contribution or a percentage of the amount of the employee's HSA contribution (matching contributions), are the contributions subject to the section 4980G comparability rules?

A–2: No. The comparability rules do not apply to HSA contributions that an employer makes through a section 125 cafeteria plan. Thus, where matching contributions are made by an employer through a cafeteria plan, the contributions are not subject to the comparability rules of section 4980G. However, contributions, including matching contributions, to an HSA made under a cafeteria plan are subject to the section 125 nondiscrimination rules (eligibility rules, contributions and benefits tests and key employee concentration tests). See Q & A–1 of this section.

Q–3: If under the employer's cafeteria plan, employees who are eligible individuals and who participate in health assessments, disease management programs or wellness programs receive an employer contribution to an HSA and the employees have the right to elect to make pre-tax salary reduction contributions to their HSAs, are the contributions subject to the comparability rules?

A–3: (a) *In general.* No. The comparability rules do not apply to employer contributions to an HSA made through a cafeteria plan. See Q & A–1 of this section.

(b) *Examples.* The following examples illustrate the rules in this § 54.4980G–5. The examples read as follows:

Example 1. Employer A's written cafeteria plan permits employees to elect to make pre-tax salary reduction contributions to their HSAs. Employees making this election have the right to receive cash or other taxable benefits in lieu of their HSA pre-tax contribution. The section 125 cafeteria plan nondiscrimination rules and not the comparability rules apply because the HSA contributions are made through the cafeteria plan.

Example 2. Employer B's written cafeteria plan permits employees to elect to make pre-tax salary reduction contributions to their HSAs. Employees making this election have the right to receive cash or other taxable benefits in lieu of their HSA pre-tax contribution. Employer B automatically contributes a non-elective matching contribution or seed money to the HSA of each employee who makes a pre-tax HSA contribution. The section 125 cafeteria plan nondiscrimination rules and not the comparability rules apply to Employer B's HSA contributions because the HSA contributions are made through the cafeteria plan.

Example 3. Employer C's written cafeteria plan permits employees to elect to make pre-tax salary reduction contributions to their HSAs. Employees making this election have the right to receive cash or other taxable benefits in lieu of their HSA pre-tax contribution. Employer C makes a non-elective contribution to the HSAs of all employees who complete a health risk assessment and participate in Employer C's wellness program. Employees do not have the right to receive cash or other taxable benefits in lieu of Employer C's non-elective contribution. The section 125 cafeteria plan nondiscrimination rules and not the comparability rules apply to Employer C's HSA contributions because the HSA contributions are made through the cafeteria plan.

Example 4. Employer D's written cafeteria plan permits employees to elect to make pre-tax salary reduction contributions to their HSAs. Employees making this election have the right to receive cash or other taxable benefits in lieu of their HSA pre-tax contribution. Employees participating in the plan who are eligible individuals receive automatic employer contributions to their HSAs. Employees make no election with respect to Employer D's contribution and do not have the right to receive cash or other taxable benefits in lieu of Employer D's contribution but are permitted to make their own pre-tax salary reduction contributions to fund their HSAs. The section 125 cafeteria plan nondiscrimination rules and not the comparability rules apply to Employer D's HSA contributions because the HSA contributions are made through the cafeteria plan.

Q–4: May all or part of the excise tax imposed under section 4980G be waived?

A–4: In the case of a failure which is due to reasonable cause and not to willful neglect, all or a portion of the excise tax imposed under section 4980G may be waived to the extent that the payment of the tax would be excessive relative to the failure involved. See sections 4980G(b) and 4980E(c).

Approved: July 14, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Acting Deputy Assistant Secretary (Tax Policy).

[FR Doc. E6–11991 Filed 7–28–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–8204–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to codify a longstanding generator-specific delisting determination for brine purification muds (K071) generated by Olin Corporation (Olin) at its facility in Charleston, Tennessee. This rule will amend the Code of Federal Regulations to reflect the delisting, which was granted by EPA in December 1981 and by the Tennessee Department of Environment and Conservation in June 1983 after full notice and comment. The rule will not impose any new requirements on Olin or any other member of the regulated community.

DATES: This rule is effective on September 29, 2006 without further notice unless we receive adverse comment by August 30, 2006. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R04–RCRA–2006–0478, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *E-mail: lippert.kristin@epa.gov.*
- *Mail or deliver:* Kristin Lippert, North Enforcement and Compliance Section, Mail Code 4WD–RCRA, RCRA Enforcement and Compliance Branch, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at

www.regulations.gov and in hard copy at the EPA Library, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: For general and technical information about this Direct Final Rule, contact Kristin Lippert, North Enforcement and Compliance Section, Mail Code 4WD–RCRA, RCRA Enforcement and Compliance Branch, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303 or call (404) 562–8605.

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

I. Legal Background
II. Olin's Petition to Delist its Waste
III. Evaluation of Olin's Petition
IV. History of this Rulemaking
V. Final Action and Effective Date
VI. Regulatory Impact
VII. Regulatory Flexibility Act
VIII. Executive Order 12875
IX. Executive Order 12898
X. Executive Order 13211
XI. Paperwork Reduction Act
XII. Unfunded Mandates Reform Act
XIII. Executive Order 13045
XIV. Executive Order 13175
XV. National Technology Transfer and Advancement Act
XVI. Executive Order 13132 Federalism
XVII. Submission to Congress and General Accounting Office

I. Legal Background

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of the Resource Conservation and Recovery Act (RCRA), EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times and is published in Title 40 Code of Federal Regulations (40 CFR) 261.31 and 261.32. These wastes are listed as hazardous because: (1) They exhibit one or more of the characteristics of hazardous waste identified in subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity); or (2) they meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to demonstrate that a specific waste generated at a particular facility should not be regulated as a hazardous waste.

II. Olin's Petition to Delist its Waste

On July 13, 1981, Olin petitioned EPA to amend 40 CFR part 261 to exclude sodium chloride purification muds generated at Olin's facility in Charleston, Tennessee. The muds meet the listing description for EPA Hazardous Waste No. K071—brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used.

Olin's petition included a description of its production and treatment processes. Olin's Charleston facility manufactures chlorine using a mercury cell chlor-alkali process. The chlor-alkali production process at Charleston involves the preparation of a strong brine from rock salt, which then circulates through mercury where part of the dissolved sodium chloride is separated by electrolysis into chlorine and sodium. The chlorine is collected and processed into liquid chlorine and the sodium amalgamates with the mercury of the cell and is separated and decomposed to form sodium hydroxide. The weak brine leaves the cells, is dechlorinated, resaturated, and purified. The purification (settling and filtration) of the resaturated brine produces brine muds which contain low levels of mercury carried over from the cells. The muds are dewatered using gravity. Liquid brine and dissolved mercury drain out and are returned to the brine system.

Olin's petition also included a description of total constituent and EP toxicity analyses of the muds for mercury, the constituent of concern for K071, and provided a plan for continuous testing of the muds prior to disposal.

III. Evaluation of Olin's Petition

Based on the information submitted by Olin, EPA granted a conditional temporary exclusion for Olin's sodium chloride purification muds on December 16, 1981 (46 FR 61272, December 16, 1981). The exclusion is conditioned on Olin's testing of samples from each batch of mud for mercury prior to disposal. Batches with a mercury concentration of 0.05 parts per million (ppm) or less are considered nonhazardous and are disposed of in Olin's on-site solid waste landfill. Batches that exceed 0.05 ppm of mercury are considered hazardous and are disposed of accordingly. EPA requested public comments on the delisting of Olin's brine purification muds. No adverse comments were received by the Agency.

At EPA's direction on September 28, 1981, Olin also submitted a delisting petition to the Tennessee Division of Solid Waste Management because, at that time, Tennessee had Phase 1 Interim Authorization. On February 17, 1982, Tennessee published notice of its tentative decision to grant Olin's delisting petition and requested public comments. No public comments were received by Tennessee. On June 28, 1983, Tennessee granted final approval of Olin's petition. Under the terms of the final approval, Olin must analyze samples from every batch of mud before disposal and submit the results to Tennessee on a quarterly basis. If a batch exceeds a mercury concentration of 0.05 ppm, Olin must handle the batch as a hazardous waste.

In 1984, Congress passed the Hazardous and Solid Waste Amendments (''HSWA'') to RCRA. HSWA included additional criteria for evaluating proposed exclusions of certain listed waste. In anticipation of HSWA, EPA and Tennessee asked Olin to supply additional information that would allow evaluation of Olin's delisting under HSWA's proposed criteria. Olin complied, supplying detailed information supporting the delisting determination previously made by the agencies. Subsequently, both agencies confirmed that final exclusions, such as Olin's delisting, which were granted before November 8, 1984 were not affected by HSWA.

IV. History of This Rulemaking

In 2004, Olin contacted EPA seeking confirmation that use of potassium chloride as a raw material in the mercury cell process would not affect application of Olin's delisting to brine purification muds generated in that process, provided the muds meet the criteria of the delisting. Olin determined that use of potassium chloride as a raw material in the production process will not alter the composition or characteristics of the resulting brine purification muds with respect to mercury, the constituent of concern, nor will use of potassium chloride introduce any other hazardous constituents into the muds. EPA agreed with Olin's determination and concluded that Olin did not need a modification to its current delisting in order to use the delisting to manage muds generated in the potassium chloride process.

In the course of EPA's review of Olin's determination regarding use of potassium chloride, the Agency noted that Olin's delisting is not listed in the Code of Federal Regulations. EPA is issuing this direct final rule to correct this oversight.

V. Final Action and Effective Date

By this rule, EPA is taking direct final action to incorporate Olin's longstanding delisting into the Code of Federal Regulations. EPA is publishing this as a direct final rule because the Agency views this as a non-controversial amendment to the Code of Federal Regulations and anticipates no adverse comments. Interested parties had two prior opportunities to comment on Olin's delisting petition, first at the federal level and later at the state level, and no adverse comments were submitted. EPA sees no reason to provide a third comment period.

This rule will be effective upon publication in the **Federal Register**. Section 3010(b) of RCRA allows rules to become effective immediately when the regulated community does not need time to come into compliance. That is the case here because this rule will codify Olin's longstanding delisting for brine purification muds by amending the Code of Federal Regulations to reflect the delisting. The rule does not impose any new requirements on Olin or any other member of the regulated community. This reason also provides a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act pursuant to 5 U.S.C. 553(d).

VI. Regulatory Impact

Because EPA is issuing today's rule under the Federal RCRA delisting program, only states subject to federal RCRA delisting provisions are affected. This exclusion may not be effective in states that have received EPA's authorization to make their own delisting decisions.

Under section 3009 of RCRA, EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's requirements. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under state law.

EPA has also authorized some states 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 Olin manages brine purification muds in any state with delisting authorization, Olin must obtain delisting authorization from the state before Olin can manage the brine purification muds as nonhazardous in that state.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. Today's rule is not significant because its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is 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 rule, the rule is not 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.

VII. 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 a significant economic impact on a substantial number of small entities.

Today's rule will not have any impact on small entities since its effect is to reduce the overall costs of EPA's hazardous waste regulations on one facility. Accordingly, EPA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

VIII. 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 Office of Management and Budget 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.

IX. Executive Order 12898

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population'' (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). Today's final rule applies to a single waste at a single facility. We have no data indicating that today's final rule would result in disproportionately negative impacts on minority or low income communities.

X. Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Affect Energy Supply, Distribution, or Use'' (May 18, 2001), addresses the need for regulatory actions to more fully consider the potential energy impacts of the proposed rule and resulting actions.

Under the Order, agencies are required to prepare a Statement of Energy Effects when a regulatory action may have significant adverse effects on energy supply, distribution, or use, including impacts on price and foreign supplies. Additionally, the requirements obligate agencies to consider reasonable alternatives to regulatory actions with adverse effects and the impacts the alternatives might have upon energy supply, distribution, or use. Today's final rule applies to a single waste at a single facility and is not likely to have any significant adverse impact on factors affecting energy supply. EPA believes that *66 FR 28355* Executive Order 13211 is not relevant to this action.

XI. Paperwork Reduction Act

This final 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 there are no paperwork requirements as part of this final rule, EPA is not required to prepare an Information Collection Request (ICR) in support of today's action.

XII. 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. 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, EPA 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's 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 rule is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. Therefore, no statement is required under section 205 of the UMRA. In addition, this rule does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

XIII. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997), entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' 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, EPA 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 EPA. Today's rule is not subject to Executive Order 13045 because the rule is not economically significant as defined under Executive Order 12866.

XIV. Executive Order 13175

Under Executive Order 13175 (65 FR 67249, November 6, 2000), EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal government or EPA takes certain steps prior to the formal promulgation of the regulation. Those steps include: (1) Consulting with tribal officials early in the process of developing the proposed regulation; (2) providing to the Director of OMB, in a separately identified section of the regulation's preamble, a description of the extent of EPA's prior consultation with tribal officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and (3) making available to the Director of OMB any written communications submitted to EPA by tribal officials.

Today's rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

XV. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995, 15 U.S.C. 272 note, EPA 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) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that EPA provide Congress, through OMB, with an explanation of the reasons for not using such standards.

Today's rule does not establish any new technical standards and, therefore, EPA is not required to consider the use of voluntary consensus standards in developing this rule.

XVI. Executive Order 13132 Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999), entitled ''Federalism,'' 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'' are 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 imposes 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. EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

Today's rule does not have federalism implications. It does 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 the rule only affects one facility.

XVII. Submission to Congress and Government Accountability Office

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.

Under section 804 of the Congressional Review Act, rules of particular applicability are exempted from the requirements of section 801. See 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability. This rule is effective on September 29, 2006.

List of Subjects in 40 CFR Part 261

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

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

Dated: July 18, 2006.

Beverly H. Banister,

Acting Director, Waste Management Division, Region 4.

■ 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 Table 2 of Appendix IX of Part 261, the following waste is added in alphabetical order by facility to read as follows:

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

* * * * *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Olin Corporation	Charleston, TN ..	Sodium chloride purification muds and potassium chloride purification muds (both classified as EPA Hazardous Waste No. K071) that have been batch tested using EPA's Toxicity Characteristic Leaching Procedure and have been found to contain less than 0.05 ppm mercury. Purification muds that have been found to contain less than 0.05 ppm mercury will be disposed in Olin's on-site non-hazardous waste landfill or another Subtitle D landfill. Purification muds that exceed this level will be considered a hazardous waste.
*	*	* * * * *

[FR Doc. 06–6587 Filed 7–28–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1987–0002; FRL–8204–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces the deletion of the Internal Parcel of the Rocky Mountain Arsenal National Priorities List (RMA/NPL) Site from the National Priorities List (NPL). All areas originally proposed for deletion (71 FR 24627), except for a three-acre area which encompasses the Rail Yard Treatment System, are being deleted (see map). The Rail Yard Treatment System is excluded from the Internal Parcel due to a delay in developing the Interim Construction Completion Report. With the Rail Yard area excluded, the Internal Parcel consists of 7,396 acres (11.5 square miles) of the On-Post Operable Unit of RMA. 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 (CERCLA), as amended. EPA and the State of Colorado, through the Colorado Department of Public Health and Environment (CDPHE), have determined that the Internal Parcel of the RMA/NPL Site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

This partial deletion pertains to the surface media (soil, surface water, sediment), structures, and groundwater of the Internal Parcel of the On-Post OU of the RMA/NPL Site. The Internal Parcel includes groundwater that is east of E Street with the exception of a small area in the northwest corner of Section 6. The Rail Yard Treatment System and the rest of the On-Post OU, including groundwater below RMA that is west of E Street and the small area in the northwest corner of Section 6, as well as the Off-Post OU will remain on the NPL. This partial deletion of the Internal Parcel will not change Appendix B of 40 CFR part 300, which was previously amended in January 2003 (68 FR 2699) to reflect that a partial deletion of 1.5 square miles from the RMA/NPL Site had occurred.

DATES: This partial deletion of the Internal Parcel is effective on July 31, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Chergo, Community Involvement Coordinator (8OC), U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466;