

TABLE 1 TO SUBPART VVV OF PART 63—APPLICABILITY OF 40 CFR PART 63 GENERAL PROVISIONS TO SUBPART VVV—Continued

General provisions reference	Applicable to subpart VVV	Explanation
§ 63.12	Yes	State authority and designation.
§ 63.13	Yes	Addresses of State air pollution control agencies and EPA Regional Offices.
§ 63.14	Yes	Incorporation by reference.
§ 63.15	Yes	Availability of information and confidentiality.

TABLE 2 TO SUBPART VVV OF PART 63—COMPLIANCE DATES AND REQUIREMENTS

If the construction/reconstruction date is	Then the owner or operator must comply with	And the owner or operator must achieve compliance
Group 1 POTW: (1) After December 27, 2016	(i) New source requirements in §§ 63.1583(b); 63.1586(b) or (c); and 63.1588 through 63.1591.	Upon initial startup.
(2) After December 1, 1998 but on or before December 27, 2016.	(i) New source requirements in § 63.1583(b) but instead of complying with both requirements (industrial user(s) NESHAP and the POTW standards in §§ 63.1586(b) or (c)), you must comply with the most stringent requirement ¹ . (ii) New source requirements in §§ 63.1586(b) or (c); and 63.1588 through 63.1591.	Upon initial startup through October 26, 2020. On or before October 26, 2020.
(3) On or before December 1, 1998	(i) Existing source requirements in §§ 63.1583(a) (ii) Existing source requirements in §§ 63.1588 through 63.1591	By the compliance date specified in the other applicable NESHAP. On or before October 26, 2018.
Group 2 POTW: (4) After December 27, 2016	(i) New source requirements in §§ 63.1586(b) or (c); and 63.1588 through 63.1591.	Upon initial startup.
(5) After December 1, 1998 but on or before December 27, 2016.	(i) New source requirements in § 63.1586(b) or (c) ¹ (ii) New source requirements in §§ 63.1586(b) or (c); and 63.1588 through 63.1591.	Upon initial startup through October 26, 2020. On or before October 26, 2020.
(6) On or before December 1, 1998	(i) Existing source requirements in §§ 63.1586(a); and 63.1591(a)	On or before October 26, 2018.

¹ Note: This represents the new source requirements in the original 1999 NESHAP, which are applicable until October 26, 2020. Between October 26, 2017 and October 26, 2020, you must transition to the new requirements in Table 2 (2)(ii) and (5)(ii) for Group 1 and Group 2 POTW, respectively.

[FR Doc. 2017-23067 Filed 10-25-17; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-R06-RCRA-2017-0153; SW-FRL-9969-73-Region 6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition submitted by ExxonMobil Oil Corporation Beaumont Refinery (ExxonMobil) to exclude from hazardous waste control (or delist) a certain solid waste. This final rule responds to the petition submitted by ExxonMobil to have the secondary impoundment basin (SIB) solids excluded, or delisted from the definition of a hazardous waste. The SIB solids are

listed as F037 (primary oil/water/solids separation sludge); and F038 (secondary oil/water/solids separation sludge).

After careful analysis and evaluation of comments submitted by the public, the EPA has concluded that the petitioned wastes are not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to the surface impoundment solids generated at ExxonMobil's Beaumont, Texas facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

DATES: Effective October 26, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-RCRA-2017-0153. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For technical information regarding the ExxonMobil Beaumont Refinery petition, contact Michelle Peace at 214-665-7430 or by email at 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 delisting?
 - C. What are the limits of this exclusion?
 - D. How will Beaumont Refinery manage the waste if it is 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 Data
 - A. What waste and how much did Beaumont Refinery petition EPA to delist?
 - B. How did Beaumont Refinery sample and analyze the waste data in this petition?
- IV. Public Comments Received on the Proposed Exclusion
 - A. Who submitted comments on the proposed rule?
 - B. Comments and Responses
- V. Statutory and Executive Order Reviews

I. Overview Information

A. What action is EPA finalizing?

The EPA is finalizing:

(1) The decision to grant ExxonMobil's Beaumont Refinery's petition to have its surface impoundment basin solids excluded, or delisted, from the definition of a hazardous waste, subject to certain continued verification and monitoring conditions; and

(2) to use the Delisting Risk Assessment Software to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency used this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

After evaluating the petition, EPA proposed rule, on May 31, 2017, to exclude the ExxonMobil Beaumont Refinery waste from the lists of hazardous wastes under §§ 261.31 and 261.32. The comments received on this rulemaking will be addressed as part of this decision.

B. Why is EPA approving this delisting?

ExxonMobil's petition requests an exclusion from the F037 and F038 waste listings pursuant to 40 CFR 260.20 and 260.22. ExxonMobil does not believe that the petitioned waste meets the criteria for which EPA listed it.

ExxonMobil also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition 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 initial delisting determination, EPA evaluated the petitioned waste 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 waste is non-hazardous 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 waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, 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 waste does not meet the listing criteria and thus should not be a listed waste. EPA's proposed decision to delist waste from ExxonMobil is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Beaumont, Texas facility.

C. What are the limits of this exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of part 261, Appendix IX, and the conditions contained herein are satisfied. The one-time exclusion applies to 400,000 cubic yards of surface impoundment basin solids.

D. How will Beaumont Refinery manage the waste if it is delisted?

Storage containers with SIB solids will be transported to an authorized solid waste landfill (e.g. RCRA Subtitle D landfill, commercial/industrial solid waste landfill, etc.) for disposal.

E. When is the final delisting exclusion effective?

This rule is effective October 26, 2017. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

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 two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

Here are the details: We allow states to impose their own non-RCRA 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. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge 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, Georgia, Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Beaumont Refinery transports the petitioned waste to or manages the waste in any State with delisting authorization, Beaumont Refinery must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What is a delisting?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude from the list of hazardous wastes, wastes the generator does not consider hazardous under RCRA.

B. What regulations allow facilities to delist a waste?

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 266, 268 and 273 of Title 40 of the Code of Federal Regulations. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

C. What information must the generator supply?

Petitioners must provide sufficient information to EPA to allow the EPA to

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

III. EPA's Evaluation of the Waste Data

A. What waste and how much did Beaumont Refinery petition EPA to delist?

In August 2016, ExxonMobil petitioned EPA to exclude from the lists of hazardous wastes contained in §§ 261.31 and 261.32, SIB solids (F037, F038) generated from its facility located

in Beaumont, Texas. The waste falls under the classification of listed waste pursuant to §§ 261.31 and 261.32. Specifically, in its petition, ExxonMobil requested that EPA grant a one-time exclusion for 400,000 cubic yards of SIB solids.

The 40 CFR part 261 Appendix VII hazardous constituents which are the basis for listing can be found in Table 1.

TABLE 1—EPA WASTE CODES FOR SURFACE IMPOUNDMENT BASIN SOLIDS AND THE BASIS FOR LISTING

Waste code	Basis for listing
F037	Benzene, benzo(a)pyrene, chrysene, lead, chromium.
F038	Benzene, benzo(a)pyrene, chrysene, lead, chromium.

B. How did Beaumont Refinery sample and analyze the waste data in this petition?

To support its petition, ExxonMobil submitted:

- (1) Historical information on waste generation and management practices; and
- (2) analytical results from thirty-nine samples for total and TCLP concentrations of compounds of concern (COC)s;

TABLE 2—ANALYTICAL RESULTS/MAXIMUM ALLOWABLE DELISTING CONCENTRATION [Secondary Impoundment Basin (SIB) Solids ExxonMobil Beaumont Refinery, Beaumont, Texas]

Constituent	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/L)	Maximum TCLP delisting level (mg/L)
Antimony	4.84	0.023	.109
Arsenic	33.6	0.077	.424
Barium	455	1.47	36
Beryllium	1.38	<0.002	2.0
Cadmium	2.05	<0.002	0.09
Chromium	697	0.205	2.27
Cobalt	19.4	0.0371	0.214
Lead	400	0.656	0.702
Mercury	3.61	0.000049	0.068
Nickel	68.2	0.152	13.5
Selenium	28.7	0.0177	0.890
Silver	1.23	0.002	5.0
Vanadium	90.7	0.0815	3.77
Zinc	2,470	5.43	197
2,4 Dimethylphenol	0.97	0.0018	11.3
2-Methylphenol	<0.71	<.000033	28.9
3-Methylphenol	<0.64	0.002	28.9
4-Methylphenol	<0.64	0.00047	2.89
Acenaphthene	1.7	0.00091	10.6
Anthracene	2.9	0.00019	25.9
Benz(a)anthracene	7.2	0.000034	0.07
Benz(a)pyrene	5	<0.00003	26.3
Bis(2-ethylhexyl)phthalate	34	0.0002	106,000
Chrysene	19	0.000048	7.01
Di-n-butyl phthalate	0.66	0.0013	24.6
Fluoranthene	2.1	0.000078	2.46
Fluorene	4.9	0.0016	4.91
Indeno(1,2,3-cd)pyrene	2.6	<0.000051	73
Naphthalene	26	0.02	0.0327
Phenol	<0.71	0.00025	173
Pyrene	N/A	0.00019	4.45
Benzene	1.1	<0.004	0.077
Xylenes, total	53	0.18	9.56

Notes: These levels represent the highest constituent concentration found in any one sample and does not necessarily represent the specific level found in one sample.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

The EPA received four anonymous public comments on the May 31, 2017, proposed rule via *regulations.gov*. EPA also received comments from the facility regarding the conditions and nomenclature on Table 1. The comments and responses are addressed below.

B. Comments and Responses

Comment 1. “Exxon Mobil requests that language found on Pages 24929, 24931, and 24932 be revised to reflect that the SIB solids are delisted upon final publication in the **Federal Register**. The text in Section IV (Next Steps), Items A.(2) and A.(3) is currently structured such that additional testing would have to be performed to verify that delisting limits are met. Items (2), (3), and (4) of Table 1 (Pages 24931 and 34932) also reflect these requirements. This language appears to be a “holdover” associated with another delisting petition request. Our sampling program included collection of over 30 samples to support the delisting petition request. As such, we believe we have already completed a rigorous sampling program in support of this request. Also, we would note in several locations that the petition volume is listed as “400,000 wet” cubic yards. The SIB solids will contain water upon removal from the pond. However, they will be dewatered (e.g. filtration, addition of cement, etc.) to pass the paint filter test prior to disposal. As such, we suggest removing the word wet in reference to the delisted volume.”

Response 1. The language found in Table 1 of the exclusion has been revised to remove all conditional exclusion language. The request for the delisting is a one-time exclusion which is conditioned on proper disposal of up to 400,000 cubic yards of SIB solids and contains the data submittals, reopen and disposal notification clauses for all delisting exclusions. The conditions were included in the proposed rule in error. All references regarding the wet solids have been removed because the waste will not be disposed of in this manner. The reference to wet solids was in regards to the volume of solids as generated during the removal.

Comment 2. “Excuse me? ExxonMobile wants to dump their waste into the landfills where it can pollute our ground water? NO. Absolutely NOT. These waste products are toxic to the environment and need to stay listed as hazardous. We don’t want this stuff

seeping into our groundwater for our kids to drink. ExxonMobile needs to spend the money on research to break down this waste sludge into something that doesn’t hurt the environment. They must not be allowed to put it in dumps or store it somewhere. There probably are some kind of bacteria that will break this stuff down into something useful or non toxic. This stuff should NOT end up in our ground water. If you cannot do something positive with this waste, the process whereby this waste is produced MUST BE STOPPED. We need to move away from fossil fuel use and towards renewable energy and sustainable products.”

Response 2. The Delisting Program requires extensive waste sampling and a risk assessment is performed to assess a wastes potential harm to human health and the environment. The program is designed to insure that the wastes which are deemed excluded will not be managed in a manner to harm human health or the environment. This waste will be managed in a Subtitle D industrial waste landfill as solid waste to prevent releases to groundwater and air pathways.

Comment 3. “The EPA should feel obligated to ensure that there are no possible adverse effects to humans or the environment by approving the petition from ExxonMobile. The EPA should conduct their own investigation, take their own samples, and perform data analysis to confirm that there are no discrepancies between their findings and those provided by the Beaumont facility. In the list of constituents provided by ExxonMobile, there are known human carcinogens such as arsenic, beryllium, cadmium, chromium, nickel, and benzene, along with other harmful constituents such as lead and mercury. The EPA should conduct an environmental impact assessment before approving this petition.”

Response 3. The requirements of the Federal regulations defined in 40 CFR part 260.20, and 260.22, describe the process by which wastes may be removed from the list of hazardous waste. In addition to extensive quality assurance and quality control data for the samples taken, EPA performs a risk assessment using the Delisting Risk Assessment Software to ensure that our decision is protective of human health and the environment. The constituent concentrations found in the surface impoundment basin solids are below the concentrations that would pose harm to human health and the environment.

Comment 4. “Although the tests that have been run by ExxonMobil’s

Delisting Risk Assessment Software (DRAS) to provide scientific reasoning to the EPA for the delisting of SIB solids, I believe that more research must be conducted by the EPA itself. Employees of this agency should especially check the individual components of the SIB solids and test for even greater possibilities than those proposed by the DRAS; the DRAS was not said to take into account the effects that chemical exposure would produce on surrounding populations or even employees themselves if buildups were to occur. Risk assessment should be issued for each individual chemical compound by the EPA. Assuming the EPA would like to work rather quickly on this issue considering ExxonMobil’s insistence that the SIB solids are non-hazardous, benefits would include reduced regulation on the industry, as well as, one less responsibility for the EPA. However, closer examination needs to occur, especially since this test has only been conducted for Beaumont, Texas.”

Response 4. A waste is eligible for delisting only if that waste, as generated at a particular facility, does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the waste may not contain any other Appendix VIII constituents that would cause the waste to be hazardous. RCRA § 3001(f) and 40 CFR 260.22. A delisting is only intended to address a specific waste stream generated at a specific site. The risk analysis is conducted specifically for each chemical constituent of the waste stream. If any constituent concentration exceeds the delisting limit, the entire waste stream remains hazardous.

The delisting risk analysis performed using the Delisting Risk Assessment Software evaluates the worst case scenario for the petitioned waste and risk pathways are evaluated. All chemical constituents detected in the waste are individually assessed for their impact on human health and the environment.

Comment 5. “I believe there should be a thorough health examination of all employees in the facility who work directly with the waste proposed for delisting. Some of these chemicals can build-up in the system over time and if any de-regulations are to occur they need science based evidence to prove the decision would not pose a human safety issue. If the decision would not prove to have a high economical impact, I do not see any reason it should be considered, especially when the decision is for only a single site.”

Response 5. A waste is eligible for delisting only if that waste, as generated

at a particular facility, does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the waste may not contain any other Appendix VIII constituents that would cause the waste to be hazardous. RCRA § 3001(f) and 40 CFR 260.22. A delisting is only intended to address a specific waste stream generated at a specific site. Since individual waste streams may vary depending on raw materials, industrial processes, and other factors, it may be appropriate not to list a specific waste from a specific site. Therefore, while a waste described in the regulations or resulting from the operation of the mixture or derived-from rules generally is hazardous, a specific waste from an individual facility may not be hazardous. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to prove that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste. A risk assessment of the petitioned waste is completed and a part of the decision factors in issuing an exclusion. Specific health examinations and worker protection is covered by the facility operating plans and overseen by OSHA. Worker safety during the management of this waste to avoid contact with this material are covered by the Health and Safety plans of the petitioner.

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) (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 proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the

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 proposed 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 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, 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. Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule 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 Agency’s risk assessment did not identify risks from management of this material in an authorized, solid waste landfill (*e.g.* RCRA Subtitle D landfill, commercial/industrial solid waste landfill, etc.). Therefore, 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.

Lists 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: October 4, 2017.

Wren Stenger,

Director, Multimedia Division, Region 6.

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—Wastes Excluded From Non-Specific Sources in 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 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
ExxonMobil	Beaumont, TX	<p data-bbox="581 310 1503 359">Secondary Impoundment Basin Solids (SIB) (EPA Hazardous Waste Numbers F037 and F038) generated at a maximum rate of 400,000 cubic yards.</p> <p data-bbox="581 359 1503 407">(1) Delisting Levels: All concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph.</p> <p data-bbox="581 407 1503 596">Surface Impoundment Basin Solids. Leachable Concentrations (mg/l): Antimony—0.109; Arsenic—0.424; Barium—36; Beryllium—2.0; Cadmium—0.09; Chromium—2.27; Cobalt—0.214; Lead—0.702; Mercury—0.068; Nickel—13.5; Selenium—0.890; Silver—5.0; Vanadium—3.77; Zinc—197; 2,4 Dimethylphenol—11.3; 2-Methylphenol—28.9; 3-Methylphenol—28.9; 4-Methylphenol—2.89; Acenaphthene—10.6; Anthracene—25.9; Benz(a)anthracene—0.07; Benz(a)pyrene—26.3; Bis(2-ethylhexyl) phthalate—106,000; Chrysene—7.01; Di-n-butyl phthalate—24.6; Fluoranthene—2.46; Fluorene—4.91; Indeno(1,2,3-cd) pyrene—73; Naphthalene—0.0327; Phenol—173; Pyrene—4.45; Benzene—0.077; Xylenes, total—9.56</p> <p data-bbox="581 596 708 621">(2) Reopener</p> <p data-bbox="581 621 1503 789">(A) If, any time after disposal of the delisted waste ExxonMobil possesses or is otherwise made aware of any environmental data (including but not limited to underflow water 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.</p> <p data-bbox="581 789 1503 863">(B) If verification testing (and retest, if applicable) of the waste does not meet the delisting requirements in paragraph 1, ExxonMobil must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.</p> <p data-bbox="581 863 1503 1003">(C) If ExxonMobil fails to submit the information described in paragraphs (2),(3)(A) or (3)(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.</p> <p data-bbox="581 1003 1503 1150">(D) If the Division Director determines that the reported information requires action by EPA, 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 receipt of the Division Director's notice to present such information.</p> <p data-bbox="581 1150 1503 1297">(E) Following the receipt of information from the facility described in paragraph (3)(D) or (if no information is presented under paragraph (3)(D)) the initial receipt of information described in paragraphs (2), (3)(A) or (3)(B), the Division Director will issue a final written determination describing EPA 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.</p> <p data-bbox="581 1297 862 1323">(3) Notification Requirements:</p> <p data-bbox="581 1323 1503 1396">ExxonMobil 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.</p> <p data-bbox="581 1396 1503 1465">(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.</p> <p data-bbox="581 1465 1503 1514">(B) For onsite disposal, a notice should be submitted to the State to notify the State that disposal of the delisted materials has begun.</p> <p data-bbox="581 1514 1503 1562">(C) Update one-time written notification, if it ships the delisted waste into a different disposal facility.</p> <p data-bbox="581 1562 1503 1612">(D) Failure to provide this notification will result in a violation of the delisting exclusion and a possible revocation of the decision.</p>

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF767

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is exchanging unused flathead sole and rock sole Community Development Quota (CDQ) for yellowfin sole CDQ acceptable biological catch (ABC) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2017 total allowable catch of yellowfin sole in

the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective October 26, 2017 through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 1,288 metric tons (mt), 5,310 mt, and 16,472 mt as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and revised by flatfish exchange (82 FR

48460; October 18, 2017). The 2017 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 6,018 mt, 11,286 mt and 11,434 mt as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and revised by flatfish exchange (82 FR 48460; October 18, 2017).

The Yukon Delta Fisheries Development Association has requested that NMFS exchange 60 mt of flathead sole CDQ reserves and 145 mt of rock sole CDQ reserves for 205 mt of yellowfin sole CDQ ABC reserves under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 60 mt of flathead sole CDQ reserves and 145 mt of rock sole CDQ reserves for 205 mt of yellowfin sole CDQ ABC reserves in the BSAI. This action also decreases and increases the TACs and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017), and revised by flatfish exchange (82 FR 48460; October 18, 2017) are further revised as follows:

TABLE 11—FINAL 2017 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	7,900	7,000	9,000	14,176	47,225	154,199
CDQ	845	749	963	1,228	5,165	16,677
ICA	100	60	10	4,000	5,000	4,500
BSAI trawl limited access	695	619	161	0	0	18,151
Amendment 80	6,259	5,572	7,866	8,949	37,060	114,871
Alaska Groundfish Cooperative	3,319	2,954	4,171	918	9,168	45,638
Alaska Seafood Cooperative	2,940	2,617	3,695	8,031	27,893	69,233

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2017 AND 2018 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2017 Flathead sole	2017 Rock sole	2017 Yellowfin sole	2018 Flathead sole	2018 Rock sole	2018 Yellowfin sole
ABC	68,278	155,100	260,800	66,164	143,100	250,800
TAC	14,176	47,225	154,199	14,500	47,100	154,000
ABC surplus	54,102	107,875	106,601	51,664	96,000	96,800
ABC reserve	54,102	107,875	106,601	51,664	96,000	96,800
CDQ ABC reserve	6,078	11,431	11,229	5,528	10,272	10,358
Amendment 80 ABC reserve	48,024	96,444	95,372	46,136	85,728	86,442
Alaska Groundfish Cooperative for 2017 ¹	4,926	23,857	37,891	n/a	n/a	n/a
Alaska Seafood Cooperative for 2017 ¹ ..	43,098	72,587	57,481	n/a	n/a	n/a

¹ The 2018 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2017.