

# EPA

## Items Withdrawn from Agenda

<i>Reg. ID #</i>	<i>Title of Rule</i>	<i>Added to Agenda</i>	<i>Withdrawn from Agenda</i>	<i>Added Because</i>	<i>Withdrawn Because</i>
RIN 2020-AA33	Pesticide Management and Disposal	May 5, 1993	October 20, 2003	“These proposed rules are issued pursuant to the authority given the Administrator of EPA in sections 8, 19 and 25 of FIFRA, 7 U.S.C. 136f, 136q and 136w. Section 6 of FIFRA authorizes EPA to take certain actions to prohibit sale, distribution and use of pesticides that cause unreasonable adverse effects on the environment. An "unreasonable adverse effect" determination involves the weighing of the risks of using the pesticide against the benefits of that use.” 58 Fed. Reg. 26856 (May 5, 1993).	No explanation is given.
RIN 2025 - AA01	TRI; Chemical Expansion; Finalization of Deferred Chemicals	November 30, 2000	September 9, 2003	“The proposed addition of these chemicals and chemical categories is based on their acute human health effects, carcinogenicity or other chronic human health effects, and/or their environmental effects. EPA believes that these chemicals and chemical categories meet the EPCRA section 313(d)(2) criteria for addition to the list of toxic chemicals.” 59 Fed. Reg 1,788 (January 12, 1994) “On November 30, 1994, EPA added 286 chemicals and chemical categories to the EPCRA section 313 list, including 39 chemicals as part of two delineated categories. Each chemical and chemical category was found to meet the statutory criteria described in EPCRA section 313(d)(2)(A)-(C). At this time, EPA deferred final action on 40 chemicals and one chemical category until a later date. These were deferred because the comments received on them raised difficult technical or policy issues which required additional time to address. EPA chose not to delay final action on the 286 chemicals and chemical categories because of the additional time needed to address the issues surrounding the smaller group of 40 chemicals and one chemical category; rather, EPA believed it to be in the spirit of community right-to-know to proceed with the final rulemaking of the additional chemicals and chemical categories.” (Unified	No explanation given.

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				Agenda, Spring 2003)	
RIN 2040 - AD97	Effluent Guidelines and Standards for Pharmaceutical Manufacturing; Amendment	March 13, 2003	December 2003	<p>The agency received industry comments on a September 1998 rule on effluent guidelines and standards and determined that several amendments were necessary. The agency gave the following explanations for the specific amendments:</p> <p>“In order to remove any ambiguity about which regulations applied to dischargers constructing new facilities and commencing discharge after the 1983 regulation but before the effective date of the 1998 regulations, EPA is amending the regulation.” 68 Fed. Reg. 12,266 12,267 (March 13, 2003).</p> <p>“EPA inadvertently omitted this qualified provision of the BOD<sub>5</sub> limitations from the final rule published in 1998, and this language consequently has not been included in subsequent editions of 40 CFR part 439. Today EPA is correcting this omission. . . .” 68 Fed. Reg. at 12,267</p> <p>“The changes here will facilitate the implementation of part 439 and will not affect environmental impacts or compliance costs. They merely clarify applicable dates, correct an inadvertent error and omission, and make other non-substantive edits.” 68 Fed. Reg. at 12,268</p>	<p>“Because EPA received adverse comment, we are withdrawing certain portions of the direct final rule for the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category. ublished on March 13, 2003 (68 FR 12265). . . . We will address that comment in a subsequent final action based on the parallel proposal also published on March 13, 2003 (68 FR 12276). As stated in the parallel proposal, we will not institute a second comment period on this action.” 68 Fed. Reg. 34,831 (July 11, 2003)</p>
RIN 2040- AB74	Clean Water Act Definition of Waters of the United States	April 1990	November 5, 2003	<p>“The intent of this action is to clarify aspects of the current definition which define waters, ‘the use, degradation or destruction of which would or could affect interstate or foreign commerce,’ as waters of the U.S. We are not proposing to address any aspects of the definition of ‘waters of the U.S.’ in this rulemaking other than those relating to these four examples.” (Unified Agenda, April 1992).</p> <p>“The goal of the agencies is to develop proposed regulations that will further the public interest by clarifying what waters are subject to CWA jurisdiction and affording full protection to these waters through an appropriate focus of Federal and State resources consistent with the CWA” 68 Fed. Reg. 1,991 1,993 (January 15, 2003)</p>	No explanation was given.

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RIN 2040-AC95	Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase One	November 1996	September 26, 2003	“In the interest of pollution prevention, EPA is proposing to replace mercuric sulfate with copper sulfate in the total Kjeldahl nitrogen methods and to permit the substitution of the AMCO-AEPA-1 Standard for the formazin standard in the turbidity method. Replacement of these two reagents would remove hazardous or potentially carcinogenic chemicals from use in EPA approved methods.” 60 Fed. Reg. 53,988-53,989 (October 18, 1995).	Incorporated into 2040-AD71(Unified Agenda, December 2003)
RIN 2040-AD12	Test Procedures for the Analysis of Miscellaneous Metals, Anions, and Volatile Organics Under the Clean Water Act, Phase Two	April 1998	September 26, 2003	“EPA is proposing a new broad-purpose digestion procedure for total recoverable elements. It has the advantage of being compatible with several of the approved measurement techniques, which will allow laboratories to achieve some cost savings by reducing preparations and increasing flexibility in choosing approved analytical techniques after digestion.” 60 Fed. Reg. 53,988-53,989 (October 18, 1995).	Incorporated into 2040-AD71(Unified Agenda, December 2003)
RIN 2040-AD35	Water Quality Standards for Alabama--Phase II	April 29, 1999	May 1, 2004	“EPA is proposing to establish a designated use for a segment of Five Mile Creek in Alabama. If this proposal is promulgated as final, the Federal designated use will supersede the State's designated use that EPA disapproved in 1986 and 1991. EPA disapproved the State's designated use because it is inconsistent with the Clean Water Act and EPA's implementing regulations. Specifically, EPA is proposing a designated use for the protection of fish and wildlife.” 76 Fed. Reg. 65,256 (October 23, 2002).	No explanation was given.
RIN 2040-AD52	Test Procedures for the Analysis of Mercury Under the Clean Water Act (Method 245.7)	April 24, 2000	September 26, 2003	“This regulatory action would propose to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under 40 CFR part 136 to approve a new analytical test procedure (method) for the determination of mercury in the wastewater program as authorized under the Clean Water Act (CWA). This new test procedure is capable of measuring mercury at low parts-per-trillion (ppt);	Incorporated into 2040-AD71.(Unified Agenda, December 2003).

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				ng/L) concentrations and would be an alternative to the recently promulgated EPA Method 1631, which also determines mercury at low ppt concentrations. EPA Method 245.7 uses similar technology to EPA Method 1631 (cold vapor atomic fluorescence spectrometry), but it does not require the use of a gold trap. Laboratories claim that EPA Method 245.7 is a less burdensome and more cost-effective method than EPA Method 1631.” (Unified Agenda, May 2003).	
RIN 2050-AE65	Land Disposal Restrictions; Treatment Standards for Spent Potliners From Primary Aluminum Reduction (K088) and Regulatory Classification of K088 Verification Units	April 26, 1999	September, 2, 2003	“EPA is proposing to revise certain treatment standards for spent potliners from primary aluminum reduction (EPA hazardous waste: K088) under its Land Disposal Restrictions (LDR) program. These revisions are a direct result of an Agency commitment to investigate whether a more permanent treatment standard for K088 is appropriate.” 65 Fed. Reg. 42,937 (July 12, 2000).	“On July 20, 2000, EPA proposed revised treatment standards for K088 wastes. Specifically, the Agency proposed to lower the cyanide treatment standard and reinstate a treatment standard for fluoride nonwastewaters based on a deionized water leach test. Comments to the proposed rule were significant and suggest that there are significant treatment issues yet to be resolved for K088 waste. The Agency needs to further assess the treatment universe for K088 and is considered extending the possible date of a final rule or to investigate other strategies both regulatory and non-regulatory to facilitate recycling of spent aluminum potliners.” (Unified Agenda, Spring 2003).
RIN 2050-AE91	Municipal Solid Waste Landfill Location Restrictions for Airport Safety	December 3, 2001	December 2003	“EPA is amending this provision in order to incorporate new landfill siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Ford Act). The Ford Act siting restrictions apply to specified smaller public airports to address the potential hazard that birds attracted to MSWLFs may pose to aircraft operations.” 67 FR 45,948 (July 11, 2002).	“We stated in that Federal Register document that if we received adverse comment by August 12, 2002, we would publish a timely notice of withdrawal in the Federal Register. We subsequently received adverse comment on that direct final rule. We will address those comments in a subsequent final action based on the parallel proposal also published on July 11, 2002 (67 FR 45948). . . . Although EPA is issuing this withdrawal of its direct final rule, the new siting requirements enacted in the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century continue to remain in effect.” 67 Fed. Reg. 62,647 (October 8, 2002). “After reviewing the comments, EPA has decided not to finalize the rule as proposed. Instead of adding a new subsection (e) to 40 CFR 258.10,

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					EPA is incorporating information about the Ford Act in a note following the criteria in 40 CFR 258.10. As a result, the specific limitations of the Ford Act are not being incorporated into the criteria for MSWLFs under RCRA and are not enforceable as part of EPA's MSWLF criteria. The note is for advisory purposes only." 68 Fed. Reg. 59333 (October 15, 2003)
RIN 2060-AG20	Protection of Stratospheric Ozone: Reconsideration of Section 608 Sales Restriction	November 28, 1995	May 14, 2004	"The rule will include the reconsideration of the sales restriction as it relates to split systems. The Agency was petitioned to reconsider the part of the sales restriction that included the sale of pre-charged split systems. It restricted such sales to certified technicians. Since then, EPA stayed that portion of the sales restriction in response to the petition. This rule will include the determination of the Agency related to the reconsideration. It addresses environmental problems of ozone depletion resulting from emissions of CFCs, HCFCs, and other ozone-depleting substances. Through restricting sales of certain pre-charged items to persons certified as technicians, emissions to the atmosphere are decreased. The impact on small businesses and governments would be negligible, since persons can become certified if the EPA determination is a full restriction. Most businesses and governments will have at least one certified technician on board." (Unified Agenda, Fall 1995).	No explanation was given.
RIN 2060-AG26	NESHAP: Paint Stripping Operations	November 1995	October 2, 2003	"The EPA has determined that paint stripping operations emit at least one of the HAP's listed in section 112(b) of the Clean Air Act. As a result, the source category was included on the initial list of HAP-emitting categories scheduled for promulgation within 10 years of enactment of the Act." (Unified Agenda, Spring 2003)	No explanation was given.
RIN 2060-AH08	NESHAP: Chromium Electroplating Amendment	November 29, 1996	May 5, 2004	"Final standards under section 112(d) for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks (40 CFR 63, Subpart N) were	No explanation is given.

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				promulgated on January 25, 1995. Since promulgation, the Agency has determined that a class of chromium electroplating operations were inadvertently excluded from regulation. Specifically, the final standards do not apply to sources engaged in continuous chromium electroplating of steel sheet used to make cans and other containers. It is the Agency's intent to regulate all facilities engaged in chromium electroplating. Therefore, the Agency plans to amend the chromium electroplating rule to extend its applicability to continuous chromium electroplating operations." (Unified Agenda, Fall 2003)	
RIN 2060-AI01	Amendments to Parts 51, 52, 63, 70 and 71 Regarding the Provisions for Determining Potential to Emit	April 1998	November 1, 2003	"The proposed rule will address issues related to the determination of a stationary source's potential to emit in response to three court decisions." (Unified Agenda, Spring 2003)	"The Agency plans no further action." (Unified Agenda, Fall 2003).
RIN 2060-AI47	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	April 26, 1999	September, 12, 2003	"40 CFR part 51.150-51.153 requires States to have contingency plans to prevent air pollution levels from reaching the significant harm level (SHL) for CO, O3, SO2, NOx, and PM. Appendix L provides example guidance to the States on appropriate courses of action to take at each episode stage (i.e., alert, warning, and emergency) to ensure the SHL is not reached. These requirements were developed in the 1970's, based on the NAAQS from that era. Since that time, ambient air quality levels have decreased nationwide. Today, many areas/sources that no longer need episode plans must still develop them. This rule would update and simplify the criteria used to determine which areas would require episode plans. Areas with no more than one exceedance of the Alert level over the past 5 years would not need to develop emergency episode plans. Sources with the potential to cause exceedances of the SHL due to a process/control equipment malfunction	No explanation was given.

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				would need to develop source contingency plans to prevent (and to respond to) such malfunctions. Appendix L would also be revised to reflect the revised program requirements.” (Unified Agenda, Spring 2003).	
RIN 2060-AI47	Revisions to Air Pollution Emergency Episode Requirements (Subpart H, 40 CFR Part 51)	April 26, 1999	September 12, 2003	“This proposed rule would revise the provisions for the clean unit test contained in the major New Source Review (NSR) requirements. This action proposes to revise the length of the clean unit designation period contained in the final NSR rules. The current rules allow for clean unit designation to be used for 10 years provided the source meets the requirements to maintain clean unit status. This proposed rule would recognize that the average life expectancy of control equipment is 15 years rather than the 10 years contained in the final rules. Permitting agencies and industry will benefit from this action by potentially reducing the number of future permit actions. As a result, this action reduces the compliance burden, including annual compliance costs, for all sources subject to the major NSR program requirements.” (Unified Agenda, May 2003).	No explanation was given.
RIN 2060-AJ23	Petitions to Delist source Categories from the Source Category List; Developed Pursuant to Section 112(c)of the Clean Air Act	November 30, 2000	May 18, 2004	“The most current SC list was published on February 12, 2002 (67 FR 6521). Section 112(c)(9), which provides the legislative authority and guidelines for such actions, states that the Administrator may delete a SC from the list under section 112(c), on petition of any person or on the Administrator's own motion, whenever the Administrator determines that no source in the category emits hazardous air pollutants (HAPs) in quantities which may cause a lifetime risk of cancer greater than 1 in 1 million to the individual in the population who is most exposed and that emissions from no source in the category exceed a level which is adequate to protect public health with an ample margin of safety and that no adverse	No explanation was given.

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				environmental effect will result. As of August 14, 2002, one petition to delist a SC has been received. It contains information on HAP emissions, exposures, health effects, human risks, and potential ecological concerns as well as the petitioner's explanation why the 2--Piece Can Manufacturing should be removed from the SC List. The EPA is reviewing the petition. Once the review is completed, the EPA will decide whether to grant or deny the petition. Section 112(c)(9) requires that within 12 months of receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision.” (Unified Agenda, Fall 2003)	
RIN 2060-AJ84	Compilation of Source-Specific Alternative Methods Being Approved for Source-Category Wide Application	December 3, 2001	May 21, 2004	“Sources have applied for approval of alternative test methods for use at their facility. The Agency has approved these methods and issued letters of approval to each requestor. The Agency has determined that these methods could be used at similar sources, thus giving those sources an alternative test method to the one cited in the regulation. This action seeks to publish these facility--specific approvals in order to provide other facilities within the source category the option of using the alternative method.” (Unified Agenda, Fall 2003).	No explanation given.
RIN 2060-AJ89	State and Federal Operating Permits Program: Removal of Amendments to Part 70 and Part 71 Compliance Certification Requirements	December 3, 2001	September 16, 2003	“Action is in response to the October 29, 1999, United States Circuit Court of Appeals decision to remand to EPA part of the October 22, 1997, Compliance Assurance Monitoring rulemaking that included revisions to parts 70 and 71 compliance certification requirements. The Court ruled that the compliance certification must address whether the affected facility has been in continuous or intermittent compliance.” (Unified Agenda, May 2003).	No explanation was given.

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RIN 2060-AK82	NESHAP: Rubber Tire Manufacturing: Technical Correction	May 2003	December 2003	“The EPA had also identified these as necessary technical corrections. The amendments to the rule change the definition of "cements and solvents" to conform to the language identified by both the RMA and us prior to the publication of the rule on July 9, 2002. The revised definition does not change the intent of the original standards, but it is clearer and consistent with the intended meaning of affected cements and solvents used in tire manufacturing.” (Unified Agenda, Springs 2003).	No explanation given.
RIN 2060-AL82	Revisions to Federal Operating Permits Program Fee Payment Deadlines for California Agricultural Sources	May 13, 2003	June 27, 2003	“We are deferring the fee payment due date for State-exempt agricultural sources in California that are subject to the part 71 program because we believe the standard part 71 fee may significantly exceed the actual cost of administering a program for agricultural sources, and we do not have the information to complete a rulemaking to establish a different fee prior to the May 14, 2003, application deadline. The part 71 fee schedule in §§ 71.9(c) is designed to cover the cost of permitting more complex, industrial sources. We need additional time to evaluate the likely costs of permitting the State-exempt agricultural sources. Also, as we gain experience with the program, we will be in a better position to establish a cost-based fee. For these reasons, we are amending §§ 71.9(f) to extend the due date for permit fees for State-exempt agricultural sources until May 14, 2004. Unless we set a different fee amount through rulemaking before that extended date, the fee schedule in §§ 71.9(c)(1) would apply.” 68 Fed. Reg. 25, 507 25, 509 (May 13, 2003)	“Because we received adverse comment, we are withdrawing the direct final rule to amend the Federal Operating Permits Program fee payment deadlines for California agricultural sources. We published the direct final rule on May 13, 2003. We stated in that Federal Register document that if we received adverse comment by June 12, *38198 we would publish a timely withdrawal in the Federal Register. We subsequently received adverse comment on that direct final rule. We will address those comments in a subsequent final action based on the parallel proposal also published on May 13, 2003. As stated in the parallel proposal, we will not institute a second comment period on this action.” 68 Fed. Reg. 38,197 (June 27, 2003).
RIN 2070-AD62	Endangered Species and Pesticide Regulation	January 24, 2003	September 1, 2003	“This notice will focus on regulations and policies affecting the process for consultation between EPA and the Fish and Wildlife Service	No explanation was given. However, RIN 1018-AI95 was promulgated in August 2004 and addressed these issues.

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				and the National Marine Fisheries Service regarding EPA actions in its pesticide regulatory program under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). It will seek public comment on changes to current regulations, policies and practices of the EPA and Services to better integrate the FIFRA and Endangered Species Act processes and to improve the efficiency and effectiveness of consultations on pesticide actions to ensure that species that are Federally listed or proposed as threatened or endangered and their proposed or designated critical habitat are appropriately protected.” (Unified Agenda, Spring 2003).	
RIN 2090-AA21	Project XL Site-Specific Rulemaking for Andersen Corporation's Facility in Bayport, Minnesota	April 14, 1999	May 12, 2004	“This proposed site-specific rule is intended to provide regulatory changes under the Clean Air Act ("CAA" or the "Act") to implement Andersen's XL project, which will result in superior environmental performance and, at the same time, provide Andersen with greater operational flexibility.” 64 Fed. Reg. 19,097 (April 19, 1999)	No explanation is given.
RIN 2090-AA25	Project XL Site-Specific Rulemaking for Anne Arundel County Millersville Landfill, Severn, Maryland	May 14, 2001	June 10, 2004	“Proponents of bioreactor technology believe that operating MSWLFs as bioreactors provides a number of environmental benefits, including an increased rate of waste decomposition, which in turn would extend the operating life of the landfill and lessen the need for additional landfill space or other disposal options. . . . Based on these reasons, bioreactors are expected to decrease potential environmental risks and costs associated with leachate management, treatment and offsite disposal. Additionally, use of bioreactor techniques are believed to shorten the length of time the liner will be exposed to leachate and lower the long term potential for leachate migration into the subsurface environment. . . . EPA is interested in assessing the performance of landfills operated as	No explanation was given.

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				bioreactors with alternative liners, and these XL projects are expected to produce valuable data. "The Anne Arundel County Millersville Landfill XL Project and the other related XL projects will provide additional information on the performance of MSWLFs when liquids are added to the landfill. The Agency is also interested in assessing how different types of alternative liners perform when liquids are added to the landfill, including maintaining a hydraulic head at acceptable levels." 68 Fed. Reg. 25, 550 25,553 (May 13, 2003)	
RIN 2090- A A 2 8 (Formerly 2 0 0 2 - AA00)	New Jersey Gold Track Project XL Rule	December 3, 2001 (2002- A A 0 0 appeared on the Agenda in M a y 2001).	October 16, 2003	"The Gold Track Program is a crucial part of NJDEP's efforts to create a State-run tiered performance-based program. Currently, facilities may join NJDEP's Silver Track Program, which is a lower-level tier that provides recognition for commitments to a certain level of environmental enhancement. Gold Track expands upon these environmental commitments, and offers proportionally greater recognition, as well as actual federal regulatory flexibility to participating facilities. NJDEP is partnering with EPA in the Gold Track effort under the XL program, so as to be able to offer federal regulatory flexibility to Gold Track participants."(Unified Agenda, May 2003).	No explanation was given.
RIN 2090- AA32	Amendment to Project XL Rulemaking and Final Project Agreement (FPA) for New England Universities Laboratories	May 2003	September 9, 2003	"Under the Project XL program, the EPA is supporting a project for the New England Universities Laboratories in Massachusetts and Vermont. On September 28, 1999, the EPA promulgated a site-specific rule to help implement the project. This action would amend the site-specific rule by extending the date of compliance. . . . The principal objective of this Laboratory XL Project is to pilot a flexible, performance-based system for	No explanation was given.

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				managing laboratory waste.” (Unified Agenda, May 2003).	