

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Syngenta Crop Protection Delisting Petition
(LAC 33:V.4999.Appendix E) (HW094P)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW094P).

Syngenta Crop Protection, Inc., is petitioning to exclude from hazardous waste regulations (delist) ash and scrubber water, derived from on-site incineration of listed hazardous wastes from crop protection product production and product distribution. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The exclusion, if granted, applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta's St. Gabriel facility. The department has reviewed Syngenta's petition and found it satisfies the delisting requirements. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

Syngenta operates a multi-purpose incinerator (MPI). The MPI is permitted for the incineration of hazardous waste. Incinerator ash and scrubber water are generated following the incineration of hazardous and nonhazardous waste. Syngenta's wastes include EPA hazardous waste codes F001-F005 and F024, K157-K159, and all P and U codes. Syngenta's choice of conditional delisting is based on the operational merits of incineration as a waste management option. Incinerator ash and scrubber water do not contain detectable concentrations of organic constituents. Based on the information submitted by Syngenta, the results of the analytical data, and the results from the DRAS, there was no obvious adverse effect on human health or the environment. The basis and rationale for this proposed rule are to grant the petition on an evaluation of waste-specific information provided by the petitioner.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A.

Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW094P. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW094P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste**

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. – Appendix D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. – B.3.b. ...

Table 1 - Wastes Excluded
[See Prior Text in Dupont Dow Elastomers, LLC, Laplace, LA - Motiva Enterprises, LLC., Norco, LA, (4)(B)]

Table 1 - Wastes Excluded
<u>Syngenta Crop Protection, Inc., St. Gabriel, LA</u>
<p><u>Incinerator ash, at a maximum annual generation rate of 3,600 cubic yards per year, and incinerator scrubber water, at a maximum annual generation rate of 420,000 cubic yards per year (approximately 85 million gallons per year), result from incineration at the Syngenta Crop Protection, Inc., facility in St. Gabriel, Louisiana. Syngenta’s waste stream includes the United States Environmental Protection Agency (USEPA) hazardous waste codes F001-F005, F024, K157-K159, and all P and U codes. The constituents of concern for these waste codes are listed in LAC 33:V.4901. This exclusion applies only to incinerator ash and incinerator scrubber water resulting from incineration conducted at Syngenta’s St. Gabriel facility. Syngenta must implement a testing and management program that meets the following conditions for the exclusion to be valid.</u></p>
<p><u>(1). Testing</u> <u>Sample collection and analyses, including quality control (QC) procedures, must be performed according to methods described in <i>Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, EPA Publication Number SW-846</i>, as incorporated by reference in LAC 33:V.110.</u></p>
<p><u>(1)(A). Inorganic Testing</u> <u>During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze one monthly composite sample of the incinerator ash and two grab samples of the scrubber water. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation. The grab samples of scrubber water must be collected on two different days during a representative week of operation. The monthly samples must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality</u></p>

control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), Syngenta may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.

(1)(B). Subsequent Inorganic Testing

After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(A). Syngenta must continue to monitor operating conditions and analyze quarterly samples representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. Composite samples of incinerator ash must be composed of one grab sample from each of two different days during a representative week of operation, during the first month of each quarterly period. The grab samples of scrubber water must be collected on two different days during a representative week of operation, during the first month of each quarterly period. These quarterly representative samples of incinerator ash and scrubber water must be analyzed for the constituents listed in condition (3)(A) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any inorganic constituents listed in condition (3)(A) are exceeded in any quarterly sample, Syngenta must re-institute testing as required in condition (1)(A). Syngenta may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.

(1)(C). Organic Testing

During the first 12 consecutive months of this exclusion, Syngenta must collect and analyze monthly one grab sample of incinerator ash and one grab sample of scrubber water. These monthly representative grab samples must be analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. Syngenta must report to the department the incinerator operating conditions and analytical data (reported in milligrams per liter), including quality control information. If the department and Syngenta concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(B), Syngenta may replace the organic testing required in condition (1)(C) with the organic testing required in condition (1)(D). Condition (1)(C) shall remain effective until this concurrence is reached.

(1)(D). Subsequent Organic Testing

After concurrence by the department, Syngenta may substitute the following testing conditions for those in condition (1)(C). Syngenta must continue to monitor operating conditions and analyze one quarterly grab sample of incinerator ash and one quarterly grab sample of scrubber water representative of normal operations. Syngenta must report to the department the unit operating conditions and analytical data (reported in milligrams per liter), including quality control information. These quarterly representative grab samples of incinerator ash and scrubber water must be collected during the first month of each quarterly period and analyzed for the constituents listed in condition (3)(B) prior to disposal of the source incinerator ash and scrubber water. If delisting levels for any organic constituents listed in condition (3)(B) are exceeded in the quarterly sample, Syngenta must re-institute testing as required in condition (1)(C). Syngenta

may, at its discretion, analyze incinerator ash composite samples or scrubber water grab samples gathered more frequently than quarterly to demonstrate that smaller batches of waste are nonhazardous.

(2). Waste Holding and Handling

Syngenta must treat the incinerator ash and scrubber water as hazardous wastes until the verification testing is completed, as specified in conditions (1)(A) - (1)(D), and the incinerator ash and scrubber water have satisfied the delisting criteria, as specified in condition (3). If the levels of constituents in the samples of incinerator ash and scrubber water are below all of the applicable levels set forth in condition (3), then the incinerator ash and scrubber water thereby become nonhazardous solid wastes and may be managed and disposed of in accordance with all applicable solid waste regulations. If hazardous constituent levels in any monthly composite or other representative sample equal or exceed any of the delisting levels set in condition (3), the incinerator ash and scrubber water must be managed and disposed of in accordance with Subtitle C of RCRA until the incinerator ash and scrubber water meet the delisting levels. Syngenta must repeat the analyses for the constituents listed in conditions (3)(A) and (3)(B) prior to disposal.

(3). Delisting Levels

Concentrations in conditions (3)(A) and (3)(B) must be measured in an extract from the waste samples by the method specified in LAC 33:V.4903.E. All leachable concentrations in the waste extract must be less than the following levels (all units are milligrams per liter).

(3)(A). Inorganic Constituents (all units are milligram per liter)

antimony—0.15; arsenic—0.50; barium—39.0; cadmium—0.11; chromium—5.0; copper—0.50; lead—5.0; nickel—20.0; vanadium—15; and zinc—200.

(3)(B). Organic Constituents (all units are milligram per liter)

acetone—26.0; benzene—0.05; carbon tetrachloride—0.18; chloroform—0.14; 1,2-dichlorobenzene—0.77; hexachlorobenzene—0.13; nitrobenzene—0.14; pentachlorobenzene—0.04; pyridine—0.26; toluene—10.0; toxaphene—89; and vinyl chloride—0.05.

(4). Changes in Operating Conditions

If Syngenta significantly changes the operating conditions specified in the petition, Syngenta must notify the department in writing. After receipt of written approval by the department, Syngenta must re-institute the testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test data required by conditions (1)(A) and (1)(C), including quality control data, obtained during this period no later than 60 days after the changes take place. After written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).

(4)(A). Processing Equipment

Syngenta may elect to change processing equipment based on operational performance and economic considerations. In the event that Syngenta changes operating equipment, Syngenta must re-institute processing and initiate testing required in conditions (1)(A) and (1)(C) for a minimum of four consecutive months. Syngenta must report unit operating conditions and test

data required in conditions (1)(A) and (1)(C), including quality control data, obtained during this period, no later than 60 days after the changes take place. Following written notification by the department, Syngenta may replace testing conditions (1)(A) and (1)(C) with (1)(B) and (1)(D). Syngenta must fulfill all other requirements in condition (1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**, LR 33:**

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

LOG #: HW094P

Person

Preparing

Statement: Emad NofalDept.: Environmental QualityPhone: 225-219-3423Office: Environmental AssessmentReturn
Address: P.O. Box 4314
Baton Rouge, LA 70817-4314Rule
Title: Syngenta Crop Protection Inc. Delisting
Petition (LAC 33:V.4999.Appendix E)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost or saving to state or local governmental units for implementing this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state will collect approximately \$43,000 per year less (based on 2005 levels) in hazardous waste disposal tax revenue as a result of this proposed delisting rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

In addition to savings of approximately \$43,000 per year in hazardous waste disposal tax, Syngenta will pay approximately \$60,000 per year less in analytical costs and about \$30,000 per year less to waste container suppliers. The result will be an immediate net saving of about \$133,000 per year for Syngenta, which will allow for continued operation of its multi-purpose incinerator (MPI) for an additional time, despite recent increases in natural gas costs for operation of the system. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible. This delisting would only reduce the substantial cost to the company of operating the system and not increase receipts.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Syngenta Crop Protection, Inc. is petitioning to exclude from the hazardous waste regulations "delist" ash and scrubber water, derived from hazardous wastes from on-site incineration of listed hazardous wastes from crop protection product production and product distribution operations.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

This is not applicable.

- (a) Yes. If yes, attach documentation.
(b) No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 07-08	FY 08-09	FY09-10
PERSONAL SERVICES _____			
OPERATING EXPENSES _____			
PROFESSIONAL SERVICES _____			
OTHER CHARGES _____			
EQUIPMENT _____			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

No costs or savings to state agencies will result from implementing this proposed action.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 07-08	FY 08-09	FY 09-10
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
DEDICATED _____			
FEDERAL FUNDS _____			
OTHER (Specify) _____			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The agency has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact of the proposed action on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
STATE GENERAL FUND			
AGENCY SELF-GENERATED	\$(43,000)	\$(43,000)	\$(43,000)
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	\$(43,000)	\$(43,000)	\$(43,000)

*Specify the particular fund being impacted.

Syngenta paid about \$43,000 in 2005 hazardous waste disposal tax, almost all of which was due to the MPI residue disposal, and these payments will be lost.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

R.S. 30:2205(A)(1) provides that funds generated by the hazardous waste tax under the provisions of Chapter 7-A of Subtitle II of Title 47 are to be paid into the Hazardous Waste Site Cleanup Fund until the fund balance reaches \$6 million, and at such time the treasurer is to pay remaining sums into the Environmental Trust Fund.

Delisting the Syngenta MPI ash and scrubber water means the waste will no longer be regulated as hazardous and, therefore, will no longer be subject to the hazardous waste disposal tax.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Syngenta will pay about \$60,000/yr less in analytical costs to an out-of-state contract analytical lab. Syngenta will pay about \$30,000/yr less to local waste roll-off container suppliers. The delisting of this ash and scrubber water will not relieve the company from any liability for these wastes under federal or state law. The savings to Syngenta will improve Syngenta's ability to continue to operate the MPI, with an employment of 29 personnel and annual payroll of over \$1.5 MM, despite escalating energy costs.

Syngenta will continue for a short time managing the delisted waste at a RCRA-permitted landfill. Syngenta may consider management of the MPI ash residues at a non-hazardous waste landfill, but this would require an internal assessment that has not yet been performed.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Including the \$43,000 savings in hazardous waste disposal tax, Syngenta will immediately realize a savings of about \$133,000/yr when this delisting is implemented, but there will be no increase in receipts.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The effects on competition are negligible. The local employment for the Syngenta MPI involves 29 personnel at an annual payroll of over \$1.5 MM/yr. The Syngenta MPI is not a profit center and is not a commercial disposal site. This delisting would only reduce the substantial cost to the company of operating the system and not increase receipts.

Failure to obtain the cost savings from the delisting could result in the immediate shutdown of the Syngenta MPI unit due to escalating energy costs and consequent costs of commercial incineration of the land-disposal-restricted portion of the waste.