ANE MA D Worcester, MA [Revised]

Worcester Regional Airport, MA
(Lat. 42°16′02″ N, long. 71°52′32″ W)
Spencer Airport, MA
(Lat. 42°17′26″ N, long. 71°57′53″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of Worcester Regional Airport, excluding that airspace from the surface up to but not including 1,900 feet MSL within a 1-mile radius of the Spencer Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on August 17, 2005.

John G. McCartney,

Acting Area Director, Eastern Terminal Operations.

[FR Doc. 05–16740 Filed 8–22–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21226; Airspace Docket No. 05–ASO–8]

Establishment of Class E Airspace; Marion, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Marion, KY. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) Runway (RWY) 7 and RWY 25 have been developed for Marion-Crittenden County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAPs and for Instrument Flight Rules (IFR) operations at Marion-Crittenden County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, October 27, 2005.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

History

On June 8, 2005, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Marion, KY, (70 FR 33403). This action provides adequate Class E airspace for IFR operations at Marion-Crittenden County Airport. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in this Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Marion, KY.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO KY E5 Marion, KY [NEW]

Marion-Crittenden County Airport, KY
(Lat. 37°20′04″ N, long. 88°06′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.7—radius of Marion-Crittenden County Airport; excluding that airspace within the Sturgis, KY, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on July 29, 2005.

Mark D. Ward,

Acting Area Director, Air Traffic Division, Southern Region.

[FR Doc. 05–16746 Filed 8–22–05; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7957–6]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is granting petitions submitted by Shell Oil Company (Shell Oil Company) to exclude (or delist) certain wastes generated by its Houston, TX Deer Park facility from the lists of hazardous wastes. This final rule responds to petitions submitted by Shell Oil Company to delist F039 and F037 wastes. The F039 waste is generated from the refinery wastewater treatment plant, North Effluent Treater (NET) and

primary solids from Shell Chemical and the South Effluent Treatment (SET). The F037 waste North Pond Sludge is generated from the process wastewater, gravel and road base that has settled from storm water flow to the pond.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned wastes are not hazardous waste. The F039 exclusion applies to 3.36 million gallons per year (16,619 cubic yards) of multi-source landfill leachate. The F037 exclusion is a one time exclusion for 15,000 cubic yards of the sludge. Accordingly, this final rule excludes the petitioned wastes from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

EFFECTIVE DATE: August 23, 2005.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in EPA Freedom of Information Act review room on the 7th floor from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is F–04–TEXDEL–Shell Oil. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD–C), Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. For technical information concerning this notice, contact Michelle Peace, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, at (214) 665–7430, or *peace.michelle@epa.gov*.

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

I. Overview Information
A. What action is EPA finalizing?
B. Why is EPA approving this action?
C. What are the limits of this exclusion?
D. How will Shell Oil Company manage the wastes, if they are delisted?
E. When is the final delisting exclusion effective?
F. How does this final rule affect states?
II. Background
A. What is a delisting?
B. What regulations allow facilities to delist a waste?
C. What information must the generator supply?
III. EPA's Evaluation of the Waste Information and Data
A. What waste did Shell Oil Company petition EPA to delist?
B. How much waste did Shell Oil Company propose to delist?
A. How did Shell Oil Company sample and analyze the waste data in these petitions?
IV. Public Comments Received on the Proposed Exclusions
A. Who submitted comments on the proposed rules?
B. Where were the comments and what are EPA's responses to them?
V. Statutory and Executive Order Reviews

I. Overview Information

A. What Action Is EPA Finalizing?

After evaluating the petitions for Shell Oil Company, EPA proposed, on December 28, 2004 and February 9, 2005, respectively, to exclude the wastes from the lists of hazardous waste under § 261.31. EPA is finalizing:

(1) The decision to grant Shell Oil Company's delisting petition to have its F039 multi-source landfill leachate underlying the Minimum Technology Requirements (MTR) hazardous waste landfill excluded, or delisted, from the definition of a hazardous waste; and subject to certain verification and monitoring conditions; and

(2) The decision to grant Shell Oil Company's delisting petition to have its North Pond F037 sludge excluded, or delisted, from the definition of a hazardous waste, once it is disposed in a Subtitle D landfill.

B. Why Is EPA Approving This Action?

Shell Oil Company's petitions request a delisting from the F039 and F037 wastes listing under 40 CFR 260.20 and 260.22. Shell Oil Company does not believe that the petitioned waste meets the criteria for which EPA listed it. Shell Oil Company also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of these petitions included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA evaluated the petitioned wastes against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the wastes are nonhazardous with respect to the original listing criteria. (If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA evaluated the wastes with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the wastes to be hazardous. EPA considered whether the wastes are acutely toxic, the concentrations of the constituents in the wastes, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned wastes do not meet the listing criteria and thus should not be listed wastes. EPA's final decision to delist wastes from Shell Oil Company's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Deer Park, TX facility.

C. What Are the Limits of This Exclusion?

This exclusion applies to the waste described in the Shell Oil Company petitions only if the requirements described in 40 CFR part 261, Appendix IX, Table 1 and the conditions contained herein are satisfied.

D. How Will Shell Oil Company Manage the Wastes, If They Are Delisted?

If the multi-source landfill leachate is delisted, Shell Oil Company will make piping modifications to allow the leachate to be routed to the North Effluent Treater (NET) for treatment. After its treatment, the multi-source landfill leachate will be discharged through a TPDES-permitted outfall in compliance with its TPDES permit. If F037 North Pond Sludge is delisted, Shell Oil Company will dispose of it in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste.

E. When Is the Final Delisting Exclusion Effective?

This rule is effective August 23, 2005. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA, 42 U.S.C. 6930(b)(1), allow rules to become effective in less than six months after the rule is published when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous waste. This reduction in existing requirements 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).

F. How Does This Final Rule Affect States?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states which have received authorization from EPA to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 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-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some states (for example, Louisiana, Oklahoma, Georgia, Illinois) to administer a RCRA 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 unless that state makes the rule part of its authorized program. If Shell Oil Company transports the petitioned waste to or manages the waste in any state with delisting authorization, Shell Oil Company must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude or delist, from the RCRA list of hazardous waste, waste the generator believes should not be considered hazardous under RCRA.

B. What Regulations Allow Facilities To Delist a Waste?

Under 40 CFR 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste regulation by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of 40 CFR parts 260 through 265 and 268. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste from a particular generating facility from the hazardous waste lists.

C. What Information Must the Generator Supply?

Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste and that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Information and Data

A. What Wastes Did Shell Oil Company Petition EPA To Delist?

On January 29, 2003, Shell Oil Company petitioned EPA to exclude from the lists of hazardous waste contained in § 261.31, multi-source landfill leachate (F039) generated from its facility located in Deer Park, TX. Then on December 30, 2003, Shell Oil Company petitioned EPA to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, F037 North Pond Sludge.

B. How Much Waste Did Shell Oil Company Propose To Delist?

Shell Oil Company requested that EPA grant an exclusion for 3.36 million gallons (16,619 cu. yards) per year of the multi-source landfill leachate in its January 29, 2003 petition. In the December 30, 2003 petition, Shell Oil Company requested that EPA grant a one time exclusion for 15,000 cubic yards of the F037 North Pond Sludge.

C. How Did Shell Oil Company Sample and Analyze the Waste Data in These Petitions?

To support its petitions, Shell Oil Company submitted:

(1) Historical information on past waste generation and management practices including analytical data from eleven samples collected in September 2003 for the F037 North Pond Sludge and four samples of combined leachate data for the F039 multi-source landfill leachate;

(2) Results of the total constituent list for 40 CFR part 264, Appendix IX volatiles, semivolatiles, metals, pesticides, herbicides, dioxins and PCBs for the F037 North Pond Sludge and the F039 multi-source landfill leachate;

(3) Results of the constituent list for 40 CFR part 264, Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals for the F037 North Pond Sludge and the F039 multi-source landfill leachate;

(4) Analytical constituents of concern for F037 and F039;

(5) Results from total oil and grease analyses;

(6) Multiple pH testing for the petitioned wastes.

IV. Public Comments Received on the Proposed Exclusions

A. Who Submitted Comments on the Proposed Rules?

No comments were received on the proposed rule for the F037 wastes. Comments were submitted by Shell Deer Park Refining Company (Shell) to correct information contained in the proposed rule for F039.

B. What Were the Comments and What Are EPA's Responses to Them?

Shell noted that *Chloronated* Plate Interceptor should be *Corrugated* Plate Interceptor. EPA has noted this and made appropriate changes in the final rule and exclusion language to reflect this change.

Shell noted that: (1) the compound p-cresol (4-methlyphenol) should be added to Table I; and (2) the compound trichloropropane should be deleted from Table I as this constituent was not detected in any of the samples above the reporting level.

The compound p-cresol (4-methlyphenol) appears in Table 1.—Waste Excluded From the Non-Specific Sources as ''Cresol, p.'' EPA has made the appropriate change to read p-Cresol. The compound trichloropropane estimated value of 0.00025 mg/l was reported in the revised analyses on October 11, 2004, Combined Leachate Data, and thus it will not be deleted.

Shell requested: (1) that the following constituents be deleted from Table 1—Wastes Excluded from Non-Specific Sources in the exclusion language to be consistent with Table I in Section III. D in the preamble of the proposed rule: Thallium, Acrylonitrile, Bis (2-chlorethyl) ether, Bis (2-ethylhexyl) phthlate, Dichlorobenzene 1,3, Dimethoate, Dimethylphenol 2,4, Dinitrophenol, Dinitrotoluene 2,6, Diphenylhydrazine, Dichloroethylene 1,1, Kepone, Methacrylonitrile, Methanol, Nitrobenzene, Nitrosodiethylamine, Nitrosodimethylamine, Nitrosodi-n-butylamine, N-Nitrodi-n-propylamine, N-Nitrosopiperdine, N-

Nitrosopyrrolidine, N-Nitrosomethylethylamine, PCBs, Pentachlorophenol, Pyridine, Trichloropropane, Vinyl Chloride; and (2) that the compound phenanthrene should be added with a delisting level of 1.36 mg/L to be consistent with Table I in Section III. D.

EPA has made the deletions as prescribed. EPA has added the compound phenanthrene with a delisting level of 1.36 mg/L to Table 1.—Waste Excluded From Non-Specific Sources. EPA also added compounds toluene, fluorene, and vanadium because they were inadvertently left off of Table 1—Wastes Excluded from Non-Specific Sources.

Shell noted that in the exclusion language paragraph (3)(A)(i) of Table 1—Waste Excluded from Non-Specific Sources, the number of samples to be collected within the first 60 days should be changed from eight to four. Also in paragraph (3)(B) for subsequent verification sampling, Shell Oil Company requested that the number of samples per quarter be changed from two to one. Previous discussions between EPA and Shell Oil Company were based on two different waste streams. Since this is one stream, EPA will allow the changes in the number of samples collected and the number of samples taken per quarter.

In addition, on October 30, 2002, (67 FR 66251), EPA proposed the Methods Innovation Rule to remove from the regulations unnecessary requirements other than those considered to be Method Defined Parameters (MDP). An MDP is a method that, by definition or design, is the only one capable of measuring the particular property (*e.g.* Method 1311–TCLP). Therefore, EPA is no longer generally requiring the use of only SW–846 methods for regulatory applications other than those involving MDPs. The general purpose of this rule is to allow more flexibility when conducting RCRA-related sampling and analysis activities. We retained only those methods considered to be MDPs in the regulations and incorporate them by reference in 40 CFR 260.11. EPA is changing Shell's delisting exclusion language found in paragraph (3) of the F039 exclusion language to reflect the generic language placed in all delisting exclusions as a result of the Methods Innovation Rule (70 FR 34537) which was finalized on June 14, 2005.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA). 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, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only 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, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding 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: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f)

Dated: August 10, 2005.

Carl E. Edlund,

Director, Multimedia Planning and Permitting Division, Region 6.

■ For the reasons set out in the preamble, 40 CFR part 261 is to be 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 of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

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

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Shell Oil Company	Deer Park, TX ..	North Pond Sludge (EPA Hazardous Waste No. F037) generated one time at a volume of 15,000 cubic yards August 23, 2005 and disposed in a Subtitle D landfill. This is a one time exclusion and applies to 15,000 cubic yards of North Pond Sludge. (1) Reopener: (A) If, anytime after disposal of the delisted waste, Shell 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 Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (B) If Shell fails to submit the information described in paragraph (A) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health 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 Division Director determines that the reported information does require EPA action, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information. (D) Following the receipt of information from the facility described in paragraph (C) or if no information is presented under paragraph (C), the Division Director will issue a final written determination describing the actions that are necessary to protect human health or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (2) Notification Requirements: Shell must do the following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any state regulatory agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification, if they ship the delisted waste to a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
Shell Oil Company	Deer Park, TX ..	Multi-source landfill leachate (EPA Hazardous Waste No. F039) generated at a maximum annual rate of 3.36 million gallons (16,619 cu. yards) per calendar year after August 23, 2005 and disposed in accordance with the TPDES permit. The delisting levels set do not relieve Shell Oil Company of its duty to comply with the limits set in its TPDES permit. For the exclusion to be valid, Shell Oil Company must implement a verification testing program that meets the following paragraphs: (1) Delisting Levels: All total concentrations for those constituents must not exceed the following levels (mg/l). The petitioner must analyze the aqueous waste on a total basis to measure constituents in the multi-source landfill leachate. Multi-source landfill leachate (i) Inorganic Constituents Antimony-0.0204; Arsenic-0.385; Barium-2.92; Copper-418.00; Chromium-5.0; Cobalt-2.25; Nickel-1.13; Selenium-0.0863; Thallium-0.005; Vanadium-0.838 (ii) Organic Constituents Acetone-1.46; Acetophenone-1.58; Benzene-0.0222; p-Cresol-0.0788; Bis(2-ethylhexyl)phthlate-15800.00; Dichloroethane, 1,2–0.0803; Ethylbenzene-4.51; Fluorene-1.87; Napthalene-1.05; Phenol-9.46; Phenanthrene-1.36; Pyridine-0.0146; 2,3,7,8-TCDD equivalents as TEQ–0.0000926; Toluene-4.43; Trichloropropane-0.000574; Xylenes (total)-97.60 (2) Waste Management: (A) Shell Oil Company must manage as hazardous all multi-source landfill leachate generated, until it has completed initial verification testing described in paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the multi-source landfill leachate that do not exceed the levels set forth in paragraph (1) are non-hazardous. Shell Oil Company can manage and dispose of the non-hazardous multi-source landfill leachate according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in paragraph (1), Shell Oil Company can collect one additional sample and perform expedited analyses to verify if the constituent exceeds the delisting level. If this sample confirms the exceedance, Shell Oil Company must, from that point forward, treat the waste as hazardous until it is demonstrated that the waste again meets the levels in paragraph (1). (D) If the facility has not treated the waste, Shell Oil Company must manage and dispose of the waste generated under Subtitle C of RCRA from the time that it becomes aware of any exceedance.

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

Facility	Address	Waste description
		(E) Upon completion of the Verification Testing described in paragraph 3(A) and (B) as appropriate and the transmittal of the results to EPA, and if the testing results meet the requirements of paragraph (1), Shell Oil Company may proceed to manage its multi-source landfill leachate as non-hazardous waste. If Subsequent Verification Testing indicates an exceedance of the delisting levels in paragraph (1), Shell Oil Company must manage the multi-source landfill leachate as a hazardous waste until two consecutive quarterly testing samples show levels below the delisting levels in Table I. (3) Verification Testing Requirements: Shell Oil Company must perform sample collection and analyses, including quality control procedures, using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods used must meet Performance Based Measurement System Criteria in which the Data Quality Objectives demonstrate that representative samples of the Shell-Deer Park multi-source landfill leachate are collected and meet the delisting levels in paragraph (1). (A) Initial Verification Testing: After EPA grants the final exclusion, Shell Oil Company must do the following: (i) Within 60 days of this exclusions becoming final, collect four samples, before disposal, of the multi-source landfill leachate. (ii) The samples are to be analyzed and compared against the delisting levels in paragraph (1). (iii) Within sixty (60) days after this exclusion becomes final, Shell Oil Company will report initial verification analytical test data for the multi-source landfill leachate, including analytical quality control information for the first thirty (30) days of operation after this exclusion becomes final. If levels of constituents measured in the samples of the multi-source landfill leachate that do not exceed the levels set forth in paragraph (1) are also non-hazardous in two consecutive quarters after the first thirty (30) days of operation after this exclusion become effective, Shell Oil Company can manage and dispose of the multi-source landfill leachate according to all applicable solid waste regulations. (B) Subsequent Verification Testing: Following written notification by EPA, Shell Oil Company may substitute the testing conditions in (3)(B) for (3)(A). Shell Oil Company must continue to monitor operating conditions, and analyze one representative sample of the multi-source landfill leachate for each quarter of operation during the first year of waste generation. The sample must represent the waste generated during the quarter. After the first year of analytical sampling verification sampling can be performed on a single annual sample of the multi-source landfill leachate. The results are to be compared to the delisting levels in paragraph (1). (C) Termination of Testing: (i) After the first year of quarterly testing, if the delisting levels in paragraph (1) are being met, Shell Oil Company may then request that EPA not require quarterly testing. After EPA notifies Shell Oil Company in writing, the company may end quarterly testing. (ii) Following cancellation of the quarterly testing, Shell Oil Company must continue to test a representative sample for all constituents listed in paragraph (1) annually. (4) Changes in Operating Conditions: If Shell Oil Company significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could significantly affect the composition or type of waste generated as established under paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing; it may no longer handle the wastes generated from the new process as nonhazardous until the wastes meet the delisting levels set in paragraph (1) and it has received written approval to do so from EPA. (5) Data Submittals: Shell Oil Company must submit the information described below. If Shell Oil Company fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph 6. Shell Oil Company must: (A) Submit the data obtained through paragraph 3 to the Section Chief, Region 6 Corrective Action and Waste Minimization Section, EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–C) within the time specified. (B) Compile records of operating conditions and analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the state of Texas request them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

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

Facility	Address	Waste description
		If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. (6) Reopener: (A) If, anytime after disposal of the delisted waste, Shell Oil Company possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at a level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (B) If the annual testing of the waste does not meet the delisting requirements in paragraph 1, Shell Oil Company must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (C) If Shell Oil Company fails to submit the information described in paragraphs (5),(6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Division Director determines that the reported information does require action, he will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed action by EPA is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or if no information is presented under paragraph (6)(D), the Division Director will issue a final written determination describing the actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (7) Notification Requirements: Shell Oil Company must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any state regulatory agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if it ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting exclusion and a possible revocation of the decision.
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COMMISSION OF FINE ARTS

45 CFR Part 2102

Procedures and Policies Amendment

AGENCY: The Commission of Fine Arts.

ACTION: Final rule.

SUMMARY: This document amends the procedures and policies governing the administration of the U.S. Commission of Fine Arts. This document serves to establish a Consent Calendar and to clarify the functions and requirements of a Consent Calendar and Appendices for the review of projects submitted to the Commission in order to address more efficiently the needs of the Federal government and the public.

DATES: Effective September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Luebke, Secretary, (202) 504–2200.

SUPPLEMENTARY INFORMATION: As established by Congress in 1910, the Commission of Fine Arts is a small independent advisory body made up of seven Presidentially appointed ''well qualified judges of the arts'' whose primary role is architectural review of designs for buildings, parks, monuments and memorials erected by the Federal or District of Columbia governments in Washington, DC. In addition to architectural review, the Commission considers and advises on the designs for coins, medals and U.S. memorials on foreign soil. The Commission also advises the District of Columbia government on private building projects within the Georgetown Historic District, the Rock Creek Park perimeter and the Monumental Core area. The Commission advises Congress, the President, Federal agencies, and the District of Columbia government on the general subjects of design, historic preservation and on orderly planning on matters within its jurisdiction.

The regulations amended with this rule were last published in the **Federal Register** on January 31, 1997 (45 CFR Parts 2101, 2102, 2103). Specific items this document amends include providing the current address and telephone number of the agency, and clarifying a series of procedural functions. Therefore, as these changes clarify established and new procedures, and are minor in nature, the Commission determines that notice and comment are unnecessary and that, in accordance with 5 U.S.C. 553(b)(B), good cause to waive notice and comment is established.