 261a contains provisions for the identification and listing of hazardous waste. Section 261a.32 (relating to lists of hazardous wastes) was added in 2006 to refer to Appendix IXa

(relating to wastes excluded under 25 Pa. Code § 260a.20 and 40 CFR 260.20 and 260.22). Appendix IXa contains Table 1a (relating to wastes excluded from nonspecific sources), which lists wastes from nonspecific sources that have been delisted through the petition process by the Department and the Board. This numbering scheme is being used to parallel the Federal regulations for clarity and consistency with the incorporation by reference of the Commonwealth's hazardous waste regulations.

The proposed rulemaking amends Chapter 261a Appendix IXa, Table 1a to provide a specific conditional delisting of the wastewater treatment sludge filter cake generated at the MAX Bulger and MAX Yukon facilities.

Chapter 261a Appendix IXa, Table 1a (1) – Delisting Levels

The proposed exclusion for MAX Bulger and MAX Yukon would not apply until MAX completes verification sampling on a volume basis on the treated waste to verify it does not exhibit any hazardous waste characteristics as described in Chapter 261a Appendix IXa, Table 1a (1) (relating to delisting levels). The constituents to sample for were identified as any “underlying hazardous constituents” listed in the UTS table which could reasonably be expected to be present at the point of generation at a concentration above the UTS level. MAX Bulger and MAX Yukon each have the same testing parameters for the constituents to be sampled for in verification testing. The delisting levels in Appendix IXa were established by using the more conservative of health-based values calculated by DRAS or toxicity characteristic regulatory levels.

Chapter 261a Appendix IXa, Table 1a (2) – Verification Testing Schedule

The verification testing schedule listed in Chapter 261a Appendix IXa, Table 1a (2) (relating to verification testing schedule) provides that MAX must collect and analyze representative samples of the treatment sludge at both MAX Bulger and MAX Yukon at a frequency of one sample per every 20 cubic yards of material to be shipped or disposed, using SW-846 Method 1311 with appropriate detection levels and quality control procedures. The sample frequency is based on the size of a standard shipping container. Each facility has a different maximum volume of material to be shipped or disposed: MAX Bulger may not exceed 150 cubic yards per three-month period; MAX Yukon may not exceed 20 cubic yards per three-month period. The difference in maximum volume is based on historical volume generation data.

Representative samples of the waste are to be collected as described in Chapter 261a Appendix IXa, Table 1a (2)(i) (relating to sample collection) for both MAX Bulger and MAX Yukon. Composite samples must be collected at a rate of one composite per every 20 cubic yards and shall be generated from four grab samples (one grab sample from each quadrant of the vessel) to increase the representativeness of the sample. Sampling shall be completed in accordance with the approved Sampling and Analysis Plan (dated October 2017). Each sample collection event shall include all necessary QA/QC samples and a duplicate.

As outlined in Chapter 261a Appendix IXa, Table 1a (2)(ii) (relating to sample analysis), each composite sample will be analyzed for a predetermined list of constituents presented in Chapter 261a Appendix IXa, Table 1a (1). If the level of any constituent measured in the sample of the

sludge equals or exceeds those levels, then the waste is hazardous and must be managed in accordance with Subtitle C of RCRA. The analytical data will be submitted to the Pennsylvania Department of Environmental Protection, Southwest Regional Office. All data must be accompanied by a signed copy of the statement in 40 CFR 260.22(i)(12) to certify to the truth and accuracy of the data submitted. Records of operating conditions and analytical data must be compiled, summarized, and maintained on-site for a minimum of three (3) years and must be furnished upon request by any employee or representative of the Department, and made available for inspection in accordance with state and federal regulation.

Management and storage of the sludge material prior to sample verification at both MAX Bulger and MAX Yukon would continue to be as a hazardous waste as outlined in Chapter 261a Appendix IXa, Table 1a (2)(iii) (relating to management of sludge pending verification analyses). Upon meeting the conditions of the verification testing, the sludge would be excluded from the hazardous waste regulations and would then be managed as a residual waste under the Department's Residual Waste Regulations at 25 Pa. Code Article IX.

Chapter 261a Appendix IXa, Table 1a (3) – Changes in Operating Conditions

As described in Chapter 261a Appendix IXa, Table 1a (3) (relating to changes in operating conditions), should MAX significantly change their treatment process compared to what is described in the Delisting Petitions, the treatment sludge generated from the new process would not be eligible to be managed under this exclusion until:

1. MAX demonstrates that the new waste meets the delisting levels in Paragraph (1);
2. MAX demonstrates that no new hazardous constituents listed in Appendix VIII of 40 CFR part 261 have been introduced into the treatment process; and
3. MAX obtains written approval from the Department to manage the waste under this exclusion.

This is a mechanism by which the Department can assure the conditions of the delisting are maintained to properly manage the wastes from MAX Bulger and MAX Yukon.

Chapter 261a Appendix IXa, Table 1a (4) – Reopener

Chapter 261a Appendix IXa, Table 1a (4) (relating to reopener) allows for the possibility that MAX may discover that a condition at MAX Bulger or MAX Yukon or an assumption related to the disposal of the excluded waste that was modeled or predicted in the Delisting Petitions does not occur as modeled or predicted. If this occurs, then MAX must report any information relevant to that condition, in writing, to the Department within 10 days of the discovery of that condition. Subsequently, upon receiving information described in subparagraph (i) of this section, regardless of its source, the Department will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or another appropriate response necessary to protect human health and the environment. Again, this is a mechanism by which the Department can assure the conditions of the delisting are maintained to properly manage the wastes from MAX Bulger and MAX Yukon.

F. Benefits, Costs and Compliance

Benefits

The proposed rulemaking establishes a maximum volume of wastewater treatment sludge filter cake generated at the MAX Bulger and Yukon facilities that may be delisted on an annual basis. Under the terms of the delisting language, MAX may dispose of the filter cake in a permitted Subtitle D landfill after performing certain verification testing that confirms it does not exhibit any hazardous waste characteristics. The application of this proposed regulation would provide a cost-effective and environmentally responsible method of disposal for this now non-hazardous waste. Based on the current costs incurred by MAX to properly dispose of the filter cake, the company will save over \$850,000 annually for the MAX Bulger facility waste and over \$100,000 annually for the MAX Yukon facility waste in disposal, transportation and laboratory costs as a result of this delisting amendment.

Compliance Cost

MAX will be required to comply with the conditions in the delisting regulation, including testing and recordkeeping requirements. However, the delisting of the filter cake should result in an overall reduced waste management cost for the MAX facilities, which would otherwise send the filter cake it generates to a Subtitle C landfill. Combined, MAX estimates that financial savings for both the MAX Bulger and MAX Yukon facilities would approach \$950,000 annually.

Compliance Assistance Plan

The proposed rulemaking should not require educational, technical or compliance assistance efforts. The Department has and will continue to provide manuals, instructions, forms and web site information consistent with the final-form rulemaking. If assistance is required, the Department's regional and central office staff will provide the necessary information and guidance.

Paperwork Requirements

The proposed rulemaking does not create new paperwork requirements for MAX. MAX will continue to be required to conduct post-exclusion testing and recordkeeping to demonstrate compliance with the conditions of the proposed regulation.

G. Pollution Prevention

The proposed regulation will not impact pollution prevention efforts of the Department. The proposed rulemaking represents a conditional exclusion, meaning that there will be post-exclusion testing requirements that must be met by the petitioner prior to waste disposal. The sludge material would continue to be managed as a hazardous waste prior to sample verification. Only after sample verification confirms the sludge filter cake does not exhibit any hazardous waste characteristics could it be managed as non-hazardous waste. This sludge would then be managed under DEP's Residual Waste regulations.

H. Sunset Review

The Board is not establishing a sunset date for these regulations since they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 14, 2021, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations, or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

J. Public Comments

Interested persons are invited to submit to the Board written comments, suggestions, support or objections regarding the proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by February 22, 2022.

Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

K. Public Hearings

The Board will hold three virtual public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held at 6 p.m. on January 19, 20, and 26, 2022.

Persons wishing to present testimony at a hearing must contact Jennifer Swan for the Department and the Board, (717) 783-8727 or RA-EPEQB@pa.gov, by January 18, 2022, to reserve a time to present testimony. Language interpretation services are available upon request. Persons in need of language interpretation services must contact Jennifer Swan by 5 p.m. on January 14, 2022.

Witnesses may provide testimony by means of telephone or Internet connection. Verbal testimony is limited to 5 minutes for each witness. Organizations are limited to designating one witness to present testimony on their behalf at a hearing. Video demonstrations and screen sharing by witnesses will not be permitted.

Witnesses are requested to submit written copy of their verbal testimony by e-mail to RegComments@pa.gov after providing testimony at a hearing.

Information on how to access the hearings will be available on the Board's webpage found through the Public Participation tab on the Department of Environmental Protection's website at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board"). Prior to a hearing, individuals are encouraged to visit the Board's webpage for the most current information for accessing the hearing.

Any members of the public wishing to observe a public hearing without providing testimony are also directed to access the Board's webpage. Those who have not registered with Jennifer Swan in advance as described previously will remain muted for the duration of the public hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania Hamilton Relay Service at 1-800-654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

PATRICK McDONNELL,
Chairperson

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

Article VII. HAZARDOUS WASTE MANAGEMENT

CHAPTER 261a. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Subchapter D. LISTS OF HAZARDOUS WASTES

APPENDIX IXa. WASTES EXCLUDED UNDER 25 Pa. Code § 260a.20 AND 40 CFR 260.20 AND 260.22

Table Ia. Wastes Excluded from Nonspecific Sources

(Editor's Note: The following sections are proposed to be added and printed in regular type to enhance readability.)

Facility	Address	Waste Description																		
MAX Environmental Technologies, Inc. Bulger Facility	200 MAX Drive Bulger, PA 15109	<p>Wastewater treatment sludge from former landfill operations (EPA Hazardous Waste No. F039), generated at an estimated annual rate of 600 cubic yards, after _____ <i>(Editor's note: The blank refers to the effective date of this proposed rulemaking, when published as a final-form rulemaking), and disposed in the MAX Yukon Landfill or other Subtitle D landfill permitted in the state of Pennsylvania. The exclusion covers the filter cake resulting from the treatment of hazardous waste leachate derived from the MAX Environmental Technologies, Inc. Bulger facility (MAX or MAX Bulger). MAX shall meet the following conditions for the exclusion to be valid:</i></p> <p>(1) <i>Delisting Levels:</i> All leachable concentrations for the following constituents measured using the SW-846 Method 1311 (the TCLP) must be below the following levels (mg/L):</p> <table border="1"> <thead> <tr> <th>Constituent</th> <th>Maximum Allowable: Leachate Concentration⁽¹⁾</th> </tr> </thead> <tbody> <tr> <td>Arsenic</td> <td>0.30</td> </tr> <tr> <td>Barium</td> <td>100</td> </tr> <tr> <td>Cadmium</td> <td>1.0</td> </tr> <tr> <td>Chromium</td> <td>5.0</td> </tr> <tr> <td>Lead</td> <td>5.0</td> </tr> <tr> <td>Mercury</td> <td>0.2</td> </tr> <tr> <td>Selenium</td> <td>1.0</td> </tr> <tr> <td>Silver</td> <td>5.0</td> </tr> </tbody> </table>	Constituent	Maximum Allowable: Leachate Concentration ⁽¹⁾	Arsenic	0.30	Barium	100	Cadmium	1.0	Chromium	5.0	Lead	5.0	Mercury	0.2	Selenium	1.0	Silver	5.0
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Selenium	1.0																			
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		<p><i>1. The delisting levels are based on precedent for delisted PA F039 waste (arsenic), and Toxicity Criteria per 40 CFR 261.24.</i></p> <p>(2) <i>Verification Testing Schedule:</i> MAX Environmental shall collect and analyze representative samples of the treatment sludge at a frequency of one sample per every 20 cubic yards of material to be shipped, using SW-846 Method 1311 with appropriate detection levels and quality control procedures. Shipments shall not exceed 150 cubic yards per 3-month period.</p> <p>(i) <i>Sample Collection:</i> Representative samples of the waste shall be collected. Composite samples shall be collected at a rate of one composite per every 20 cubic yards and shall be generated from four grab samples (one grab sample from each quadrant of the vessel). Sampling shall be completed in accordance with the approved Sampling and Analysis Plan (dated October 2017) used for the purposes of this delisting petition. Each sample collection event shall include all necessary QA/QC samples and a duplicate.</p> <p>(ii) <i>Sample Analysis:</i> Each composite sample shall be analyzed for all of the constituents listed in Paragraph (1). If the level of any constituent measured in the sample of the sludge equals or exceeds the levels set forth in Paragraph (1), then the waste is hazardous and shall be managed in accordance with Subtitle C of RCRA. The analytical data shall be submitted to the Pennsylvania Department of Environmental Protection, Southwest Regional Office, Waste Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222. All data shall be accompanied by a signed copy of the statement set forth in 40 CFR 260.22(i)(12) to certify to the truth and accuracy of the data submitted. Records of operating conditions and analytical data shall be compiled, summarized, and maintained on-site for a minimum of 3 years and shall be furnished upon request by any employee or representative of the DEP, and made available for inspection.</p> <p>(iii) <i>Management of sludge pending verification analyses:</i> The treated, dewatered sludge shall be stored and managed as hazardous until the verification analyses are completed. This includes storage in containers that are to remain covered, except when sludge is being added or removed.</p> <p>(3) <i>Changes in Operating Conditions:</i> If MAX significantly changes the treatment process described in the petition, the treatment sludge generated from the new process may not be managed under this exclusion until it has met the following conditions: (a) MAX shall demonstrate that the new waste meets the delisting levels set forth in Paragraph (1); (b) MAX shall demonstrate that no new hazardous constituents listed in Appendix VIII of 40 CFR part 261 have been introduced into</p>
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		<p>the treatment process; (c) MAX shall obtain written approval from the DEP to manage the waste under this exclusion.</p> <p>(4) Reopener:</p> <p>(i) If MAX discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then MAX shall report any information relevant to that condition, in writing, to the Regional Director of the Pennsylvania Department of Environmental Protection Southwest Region within 10 days of the discovery of that condition.</p> <p>(ii) Upon receiving information described in subparagraph (i) of this Section, regardless of its source, the DEP shall determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.</p>																		
<p>MAX Environmental Technologies, Inc. Yukon Facility</p>	<p>233 MAX Lane Yukon, PA 15698</p>	<p>Wastewater treatment sludge from former landfill operations (EPA Hazardous Waste No. F039), generated at an estimated annual rate of 80 cubic yards, after _____ (<i>Editor's note: The blank refers to the effective date of this proposed rulemaking, when published as a final-form rulemaking</i>), and disposed in the MAX Yukon Landfill or other Subtitle D landfill permitted in the state of Pennsylvania. The exclusion covers the filter cake resulting from the treatment of hazardous waste leachate derived from the MAX Environmental Technologies, Inc. Yukon facility (MAX or MAX Yukon). MAX shall meet the following conditions for the exclusion to be valid:</p> <p>(1) <i>Delisting Levels:</i> All leachable concentrations for the following constituents measured using the SW-846 Method 1311 (the TCLP) must be below the following levels (mg/L):</p> <table border="1" data-bbox="717 1360 1317 1730"> <thead> <tr> <th>Constituent</th> <th>Maximum Allowable: Leachate Concentration⁽¹⁾</th> </tr> </thead> <tbody> <tr> <td>Arsenic</td> <td>0.30</td> </tr> <tr> <td>Barium</td> <td>100</td> </tr> <tr> <td>Cadmium</td> <td>1.0</td> </tr> <tr> <td>Chromium</td> <td>5.0</td> </tr> <tr> <td>Lead</td> <td>5.0</td> </tr> <tr> <td>Mercury</td> <td>0.2</td> </tr> <tr> <td>Selenium</td> <td>1.0</td> </tr> <tr> <td>Silver</td> <td>5.0</td> </tr> </tbody> </table> <p><i>1. The delisting levels are based on precedent for delisted PA F039 waste (arsenic), and Toxicity Criteria per 40 CFR 261.24.</i></p>	Constituent	Maximum Allowable: Leachate Concentration ⁽¹⁾	Arsenic	0.30	Barium	100	Cadmium	1.0	Chromium	5.0	Lead	5.0	Mercury	0.2	Selenium	1.0	Silver	5.0
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		<p>(4) Reopener:</p> <p>(i) If MAX discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then MAX shall report any information relevant to that condition, in writing, to the Regional Director of the Pennsylvania Department of Environmental Protection Southwest Region within 10 days of the discovery of that condition.</p> <p>(ii) Upon receiving information described in subparagraph (i) of this Section, regardless of its source, the DEP will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.</p>
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January 4, 2022

David Sumner
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17120

Re: Proposed Rulemaking: Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities (#7-566)

Dear Mr. Sumner:

On December 14, 2021, the enclosed proposed rulemaking was delivered to the Independent Regulatory Review Commission (Commission), the majority and minority chairs of the House and Senate Environmental Resources and Energy Committees, and the Legislative Reference Bureau. This proposed rulemaking is being redelivered today to provide updated information in the public hearing section of the Preamble. The other proposed rulemaking documents delivered today are identical to those delivered previously.

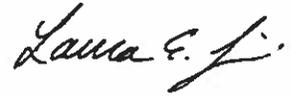
Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of the Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities proposed rulemaking (#7-566) for review by the Independent Regulatory Review Commission (Commission). This proposal is scheduled for publication in the *Pennsylvania Bulletin* on January 8, 2022, with a 45-day public comment period ending on February 22, 2022. The Environmental Quality Board adopted this proposal on September 21, 2021.

This proposed rulemaking would amend Chapter 261a Appendix IXa, Table 1a to remove (delist) the wastewater treatment sludge filter cake at the MAX Bulger and Yukon facilities from the list of hazardous wastes as long as specific conditions demonstrating the filter cake does not exhibit any hazardous waste characteristics are met. A delisting petition is a request to exclude waste from a particular facility from the list of hazardous wastes identified under the Resource Conservation and Recovery Act (RCRA) of 1976. The petition process required MAX Environmental to demonstrate, and the Department to confirm, that the wastewater treatment sludge filter cakes generated at their Bulger and Yukon facilities did not meet any of the criteria for which the waste was originally listed as hazardous and does not exhibit any hazardous waste characteristics.

As set forth in the Regulatory Review Act, the Department will consider any comments and recommendations made by the Commission, as well as the House and Senate Environmental Resources and Energy Committees and the public, prior to final adoption of the enclosed rulemaking.

Please contact me by e-mail at laurgriffi@pa.gov or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script that reads "Laura E. Griffin".

Laura Griffin
Regulatory Coordinator

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO
 THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-566

SUBJECT: Exclusion for Identification and Listing Hazardous Waste at Max Environmental Bulger and Yukon Facilities

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION, Environmental Quality Board

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

1/4/22 Pam Neuzmel

Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
 Representative Daryl Metcalfe

1/4/2022 [Signature]

Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
 Representative Greg Vitali

1/4/2022 electronic submitted

Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
 Senator Gene Yaw

1/4/2022 electronic submitted

Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
 Senator Carolyn Omitta

INDEPENDENT REGULATORY REVIEW COMMISSION
 David Sumner

ATTORNEY GENERAL (for Final Omitted only)

1/4/2022 electronic submitted

LEGISLATIVE REFERENCE BUREAU (for Proposed only)
 Leah Brown

Kathy Cooper

From: Eyster, Emily
Sent: Tuesday, January 4, 2022 10:25 AM
To: Griffin, Laura; Troutman, Nick
Cc: Cole, Kate; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael
Subject: Re: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning Laura!

Proposed rulemaking has been received.

Thank you,

Emily Eyster
Legislative Director, Office of Senator Carolyn T. Comitta
Executive Director, Senate Environmental Resources and Energy Committee
Cell: (717) 756-4702
Phone: (717) 787-5709
www.pasenatorcomitta.com

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INFO
2022 JAN -4 P 2:35

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Tuesday, January 4, 2022 10:00 AM
To: Eyster, Emily <Emily.Eyster@pasenate.com>; Troutman, Nick <ntroutman@pasen.gov>
Cc: Cole, Kate <kacole@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; Hartman, Michael <Michael.Hartman@pasenate.com>
Subject: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568
■ EXTERNAL EMAIL ■

Good morning,

Pursuant to Section 5(a) of the Regulatory Review Act, please find attached the following **four (4) proposed rulemakings** for review by the Senate Environmental Resources and Energy Committee:

1. #7-563 - NPDES Schedules of Compliance Proposed Rulemaking
2. #7-564 - Municipal Waster Rural Transfer Facility Permit-By-Rule Proposed Rulemaking
3. #7-566 (IRRC #3325) - Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities Proposed Rulemaking (REDELIVERY)
 - *This rulemaking is being redelivered due to changes to the Preamble in the public hearing section. No other changes have been made to the rulemaking package.*
4. #7-568 - VOC RACT Requirements for Shipbuilding and Ship Repair Surface Coatings, Large Petroleum Dry Cleaning Facilities and Synthetic Organic Chemical Manufacturing Industry (SOCMI) Processes for the 2015 Ozone NAAQS Proposed Rulemaking

Also attached are the transmittal sheets showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,

Laura

Laura Griffin | Regulatory Coordinator

she/her/hers

Department of Environmental Protection | Policy Office

Rachel Carson State Office Building

400 Market Street | Harrisburg, PA

Phone: 717.772.3277 | Fax: 717.783.8926

Email: laurgriffi@pa.gov

www.dep.pa.gov

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Kathy Cooper

From: Troutman, Nick
Sent: Tuesday, January 4, 2022 1:04 PM
To: Griffin, Laura; Eyster, Emily
Cc: Cole, Kate; Reiley, Robert A.; Kauffman, Gregory; Hartman, Michael
Subject: RE: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568

Hi Laura! Got it. Thanks

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Tuesday, January 4, 2022 10:01 AM
To: Emily.Eyster@pasenate.com; Troutman, Nick <ntroutman@pasen.gov>
Cc: Cole, Kate <kacole@pa.gov>; Reiley, Robert A. <rreiley@pa.gov>; Kauffman, Gregory <grekauffma@pa.gov>; Michael.Hartman@pasenate.com
Subject: Delivery of Proposed Rulemakings: 7-563, 7-564, 7-566, 7-568
Importance: High

RECEIVED
1/4/22 10:23 AM

Ⓢ CAUTION : External Email Ⓢ

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- 2) #7-564 - Municipal Waster Rural Transfer Facility Permit-By-Rule Proposed Rulemaking
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Also attached are the transmittal sheets showing delivery to the House Environmental Resources and Energy Committee this morning.

Please confirm receipt of this rulemaking by replying to all recipients.

Thank you,
Laura

Laura Griffin | Regulatory Coordinator
she/her/hers

Department of Environmental Protection | Policy Office
Rachel Carson State Office Building
400 Market Street | Harrisburg, PA
Phone: 717.772.3277 | Fax: 717.783.8926
Email: laurgriffi@pa.gov
www.dep.pa.gov

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Kathy Cooper

From: Bulletin <bulletin@palrb.us>
Sent: Tuesday, January 4, 2022 1:51 PM
To: Griffin, Laura; Code&Bulletin
Cc: Adeline E. Gaydosh; Leah Brown; A.J. Mendelsohn
Subject: [External] RE: Delivery of Proposed Rulemaking - Exclusion for Listing Hazardous Waste at MAX Bulger and Yukon Facilities (7-566)

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Good afternoon Laura,

Thank you for sending this rulemaking.

Take care,

Ernest L. Engvall | Legal Assistant
eengvall@palrb.us | 717.783.1531
 Legislative Reference Bureau
 Code and Bulletin Office

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 ERRC
 22 JAN 11 P 2:35

From: Griffin, Laura <laurgriffi@pa.gov>
Sent: Tuesday, January 4, 2022 1:44 PM
To: Code&Bulletin <codeandbulletin@palrb.us>; Bulletin <bulletin@palrb.us>
Cc: Adeline E. Gaydosh <agaydosh@palrb.us>; Leah Brown <lbrown@palrb.us>; A.J. Mendelsohn <amendelsohn@palrb.us>
Subject: Delivery of Proposed Rulemaking - Exclusion for Listing Hazardous Waste at MAX Bulger and Yukon Facilities (7-566)

Good afternoon,

Please see the attached documents, including Word versions of the Preamble and Annex A, for Proposed Rulemaking – Exclusion for Identification and Listing Hazardous Waste at MAX Environmental Technologies, Inc. Bulger and Yukon Facilities (#7-566), for publication on **January 8, 2022**.

The transmittal sheet confirming receipt of the rulemaking by the House ERE Committee and email confirmation of receipt by both the Senate ERE Committee chairs is attached.

Please confirm that you received the rulemaking documents for publication.

Thank you!
 Laura

Laura Griffin | Regulatory Coordinator
 she/her/hers
 Department of Environmental Protection | Policy Office
 Rachel Carson State Office Building

400 Market Street | Harrisburg, PA
Phone: 717.772.3277 | Fax: 717.783.8926
Email: laurgriffi@pa.gov
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