

US EPA ARCHIVE DOCUMENT

Program Description Addendum for RCRA Authorization Package – March, 2003

This Program Description Addendum includes revisions to the previous Program Description that was part of the authorization package submitted on January 13, 2000, and subsequently approved by USEPA.

The following regulatory areas are encompassed by this authorization package:

- (1) Delisting
- (2) Corrective Action
- (3) Permit Application Requirements Regarding Corrective Action
- (4) Corrective Action Beyond Facility Boundary
- (5) Corrective Action for Injection Wells
- (6) Corrective Action Management Units and Temporary Units
- (7) Land Disposal Restrictions Phase III -- Emergency
Extension of the K088 National Capacity Variance
- (8) Second Emergency Revision of the Land Disposal
Restrictions (LDR) Treatment Standards for Listed
Hazardous Wastes From Carbamate Production
- (9) National Emission Standards for Hazardous Air Pollutants
for Source Category: Pulp and Paper Production;
Effluent Limitations Guidelines, Pretreatment Standards, and New
Source Performance Standards; Pulp, Paper, and Paperboard Category
- (10) [WITHDRAWN] Organobromine Production Wastes; Identification and Listing
of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA
Hazardous Substances, Reportable Quantities
- (11) Recycled Used Oil Management Standards;
Technical Correction and Clarification
- (12) Petroleum Refining Process Wastes
- (13) Land Disposal Restrictions Phase IV --
Zinc Micronutrient Fertilizers, Administrative Stay
- (14) Emergency Revision of the Land Disposal
Restrictions (LDR) Treatment Standards for
Listed Hazardous Waste from Carbamate Production
- (15) Land Disposal Restrictions Phase IV --Extension of
Compliance Date for Characteristic Slags
- (16) Land Disposal Restrictions -- Treatment Standards
for Spent Potliners from Primary Aluminum
Reduction (K088); Final Rule
- (17) Post-Closure Requirements and
Closure Process
- (18) HWIR-Media
- (19) Universal Waste Rule -- Technical Amendments
- (20) Organic Air Emission Standards:
Clarification and Technical Amendments
- (21) Petroleum Refining Wastes Process Wastes --

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- 1 Land Disposal Restrictions Phase IV Technical Corrections and Clarifications to Treatment Standards
 - 2 Test Procedures for the Analysis of Oil and Grease non-Polar Material
- (22) Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule
- (23) Accumulation Time for Waste Water Treatment Sludges
- (24) Radioactive mixed wastes, hazardous components of
- (25) Project XL Site-Specific Rulemaking for Osi Specialties, Inc., Sistrerville, WV

The above listed regulations have been adopted into State Rule 33 CSR 20, and have become a routine part of the State Hazardous Waste Program, with the exception of the following areas: Corrective Action, Radioactive Mixed Waste, Delisting, and Remedial Action Plans. As the State receives EPA authorization for these areas, the West Virginia Department of Environmental Protection (WVDEP) will undertake these areas as specifically discussed in the Corrective Action Transition Plan.

Introduction:

Organizational changes that have taken place within the agency comprise the first notable revision to the January 13, 2000, Program Description. On April 14, 2001, the West Virginia Division of Environmental Protection became the West Virginia Department of Environmental Protection (WVDEP) as the result of State legislation. Correspondingly, the title of the agency Administrator was changed from Director to Secretary, which is a State cabinet-level position. Moreover, the WVDEP sub-agencies then transformed from Offices to Divisions, under the control of Division Directors. The Division of Water and Waste Management (DWWM) is now the controlling sub-agency for the Hazardous Waste Program. The DWWM is divided into five operational units, one of which is the Office of Waste Management (OWM). The OWM is divided into six operational units, one of which is the Hazardous Waste Permitting Unit (HWPU). The HWPU oversees both operational and corrective action permit activities. These new agency structures are depicted in the attached organizational charts.

This Program Description Addendum covers the areas referenced in Section VI of the 2002 Program Description, and describes such diverse areas such as Corrective Action, Radioactive Mixed Waste, Delisting, and Remedial Action Plans.

The HWPU has been upgraded to enable it to undertake a certain portion of the work at Corrective Action sites within West Virginia. Three permit writers will be assigned to oversee Corrective Action at these sites, with the primary focus of working closely with

the facility to put in place controls that achieve the Environmental Indicator goals of the Hazardous Waste Program. In addition, two permit writers will actually write the corrective action permits, along with overseeing the re-issuance of operational RCRA permits and permit modifications.

Included in Section VI of this Program Description Addendum is an explanation of Hazardous Waste Delisting authority in the Hazardous Waste Program. State Rule 33 CSR 20 now contains a procedure for a petitioner to seek the removal of a specific hazardous waste from the list of hazardous wastes in 40 CFR Part 261 for a particular facility. Prior to this authorization package submittal, only EPA has delisted hazardous wastes in West Virginia. After authorization, the State will be responsible for all State delistings, unless the petitioner specifically requests that EPA conduct the delisting. State delistings will remain subject to EPA review, and the State and EPA will coordinate on all delistings performed in the State.

Section VI. This Program Description Addendum is created to describe the procedures performed by the State in carrying out the following areas of the Hazardous Waste Program: RCRA Subtitle C Corrective Action, Radioactive Mixed Waste, Delisting, and Remedial Action Plans.

A. RCRA Corrective Action

West Virginia currently lists 33 Corrective Action facilities within its boundaries. During the initial phase of the State adoption of the Corrective Action program, the State will assume Corrective Action oversight as indicated in the Corrective Action Transition Plan. The Corrective Action Transition Plan lists the Corrective Action facilities and indicates EPA's and the State's roles and responsibilities for Corrective Action at those facilities. This Corrective Action Transition Plan will become a part of the Grant Work Plan. Coordination between the State and EPA is also described in the Memorandum of Agreement (MOA).

The Hazardous Waste Permitting Unit will assume responsibility for the Corrective Action duties to be performed by the State. Hazardous Waste Permitting Unit consists of a program manager, a secretary, and five permit writers. For all CA activities, Hazardous Waste Permitting Unit will utilize the "Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action". This guidance is available on-line at <http://www.epa.gov/correctiveaction> and is an inter-active document enabling the user to engage a variety of options. Three CA permit writers shall be assigned on-site corrective action oversight activities for the facilities indicated in the Corrective Action Transition Plan. Two additional permit writers are responsible for the issuance of hazardous waste permits including CA permits, thus enabling the three CA permit writers to conduct the necessary on-site facility oversight and coordination. Hazardous Waste Permitting Unit's Program Manager will assume overall responsibility for the Corrective Action program. DWWM's Environmental Inspectors Program was described in Section VII of the 2000 Program Description. These Environmental Inspectors may be called upon to assist in

CA oversight at select facilities as circumstances warrant. Any mixed waste generated or encountered during facility activities pursuant to Corrective Action will be fully regulated by 33 CSR 20 and by 64 CSR 23 to ensure protection of human health and the environment. Technical expertise in specialized program areas will also be provided by specialized staff-members from the Office of Environmental Remediation. This operational plan will yield the highest level of efficiency so Environmental Indicators (EIs) may be met in a timely manner.

B. Radioactive Mixed Waste

On July 1, 2001, Title 64, Series 23, "The Radiological Health Rule" became effective, thus updating the State's approach to governing the management of radioactive waste, including mixed waste. That rule is enforced by the West Virginia Department of Health and Human Resources (DHHR). The WVDEP continues to retain its authority to regulate the hazardous component of mixed waste, and to ensure that mixed wastes are regulated by the Radiological Health Rule or by the Hazardous Waste Management Rule, as appropriate. In the event that the Radiological Health Rule should be determined to be less stringent than the Hazardous Waste Management Rule (HWMR), then the more stringent requirements of the HWMR shall apply. In all cases, the Representatives of the WVDEP will coordinate with representatives of the DHHR to ensure that mixed wastes are adequately regulated at those facilities that generate mixed wastes. The State of West Virginia has a very limited mixed waste program. According to two agency representatives at the Nuclear Regulatory Commission (NRC), there are no known mixed waste facilities in West Virginia.

A report from the EPA Biennial Report database indicates that the following facilities in West Virginia have generated mixed waste in the past.

EPA ID No.	Facility	Year waste generated
WVD981730757	A,C, & S, Inc.	(1993)
WVD004319158	Blue Ribbon Paint Company	(1993)
WVD005012851	Dupont – Belle Plant/Ineos Acrylics, Inc. *	(1999)
WVD056866312	Miles Inc.	(1995)
WVD059295998	Mylan Pharmaceuticals Inc.	(1995)
WVD005005483	Union Carbide Chem & Plastics – S. Charleston	(1991)

* This facility reported in error. It actually did not generate mixed waste.

As stated above, the State Department of Health and Human Resources (DHHR) and the DEP regulate radioactive wastes generated in West Virginia in accordance with West Virginia Rules 64 CSR 23 and 33 CSR 20 respectively. Just as the State DEP works with the EPA, the State DHHR works in coordination with the federal NRC. In the event that mixed waste should be generated in West Virginia, the DWWM's RCRA inspectors will coordinate with the State DHHR to ensure that the mixed waste is properly managed and

is sent to a facility lawfully enabled to receive it. There are, at this time, no facilities within West Virginia that are permitted to receive mixed waste, nor are any mixed waste permits contemplated.

C. Hazardous Waste Delisting

The specific procedures for coordination between the State and EPA regarding State delisting requests from petitioners are outlined in Section VII of the MOA.

The State will be responsible for excluding a waste from classification as a hazardous waste, also known as “delisting” is found in Rule 33 CSR 20, Section 2.4.

A petitioner may still request that EPA conduct a delisting, instead of the State.

As established in Rule 33 CSR 20, the State will charge a fee for activities carried out to complete the delisting petition. If the Administrator of the EPA grants a petition to exclude hazardous waste from 40 CFR § 261.3 or 40 CFR part 261, subpart D, pursuant to 40 CFR §260.22, the Director will accept such a determination provided that the petitioner submits to the Director a copy of the petition submitted to the EPA administrator, including all demonstrative information and a copy of the EPA administrator's approval of the exclusion; and provided that no scientifically supportable reasons for denying the petition are advanced which had not been presented to the EPA administrator.

If the Director rejects the petition, the WVDEP will notify the petitioner and state the reasons for the rejection.

D. Remedial Action Plans (RAPs) -- 40 CFR Part 270, Subpart H as referenced by 33CSR 20, Section 11.

RAPs are special forms of permits developed as a tool to encourage remediation of site contamination by allowing a facility to have temporary treatment or storage units at a site during the remedial process. 40 CFR Part 270 Subpart H as referenced by 33 CSR 20, Section 11 details the specific requirements and conditions of RAPs, which are designed to facilitate approval of environmentally protective units more expeditiously than securing a RCRA permit. The HWPU will review and approve RAPs to ensure that the RAPs are in compliance with 40 CFR Part 270 Subpart H. Table 1 of the Hazardous Waste Management Rule 33 CSR 20 establishes a fee for staging piles in the amount of \$ 1,250.