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[FR Doc. 2018-27049 Filed 12-13-18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 70****[EPA-R04-OAR-2018-0296; FRL-9987-13-Region 4]****Air Plan and Operating Permit Program Approval: AL, GA and SC; Revisions to Public Notice Provisions in Permitting Programs****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of State Implementation Plan (SIP) revisions and the Title V Operating Permit Program revisions submitted on May 19, 2017, by the State of Alabama, through the Alabama Department of Environmental Management (ADEM); submitted on November 29, 2017, by the State of Georgia, through the Georgia Environmental Protection Division (Georgia EPD); and submitted on September 5, 2017, by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC). These revisions address the public notice rule provisions for the New Source Review (NSR) and Title V Operating Permit programs (Title V) of the Clean Air Act (CAA or Act) that remove the mandatory requirement to provide public notice of a draft air permit in a newspaper and that allow electronic notice (“e-notice”) as an alternate noticing option. EPA is approving these revisions pursuant to the CAA and implementing federal regulations.

DATES: This rule is effective January 14, 2019.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0296. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at

the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Kelly Fortin of the Air Permitting Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Ms. Fortin can be reached by telephone at (404) 562-9117 or via electronic mail at fortin.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

In a notice of proposed rulemaking (NPRM) published on August 10, 2018 (83 FR 39638), EPA proposed to approve the portions of Alabama’s May 19, 2017, Georgia’s November 29, 2017, and South Carolina’s September 5, 2017, SIP revisions and the Title V program revisions addressing the public notice requirements for CAA permitting. The details of Alabama’s, Georgia’s, and South Carolina’s submittals and the rationale for EPA’s actions are explained in the NPRM and briefly summarized below. The comment period for the proposed rule closed on September 10, 2018, and EPA did not receive any adverse comments.

On October 5, 2016, EPA finalized revised public notice rule provisions for the NSR, Title V, and Outer Continental Shelf permitting programs of the CAA. See 81 FR 71613 (October 18, 2016). These rule revisions remove the mandatory requirement to provide public notice of a draft air permit through publication in a newspaper and allow for internet e-notice as an option for permitting authorities implementing their own EPA-approved SIP rules and Title V rules, such as the Alabama, Georgia, and South Carolina EPA-approved programs. Permitting authorities are not required to adopt e-notice. Nothing in the final rules prevents a permitting authority of an EPA-approved permitting program from continuing to use newspaper notification and/or from supplementing e-notice with newspaper notification and/or additional means of notification.

When e-notice is provided, EPA’s rule requires electronic access (e-access) to the draft permit. Generally, state and local agencies intend to post the draft permits and public notices in a designated location on their agency websites. For the noticing of draft permits issued by permitting authorities with EPA-approved programs, the rule requires the permitting authority to use “a consistent noticing method” for all permit notices under the specific permitting program.

Alabama revised Chapter 335-3-14, *Air Permits* and Chapter 335-3-15, *Synthetic Minor Operating Permits*, and Chapter 335-3-16, Major Source Operating Permits, to incorporate EPA’s amendments to the federal public notice regulations discussed above.

Georgia revised Rule 391-3-1-.02(7)(a)1, *Prevention of Significant Deterioration of Air Quality*, and Rule 391-3-1-.03(10), *Title V Operating Permits*, of *Georgia’s Rules for Air Quality Control*, Chapter 391-3-1, to incorporate EPA’s amendments to the federal public notice regulations, as discussed above.

South Carolina revised Regulation 61-62.5, Standard No. 7, *Prevention of Significant Deterioration*, and Regulation 61-62.70, *Title V Operating Permit Program* of the *South Carolina Air Pollution Control Regulations and Standards*, to incorporate EPA’s amendments to the federal public notice regulations discussed above.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Alabama’s Chapter 335-3-14, “Air Permits” at 335-3-14-.01, .04, and .05 and Chapter 335-3-15 “Synthetic Minor Operating Permits” at 335-3-15-.05, which address the public notice rule provisions for the NSR program, state effective December 9, 2017; Georgia Rule 391-3-1-.02(7), *Prevention of Significant Deterioration of Air Quality*, which addresses the public notice rule provisions for the NSR program, state effective July 20, 2017; and South Carolina Regulation 61-62.5, Standard No. 7, “Prevention of Significant Deterioration,” which address the public notice rule provisions for the NSR program, state effective August 25, 2017.¹ EPA has

¹ EPA is taking this opportunity to make administrative corrections to the entries in the “Explanation” columns in 40 CFR 52.50(c) for Alabama Rule 335-3-14-.04; 40 CFR 52.570(c) for Georgia Rule 391-3-1-.02(7); and 40 CFR

made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

III. Final Action

EPA is approving the portions of Alabama's May 19, 2017, Georgia's November 29, 2017, and South Carolina's September 5, 2017, SIP revisions and the Title V program revisions addressing the public notice requirements for CAA permitting. EPA has concluded that the States' submissions meet the plan revisions requirements of CAA section 110 and the SIP requirements of 40 CFR 51.161, 51.165, and 51.166, as well as the public notice and revisions requirements of 40 CFR 70.4 and 70.7.

IV. Statutory and Executive Order Reviews

In reviewing SIP and Title V submissions, EPA's role is to approve such submissions, provided that they meet the criteria of the CAA and EPA's implementing regulations. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because the actions are not significant under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities

52.2120(c) for South Carolina Regulation 61–62.5, Standard No. 7 to more clearly reflect the federally-approved versions of these rules in the states' respective SIPs.

² See 62 FR 27968 (May 22, 1997).

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIPs subject to these actions, with the exception of the South Carolina SIP, are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules regarding SIPs do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law. With respect to the South Carolina SIP, EPA notes that the Catawba Indian Nation Reservation is located within the boundary of York County, South Carolina, and pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, “all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” Thus, the South Carolina SIP applies to the Catawba Reservation; however, because the action related to South Carolina is merely modifying public notice provisions for certain types of air permits issued by SC DHEC, EPA has determined that there are no substantial direct effects on the Catawba Indian Nation. EPA has also determined that the action related to South Carolina's SIP will not impose any substantial direct costs on tribal governments or preempt tribal law.

Furthermore, the rules regarding Title V Operating Permit programs do not have tribal implications because they are not approved to apply to any source of air pollution over which an Indian Tribe has jurisdiction, nor will these rules impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating Permits, Reporting and recordkeeping requirements.

Dated: November 15, 2018.

Onis “Trey” Glenn, III,
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart B—Alabama

■ 2. Section 52.50(c) is amended by:

■ a. Revising under the heading “Chapter No. 335–3–14 Air Permits” the entries for “Section 335–3–14–.01”, “Section 335–3–14–.04”, “Section 335–3–14–.05”; and

■ b. Revising under the heading “Chapter No. 335–3–15 Synthetic Minor Operating Permits” the entry for “Section 335–3–15–.05”

The revisions read as follows:

§ 52.50 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Chapter No. 335–3–14 Air Permits				
Section 335–3–14–.01	General Provisions	6/9/2017	12/14/2018, [Insert citation of publication].	
*	*	*	*	*
Section 335–3–14–.04	Air Permits Authorizing Construction in Clean Air Areas (Prevention of Significant Deterioration Permitting (PSD)).	6/9/2017	12/14/2018, [Insert citation of publication].	Except for changes to 335–3–14–.04(2)(g)2. and the addition of 335–3–14–.04(2)(bbb), state effective May 29, 2012, which EPA proposed to approve on August 24, 2017. Except for changes to 335–3–14–.04(2)(w)1., state effective July 11, 2006, which lists a 100 ton per year significant net emissions increase for regulated NSR pollutants not otherwise specified at 335–3–14–.04(2)(w). Except for the significant impact levels at 335–3–14–.04(10)(b) which were withdrawn from EPA consideration on October 9, 2014.
Section 335–3–14–.05	Air Permits Authorizing Construction in or Near Non-attainment Areas.	6/9/2017	12/14/2018, [Insert citation of publication].	With the exception of: The portion of 335–3–14–.05(1)(k) stating “excluding ethanol production facilities that produce ethanol by natural fermentation”; and 335–3–14–.05(2)(c)3 (addressing fugitive emission increases and decreases). Also with the exception of the state-withdrawn elements: 335–3–14–.05(1)(h) (the actual-to-potential test for projects that only involve existing emissions units); the last sentence at 335–3–14–.05(3)(g), stating “Interpollutant offsets shall be determined based upon the following ratios”; and the NNSR interpollutant ratios at 335–3–14–.05(3)(g)1–4.

Chapter No. 335–3–15 Synthetic Minor Operating Permits

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Section 335–3–15–.05	Public Participation	6/9/2017	12/14/2018, [Insert citation of publication].	
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Subpart L—Georgia

■ 3. Section 52.570(c) is amended in the table by revising the entry for “391–3–1–.02(7)” to read as follows:

§ 52.570 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
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EPA-APPROVED GEORGIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
391-3-1-.02(7)	Prevention of Significant Deterioration of Air Quality (PSD).	7/20/2017	12/14/2018, [Insert citation of publication].	<p>Except 391-3-1-.02(7)(a)(2)(iv). See March 4, 2016 publication.</p> <p>The version of Georgia Rule 391-3-1-.02(7) in the SIP does not incorporate by reference: (1) The provisions amended in the Ethanol Rule to exclude facilities that produce ethanol through a natural fermentation process from the definition of “chemical process plants” in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t), or (2) the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(c) that were stayed indefinitely by the Fugitive Emissions Interim Rule, see March 30, 2011 publication.</p>

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Subpart PP—South Carolina

■ 4. Section 52.2120(c), is amended in the table under “Regulation No. 62.5 Air

Pollution Control Standards” by revising the entry for “*Standard No. 7*” to read as follows:

§ 52.2120 Identification of plan.
* * * * *
(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Explanation
Regulation No. 62.5. <i>Standard No. 7</i>	Prevention of Significant Deterioration.	8/25/2017	12/14/2018, [Insert citation of publication].	<p>EPA did not take action on the version of Regulation 61-62.5, Standard No. 7, paragraph (b)(32)(i)(a) state effective on December 27, 2013, included in a SIP revision submitted by the State on April 10, 2014, because this version contains changes to a phrase regarding ethanol production facilities that is not in the SIP. South Carolina submitted a SIP revision on April 14, 2009, that includes the phrase “except ethanol production facilities producing ethanol by natural fermentation under the North American Industry Classification System (NAICS) codes 325193 or 312140,” as amended in the Ethanol Rule (May 1, 2007), at Standard No. 7, paragraphs (b)(32)(i)(a), (b)(32)(iii)(b)(t), and (i)1(vii)(t) and at Standard No. 7.1, paragraphs (c)7(C)(xx) and (e)(T). EPA has not taken action to approve that portion of the April 14, 2009, SIP revision and incorporate this phrase into the SIP. The version of Standard No. 7, paragraphs (b)(32)(i)(a), (b)(32)(iii)(b)(t), and (i)1(vii)(t) and Standard No. 7.1, paragraphs (c)(7)(C)(xx) and (e)(T) was state effective on June 24, 2005 and conditionally approved by EPA on June 2, 2008, and were fully approved on June 23, 2011.</p> <p>Except Regulation 61-62.5, Standard No. 7(b)(30)(v) and (b)(34)(iii)(d), state effective June 26, 2015, which were withdrawn from EPA consideration on December 20, 2016.</p> <p>Except changes to Regulation 61-62.5, Standard No. 7(b)(34)(iii)(c), state effective June 26, 2015, which were withdrawn from EPA consideration on June 27, 2017.</p> <p>Except changes to 61-62.5, Standard No. 7(b)(34), (w)(1)-(3), (aa), and (bb), state effective August 25, 2017, which EPA proposed to approve on September 21, 2018.</p>

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PART 70—STATE OPERATING PERMIT PROGRAMS

■ 5. The authority citation for part 70 continues to read as follows:

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

■ 6. Amend appendix A to part 70 by:

■ a. Adding paragraph (a)(3) under the heading “Alabama”;

■ b. Adding paragraph (d) under the heading “Georgia”; and

■ c. Adding paragraph (d) under the heading “South Carolina”.

The additions read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Alabama

(a) * * *

(3) Revisions to Alabama Chapter 335–3–16-.15(4), submitted on May 19, 2017, to allow for electronic noticing of operating permits, are approved on November 15, 2018.

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Georgia

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(d) Revisions to Georgia Rule 391–3–1-.03(10) submitted on November 29, 2017, to allow for electronic noticing of operating permits, are approved on November 15, 2018.

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South Carolina

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(d) Revisions to South Carolina Regulation 61–62.70, submitted on September 5, 2017, to allow for electronic noticing of operating permits, are approved on November 15, 2018.

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[FR Doc. 2018–26247 Filed 12–13–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261**

[EPA–R10–RCRA–2018–0538; FRL–9987–68–Region 10]

Hazardous Waste Management System; Identifying and Listing Hazardous Waste Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) (also, “the Agency” in this preamble) is granting a petition submitted by Sandvik Special Metals (Sandvik), in Kennewick, Washington to exclude (or “delist”) up to 1,500 cubic yards of F006 wastewater treatment

sludge per year from the list of Federal hazardous wastes. The EPA has decided to grant the petition based on an evaluation of waste-specific information provided by Sandvik and a consideration of public comments received. This action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a Subtitle D landfill permitted, licensed, or registered by a State. The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting. Subject to state-only requirements within the State of Washington, or federally-authorized or state-only requirements in other states where the subject wastes may be disposed of, Sandvik’s petitioned waste may be disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal solid waste, or non-municipal non-hazardous waste.

DATES: This final rule is effective on December 14, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. [EPA–R10–RCRA–2018–0538]. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through www.regulations.gov or in hard copy at the RCRA Records Center, 16th floor, U.S. EPA, Region 10, 1200 6th Avenue, Suite 155, OAW–150, Seattle, Washington 98101. This facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The EPA recommends you telephone Dr. David Bartus at (206) 553–2804 before visiting the Region 10 office. The public may copy material from the regulatory docket at 15 cents per page.

FOR FURTHER INFORMATION CONTACT: Dr. David Bartus, EPA, Region 10, 1200 6th Avenue, Suite 155, OAW–150, Seattle, Washington 98070; telephone number: (206) 553–2804; email address: bartus.dave@epa.gov.

As discussed in Section V below, the Washington State Department of Ecology is evaluating Sandvik’s petition

under state authority. Information on Ecology’s action may be found at <https://fortress.wa.gov/ecy/publications/SummaryPages/1804023.html>.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- I. Background
 - A. What is a delisting petition?
 - B. What regulations allow a waste to be delisted?
- II. Sandvik’s Petition
 - A. What waste did Sandvik petition EPA to delist?
 - B. What information was submitted in support of this petition?
- III. EPA’s Evaluation and Public Comments
 - A. What decision is EPA finalizing and why?
 - B. Public Comments Received and EPA’s Response
- IV. Final Rule
 - A. What are the terms of this exclusion?
 - B. When is the Delisting Effective?
 - C. How does this action affect the states?
- V. Statutory and Executive Order Reviews

I. Background**A. What is a delisting petition?**

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in 40 CFR 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, Section 3001(f) of RCRA, 42 U.S.C. 6921(f) and the background documents for a listed waste.

A generator of a waste excluded from the hazardous waste lists of 40 CFR part 261 subpart D remains obligated under RCRA to confirm that its waste remains nonhazardous based on the hazardous waste characteristics in order to continue to manage the waste as non-hazardous. See 40 CFR 260.22(c)(4).

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from hazardous waste storage and treatment requirements by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any