

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 November 19, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 3, 2012.

Jared Blumenfeld,
Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(282)(i)(C) and (411)(i)(C) and (D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(282) * * *
(i) * * *

(C) Monterey Bay Unified Air Pollution Control District

(1) Rule 205, "Provision of Sampling and Testing Facilities," revised on March 21, 2001.

* * * * *

(411) * * *
(i) * * *

(C) San Diego County Air Pollution Control District

(1) Rule 67.4, "Metal Container, Metal Closure and Metal Coil Coating Operations," adopted and effective on November 9, 2011.

(2) Rule 67.16, "Graphic Arts Operations," adopted on November 9, 2011 and effective on May 9, 2012.

(D) Antelope Valley Air Quality Management District

(1) Rule 1168, "Adhesive and Sealant Applications," amended on September 20, 2011.

[FR Doc. 2012-21221 Filed 9-19-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-R06-RCRA-2010-0066; SW FRL-9730-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition submitted by ExxonMobil Refining and Supply Company (ExxonMobil) Baytown Refinery to exclude from hazardous waste control (or delist) a certain solid waste. This final rule responds to the petition submitted by ExxonMobil to have the F039 underflow water generated at the North Landfarm (NLF) in Baytown, Texas excluded, or delisted, from the definition of a hazardous waste.

After careful analysis and evaluation of comments submitted by the public, the EPA has concluded that the petitioned wastes are not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to 7,427 cubic yards per year of the F039 underflow water. 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 but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

DATES: *Effective Date:* September 20, 2012.

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 EPA-R06-RCRA-2012-0138. 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 Melissa Smith, at (214) 665-7357. For technical information concerning this notice, contact Wendy Jacques, U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665-7395, or jacques.wendy@epa.gov.

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 ExxonMobil manage the waste if it is delisted?
 - E. When is the final delisting exclusion effective?
 - F. How does this final rule affect states?
- II. Background
 - A. What is a “delisting”?
 - 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 waste did ExxonMobil petition EPA to delist?
 - B. How much waste did ExxonMobil propose to delist?
 - C. How did ExxonMobil sample and analyze the waste data in this petition?
- IV. Public Comments Received on the Proposed Exclusion
 - A. Who submitted comments on the proposed rule?
 - B. Comments and Responses
- V. Statutory and Executive Order Reviews

I. Overview Information

A. What action is EPA finalizing?

After evaluating the petition, EPA proposed on June 19, 2012, to exclude the underflow water from the lists of hazardous wastes under 40 CFR 261.31 and 261.32 (see 73 FR 54760). EPA is finalizing the decision to grant ExxonMobil’s delisting petition to have the underflow water excluded, or delisted from the definition of hazardous waste subject to certain continued verification and monitoring conditions.

B. Why is EPA approving this delisting?

ExxonMobil’s petition requests a delisting for the underflow water listed as F039. ExxonMobil does not believe that the petitioned waste meet the criteria for which EPA listed them. ExxonMobil also believes no additional constituents or factors could cause the waste to be hazardous. EPA’s review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste

Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1)–(4). In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned wastes do not meet the listing criteria and thus should not be a listed waste. EPA’s decision to delist wastes from the facility is based on the information submitted in support of this rule, including descriptions of the waste and analytical data from the ExxonMobil, Beaumont, Texas facility.

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 and 2 of part 261, Appendix IX and the conditions contained herein are satisfied.

D. How will ExxonMobil manage the waste if it is delisted?

ExxonMobil will either: (1) Continue to accumulate the underflow water in a holding tank, sample the water once each calendar year, analyze the annual sample for target constituents and submit the results to the EPA for review; or (2) route the underflow to the underflow collection system and then to the series of ditches to the underground Baytown Refinery East sewer. In the latter case, samples of the underflow water would be collected from the underflow sump once each calendar year, analyzed for target constituents and the results submitted to the EPA for review. Ultimately, the underflow will enter the waste water treatment system where it is commingled with other wastewaters from the Baytown

Chemical Plant and Baytown Olefins Plant.

E. When is the final delisting exclusion effective?

This rule is effective September 20, 2012. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA allows 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 final rule affect states?

Because EPA is issuing this 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.

Here are the details: 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.

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 ExxonMobil transports the petitioned waste to or manages the waste in any State with delisting authorization, ExxonMobil 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, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 266, 268 and 273 of Title 40 of the Code of Federal Regulations. 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 ExxonMobil petition EPA to delist?

In August 2010, ExxonMobil petitioned EPA to exclude from the lists of hazardous wastes contained in §§ 261.31 and 261.32, underflow water (F039) generated from its facility located in Baytown, Texas. The waste falls under the classification of listed waste pursuant to §§ 261.31 and 261.32.

B. How much waste did ExxonMobil propose to delist?

Specifically, in its petition, ExxonMobil requested that EPA grant a standard exclusion for 7,427 cubic yards (1,500,000 gallons) per year of the underflow water.

C. How did ExxonMobil sample and analyze the waste data in this petition?

To support its petition, ExxonMobil submitted:

(1) Historical information on waste generation and management practices; and

(2) Analytical results from five samples for total concentrations of compounds of concern (COC)s.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

The EPA received public comments on the June 2012, proposed rule from two citizens. The comments and responses are addressed below.

B. What comments were submitted on the ExxonMobil delisting petition?

Comment: The DRAS link identified in the **Federal Register** proposed rule (i.e., <http://www.epa.gov/reg5rcra/wptdiv/hazardous/delisting/dras-software.html>) appears to be broken.

Response: The correct link is <http://www.epa.gov/Region5/waste/hazardous/delisting/dras-software.html>.

Comment: It appears that DRAS was run using the “landfill” waste management unit (WMU) input, but the Proposed Rule states that disposal in a surface impoundment is the most reasonable, worst-case disposal scenario. Do you know why the landfill WMU was used in DRAS rather than the surface impoundment input?

Response: This was a mistake on the part of EPA. The delisting limits have been reevaluated in DRAS using the “surface impoundment” WMU. The updated DRAS report is in the docket file and the new delisting limits are in Table 1 of part 261, Appendix IX of this rule. This error does not affect the decision to grant the petition. In all cases, the delisting concentration is lower than initially proposed.

Comment: In the Proposed Rule on page 36450, Table 1, Constituent, Maximum Total Concentration (mg/L), among 40 chemicals, 30 species are ND (none detected). What EPA method was applied? Were these ND species filtered through soil and nature decayed in the soil?

Response: As documented in the laboratory analytical reports included as Attachment 4 to the delisting petition, the following SW-846 Methods were utilized to analyze samples collected in support of the delisting process: 7470 (Mercury), 6020 (Metals), 8270 (Semivolatiles), 8260 (Volatiles), 9056 (Fluoride), M4500CN E&G (Cyanide), SM4500P E (Phosphorus), and 1613B (Dioxins and Furans). The laboratory Quality Assurance Plan (Attachment 2 of the delisting petition) indicates that the analytical methods cited above are capable of achieving the detection and reporting limits required to characterize the samples relative to EPA's regulatory

limits. A review of the laboratory analytical results confirms the required detection and reporting limits were achieved. Per the EPA-approved Sampling and Analysis Plan, the samples were collected from the Underflow Sump at the North Landfarm in the ExxonMobil Baytown Refinery. Water in the Underflow Sump originates as rain that falls onto the landfarm plots, as irrigation applied to the plots (in the form of fire water, wash rack water, or underflow water), or as liquid in waste(s) applied to the landfarm plots. These liquids percolate through approximately 10 feet of waste at the North Landfarm to a fine sand layer that underlies the North Landfarm but overlies a clay liner. Within said sand layer are a series of pipes (the Underflow Collection Lines) which collect the percolation liquids and convey them to the Underflow Sump. Therefore, the samples collected are representative of liquids that have been “filtered through soil and nature decayed in the soil” and have had sufficient opportunity to contact constituents present therein.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this rule does not have federalism implications. It 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, “Federalism,” (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule

will affect only a particular facility, this rule does not have tribal implications, as specified in Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, "Protection of Children From Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the

requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, "Civil Justice Reform," (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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 the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this

action under section 801 because this is a rule of particular applicability.

Lists of Subjects in 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: September 10, 2012.

Carl E. Edlund,

Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is 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, and 6938.

■ 2. In Tables 1 and 2 of Appendix IX to 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
ExxonMobil North Landfarm.	Baytown, TX	<p>North Landfarm underflow water (EPA Hazardous Waste Numbers F039 generated at a maximum rate of 1,500,000 gallons (7,427 cubic yards) per calendar year after issuing notice that ExxonMobil will initiate closure of the North Landfarm.</p> <p>For the exclusion to be valid, ExxonMobil must implement a verification testing program for each of the waste streams that meets the following Paragraphs:</p> <p>(1) Delisting Levels: All concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph.</p> <p>North Landfarm underflow water. Leachable Concentrations (mg/l): Arsenic—0.0779; Barium—20.6; Benzene—0.0437; Benzo(a)anthracene—0.0453; Benzo(b)fluoranthene—0.206; Benzo(k)fluoranthene—12200; Benzo(a)pyrene—0.0297; Cadmium—0.119; Carbon tetrachloride—0.0549; Chlorobenzene—0.951; Chloroform—0.0379; Chromium—5; Chrysene—4.53; Cobalt—0.738; Copper—51.4; o-Cresol—200; m-Cresol—200; p-Cresol—200; 1,2-Dichloroethane—0.0463; 1,1-Dichloroethylene—0.0612; 2,4-Dinitrotoluene—0.00795; Fluoride—25.2; Hexachlorobenzene—0.0285; Hexachloroethane—0.287; Lead—4.95; Manganese—12.2; Mercury—0.0291; Methyl ethyl ketone—197; Molybdenum—3.09; Nitrobenzene—0.164; Pentachlorophenol—0.0109; Pyridine—0.328; Selenium—1.04; Silver—3.38; Total-TCDD—.00000239; Tetrachloroethylene—0.0106; Trichloroethylene—0.0439; 2,4,6-Trichlorophenol—0.184; Vinyl Chloride—0.00386; Zinc—168.</p> <p>(2) Waste Holding and Handling:</p> <p>(A) Waste classification as non-hazardous cannot begin until compliance with the limits set in paragraph (1) for the North Landfarm underflow water has occurred for two consecutive sampling events.</p> <p>(B) If constituent levels in any annual sample and retest sample taken by ExxonMobil exceed any of the delisting levels set in paragraph (1) for the North Landfarm underflow water, ExxonMobil must do the following:</p> <p>(i) Notify EPA in accordance with paragraph (6) and</p> <p>(ii) Manage and dispose the North Landfarm underflow water as hazardous waste generated under Subtitle C of RCRA.</p> <p>(3) Testing Requirements:</p> <p>Upon notification that it will initiate closure of the North Landfarm, ExxonMobil must perform analytical testing by sampling and analyzing the North Landfarm underflow water as follows:</p> <p>(A) Initial Verification Testing:</p>

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

Facility	Address	Waste description
		<p>(i) Collect one representative sample of the North Landfarm underflow water for analysis of all constituents listed in paragraph (1) within the first 30 days after notifying the TCEQ of the intention to initiate closure activities for the North Landfarm. Sampling must be performed in accordance with the sampling plan approved by EPA in support of the exclusion.</p> <p>(ii) If the data from the initial verification testing program demonstrate that the North Landfarm underflow water meets the Maximum Allowable Delisting Concentrations for the indicator parameters included in paragraph (1), collect two representative samples of the North Landfarm underflow water twice during the first six months of waste generation. Analyze the samples for all constituents listed in paragraph (1). Any representative sample taken that exceeds the delisting levels listed in paragraph (1) indicates that the North Landfarm underflow water must continue to be disposed as hazardous waste in accordance with the applicable hazardous waste requirements until such time that two consecutive representative samples indicate compliance with delisting levels listed in paragraph (1).</p> <p>(iii) Within sixty (60) days after taking its last representative sample, ExxonMobil will report its analytical test data to EPA. If levels of constituents measured in the samples of the North Landfarm underflow water do not exceed the levels set forth in paragraph (1) of this exclusion for six consecutive months, ExxonMobil can manage and dispose the non-hazardous North Landfarm underflow water according to all applicable solid waste regulations.</p> <p>(B) Annual Testing:</p> <p>(i) If ExxonMobil completes the testing specified in paragraph (3) above and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), ExxonMobil must begin annual testing as follows: ExxonMobil must test a representative grab sample of the North Landfarm underflow water for all constituents listed in paragraph (1) at least once per calendar year. If any measured constituent concentration exceeds the delisting levels set forth in paragraph (1), ExxonMobil must collect an additional representative sample within 10 days of being made aware of the exceedance and test it expeditiously for the constituent(s) which exceeded delisting levels in the original annual sample.</p> <p>(ii) The samples for the annual testing shall be a representative grab sample according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the ExxonMobil North Landfarm underflow water are representative for all constituents listed in paragraph (1).</p> <p>(iii) The samples for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken.</p> <p>(iv) The annual testing report should include the total amount of delisted waste in cubic yards disposed during the calendar year.</p> <p>(4) Changes in Operating Conditions: If ExxonMobil significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing and it may no longer handle the waste generated from the new process as non-hazardous until the waste meet the delisting levels set in paragraph (1) and it has received written approval to do so from EPA.</p> <p>ExxonMobil must submit a modification to the petition complete with full sampling and analysis for circumstances where the waste volume changes and/or additional waste codes are added to the waste stream.</p> <p>(5) Data Submittals:</p> <p>ExxonMobil must submit the information described below. If ExxonMobil 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). ExxonMobil must:</p> <p>(A) Submit the data obtained through paragraph 3 to the Chief, Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division, U. S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, Texas 75202, within the time specified. All supporting data can be submitted on CD-ROM or comparable electronic media.</p> <p>(B) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years.</p> <p>(C) Furnish these records and data when either EPA or the State of Texas requests them for inspection.</p> <p>(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:</p> <p>“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.</p> <p>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.</p>

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

Facility	Address	Waste description
		<p>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."</p> <p>(6) Reopener</p> <p>(A) If, anytime after disposal of the delisted waste ExxonMobil possesses or is otherwise made aware of any environmental data (including but not limited to underflow water data or ground water 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 Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.</p> <p>(B) If either the annual testing (and retest, if applicable) of the waste does not meet the delisting requirements in paragraph 1, ExxonMobil must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.</p> <p>(C) If ExxonMobil 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 Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p>(D) If the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director 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 EPA action is not necessary. The facility shall have 10 days from receipt of the Division Director's notice to present such information.</p> <p>(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 Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise.</p> <p>(7) Notification Requirements: ExxonMobil must do the 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.</p> <p>(A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities.</p> <p>(B) For onsite disposal a notice should be submitted to the State to notify the State that disposal of the delisted materials has begun.</p> <p>(C) Update one-time written notification, if it ships the delisted waste into a different disposal facility.</p> <p>(D) Failure to provide this notification will result in a violation of the delisting exclusion and a possible revocation of the decision.</p>
*	*	* * * * *

TABLE 2—WASTE EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
ExxonMobil North Landfarm.	Baytown, TX	North Landfarm underflow water (EPA Hazardous Waste Numbers F039 generated at a maximum rate of 1,500,000 gallons (7,427 cubic yards) per calendar year after notification that ExxonMobil will initiate closure of the North Landfarm.
*	*	* * * * *

* * * * *
 [FR Doc. 2012-23091 Filed 9-19-12; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 300**

[EPA-HQ-SFUND-1989-0008; FRL-9729-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the New Hanover County Airport Burn Pit Superfund Site**AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency Region 4 announces the deletion of the New Hanover County Airport Burn Pit Superfund Site (Site) located in Wilmington, North Carolina, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (DENR), have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This action is effective September 20, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-HQ-SFUND-1989-0008. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the site information repositories.

Locations, contacts, phone numbers and viewing hours are:

Regional Site Information Repository:
U.S. EPA Record Center, Attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Hours of Operation 8 a.m.-4 p.m. (by

appointment only) Monday through Friday.

Local Site Information Repository: New Hanover County Public Library 28401, 201 Chestnut Street, Wilmington, North Carolina 28401.

Hours of operation: 9 a.m.-8 p.m., Monday and Tuesday, 9 a.m.-6 p.m., Wednesday and Thursday, 9 a.m.-5 p.m. Friday and Saturday, closed on Sunday.

FOR FURTHER INFORMATION CONTACT:

Beverly Hudson-Stepter, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303. Contact No: (404) 562-8816. Electronic mail at: stepter.beverly@epa.gov.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: New Hanover County Airport Burn Pit Superfund Site located in Wilmington, North Carolina. A Notice of Intent To Delete was published in the **Federal Register** on June 22, 2012.

The closing date for comments on the Notice of Intent to Delete was July 22, 2012. No public comments were received during the comment period. Therefore, a responsiveness summary was not prepared and placed in the docket, EPA-R04-SFUND-2012-0091, on www.regulations.gov, or in the repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection; Air pollution control; Chemicals; Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 27, 2012.

Gwendolyn Keyes Fleming,
Regional Administrator, Region 4.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to Part 300 is amended by removing “New Hanover County Airport Burn Pit Site,” “Wilmington, North Carolina.”

[FR Doc. 2012-23153 Filed 9-19-12; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 110816505-2184-03]

RIN 0648-XC201

Fisheries of the Northeastern United States; Northeast Multispecies Fisheries Management Plan; Northern Red Hake Quota Harvested

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; possession limit reduction.

SUMMARY: The northern red hake possession limit is reduced to the incidental possession limit of 400 lb (181.44 kg) for the remainder of the 2012 fishing year.

DATES: Effective at 0001 hr local time, September 20, 2012, through 2400 hr local time April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, (978) 281-9177, or Jason.Berthiaume@noaa.gov.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR 648.86(d)(4) require that, if the NMFS Northeast Region Administrator (Regional Administrator) projects that 90 percent of the total allowable landings (TAL) has been landed for a small-mesh multispecies stock, the Regional Administrator shall reduce the possession limit for that stock to the incidental possession limit of 400 lb (181.44 kg) for the remainder of the fishing year.

The 2012 fishing year northern red hake TAL is 199,077 lb (90,300 kg) (77 FR 19138; March 30, 2012) and 90 percent of the TAL is 179,169 lb (81,270 kg). Based on dealer, vessel trip report, and other available information, NMFS