submit a rule report, which includes a copy of the rules, 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).

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, Reporting and recordkeeping requirements, Volatile organic compounds.


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)(381)(i)(G)(2) and (c)(381)(i)(H) to read as follows:

§ 52.220 Identification of plan.

* * * * * * * * * * * * * * * * * *

(c) * * *

(381) * * *

(i) * * *

(G) * * *


(H) Mojave Desert Air Quality Management District


* * * * * * *

[FR Doc. 2012–4974 Filed 2–29–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261


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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (“EPA,” “the Agency” or “we” in this preamble) today is granting a petition submitted by the ConocoPhillips Billings, Montana Refinery (“ConocoPhillips”, “Refinery” or “Petitioner”) to exclude or “delist,” from the list of hazardous wastes, a maximum of 200 cubic yards per year of residual solids from sludge removed from two storm water tanks at its Billings, Montana refinery and processed in accordance with the petition.

After careful analysis we have concluded that the petitioned waste is not a hazardous waste. This exclusion conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when processed in accordance with the petition and disposed in aSubtitle D landfill permitted, licensed, or otherwise authorized by a State to accept the delisted processed storm water tank sludge. This rule also imposes testing conditions for future processed storm water tank residuals to ensure they continue to qualify for delisting.

DATES: This final rule is effective on March 1, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No.: EPA–R08–R08–RCRA–2011–0823. All documents in the docket are listed on the http://www.regulations.gov web site or in hard copy at the Environmental Protection Agency Region VIII, Office of Partnerships and Regulatory Assistance, Solid & Hazardous Waste Program, Mail Code: BP–HW, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The docket is available for viewing from 8 a.m. to 3 p.m., Monday through Friday excluding Federal holidays. You may
A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that the waste generated at a particular facility does not meet any of the criteria for which the EPA listed the waste as hazardous. ConocoPhillips submitted detailed descriptions of the process generating the waste and other information regarding the makeup of materials contributing to the sludge. ConocoPhillips asserted that the waste does not meet the criteria for the F037 waste code listing and that there are no other factors that might cause the waste to be hazardous. To support its assertion that the waste is not hazardous, ConocoPhillips collected samples of the waste for analysis. Sample collection and chemical analysis were conducted in accordance with a pre-approved sampling and analysis plan. Details of the sampling and analysis plan and the analytical results are contained in the document. We believe that the storm water sludge is processed in accordance with this rule, and the accompanying petition, and if all conditions contained in this rule are satisfied. ConocoPhillips must dispose of this waste in a Subtitle D landfill permitted, licensed or regulated by the State of Montana, or other state subject to Federal RCRA delisting, to accept the delisted processed storm water tank sludge. ConocoPhillips must verify prior to disposal that the constituent concentrations in the residual solids do not exceed the allowable levels set forth in this exclusion. This exclusion applies only to a maximum annual generation of 200 cubic yards of process residual from treatment of sludge in two storm water tanks at the ConocoPhillips Billings, Montana Refinery. This exclusion is effective only if the storm water sludge is processed in accordance with this rule, and the accompanying petition, and if all conditions contained in this rule are satisfied. ConocoPhillips must dispose of this waste in a Subtitle D landfill permitted, licensed or regulated by the State of Montana, or other state subject to Federal RCRA delisting, to accept the delisted processed storm water tank sludge. ConocoPhillips must verify prior to disposal that the constituent concentrations in the residual solids do not exceed the allowable levels set forth in this exclusion. This rule is effective March 1, 2012. 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. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How does this action affect states?

Because the 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 states who have received authorization from the EPA to make their own delisting decisions.

The EPA allows states to impose their own non-RCHA regulatory requirements that are more stringent than the EPA’s, under RCRA 3009, 42 U.S.C. 6929. 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-RCHA) programs) may regulate a petitioner’s waste, the EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under applicable state law. Delisting petitioners approved by the EPA Administrator or his delegate pursuant to 40 CFR 260.22 are effective in the State of Montana after the final rule has been published in the Federal Register.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866, “Regulatory Planning and Review,” (58 FR 51735, Oct. 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 final 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, Aug. 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

Similarly, because this rule will apply to a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” (65 FR 67249, Nov. 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, Apr. 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 DRAS, which considers health and safety risks to 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, the 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 today’s action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

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

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


James B. Martin,
Regional Administrator, Region 8.

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 1 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>
<thead>
<tr>
<th>Facility</th>
<th>Address</th>
<th>Waste description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ConocoPhillips Billings Refinery</td>
<td>Billings, Montana</td>
<td>Residual solids from centrifuge and/or filter press processing of storm water tank sludge (F037) generated at a maximum annual rate of 200 cubic yards per year must be disposed in a lined Subtitle D landfill, licensed, permitted or otherwise authorized by a state to accept the delisted processed storm water tank sludge. The exclusion becomes effective March 1, 2012.</td>
</tr>
</tbody>
</table>
TABLE 1—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

<table>
<thead>
<tr>
<th>Facility</th>
<th>Address</th>
<th>Waste description</th>
</tr>
</thead>
</table>

For the exclusion to be valid, the ConocoPhillips Billings Refinery must implement a verification testing program that meets the following Paragraphs:

1. **Delisting levels:** The constituent concentrations in a leachate extract of the waste measured in any sample must not exceed the following concentrations (mg/L TCLP): Acenaphthene-37.9; Anthracene-97; Antronymy-97; Anthracene-50; Arsenic-301; Barium-100; Benzene Benz(a)anthracene-25; Benzene-5; Benzo(b)fluoranthene-8.7; Benzo(k) fluoranthene-50; Bis(2-ethylhexyl)phthalate-50; 2-Butanone-50; Cadmium-1.0; Carbon disulfide-36; Chromium-5.0; Chrysene-25.0; Cobalt- .763; Cyanide(total)-41.2; Dibenzo(a,h)anthracene-1,16; Di-n-octyl phthalate-50; 1,4-Dioxane-36.5; Ethylbenzene-12; Fluoranthene-8.78; Fluorene-17.5; Indeno(1,2,3-cd)pyrene-27.3; Lead-5.0; Mercury-2; m&p-Cresol-10.3; Naphthalene-1.17; Nickel-48.2; o-Cresol-50; Phenanthrene-50; Phenol-50; Pyrene-15.9; Selenium-1.0; Silver-5.0; Tetrachloroethene-0.7; Toluene-26; Trichloroethene-403; Vanadium-12.3; Xylenes (total)-22; Zinc-500.

2. **Verification Testing:** To verify that the waste does not exceed the specified delisting levels, ConocoPhillips must collect and analyze two composite samples of the residual solids from the processed sludge to account for potential variability in each tank. Composite samples must be collected each time cleanout occurs and residuals are generated. Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. If oil and grease comprise less than 1 percent of the waste, SW–846 Method 1311 must be used for generation of the leachate extract used in the testing for constituents of concern listed above. SW–846 Method 1330A must be used for generation of the leachate extract if oil and grease comprise 1 percent or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11. As applicable, the SW–846 methods might include Methods 1311, 3010, 3510, 6010, 6020, 7470, 7471, 8260, 8270, 9014, 9034, 9213, and 9215. If leachate concentrations measured in samples do not exceed the levels set forth in paragraph 1, ConocoPhillips can dispose of the processed sludge in a lined Subtitle D landfill which is permitted, licensed, or registered by the state of Montana or other state which is subject to Federal RCRA delisting. If constituent levels in any sample and any retest sample for any constituent exceed the delisting levels set in paragraph 1 ConocoPhillips must do the following:

(A) Notify the EPA in accordance with paragraph (5) and;
(B) Manage and dispose of the process residual solids as F037 hazardous waste generated under Subtitle C of RCRA.

3. **Changes in Operating Conditions:** ConocoPhillips must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process significantly change. ConocoPhillips must handle wastes generated after the process change as hazardous until it has: Demonstrated that the wastes continue to meet the delisting concentrations in paragraph (1); demonstrated that no new hazardous constituents listed in appendix VIII of part 261 have been introduced; and it has received written approval from the EPA.

4. **Data Submittal:** Whenever tank cleanout is conducted ConocoPhillips must verify that the residual solids from the processed storm water tank sludge meet the delisting levels in 40 CFR part 261 Appendix IX Table 1, as amended by this notice. ConocoPhillips must submit the verification data to U.S. EPA Region 8, 1595 Wynkoop Street, RCRA Delisting Program, Mail code 8P–HW, Denver, CO 80202. ConocoPhillips must compile, summarize, and maintain on-site records of tank cleanout and process operating conditions and analytical data for a period of five years.

5. **Reopener Language:** (A) If, anytime after final approval of this exclusion, ConocoPhillips possesses or is otherwise made aware of any environmental data (including but not limited to leachate 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 EPA in granting the petition, then the facility must report the data, in writing to the EPA at the address above, within 10 days of first possessing or being made aware of that data.

(B) If ConocoPhillips fails to submit the information described in paragraph (A) or if any other information is received from any source, the EPA will make a preliminary determination as to whether the reported information requires EPA action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.
DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65


Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.


SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP). These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies...