

Identification of Nonhazardous Secondary Materials that are Solid Wastes

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TOPICS

- Background on the Rulemaking
- ANPRM
- Schedule

BACKGROUND

- Scrap tires, used oil, biomass and coal refuse are examples of materials assessed in the rulemaking
- Units combusting the material include boilers, cement kilns, process heaters
- Estimate 196,000 units in all

BACKGROUND

- Materials determined to be solid waste and burned in combustion units are subject to CAA 129 requirements
- Materials determined not to be a solid waste would be subject to CAA 112 requirements
- Solid waste definition to be determined by Administrator according to RCRA

BACKGROUND

- CAA 129 thought to be more stringent
 - Limits for 9 specific pollutants
 - Management requirements
- Stigma attached to being solid waste incinerator ?
- Effort is a result of June 2007 DC Court of Appeals ruling vacating and remanding Commercial and Industrial Solid Waste Incineration Definition Rule and Boiler MACT Rule

ANPRM

- Published January 2, 2009
- Identifies 2 key factors for solid waste determination
 - Whether material has been discarded
 - If discarded, has it been processed to produce a legitimate fuel
- Lays out criteria for legitimacy

ANPRM

- Categories of materials in ANPRM not considered to be a solid waste include: traditional fuels; secondary materials used as legitimate fuels not previously discarded; discarded secondary materials processed into legitimate fuel
- Whole tires from tire piles fed to combustion units would be a solid waste under ANPRM

COMMENTS ON ANPRM

- States need to be concerned with management of materials before arrival at combustion site
- States want to promote beneficial use
- Regulating whole tires as solid waste when burned as fuel could disrupt recycling markets ?
- One commenter representing over 100 environmental groups stated the approach is not consistent with RCRA and CAA requirements

ISSUES TO BE CONSIDERED IN PROPOSAL

- Impact the rule will have on states' ability to implement their own solid waste management programs
- Whether materials that have been discarded can be adequately processed to convert the material into a non-waste product
- Whether the rule could preferentially promote combustion of secondary materials over traditional recycling activities
- Whether the rule will impact communities with environmental justice concerns

IN CONCLUSION

- Rulemaking applies to application of CAA 112 and 129 only; should not impact other Subtitle D activities i.e. land filling, composting
- Do not want to undercut state solid waste management authority, beneficial use programs
- Schedule – to be signed by April 15 together with Boiler MACT and CISWI rulemakings
- <http://www.epa.gov/waste/nonhaz/definition.htm>