consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's Prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This final rule, which is required by statute, will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The Clean Air Act requires conformity to apply in nonattainment and maintenance areas, and the U.S. Court of Appeals for the District of Columbia Circuit has determined that the Clean Air Act requires conformity to apply immediately upon nonattainment designation. As a result, this rule is codifying in regulation the statutory interpretation by the court that is currently in effect. Consequently, this rule is required by statute, and by itself will not have substantial impact on States. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

I. Executive Order 12898 and EPA's Response to Comments on Environmental Justice Impacts of Grace Period Deletion

One commenter indicated that we failed to consider the disproportionate impact the deletion of the grace period would have on minority and low income groups as required by Executive Order 12898 on environmental justice. The commenter argued that we recently found that minorities and low income populations were disproportionately represented in nonattainment areas, and that we are required by the Executive Order to consider the economic impact on such populations of job loss resulting from deletion of the grace period.

We do not agree that Executive Order 12898 requires us to consider the economic impact of the grace period deletion on minorities and low income populations in this case. The Executive Order only requires agencies to assess adverse impacts on minorities and low income populations where the action the agency is taking will cause disproportionate human health or environmental impacts on such populations. In this case the regulatory action we are taking to delete the grace period from our conformity regulations will not have such impacts, since we are only formally correcting our regulations to reflect the action taken by the United States Court of Appeals in 1997. Any potential adverse impacts on minority and low income populations resulting from deletion of the grace period were caused by the court when it found the grace period to be illegal and overturned it. Since the court decision in 1997, the grace period has effectively been nullified and any areas newly redesignated to nonattainment have been subject to conformity requirements immediately upon the effective date of any redesignation. In addition, since this deletion is mandated by the court's ruling, we could not effectively address any potential adverse impacts from EPA action even if an environmental justice analysis disclosed any.

J. Submission to Congress and the Comptroller General

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule 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 the publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 proceeding to enforce its requirements. (See section 307(b)(2) of the Administrative Procedures Act.)

List of Subjects in 40 CFR Part 93

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen Dioxide, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Dated: March 31, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 93 is amended as follows:

PART 93—[AMENDED]

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

§ 93.102 [Amended]

2. In § 93.102, paragraph (d) is removed.

[FR Doc. 00–8712 Filed 4–7–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6570–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting a petition submitted by Rhodia, Inc. (Rhodia), to exclude from hazardous waste control (or delist) a certain solid waste. This action responds to the petition originally submitted by Rhodia to delist the Filter Cake Sludge on a ''generator specific'' basis from the lists of hazardous waste.

After careful analysis, the EPA has concluded that the petitioned waste is not hazardous waste when disposed of in subtitle D landfills/surface impoundments. This exclusion applies to Filter Cake Sludge generated at Rhodia's Houston, Texas facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in subtitle D landfills/surface impoundments but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

EFFECTIVE DATE: April 10, 2000.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–99–TXDEL–RHODIA.'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact Bill Gallagher, at (214) 665–6775. For technical information concerning this document, contact James Harris, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–8302.

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

I. Overview Information
A. What action is EPA finalizing?
B. Why is EPA approving this delisting?
C. What are the limits of this exclusion?
D. How will Rhodia manage the waste if it is delisted?
E. When is the final delisting exclusion effective?
F. How does this action affect states?
II. Background
A. What is a delisting petition?
B. What regulations allow facilities to delist a waste?
C. What information must the generator supply?
III. EPA's Evaluation of the Waste Data
A. What wastes did Rhodia petition EPA to delist?
B. How much wastes did Rhodia propose to delist?
C. How did Rhodia sample and analyze the waste data in this petition?
IV. Public Comments Received on the Proposed Exclusion
Were Public Comments Submitted on the Proposed Rule?
V. Regulatory Impact
VI. Regulatory Flexibility Act
VII. Paperwork Reduction Act
VIII. Unfunded Mandates Reform Act
IX. Congressional Review Act
X. Executive Order 12875
XI. Executive Order 13045
XII. Executive Order 13084
XIII. National Technology Transfer and Advancements Act
XIV. Executive Order 13132 Federalism

I. Overview Information

A. What Action Is EPA Finalizing?

The EPA is finalizing the decision to grant Rhodia's petition to have their Filter Cake Sludge excluded, or delisted, from the definition of a hazardous waste.

After evaluating the petition, EPA proposed, on December 10, 1999 to exclude Rhodia's waste from the lists of hazardous wastes under §§ 261.31 and 261.32 (see 64 FR 8278).

B. Why Is EPA Approving This Delisting?

Rhodia petitioned to exclude the Filter Cake Sludge treatment residues because it does not believe that the petitioned waste meets the criteria for which it was listed.

Rhodia also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. *See*, section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4).

For reasons stated in both the proposal and this document, EPA believes that Rhodia' Filter Cake Sludge should be excluded from hazardous waste control. The EPA therefore is granting a final exclusion to Rhodia, located in Houston, Texas for its Filter Cake Sludge.

C. What Are the Limits of This Exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of part 261 and the conditions contained herein are satisfied. The maximum annual volume of the Filter Cake Sludge is 1,200 cubic yards.

D. How Will Rhodia Manage the Waste if It Is Delisted?

Rhodia currently disposes of the petitioned waste (filter-cake Sludge) generated at its facility in off-site, RCRA permitted Treatment Storage or Disposal facilities which are not owned/operated by Rhodia. If the waste is delisted it will be disposed of in a subtitle ''D'' landfill.

E. When Is The Final Delisting Exclusion Effective?

This rule is effective April 10, 2000. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How Does This Action Affect States?

Because EPA is issuing today's exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

The EPA has also authorized some States (for example, Louisiana, Georgia, Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Rhodia transports the petitioned waste to or manages the waste in any State with delisting authorization, Rhodia must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude from the list of hazardous wastes, wastes the generator does not consider hazardous under RCRA.

B. What Regulations Allow Facilities To Delist a Waste?

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, section 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the

Code of Federal Regulations (CFR). Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists.

C. What Information Must the Generator Supply?

Petitioners must provide sufficient information to EPA to allow the EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents), other than those for which the waste was listed, could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Data

A. What Waste Did Rhodia Petition EPA To Delist?

On November 4, 1997, Rhodia petitioned the EPA to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, a waste by-product (Filter-Cake Sludge) which falls under the classification of listed waste because of the ''derived from'' rule in RCRA 40 CFR 260.3(c)(2)(i). Specifically, in its petition, Rhodia, Incorporated, located in Houston, Texas, requested that EPA grant an exclusion for 1,200 cubic yards per year of filter-cake sludge resulting from its treatment process which treats listed hazardous waste. The resulting waste is also listed, in accordance with § 261.3(c)(2)(i) (*i.e.*, the ''derived from'' rule).

The waste codes of the constituents of concern are EPA Hazardous Waste Numbers D001–D043, F001–F012, F019, F024, F025, F032, F034, F037–F039, K002–004, K006–K011, K013–K052, K060–K062, K064–K066, K069, K071, K073, K083–K088, K090–K091, K093–K118, K123–K126, K131–K133, K136, K141–K145, K147–K151, K156–K161, P001–P024, P026–P031, P033–P034, P036–P051, P054, P056–P060, P062–P078, P081–P082, P084–P085, P087–P089, P092–P116, P118–P123, P127–P128, P185, P188–P192, P194, P196–P199, P201–P205, U001–U012, U014–U039, U041–U053, U055–U064, U066–U099, U101–U103, U105–U138, U140–U174, U176–U194, U196–U197, U200–U211, U213–U223, U225–U228, U234–U240, U243–U244, U246–U249, U271, U277–U280, U328, U353, U359, U364–U367, U372–U373, U375–U379, U381–U396, U400–U404, U407, U409–U411.

B. How Much Waste Did Rhodia Propose To Delist?

Specifically, in its petition, Rhodia requested that EPA grant a standard exclusion for 1,200 cubic yards of Filter Cake Sludge generated per calender year.

C. How Did Rhodia Sample and Analyze the Waste Data in This Petition?

In support of its petition, which included the sampling and analysis plan, Rhodia analyzed the samples for the complete list of constituents included in 40 CFR part 264, appendix IX and the additional parameters for waste common to the petrochemical, oil and gas industries. The analyses was performed using EPA-approved methods. The analytical parameters and methods are provided in Table I.

TABLE I.—ANALYTICAL PARAMETERS AND METHODS

Parameter	Matrix	Method
GC/MS BNA, App IX List	Solid	SW846 Method 8270.
GC/MS VOA, App IX List	Solid	SW846 Method 8240.
Metals—App IX List	Solid	SW846 Methods 6010/7000 Series.
Herbicides—App IX List	Solid	SW846 Method 8150.
Pesticide/PCB, App IX List	Solid	SW846 Method 8080.
Organophosporus Pesticides, App IX List	Solid	SW846 Method 8140.
Sulfide	Solid	EPA 376.1.
Cyanide, Total	Solid	SW846, Method 9010.
Dioxin/Furan—App IX List	Solid	SW846 Method 8280.
TCLP—40 CFR 261.24 List, and Nickel	Solid	SW846 Method 1311.
Neutral Leach Cyanide	Solid	SW846 Method 1311 (Modified).
Oil & Grease	Solid	EPA 413.1.
Reactive Cyanide	Solid	SW 846 Chapter 7.3.3.2.
Reactive Sulfide	Solid	SW846 Chapter 7.3.4.2.
Flash Point Closed Cup	Solid	SW846 Method 1010.
pH	Solid	SW846 Method 9045.

Note: Rhodia performed TCLP analyses for specific constituents detected in the total analyses for a given sample.

IV. Public Comments Received on the Proposed Exclusion

Were Public Comments Submitted on the Proposed Rule?

No public comments were received.

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from today's proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on a small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon state, local, or tribal governments or the private sector.

The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Congressional Review Act

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will become effective on the date of publication in the **Federal Register**.

X. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines: (1) Is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of Executive Order 13084 do not apply.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects that communities of indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer and Advancement Act

Under section 12(d) if the National Technology Transfer and Advancement Act (NTTAA), the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so

would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the NTTAA requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

XIV. Executive Order 13132 Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one State.

List of Subjects 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: March 17, 2000.

Carl E. Edlund,

P.E. Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

2. In Tables 1, 2, and 3 of appendix IX of part 261, add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Rhodia	Houston,Texas	Filter-cake Sludge, (at a maximum generation of 1,200 cubic yards per calendar year) generated by Rhodia using the SARU and AWT treatment process to treat the filter-cake sludge (EPA Hazardous Waste Nos. D001–D43, F001–F012, F019, F024, F025, F032, F034, F037–F039) generated at Rhodia. Rhodia must implement a testing program that meets the following conditions for the exclusion to be valid: (1) *Delisting Levels:* All concentrations for the following constituents must not exceed the following levels (mg/l). For the filter-cake constituents must be measured in the waste leachate by the method specified in 40 CFR 261.24. (A) Filter-cake Sludge (i) Inorganic Constituents: Antimony-1.15; Arsenic-1.40; Barium-21.00; Beryllium-1.22; Cadmium-0.11; Cobalt-189.00; Copper-90.00; Chromium-0.60; Lead-0.75; Mercury-0.025; Nickel-9.00; Selenium-4.50; Silver-0.14; Thallium-0.20; Vanadium-1.60; Zinc-4.30 (ii) Organic Constituents: Chlorobenzene-Non Detect; Carbon Tetrachloride-Non Detect; Acetone-360; Chloroform-0.9 (2) *Waste Holding and Handling:* Rhodia must store in accordance with its RCRA permit, or continue to dispose of as hazardous waste all Filter-cake Sludge until the verification testing described in Condition (3)(A), as appropriate, is completed and valid analyses demonstrate that condition (3) is satisfied. If the levels of constituents measured in the samples of the Filter-cake Sludge do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. (3) *Verification Testing Requirements:* Rhodia must perform sample collection and analyses, including quality control procedures, according to SW–846 methodologies. If EPA judges the process to be effective under the operating conditions used during the initial verification testing, Rhodia may replace the testing required in Condition (3)(A) with the testing required in Condition (3)(B). Rhodia must continue to test as specified in Condition (3)(A) until and unless notified by EPA in writing that testing in Condition (3)(A) may be replaced by Condition (3)(B).

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(A) *Initial Verification Testing:* At quarterly intervals for one year after the final exclusion is granted, Rhodia must collect and analyze composites of the filter-cake sludge. From Paragraph 1 TCLP must be run on all waste and any constituents for which total concentrations have been identified. Rhodia must conduct a multiple pH leaching procedure on samples collected during the quarterly intervals. Rhodia must perform the TCLP procedure using distilled water and three different pH extraction fluids to simulate disposal under three conditions. Simulate an acidic landfill environment, basic landfill environment and a landfill environment similar to the pH of the waste. Rhodia must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after the generation of the waste. (B) *Subsequent Verification Testing:* Following termination of the quarterly testing, Rhodia must continue to test a representative composite sample for all constituents listed in Condition (1) on an annual basis (no later than twelve months after the final exclusion). (4) *Changes in Operating Conditions:* If Rhodia significantly changes the process which generate(s) the waste(s) and which may or could affect the composition or type waste(s) generated as established under Condition (1) (by illustration, but not limitation, change in equipment or operating conditions of the treatment process), or its NPDES permit is changed, revoked or not reissued, Rhodia must notify the EPA in writing and may no longer handle the waste generated from the new process or no longer discharge as nonhazardous until the waste meet the delisting levels set in Condition (1) and it has received written approval to do so from EPA. (5) *Data Submittals:* Rhodia must submit the information described below. If Rhodia fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. Rhodia must: (A) Submit the data obtained through Paragraph 3 to Mr. William Gallagher, Chief, Region 6 Delisting Program, EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–O) within the time specified. (B) Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the State of Texas request them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: (i) Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. (ii) As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. (iii) If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. (6) *Reopener Language* (A) If, anytime after disposal of the delisted waste, Rhodia possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) If the annual testing of the waste does not meet the delisting requirements in Paragraph 1, Rhodia must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (C) If Rhodia fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(D) If the Regional Administrator or his delegate determines that the reported information does require Agency action, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (7) *Notification Requirements:* Rhodia must do following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if they ship the delisted waste into a different disposal facility.

TABLE 2.—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Rhodia	Houston, Texas	Filter-cake Sludge, (at a maximum generation of 1,200 cubic yards per calendar year) generated by Rhodia using the SARU and AWT treatment process to treat the filter-cake sludge (EPA Hazardous Waste Nos. K002–004, K006-K011, K013–K052, K060–K062, K064–K066, K069, K071, K073, K083–K088, K090–K091, K093–K118, K123–K126, K131–K133, K136, K141–K145, K147–K151, K156–K161) generated at Rhodia. Rhodia must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources for the petition to be valid.
*	*	* * * * *

TABLE 3.—WASTE EXCLUDED FROM COMMERCIAL CHEMICAL PRODUCTS, OFF-SPECIFICATION SPECIES, CONTAINER RESIDUES, AND SOIL RESIDUES THEREOF

Facility	Address	Waste description
*	*	* * * * *
Rhodia	Houston, Texas	Filter-cake Sludge, (at a maximum generation of 1,200 cubic yards per calendar year) generated by Rhodia using the SARU and AWT treatment process to treat the filter-cake sludge (EPA Hazardous Waste Nos. P001–P024, P026-P031, P033–P034, P036–P051, P054, P056-P060, P062–P078, P081–P082, P084–P085, P087–P089, P092–P116, P118–P123, P127-P128, P185, P188–P192, P194, P196–P199, P201–P205, U001–U012, U014–U039, U041-U053, U055–U064, U066–U099, U101–U103, U105–U138, U140–U174, U176–U194, U196-U197, U200–U211, U213–U223, U225–U228, U234–U240, U243–U244, U246–U249, U271, U277–U280, U328, U353, U359, U364–U367, U372–U373, U375–U379, U381–U396, U400-U404, U407, U409–U411) generated at Rhodia. Rhodia must implement the testing program described in Table 1. Waste Excluded From Non-Specific Sources for the petition to be valid.
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[FR Doc. 00–8152 Filed 4–7–00; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6572–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final deletion of the Upper Deerfield Township Sanitary Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region II Office announces the deletion of the Upper Deerfield Township Sanitary Landfill Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. EPA and the New Jersey Department of Environmental Protection (NJDEP) have determined that all appropriate response actions under CERCLA have been implemented at the Site to protect human health and the environment.

DATES: This ''direct final'' action will be effective on June 9, 2000 unless EPA receives significant adverse or critical comments by May 10, 2000. If written significant comments are received, EPA will publish a timely withdrawal of the rule in the **Federal Register**, informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to: Diego M. Garcia, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor New York, New York 10007–1866.

Comprehensive information on this Site is available for viewing at the Upper Deerfield Township Sanitary Landfill Superfund Site information repositories at the following locations:

Upper Deerfield Municipal Building, Administrative Office, Building 1325, State Highway 77, Seabrook, New Jersey 08302, (609) 329–4000

and

U.S. EPA Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, Hours: 9:00 AM to 5:00 PM, Monday through Friday. Contact: Superfund Records Center (212) 637–4308.

FOR FURTHER INFORMATION CONTACT: Diego M. Garcia, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007–1866, (212) 637–4947, by FAX at (212) 637–4393 or via e-mail at garcia.diego@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion
V. Action

I. Introduction

The United States Environmental Protection Agency (EPA) Region II announces the deletion of the Upper Deerfield Township Sanitary Landfill Superfund Site (the ''Site''), which is located in Upper Deerfield Township, Cumberland County, New Jersey, from the National Priorities List (NPL). The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of these sites. Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site or portions of a site deleted from the NPL remains eligible for Fund-financed remedial actions if future conditions at the site warrant such action.

EPA will accept comments concerning this document until May 10, 2000.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Upper Deerfield Township Sanitary Landfill Superfund Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

As described in § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA, in consultation with NJDEP, shall consider whether any of the following have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or,

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions at the Site if future Site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL. Further, deletion of a site from the NPL does not affect the liability of responsible parties or impede Agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

The following procedures are being used for the intended deletion of this Site: (1) EPA Region II issued a Record of Decision (ROD) on September 30, 1991, which found that the release poses no significant threat to public health or the environment and therefore, taking remedial measures is not appropriate; (2) EPA Region II issued a Final Close-Out Report dated September 27, 1993; (3) NJDEP has concurred with the deletion decision in a letter dated March 4, 1998; (4) a five-year review was completed in September 1999, and determined that the remedy continues to be protective of public health and the environment; (5) a notice has been published in the local newspaper and has been distributed to appropriate federal, state and local officials and other interested parties announcing a 30-day dissenting public comment period on EPA's Direct Final Action to Delete; and (6) EPA Region II recommends deletion and has made all relevant documents available for public review in the regional office and local Site information repositories.

EPA is requesting public comments on the Direct Final Action to Delete. The NCP provides that EPA shall not delete a site from the NPL until the Public has been afforded an opportunity to comment on the proposed deletion.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management of Superfund sites.

EPA Region II will accept and evaluate public comments before making a final decision to delete. If appropriate, the Agency will prepare a Responsiveness Summary to address