

October 17, 2005 and was approved by EPA on July 31, 2007.

**B. What Are New Jersey's Facility-Specific NO<sub>x</sub> RACT Requirements?**

Section 19.13 of New Jersey's regulation establishes a procedure for what a case-by-case determination of what represents RACT for a major NO<sub>x</sub> facility, item of equipment, or source operation. This procedure applies to facilities considered major for NO<sub>x</sub>, which are in one of the following two situations: (1) Except for non-utility boilers, if the NO<sub>x</sub> facility contains any source operation or item of equipment of a category not listed in section 19.2 which has the potential to emit more than 10 tons of NO<sub>x</sub> per year, or (2) if the owner or operator of a source operation or item of equipment of a category listed in section 19.2 seeks approval of an alternative maximum allowable emission rate. This proposal relates to a facility in the second situation listed above.

New Jersey's procedure requires either submission of a NO<sub>x</sub> control plan, if specific emission limitations do not apply to the specific source, or submission of a request for an alternative maximum allowable emission rate if specific emission limitations do apply to the specific source. In either case, the owners/operators must include a technical and economic feasibility analysis of the possible alternative control measures. Also, in either case, subchapter 19 requires that New Jersey establish emission limits which rely on a RACT determination specific to the facility. The resulting NO<sub>x</sub> control plan or alternative maximum allowable emission rate must be submitted to EPA for approval as a SIP revision.

**C. When Was New Jersey's RACT Determination Proposed and Adopted?**

New Jersey's RACT determination was proposed on December 11, 2006, with the public comment period ending January 10, 2007. New Jersey adopted the RACT determination on January 11, 2007.

**D. When Was New Jersey's SIP Revision Submitted to EPA?**

New Jersey's SIP revision was submitted to EPA on August 7, 2007. EPA determined that the submittal was administratively and technically complete on December 3, 2007.

**III. Conclusion**

EPA is proposing to approve the New Jersey SIP revision for an alternative RACT emission limit determination for the Trigen-Trenton Energy Co. L.P.

engines and boilers. This SIP revision contains source-specific NO<sub>x</sub> emission limitations for Trigen. EPA will consider all comments submitted prior to any final rulemaking action.

**IV. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 26, 2008.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

[FR Doc. E8-4346 Filed 3-5-08; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 268**

[EPA-HQ-RCRA-2007-0936; FRL-8538-7]

**Land Disposal Restrictions: Site-Specific Treatment Variance for P- and U-Listed Hazardous Mixed Wastes Treated by Vacuum Thermal Desorption at the EnergySolutions' Facility in Clive, Utah**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is proposing to grant a site-specific treatment variance to EnergySolutions LLC (EnergySolutions) in Clive, Utah, for the treatment of certain P- and U-listed hazardous waste containing radioactive contamination ("mixed waste") using vacuum thermal desorption (VTD). This variance is an alternative treatment standard to treatment by combustion (CMBST) required for these wastes under EPA

rules implementing the land disposal restriction (LDR) provisions of the Resource Conservation and Recovery Act (RCRA). The Agency has determined that combustion of the solid treatment residue generated from the VTD unit is technically inappropriate due to the effective performance of the VTD unit. Once the P- and U-listed mixed waste are treated using VTD, the solid treatment residue can be land disposed without further treatment. This proposed treatment variance is conditioned upon EnergySolutions complying with a Waste Family Demonstration Testing (WFDT) plan specifically addressing the treatment of these P- and U-listed wastes, which is to be implemented through a RCRA Part B permit modification for the VTD unit.

**DATES:** Comments must be received on or before April 7, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2007-0936, by one of the following methods:

*www.regulations.gov:* Follow the on-line instructions for submitting comments.

*Email:* [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov) and [parra.juan@epa.gov](mailto:parra.juan@epa.gov). Attention Docket ID No. EPA-HQ-RCRA-2007-0936.

*Fax:* 202-566-9744. Attention Docket ID No. EPA-HQ-RCRA-2007-0936.

*Mail:* RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2007-0936. Please include a total of 2 copies.

*Hand Delivery:* EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-RCRA-2007-0936. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly

to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

**Docket:** All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ-Docket Center, Docket ID No. EPA-HQ-RCRA-2007-0936, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** For more information on this rulemaking, contact Juan Parra, Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308-0478; fax (703) 308-8443; or [parra.juan@epa.gov](mailto:parra.juan@epa.gov) or Elaine Eby, Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308-8449; fax (703) 308-8443; or [eb.y.elaine@epa.gov](mailto:eb.y.elaine@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Does This Action Apply to Me?

The only regulated entity that will be affected by this proposed rule is EnergySolutions located in Clive, Utah.

#### Why Is EPA Using a Proposed Rule?

This document proposes to take action by granting a site-specific treatment variance to EnergySolutions located in Clive, Utah. We also have published a direct final rule identical to this proposal in the "Rules and Regulations" section of this **Federal Register** because we view this action as noncontroversial and anticipate no significant adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no significant adverse comment, we will not take further action on this proposed rule. If we do receive such adverse comment, we will publish a timely notice in the **Federal Register** informing the public that the final rule will be withdrawn due to adverse comment. We will address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

#### Direct Final Rule and Location of Regulatory Text for This Proposal

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in the Rules and Regulations section of today's **Federal Register**.

#### Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small

organizations, and small governmental jurisdictions.

This site-specific treatment variance does not propose to create any new requirements. Rather, it proposes an alternative treatment standard for specific waste codes and applies to only one facility. Therefore, we hereby certify that this rule will not add any new regulatory requirements to small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Mixed waste and variances.

Dated: February 28, 2008.

**Susan Parker Bodine,**

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E8-4428 Filed 3-5-08; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 372

**[EPA-HQ-TRI-2007-0318; FRL-8539-5]**

**RIN 2025-AA22**

#### Community Right-to-Know; Corrections and 2007 Updates to the Toxics Release Inventory (TRI) North American Industry Classification System (NAICS) Reporting Codes; Proposed Rule; Request for Public Comments

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the regulations to make certain updates and corrections. EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2007 NAICS revision. Facilities would be required to report to TRI using 2007 NAICS codes beginning with TRI reporting forms that are due on July 1, 2009, covering releases and other waste management quantities for the 2008 calendar year. EPA is also proposing to make corrections to the list of NAICS codes subject to reporting under TRI that was published on June 6, 2006, in the final rule adopting NAICS for TRI reporting and to correct a longstanding typographical error in the regulatory text.

**DATES:** Written comments must be received by April 7, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-TRI-2007-0318, by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: oeি.docket@epa.gov.
- *Fax*: (202) 566-9744
- *Mail*: OEI Docket, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery*: EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-TRI-2007-0318. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and must be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

**Docket:** All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is

not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

**FOR FURTHER INFORMATION CONTACT:** For general information on TRI, contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424-9346 or (703) 412-9810, TDD (800) 553-7672, *http://www.epa.gov/epaoswer/hotline/*. For specific information on this rulemaking contact: Judith Kendall, Toxics Release Inventory Program Division, Mailcode 2844T, OEI, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone: (202) 566-0750; Fax: (202) 566-0741; e-mail: *kendall.judith@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Why is EPA Issuing this Proposed Rule?

EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2007 NAICS revision. OMB's Notice of March 16, 2006, states that "data published for reference years beginning on or after January 1, 2007, should be published using the 2007 NAICS United States Codes." 71 FR 28532.

EPA is also proposing to make corrections to the list of TRI-covered NAICS codes from the 2006 TRI NAICS rule. Certain items that should have been included in the final list of NAICS codes subject to TRI reporting were inadvertently omitted from the final list. Unrelated to the NAICS rule, EPA is using this opportunity to correct a longstanding error in the regulations that refers to section 372.17 when, in fact, the reference should be 40 CFR 372.30.

The updated list of TRI-covered NAICS codes is listed in 40 CFR