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[FR Doc. 2020–06464 Filed 4–7–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R10–RCRA–2018–0662; FRL–10006–64–Region 10]

Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) (also, ''the Agency ''or ''we'' in this preamble) is taking final action to grant three petitions submitted jointly by Emerald Kalama Chemical, LLC (Emerald) and Fire Mountain Farms, Inc (FMF) (Petitioners), in Lewis County, Washington to exclude (or ''delist'') a one-time amount up to 20,100 cubic yards of U019 (benzene) and U220 (toluene) mixed material from the list of federal hazardous wastes as proposed on November 12, 2019. The EPA has decided to grant these petitions as proposed and under the same conditions based on an evaluation of waste-specific information provided by the Petitioners and a consideration of public comments received.

DATES: This final rule is effective on April 8, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. [EPA–R10–RCRA–2018–0662]. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov* or in hard copy at the RCRA Records Center, 16th Floor, U.S. EPA, Region 10, 1200 6th Avenue, Suite 155, OAW–150, Seattle, Washington 98101. This facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The EPA recommends you telephone Dr. David Bartus at (206) 553–2804 before visiting the Region 10 office. The public may copy material from the regulatory docket at 15 cents per page.

FOR FURTHER INFORMATION CONTACT: Dr. David Bartus, EPA, Region 10, 1200 6th Avenue, Suite 155, OAW–150, Seattle, Washington 98070; telephone number: (206) 553–2804; email address: *bartus.dave@epa.gov.*

As discussed below, Ecology is evaluating the petitions submitted by Emerald and FMF under state authority. Information on Ecology's action may be found at *https://fortress.wa.gov/ecy/publications/SummaryPages/1804023.html.*

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

I. Background

A. What is a delisting petition?

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 waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in 40 CFR 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, Section 3001(f) of RCRA, 42 U.S.C. 6921(f) and the background document for a listed waste.

A generator of a waste excluded from the hazardous waste lists of 40 CFR part 261 subpart D remains obligated under RCRA to confirm that its waste remains nonhazardous based on the hazardous waste characteristics in order to continue to manage the waste as non-hazardous.

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from otherwise applicable hazardous waste storage, treatment and disposal requirements by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of 40 CFR parts 260 through 266, 268, and 273. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste from the lists of hazardous wastes on a ''generator specific'' basis.

II. Emerald Kalama's and FMF's Petitions

A. What wastes did petitioners petition EPA to delist?

Emerald manufactures various organic chemicals used as artificial flavors and fragrances, food preservatives, plasticizers, and intermediates at their facility in Kalama, Washington. Most of the chemicals produced are derived from toluene or from the oxidation products of toluene, including benzoic acid and benzaldehyde. Additional products are produced as derivatives of benzoic acid and benzaldehyde. Products are typically purified by continuous or batch distillation. In conjunction with its manufacturing processes, Emerald operates an industrial wastewater treatment system, consisting of an anaerobic digestion process and an aerobic oxidation system, both of which are biological treatment systems very similar to municipal wastewater treatment systems. This treatment system produces industrial wastewater treatment plant biological solids (IWBS). As documented in the Petitioners' delisting petitions, the IWBS designates as U019 (benzene) and U220 (toluene).

FMF operates receiving, storage, treatment, and land application facilities in Lewis County, Washington for wastewater treatment plant treatment solids received from municipal, industrial, and private wastewater treatment plants. FMF is not permitted or otherwise authorized to manage, treat, or dispose of hazardous or dangerous wastes. Emerald contracted with FMF to land apply Emerald's IWBS beginning in October 1995. FMF mixed Emerald's IWBS with treatment solids from other facilities

and land applied or stored the mixed IWBS/treatment solids wastes at several FMF facilities. The RCRA rules require that listed hazardous wastes, when mixed with other materials, continue to be regulated as listed hazardous wastes (40 CFR 261.3). The mixed IWBS/treatment solids wastes are currently stored at three FMF facilities: Burnt Ridge located at 856 Burnt Ridge Road, Onalaska, Washington; Newaukum Prairie located at 349 State Route 508, Chehalis, Washington; and Big Hanaford located at 307 Big Hanaford Road, Centralia, Washington. Under a separate action,[1] Ecology is requiring that Emerald and FMF remove these wastes from the three units according to closure plans approved pursuant to WAC 173–303–610.

The Petitioners have requested that up to 4,700 cubic yards at the Burnt Ridge facility, 10,400 cubic yards at the Newaukum Prairie facility, and 5,000 cubic yards at the Big Hanaford facility of IWBS/treatment solids be excluded from the list of hazardous wastes.

B. What information was submitted in support of these petitions?

FMF conducted an investigation of the wastes at each of the three storage units in September 2014.[2] Three composite samples of the mixed IWBS/treatment solids wastes were collected from each storage unit. At Burnt Ridge and Newaukum Prairie, each composite sample consisted of nine grab samples collected from various depths. Each composite sample collected at Big Hanaford consisted of six grab samples collected from various depths.

Each composite sample was analyzed for the following constituents or constituent groups: Volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), total metals, total cyanide, and total solids. The specific analytes included in the analysis are defined by the analytical method used for each group.

In addition, two composite samples from the Newaukum Prairie storage unit and one composite sample each from the Burnt Ridge and Big Hanaford storage units were analyzed for the following parameters or constituent groups: Pesticides; polychlorinated biphenyl (PCB) Aroclors; dioxins and furans, reported as 2,3,7,8-tetrachlorodibenzodioxin toxicity equivalence quotient; ammonia; Total Kjeldahl Nitrogen (TKN); pH, nitrite; and nitrate + nitrite (the concentration of nitrate was calculated by the analytical laboratory). Fourteen grab samples from the Newaukum Prairie storage unit and seven grab samples each from the Burnt Ridge and Big Hanaford storage units were analyzed for total fecal coliform.

Emerald conducted additional sampling of the mixed IWBS/treatment solids wastes at each of the three storage units in August and October 2017.[3] Emerald performed the additional sampling based on the preliminary delisting levels and the September 2014 investigation. Samples from the storage units at Burnt Ridge, Newaukum Prairie, and Big Hanaford were analyzed for selected volatile organic compounds (acetone, benzene, methanol, and toluene), total solids, and pH. Samples from Big Hanaford were analyzed for total acrylonitrile; cobalt; 4-methylphenol; 2,4-dinitrotoluene; 2,6-dinitrotoluene; and naphthalene.

III. EPA's Evaluation and Public Comments

A. What decision is EPA finalizing and why?

The EPA is finalizing an exclusion for a one-time amount up to 20,100 cubic yards of U019 (benzene) and U220 (toluene) mixed material from the list of federal hazardous wastes currently located at three FMF facilities, as proposed in our notice of proposed rulemaking 84 FR 60975 (November 12, 2019). The wastes covered by this delisting are limited to 4,700 cubic yards of mixed materials at the Burnt Ridge facility, 10,400 cubic yards at the Newaukum Prairie facility, and 5,000 cubic yards at the Big Hanaford facility, present at each facility as of the effective date of this exclusion and that are associated with closure of hazardous waste management units at three facilities owned and operated by FMF in accordance with closure plans approved by Ecology. The Petitioners petitioned EPA to exclude, or delist, these wastes because they believed that the petitioned wastes do not meet the criteria for which they were listed and that there are no additional constituents or factors which could cause the wastes to be hazardous waste. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2) through (4).

The EPA proposed on November 12, 2019 (84 FR 60975) to exclude or delist the petitioned wastes at the three FMF facilities from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rulemaking. The EPA considered all comments received, and for reasons discussed in both the proposal and this final action, has determined that the petitioned wastes should be excluded from regulation as hazardous waste under the specified conditions, as originally proposed.

B. Public Comments Received and EPA's Response

The EPA received comments from seven individuals on the proposed rulemaking. Some commenters expressed support for the proposed exclusion while still raising some adverse comments. A brief summary of the adverse comments and EPA's responses to them are as follows.

Commenter 1 (Docket entry Comment 0025). This commenter disagreed with the proposed rule on the basis that ''there is already enough hazardous waste being expelled into our environment, and that this one-time amount of hazardous waste still pollutes our environment.'' The commenter also asserted that the proposed action ''goes against the hazardous waste regulations under [RCRA].'' EPA disagrees that the proposed delisting action will result in hazardous waste being expelled into the environment. The scope of this rulemaking is limited to a determination of whether the covered wastes may be appropriately managed as solid wastes and not hazardous wastes. In fact, this delisting, in conjunction with closure of the units under Ecology's dangerous waste program is expected to address commenter's concerns regarding releases from these units by ensuring that the wastes are placed in a secure, monitored landfill. Further, the proposed action is not in conflict with RCRA, but is an exercise of authority specifically provided for the delisting of hazardous wastes found in the implementing regulations at 40 CFR 260.20 and 22.

Commenter 2 (Docket entry Comment 0026). This commenter questioned ''[w]hat is to be gained for the environment by allowing these [two] companies to dump these chemicals in an improved landfill instead of cleaning up the land''. The commenter appears to misunderstand how the action that EPA

[1] The Washington State Department of Ecology has entered into a litigation settlement (Docket Entry 3) with Fire Mountain Farms and Emerald-Kalama that, in part, requires closure of the units managing dangerous waste considered in this final exclusion. In this context, this final exclusion is a ''one-time'' delisting that will allow the fixed volume of wastes to be generated pursuant to closure of these three units as non-hazardous.

[2] This investigation is documented in the first report in Appendix C of the three delisting petitions (Docket Entries 7–9).

[3] Results of these sampling activities are documented in the third report in Appendix C of the three delisting petitions (Docket Entries 7–9).

is finalizing relates to the obligation of the Petitioners to clean up the three sites where the waste is currently stored. As noted in Footnote 4 in the notice of proposed rulemaking, Ecology has determined that the units managing the candidate wastes at the three FMF facilities are illegally storing listed hazardous waste, and that in order to return to compliance with the state dangerous waste regulation and to protect the environment, each of the facilities must be closed under an approved dangerous waste closure plan. Based on the analysis presented in the proposed rule, EPA has determined that it is protective of human health and the environment to allow wastes from closure of these units to be disposed of in a monitored solid waste landfill. EPA acknowledges the commenter's concern regarding cleaning up the land affected by past management of these wastes, but notes that clean up obligations at these sites is beyond the scope of this rulemaking.

This commenter also provided adverse comments on EPA's proposed ''Strengthening Transparency in Regulatory Science'' regulation. This matter is outside of the scope of this final rulemaking.

Commenter 3 (Docket entry Comment 0027). This commenter questioned the ethics and legitimacy of the exemption of the Petitioners' wastes from regulation as hazardous wastes and stressed the importance of laws being applied evenly to all parties. The commenter seems to assert that allowing for a delisting process offers some parties an unfair advantage and questioned whether ulterior motives were at play that ''pose a greater risk to public safety than initially understood.'' EPA disagrees with the commenter's contention that this action is inconsistent with regulatory requirements. As explained in detail in the notice of proposed rulemaking, EPA is exercising regulatory authority that is potentially available to any petitioner whose wastes meet the criteria for delisting provided under the law. Additionally, as explained elsewhere in this final action, EPA believes that this delisting action, will provide a timely and protective pathway to closure of the three FMF facilities under the state dangerous waste program. Finally, the commenter noted that wastes in the three FMF facilities may pose ''a greater risk to public safety than initially understood.'' As discussed in detail in the notice of proposed rulemaking, EPA has carefully considered the risks of the waste using established risk evaluation methodology. Based on this analysis EPA has determined that excluding these wastes from the hazardous waste management system, subject to the conditions of this final rule, is fully protective of human health and the environment.

Commenter 4 (Docket entry Comment 0028). This commenter identified hazards associated with toluene, as described in a safety data sheet for the chemical and questioned what benefit delisting over 20,000 cubic yards of a mixture containing this chemical would have for the general public. As discussed in the notice of proposed rulemaking, characterization sampling and analysis as well as the risk analysis of the wastes using the Delisting Risk Assessment Software (DRAS) explicitly considered toluene and concluded that it was not present at levels that warranted retention of the mixed material as a listed waste. Whether or not a delisting benefits the public at large is not a criterion for consideration under the procedures set out at 40 CFR 260.20 for delisting a listed hazardous waste. However, as explained in the proposed rulemaking, this action will provide a timely and protective pathway to closure of the three FMF facilities under the state dangerous waste program. Timely and protective closure of these facilities and responsible management of the wastes at issue in an appropriately regulated landfill is in the public interest.

Commenter 5 (Docket entry Comment 0029). The commenter was supportive of the proposed delisting but expressed a preference that the Petitioners analyze five (as opposed to three) samples of the mixed IWBS/treatment solids wastes before the start of closure activities. EPA continues to believe that three samples of the materials in question will provide a reasonable demonstration of compliance with the delisting conditions. EPA proposed the sampling requirement as a condition of the exclusion in order to ensure analytical data are available for all delisting verification constituents, including a small number of constituents considered in the delisting analysis but not included in the original waste characterization database. Should results of the analysis of these additional samples demonstrate other than full compliance with the delisting conditions, the terms of the exclusion enable EPA to require the Petitioners to take appropriate action or to suspend the effectiveness of the delisting.

Commenter 6 (Docket entry Comment 0030a). This commenter expressed concern regarding testing of groundwater or drinking water wells in the area north of the Newaukum Prarie site and raised several concerns about monitoring results and the extent of contamination at the three sites and made recommendations for future monitoring. These comments are beyond the scope of this rulemaking and are best addressed by Ecology. This commenter also stated that cobalt was considered only in the analysis of wastes at the Big Hanaford site—in fact, EPA considered cobalt at all three sites, as documented in Tables 3, 4 and 5 in the notice of proposed rulemaking. This commenter also requested that only state or EPA supervised site workers should be used to gather material for compliance. EPA disagrees that such direct supervision of sample collection is necessary to assure compliance with the requirements of the delisting. EPA generally requires hazardous waste facilities to conduct their own delisting verification sampling and analysis, with agency oversight and review. EPA will carefully review the results of sampling and analysis required under the delisting rule to ensure the resulting data are appropriate for use in demonstrating compliance with requirements of the delisting exclusion.

Commenter 7 (Docket entries Comment 0031 and 0032). This commenter submitted two sets of comments that are substantially similar. The commenter described what he believes to be environmental damage to plants in areas surrounding the Newaukum Prairie site, and groundwater contamination near the Newaukum and Burnt Ridge sites that the commenter attributes to Petitioner FMF's activities. The commenter urges additional and more current testing of groundwater to be performed in the area. The commenter also describes health impacts and nuisance issues that he believes are attributable to Petitioner FMF's activities at the Newaukum site. This commenter raised concerns about the operations and aeration of lagoons at Newaukum site. Finally, the commenter urges that the material at Newaukum should be disposed of at a landfill that is qualified and licensed to handle this material, and states that Petitioner FMF would prefer to land apply the materials in Lewis county, Washington. In taking this final action, Petitioners will be required to dispose of materials from the sites identified by this commenter in a RCRA Subtitle D landfill. Under the terms of this final exclusion, land application of the materials subject to this delisting is prohibited. However, other matters concerning ongoing operations at the Petitioner FMF's sites and groundwater or other sampling activities beyond sampling of the

delisted materials are outside of the scope of this rulemaking.

IV. Final Rule

A. What are the terms of this exclusion?

EPA is finalizing this exclusion as proposed, including all of the associated conditions. As a key condition of this exclusion, the Petitioners must dispose of this waste in a subtitle D landfill licensed, permitted or otherwise authorized by a state, and will remain obligated to verify that the waste meets the allowable concentrations set forth here. This exclusion applies only to a maximum volume of waste and is effective only if all conditions contained in this rule are satisfied. Wastes in excess of these quantities or that otherwise do not meet the conditions of this exclusion must be managed as hazardous waste.

B. When is the delisting effective?

This rule is effective April 8, 2020. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA, 42 U.S.C. 6930(b)(1), 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 Procedures Act, pursuant to 5 U.S.C. 553(d).

C. How does this action affect the states?

This exclusion is being issued under the federal RCRA delisting program. Therefore, only states subject to federal RCRA delisting provisions would be affected. This exclusion is not effective in states that have received authorization to make their own delisting decisions. Also, the exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements. The EPA allows states to impose their own regulatory requirements that are more stringent than EPA's, under Section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. As noted in the notice of proposed rulemaking, Ecology is expected to make a parallel delisting decision under their separate state authority. The EPA also notes that if the Petitioners transport the petitioned waste to or manage the waste in any state with delisting authorization or their own state-only delisting requirements, they must obtain a delisting from that state before they can manage the waste as nonhazardous in that state. The EPA urges the Petitioners to contact the state regulatory authority in each state to or through which they may wish to ship their waste to determine the status of their waste under that state's laws.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget because it is a rule of particular applicability, not general applicability. The action approves a delisting petition under RCRA for the petitioned waste at a particular facility.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction by allowing the Petitioners to manage a one-time amount of up to 20,100 cubic yards of material under RCRA Subtitle D management standards rather than the more stringent RCRA Subtitle C standards. This action will significantly reduce the costs associated with the on-site management, transportation and disposal of this waste stream by shifting its management from RCRA Subtitle C hazardous waste management to RCRA Subtitle D nonhazardous waste management.

C. Paperwork Reduction Act

This action 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 only applies to a particular facility.

D. Regulatory Flexibility Act

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

F. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. The action imposes no new enforceable duty on any state, local, or tribal governments or the private sector.

G. Executive Order 13132: Federalism

This action 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.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action applies only to a particular facility on non-tribal land. Thus, Executive Order 13175 does not apply to this action.

I. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health and safety risks of the petitioned waste were evaluated using the EPA's Delisting Risk Assessment Software (DRAS), which considers health and safety risks to children. Use of the DRAS was described in section III.E of the proposed delisting. The technical support document and the user's guide for DRAS are available at *https://www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.*

J. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

K. National Technology Transfer and Advancement Act

This action does not involve technical standards as described by the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

L. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The EPA's risk assessment, as described in section III.E in the proposed delisting, did not identify unacceptable risks from management of this material in an authorized or permitted RCRA Subtitle D solid waste landfill (*e.g.,* municipal solid waste landfill or commercial/industrial solid waste landfill). Therefore, the EPA believes that any populations in proximity of the landfills used by this facility should not be adversely affected by common waste management practices for this delisted waste.

M. Congressional Review Act

This action is exempt from the Congressional Review Act (5 U.S.C. 801 *et seq*.) because it is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

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

Dated: February 28, 2020.

Timothy Hamlin,

Director, Land, Chemicals and Redevelopment Division.

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 an entry for ''Emerald Kalama Chemical, LLC and Fire Mountain Farms, Inc.'' in alphabetical order to read as follows:

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

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Emerald Kalama Chemical, LLC and Fire Mountain Farms, Inc.	Lewis County, Washington.	Mixtures of hazardous wastewater treatment sludges, U019 (benzene) and U220 (toluene) and other non-hazardous solid wastes to be removed by Emerald Kalama Chemical, LLC and Fire Mountain Farms, Inc (Petitioners) pursuant to closure plans approved by the Washington State Department of Ecology and currently in storage in Fire Mountain Farm's Burnt Ridge, Newaukum Prarie and Big Hanaford facilities in Lewis County, Washington. The maximum amount of wastes that may be managed pursuant to this exclusion is 4,700 cubic yards at the Burnt Ridge facility, 10,400 cubic yards at the Newaukum Prairie facility, and 5,000 cubic yards at the Big Hanaford facility, present at each facility as of the effective date of this exclusion, subject to the conditions below. Wastes managed under this exclusion must be disposed of in a Subtitle D landfill which is licensed, permitted, or otherwise authorized by a state to accept the delisted mixed material. The exclusion becomes effective as of April 8, 2020. 1. *Delisting Levels:* The constituent concentrations in a representative sample of the waste must not exceed the following levels. For each constituent, the delisting verification level is provided for Burnt Ridge, Newaukum Prarie and Big Hanaford, respectively. Total concentrations (mg/kg): Cobalt—94,400, 49,100, 89,900; TCLP Concentrations (mg/l in the waste extract): Barium—1,090, 498, 1,030; Cobalt—6.28, 2.92, 5.92; Copper—716, 332, 674; Nickel—408, 184, 384; Zinc—6,170, 2,820, 5,800; Benzaldehyde—1,760, 809, 1,660; Benzene—2.35, 1.08, 2.21; Benzoic Acid—70,400, 32,400, 66,300; Formic Acid—1,130, 519, 1,060; Benzyl Alcohol—8,800, 4,040, 8,290; Methanol—8,800, 4,040, 8,290; Phenol—5,280, 2,430, 4,970; Toluene—460, 211, 433. 2. *Verification Testing:* To verify that the waste does not exceed the delisting concentrations specified in Condition 1, the Petitioners must collect and analyze an extract using EPA SW–846 Method 1311 (TCLP extraction) from three representative composite samples for barium, benzaldehyde, benzoic acid, formic acid, and benzyl alcohol of the mixed IWBS/treatment solids wastes from each FMF facility prior to the start of closure activities to demonstrate that the constituents of concern in the petitioned waste do not exceed the concentrations of concern in Condition 1. If results from analysis of any composite sample do not reflect compliance with delisting exclusion limits, the EPA may require the Petitioners to conduct additional verification sampling to better define the volume of waste with waste constituent concentrations exceeding the delisting exclusion limits. The Petitioners must conduct all verification sampling according to a written sampling plan and associated quality assurance project plan which is approved in advance by the EPA that ensures analytical data are suitable for their intended use. Sampling data must be submitted to the EPA no later than 10 days after receiving the final results from the laboratory, or such later date as the EPA may agree to in writing. Any waste volume for which representative composite sampling does not reflect full compliance with the exclusion criteria in Condition 1 must continue to be managed as hazardous. The Petitioners must also submit to EPA a certification that all wastes satisfying the delisting concentrations in Condition 1 have been disposed of in a Subtitle D landfill which is licensed, permitted, or otherwise authorized by a state to accept the delisted mixed material of wastewater treatment sludge, and the quantity of waste disposed from each facility. This submission must be submitted to EPA within 60 days of completion of closure according to the approved closure plan. 3. *Data Submittals:* The Petitioners must submit the data obtained through verification testing and as required by other conditions of this rule, to the Director, Land, Chemical, & Redevelopment Division, U.S. EPA Region 10, 1200 6th Avenue Suite 155, M/S 15–H04, Seattle, Washington, 98070 or his or her equivalent. Electronic submission via electronic mail, physical electronic media (e.g., USB flash drive), or an electronic file transfer system is acceptable. The Petitioners must compile, summarize, and maintain for a minimum of five years, records of analytical data and waste disposal required by this rule. The Petitioners must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). If the Petitioners fail to submit the required data within the specified time or maintain the required records for the specified time, the EPA may, at its discretion, consider such failure a sufficient basis to reopen the exclusion as described in Condition 4.

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

Facility	Address	Waste description
		4. Reopener Language: (A) If, any time after disposal of the delisted waste, the Petitioners possess or are otherwise made aware of any data, including but not limited to leachate data or groundwater monitoring data from the final land disposal facility, relevant to the delisted waste indicating that any constituent is at a higher than the specified delisting concentration, then the Petitioners must report such data, in writing, to the Director, Land, Chemical, & Redevelopment Division, EPA Region 10 at the address above, or his or her equivalent, within 10 days of first possessing or being made aware of those data. (B) Based on the information described in Condition 4(A) and any other information received from any source, the EPA will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the EPA determines that the reported information does require Agency action, the EPA will notify the Petitioners in writing of the actions it believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the Petitioners with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. The Petitioners shall have 30 days from the date of the EPA's notice to present the information. (D) If after 30 days the Petitioners present no further information or after a review of any submitted information, the EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the EPA's determination shall become effective immediately unless the EPA provides otherwise.
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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 201 and 252

[Docket DARS–2020–0001]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making needed technical amendments to update the Defense Federal Acquisition Regulation Supplement (DFARS).

DATES: Effective April 8, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(A&S)DPC(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. In section 202.101, the definition of ''Departments and agencies'' is revised to update the list.

2. In section 252.225–7013, Duty-Free Entry, the address for notification of the Government customs team is updated.

List of Subjects in 48 CFR Parts 202 and 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 202 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 202 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. In section 202.101, revise the definition of ''Departments and agencies'' to read as follows:

202.101 Definitions.

* * * * *

Departments and agencies, as used in DFARS, means the military departments and the defense agencies. The military departments are the Departments of the Army, Navy, and Air Force (the Marine Corps is a part of the Department of the Navy). The defense agencies are the Defense Advanced Research Projects Agency, the Defense Commissary Agency, the Defense Contract Management Agency, the Defense Counterintelligence and Security Agency, the Defense Finance and Accounting Service, the Defense Health Agency, the Defense Information Systems Agency, the Defense Intelligence Agency, the Defense Logistics Agency, the Defense Threat Reduction Agency, the Missile Defense Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Space Development Agency, the United States Cyber Command, the United States Special Operations Command, the United States Transportation Command, and the Washington Headquarters Service.

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PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7013 [Amended]

■ 3. Amend section 252.225–7013 by—

■ a. Removing clause date ''(MAY 2016)'' and adding ''(MAR 2020)'' in its place; and

■ b. In paragraph (e)(2)(iv)(A) removing ''207 New York Avenue, Staten Island, New York, 10305–5013'' and adding ''201 Varick Street, Room 905C, New York, New York 10014'' in its place.

[FR Doc. 2020–06734 Filed 4–7–20; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 204, 212, 232, and 252

[Docket DARS–2019–0019]

RIN 0750–AK37

Defense Federal Acquisition Regulation Supplement: Performance-Based Payments (DFARS Case 2019–D002)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement