

Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the 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 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 officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the 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.

IX. Submission to Congress and the Comptroller General

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 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 and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: January 13, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.438, by revising the table in paragraph (b) to read as follows:

§ 180.438 Lambda-cyhalothrin; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.*

Commodity	Parts per million	Expiration/revocation date
Barley, bran	0.2	12/31/00
Barley, grain	0.05	12/31/00
Barley, hay	2.0	12/31/00
Barley, straw	2.0	12/31/00
Canola, seed	0.1	12/31/00
Flax, seed	0.1	12/31/00
Sugarcane	0.03	12/31/00

* * * * *

[FR Doc. 99-2208 Filed 1-28-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-6219-2]

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 Occidental Chemical Inc. (Occidental), to exclude from hazardous waste control (or delist) certain solid wastes. The wastes being delisted consist of Rockbox Residue, and Limestone Sludge. This action responds to Occidental Chemical's petition to delist these treated wastes on a "generator specific" basis from the lists of hazardous waste. After careful analysis, the EPA has concluded that the petitioned wastes are not hazardous wastes when disposed of in Subtitle D landfills/surface impoundments. This

exclusion applies to Rockbox Residue and Limestone Sludge generated at Occidental Chemical's Ingleside, Texas facility. Accordingly, this final rule excludes the petitioned wastes 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: January 29, 1999.

ADDRESSES: The public docket for this final rule is located at the 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 "TXDEL-OCCIDENTAL." 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 notice, contact Jon Rinehart, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665-6789.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

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 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. 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.

B. History of This Rulemaking

Occidental Chemical-Ingleside petitioned the EPA to exclude from hazardous waste control its Limestone Sludge, Rockbox Residue, and Caustic Neutralized Wastewater waste generated at the wastewater treatment facility. The Rockbox Residue and Limestone Sludge are currently disposed in an off-site hazardous waste landfill. The Caustic Neutralized Wastewater is discharged through its National Pollution Discharge Elimination System (NPDES) permit. After evaluating the petition, EPA

proposed, on May 11, 1998, to exclude all three of Occidental Chemical's wastes from the lists of hazardous wastes under §§ 261.31 and 261.32. See 63 FR 25797. This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Occidental Chemical's petition.

II. Disposition of Petition

Occidental Chemical Incorporated—Ingleside, Texas 78362-0710

A. Proposed Exclusion

Occidental Chemical petitioned EPA to exclude, from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, an annual volume of Rockbox Residue, Limestone Sludge, and Caustic

Neutralized Wastewater generated from the wastewater treatment plant. Specifically, in its petition, Occidental requested that EPA grant a standard exclusion for 128 cubic yards of Rockbox Residue, 1,114 cubic yards of Limestone Sludge, and 148,284 cubic yards of Caustic Neutralized Wastewater generated per calendar year. The Rockbox Residue, Limestone Sludge, and Caustic Neutralized Wastewater are listed for six EPA Hazardous Waste Numbers due to the "derived-from" and mixture rules. The wastes are listed as K019, K020, F001, F003, F005 and F025. The listed constituents of concern for these EPA Hazardous Waste Numbers are shown in Table 1. See 40 CFR part 261, Appendix VII.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

Waste code	Basis for characteristics/listing
K019/K020	Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride.
F001	Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
F003	N.A. Waste is hazardous because it fails the test for the characteristic of ignitability, corrosivity, or reactivity.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, 2-nitropropane.
F025	Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene, pentachloroethane, hexachloroethane, 3-chloropropene, dichloropropene, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, benzene, chlorobenzene, dichlorobenzene, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene.

Occidental Chemical petitioned to exclude the Rockbox Residue, Limestone Sludge, and Caustic Neutralized Wastewater treatment residues because it does not believe that the petitioned wastes meet the criteria for which they were listed.

Occidental also believes that the wastes do not contain any other constituents that would render them 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).

In support of its petition, which included the sampling and analysis plan, Occidental submitted: (1) Descriptions of its waste water treatment processes and the incineration activities associated with petitioned waste; (2) results of the total constituent list for 40 CFR part 264, Appendix IX volatiles, semivolatiles, and metals

except for pesticides, herbicides, and PCBs; (3) results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals; (4) results for reactive sulfide; (5) results for reactive cyanide; (6) results for pH; (7) results of the total basis for dioxin and furan; and (8) results of the dioxin and furan TCLP extract.

B. Summary of Comments and Responses

The EPA received public comment on May 11, 1998, on the delisting proposal from two interested parties, the Environmental Defense Fund (EDF) and the petitioner, Occidental Chemical.

Comment

Efficacy of the TCLP. In a recent delisting decision, EPA concluded that the TCLP may not accurately predict leachability in a highly alkaline waste. Based on that decision, the EDF commented on the efficacy of the TCLP

and suggested that the pH be tested on the Limestone Sludge and Rockbox Residue as the pH of the Limestone Sludge is 9.55. It was suggested that the TCLP values may vary with changing pH values.

Response

Caustic Neutralized Wastewater is not being delisted. The EPA does not expect the pH of the Limestone Sludge or Rockbox Residue to vary greatly, based upon historical data submitted by the company. The Limestone Sludge was tested for pH on six different occasions. The values were as follows: (1) 8.81, (2) 7.97, (3) 8.03, (4) 7.95, (5) 8.19, (6) 9.55, which are in standard units. In a recent delisting action, to which the commenter referred, EPA determined, based upon unusually high pH values which sometimes exceeded 13, that the accuracy of the TCLP results was skewed. See 62 FR 41009 (July 31, 1997). There has been no indication that pH levels of the Limestone Sludge or Rockbox Residue even approach this

magnitude. Additionally, waste that was the subject of the earlier action was disposed of in a monofill, a fact which is at odds with the premise of the TCLP. The TCLP was designed to predict codisposal in a municipal landfill not a monofill. Occidental will dispose of its waste in a Subtitle D landfill where codisposal will occur. At this time EPA has no reason to believe the TCLP is not an efficacious test as applied to these wastes.

The EPA will revise the requirements for the verification testing to include pH testing for the wastes Rockbox Residue and Limestone Sludge. Verification sampling will determine if the waste will continue to be delisted.

Air Pathway Risk Analysis. A comment was received concerning the air pathway risk analysis performed by EPA. First, it was suggested that EPA did not evaluate the risk from storing the waste in tanks prior to disposal in a landfill. Second, a comment was made that the distance of 1,000 feet from the source to a potential receptor used in analysis of an air pathway was too a great distance. Third, a comment was made concerning the active life of the landfill used in the model. The model used 18.6 years when the commenter suggested that 40 years should instead be used. Fourth, it was suggested that EPA failed to consider the disposal of other Occidental wastes in the landfill, therefore, a cumulative affect should have been modeled.

Response

The wastes were modeled using a landfill life of 40 years as opposed to 18.6 years and a distance of 150 feet to the nearest receptor as opposed to 1,000 feet. There was no change in the delisting values; therefore, the delisting will be approved based on this evaluation. This analysis will be included in the RCRA public docket for today's decision additionally, EPA similarly adjusted these factors to determine the effect on the modeling for air emissions. The results were not significantly impacted. The commenter noted that other studies have been used with the different landfill life lengths. In listing determinations like the Petroleum Refining Listing Determination, a landfill life of 30 years was used in lieu of 20 years. For listing determinations, waste disposal of materials may already be managed in a nonhazardous landfill. In contrast, a petitioned waste is hazardous until it has been delisted, thus, the waste should be managed in a hazardous waste landfill until the petition is finalized. According to the 1986 Landfill Survey Act, the planned

landfill units average approximately 21.3 years of life. The active units in the recalculation average less than 20 years. Currently, until further studies have been completed, EPA will continue to use a basis of 20 years after the active landfill life. The model that is utilized by EPA only considers the waste that is being delisted and no other Occidental waste that is co-disposed at a landfill.

Comment

Comment was also made concerning storage of these wastes in tanks. The position was taken that they should be considered in an air pathway risk analysis.

Response

These tanks are covered so it is not appropriate to consider an air pathway risk for this petition.

Comment

Due to the presence of dioxin in the Occidental waste, the commenter felt that a more comprehensive risk evaluation should be done before the delisting petition could be approved.

Response

The concentration of the dioxin in this waste is very low, therefore EPA felt the evaluation that was done was adequate.

Use of the EPACMTP Model. Occidental felt that the EPACMTP model, which was used in the initial screening to determine if the petitioned waste was a candidate for a delisting petition, should be utilized in the proposed **Federal Register**. This model was used as a tool to preliminarily determine whether the wastes could meet the criteria for delisting.

Response

The EPACML model was utilized because it is the model used in all previously approved delisting petitions. In order for the EPACMTP to actually be used in approval of a delisting petition, the model itself would have to have been proposed for formal adoption and opportunity for public comment on its adoption would have been necessary. The EPA felt instead that if the waste streams could pass the delisting levels using the EPACML model, then that model would continue to be used in the petitions. Until the Agency has completed its adoption of the EPACMTP model for delisting, the EPACML model will continue to be used.

Typographical Errors and Corrections. There were mathematical errors found in the petition and in the consistent use of nondetectable constituents in the delisting evaluation.

Response

The mathematical errors will be corrected in the final **Federal Register**. The nondetectable total constituents will be included.

Addition of Brine Sludge. The facility proposes to add brine sludge upstream of the rockbox to help neutralize the acid stream prior to entering the rockbox tank. This material is currently being disposed in a Class 1 nonhazardous landfill. The facility feels that this is a method of recycle/reuse.

Response

No analysis of brine sludge after it is mixed with Rockbox Residue has been provided to EPA, therefore, is unable to adequately assess effect on the delisted waste streams. The brine sludge may not be added to the delisted waste streams until a petition containing the required delisting criteria is submitted and approved allowing EPA to evaluate its merit.

Increase in Waste Volume

Comment

The facility would like to increase the waste volume for the Rockbox Residue from 128 cubic yards to 1,000 cubic yards per year. The plant apparently has gathered information that additional waste will be generated and therefore requests that the increased annual volume be allowed.

Response

A change in the volume of Rockbox Residue waste will not change the Dilution Attenuation Factor (DAF), therefore the delisting levels will remain the same. The EPA approves the request to increase the volume of Rockbox Residue from 128 cubic yards to 1,000 cubic yards and revising the exclusion.

Removal of Caustic Neutralized Wastewater

Comment

The facility has reconsidered its request for delisting the Caustic Neutralized Wastewater and has decided to remove the request for delisting this waste.

Response

The facility was planning on managing this waste in the same manner regardless of whether the delisting petition was approved or denied. Therefore, delisting of this waste stream will not be made final.

Conclusions

For reasons stated in both the proposal and this document, EPA believes that Occidental Chemical's

Limestone Sludge, and Rockbox Residue should be excluded from hazardous waste control. The EPA therefore is granting a final exclusion to Occidental Chemical, located in Ingleside, Texas, for its Limestone Sludge and Rockbox Residue. 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 Limestone Sludge is 1,114 cubic yards and the Rockbox Residue is 1,000 cubic yards.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the waste in an on-site facility, must either treat, store, or dispose of the waste or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility which is permitted, licensed or registered by a state to manage municipal or industrial solid waste.

III. Limited Effect Of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, Illinois) are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to or managed in any State with delisting authorization, Occidental must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

IV. Effective Date

This rule is effective January 29, 1999. 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).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. This 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, thereby enabling a facility to treat its waste as non-hazardous. There is no additional impact due to today's rule. Therefore, 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. Executive Order 12875

Under E.O. 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 Office of Management and Budget a description of the extent of EPA's prior consultation with concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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 E.O. 12875 do not apply to this rule.

VII. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997),

applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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 rule is not subject to E.O. 13045 because this is not an economically significant regulatory action as defined by E.O. 12866 and the environmental health or safety risks addressed by this action do not have a disproportionate effect on children.

VIII. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the 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 Office of Management and Budget, 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 provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the 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 E.O. 13084 do not apply to this rule.

IX. Regulatory Flexibility Act

Pursuant to 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 (i.e., 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 any small entities.

This rule, if promulgated, will not have any adverse economic impact on any 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.

X. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined in section 804 (2) of the APA as amended.

XI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been

approved by the 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.

XII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 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. 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.

List 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: December 29, 1998.

William N. Rhea,

Acting Director, Multimedia Planning and Permitting.

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 of part 261, add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
Occidental Chemical.	Ingleside, Texas.	Limestone Sludge, (at a maximum generation 1,114 cubic yards per calender year) Rockbox Residue, (at a maximum generation of 1,000 cubic yards per calender year) generated by Occidental Chemical using the wastewater treatment process to treat the Rockbox Residue and the Limestone Sludge (EPA Hazardous Waste No. F025, F001, F003, and F005) generated at Occidental Chemical. Occidental Chemical must implement a testing program that meets the following conditions for the exclusion to be valid: (1) <i>Delisting Levels:</i> All concentrations for the following constituents must not exceed the following levels (ppm). The Rockbox Residue and the Limestone Sludge, must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (A) Rockbox Residue (i) Inorganic Constituents: Barium-100; Chromium-5; Copper-130; Lead-1.5; Selenium-1; Tin-2100; Vanadium-30; Zinc-1,000 (ii) Organic Constituents: Acetone-400; Bromodichloromethane-0.14; Bromoform-1.0; Chlorodibromomethane-0.1; Chloroform-1.0; Dichloromethane-1.0; Ethylbenzene-7,000; 2,3,7,8-TCDD Equivalent-0.00000006 (B) Limestone Sludge (i) Inorganic Constituents: Antimony-0.6; Arsenic-5; Barium-100; Beryllium-0.4; Chromium-5; Cobalt-210; Copper-130; Lead-1.5; Nickel-70; Selenium-5; Silver-5; Vanadium-30; Zinc-1,000 (ii) Organic Constituents Acetone-400; Bromoform-1.0; Chlorodibromomethane-0.1; Dichloromethane-1.0; Diethyl phthalate-3,000, Ethylbenzene-7,000; 1,1,1-Trichloroethane-20; Toluene-700; Trichlorofluoromethane-1,000, Xylene-10,000, 2,3,7,8-TCDD Equivalent-0.00000006;

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

Facility	Address	Waste description
		<p>(2) <i>Waste Holding and Handling:</i> Occidental Chemical must store in accordance with its RCRA permit, or continue to dispose of as hazardous waste all Rockbox Residue and the Limestone Sludge generated until the verification testing described in Condition (3)(B), as appropriate, is completed and valid analyses demonstrate that condition (3) is satisfied. If the levels of constituents measured in the samples of the Rockbox Residue and the Limestone Sludge do not exceed the levels set forth in Condition (1), then the waste is non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels waste generated during the time period corresponding to this sample must be managed and disposed of in accordance with Subtitle C of RCRA.</p> <p>(3) <i>Verification Testing Requirements:</i> Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. If EPA judges the incineration process to be effective under the operating conditions used during the initial verification testing, Occidental Chemical may replace the testing required in Condition (3)(A) with the testing required in Condition (3)(B). Occidental Chemical 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).</p> <p>(A) <i>Initial Verification Testing:</i> (i) During the first 40 operating days of the Incinerator Offgas Treatment System after the final exclusion is granted, Occidental Chemical must collect and analyze composites of the Limestone Sludge. Daily composites must be representative grab samples collected every 6 hours during each unit operating cycle. The two wastes must be analyzed, prior to disposal, for all of the constituents listed in Paragraph 1. The waste must also be analyzed for pH. Occidental Chemical 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 two wastes.</p> <p>(ii) When the Rockbox unit is decommissioned for cleanout, after the final exclusion is granted, Occidental Chemical must collect and analyze composites of the Rockbox Residue. Two composites must be composed of representative grab samples collected from the Rockbox unit. The waste must be analyzed, prior to disposal, for all of the constituents listed in Paragraph 1. The waste must be analyzed for pH. No later than 90 days after the Rockbox is decommissioned for cleanout the first two times after this exclusion becomes final, Occidental Chemical must report the operational and analytical test data, including quality control information.</p> <p>(B) <i>Subsequent Verification Testing:</i> Following written notification by EPA, Occidental Chemical may substitute the testing conditions in (3)(B) for (3)(A)(i). Occidental Chemical must continue to monitor operating conditions, analyze samples representative of each quarter of operation during the first year of waste generation. The samples must represent the waste generated over one quarter. (This provision does not apply to the Rockbox Residue.)</p> <p>(C) <i>Termination of Organic Testing for the Limestone Sludge:</i> Occidental Chemical must continue testing as required under Condition (3)(B) for organic constituents specified under Condition (3)(B) for organic constituents specified in Condition (1)(A)(ii) and (1)(B)(ii) until the analyses submitted under Condition (3)(B) show a minimum of two consecutive quarterly samples below the delisting levels in Condition (1)(A)(ii) and (1)(B)(ii). Occidental Chemical may then request that quarterly organic testing be terminated. After EPA notifies Occidental Chemical in writing it may terminate quarterly organic testing. Following termination of the quarterly testing, Occidental Chemical 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 exclusion).</p> <p>(4) <i>Changes in Operating Conditions:</i> If Occidental Chemical 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), Occidental Chemical must notify the EPA in writing and may no longer handle the wastes generated from the new process or no longer discharges as nonhazardous until the wastes meet the delisting levels set Condition (1) and it has received written approval to do so from EPA.</p> <p>(5) <i>Data Submittals:</i> The data obtained through Condition 3 must be submitted to Mr. William Gallagher, Chief, Region 6 Delisting Program, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, Mail Code, (6PD-O) within the time period specified. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by 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> <p>In the event that 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>

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

Facility	Address	Waste description
		(6) <i>Reopener</i> : (a) If Occidental Chemical discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then Occidental Chemical must report any information relevant to that condition, in writing, to the Director of the Multimedia Planning and Permitting Division or his delegate within 10 days of discovering that condition. (b) Upon receiving information described in paragraph (a) from any source, the Director or his delegate will determine whether the reported condition requires further action. Further action may include re-voking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.
		(7) <i>Notification Requirements</i> : Occidental Chemical must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

TABLE 2.—WASTES EXCLUDED FROM EXCLUDED SPECIFIC SOURCES

Facility	Address	Waste description
Occidental Chemical.	Ingleside, Texas.	Limestone Sludge, (at a maximum generation of 1,114 cubic yards per calendar year) Rockbox Residue, (at a maximum generation of 1,000 cubic yards per calendar year) generated by Occidental Chemical using the wastewater treatment process to treat the Rockbox Residue and the Limestone Sludge (EPA Hazardous Waste No. K019, K020). Occidental Chemical must implement a testing program that meets conditions found in Table 1. Wastes Excluded From Non-Specific Sources from the petition to be valid.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6226-1]

Nevada; Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Nevada has applied for Final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision covers regulatory changes that occurred between July 1, 1995 through June 30, 1997. The EPA has reviewed Nevada's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to authorize Nevada's hazardous waste program revision will take effect as provided below.

DATES: This final authorization for Nevada will become effective without

further notice on March 30, 1999, if EPA receives no adverse comment. Should EPA receive such comments EPA will withdraw this rule before its effective date by publishing a notice of withdrawal in the **Federal Register**. Any comments on Nevada's program revision application must be filed by March 1, 1999.

ADDRESSES: Written comments should be sent to Lisa McClain-Vanderpool, U.S. EPA Region IX (WST-3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-2086. Copies of Nevada's program revision application is available during the business hours of 9:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710, Phone: 702/687-5872. Contact Allen Biaggi, Administrator.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-1510.

FOR FURTHER INFORMATION CONTACT: Lisa McClain-Vanderpool, U.S. EPA Region IX (WST-3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-2086.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. Nevada

Nevada initially received final authorization for the base program on August 19, 1985 effective October 18, 1985 (160 FR 33359). Nevada received authorization for revisions to its program on April 29, 1992 effective June 29, 1992 (57 FR 18083), on May 27, 1994 effective July 26, 1994 (59 FR 27472), on April 11, 1995 effective June 12, 1995 (60 FR 18358) and on June 24, 1996 effective August 23, 1996 (60 FR 32345).

On September 22, 1998, Nevada submitted a final complete program revision application, seeking