

U.S. EPA Office of Resource Conservation and Recovery

6.6.17 Presentation to CIBO

EPA Update - Non-Hazardous Secondary Materials (NHSM) Rule

NHSM Rule: Overview

- Clarifies which secondary materials are **solid wastes** when burned in combustion units for energy recovery.

Examples of NHSM:



C & D Wood



Poultry Litter



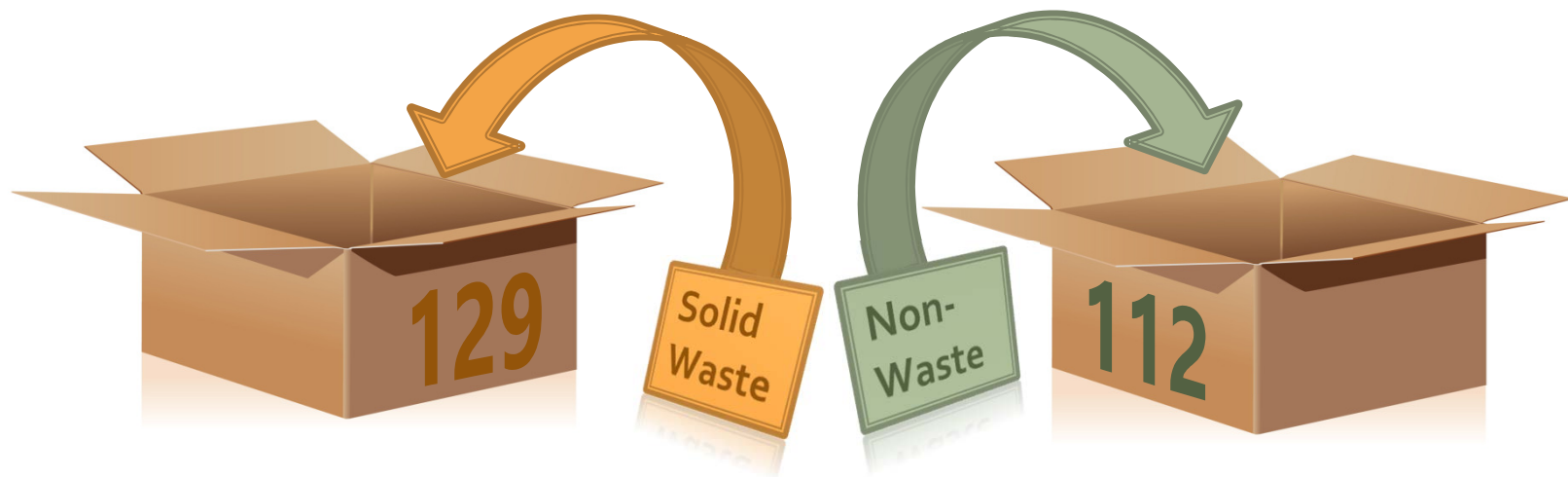
Biosolids



Off-Spec Used Oil

NHSM Rule: Overview

- Why the rule is important for boilers:
 - Units that burn **solid waste** would be subject to requirements under CAA section 129 solid waste incinerator regulations.
 - Units that burn materials identified as **non-waste** would be subject to requirements under CAA section 112 regulations for control of HAP.



NHSM Rule: Overview

- NHSM rules tied to 3 associated air rules setting standards for small area source boiler, major source boilers, and commercial and industrial solid waste incinerators.
- Under 2007 circuit court decision, combustion of *any* solid waste, whether for energy recovery or not, is subject to CAA section 129.
- ANPRM issued 2009; proposed rule 2010, final rule 2011; revisions rule 2013; categorical rule 2016.

NHSM Rule: Overview

- Key decisions in solid waste determination:
 - Has the NHSM been *discarded*?
 - If discarded, has it been *processed* into a fuel product that meets legitimacy criteria?
- Traditional fuels (coal, fuel oil, natural gas, wood, clean cellulosic biomass etc.) are not NHSMs or solid waste unless discarded
- Rule designed to be *self-implementing*

Making Determinations: Clarification Letters

- EPA prepared “clarification letters” in response to individual, case-by-case requests for non-waste determinations
- Examples of EPA’s decisions can be found online at <http://www.epa.gov/epawaste/nonhaz/define/index.htm>
- Letters continue to be written in response to requests; examples include these types of materials burned in boilers:
 - Poultry litter
 - Paper fluff pellets
 - Municipal solid waste
 - Biosolids

Categorical Determinations

- Amendments to the NHSM rule listed particular NHSMs as “categorical non-waste fuels” provided certain conditions are met. Persons burning these NHSMs in boilers and other combustion units do not need to evaluate them under the general case-by-case standards and procedures that would otherwise apply to NHSMs.
- 2016 “categorical non-waste fuels” final rule
 - Construction and demolition (C&D) wood
 - Paper recycling residuals
 - Creosote treated railroad ties combusted in units designed to burn both biomass and fuel oil

Categorical Determinations

- In response to a petition, the November 2016 proposed rule adds “Other Treated Railroad Ties” to the list of categorical non-wastes that can be burned in boilers.
- OTRT includes creosote borate, copper naphthenate, and copper naphthenate borate treated railroad ties.
- OTRT are increasingly being used as alternatives to creosote ties due in part to lower contaminant levels; ability to reuse the ties is an important consideration in purchase decisions.

Current Topics Overview

General:

- Impact of Federal Regulations on Domestic Manufacturing information request
- Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs”
- Executive Order 13777 “Enforcing the Regulatory Reform Agenda,”
 - Public Meetings, Comments Received
 - Next steps
- FY 18 Budget Cycle

Current Topics Overview

NHSM specific:

- Additional rulemakings
- Processed municipal solid waste as boiler fuel
- Gasification/pyrolysis of NHSMs
- State Implementation

Questions?

- For further information

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Website:

<http://www.epa.gov/waste/nonhaz/define/index.htm>