Major Facilities without an Operating Permit),'' section 8.1, ''Definitions;'' subchapter 16, ''Control and Prohibition of Air Pollution by Volatile Organic Compounds;'' subchapter 17, ''Control and Prohibition of Air Pollution by Toxic Substances;'' subchapter 19, ''Control and Prohibition of Air Pollution by Oxides of Nitrogen;'' subchapter 21, ''Emission Statements;'' and Chapter 27A, subchapter 3.10, ''Civil Administrative Penalties for Violations of Rules Adopted Pursuant to the Act,'' with State effective dates of January 16, 2018. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to N.J.A.C. 7:27 subchapter 8, ''Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit),'' section 8.1, ''Definitions;'' subchapter 16, ''Control and Prohibition of Air Pollution by Volatile Organic Compounds;'' subchapter 17, ''Control and Prohibition of Air Pollution by Toxic Substances;'' subchapter 18, ''Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules);'' subchapter 19, ''Control and Prohibition of Air Pollution by Oxides of Nitrogen;'' subchapter 21, ''Emission Statements;'' and Chapter 27A, subchapter 3.10, ''Civil Administrative Penalties for Violations of Rules Adopted Pursuant to the Act'' as described in section II, of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law(s) as meeting federal requirements and does not impose additional requirements beyond those imposed by state law(s). For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, this proposed SIP will not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The NJDEP evaluated environmental justice as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA's evaluation of the NJDEP's environmental justice considerations is described above in the section titled, ''Environmental Justice Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action under the CAA on bases independent of New Jersey's evaluation of environmental justice. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2023–21138 Filed 9–27–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R06–RCRA–2023–0040; FRL–11286–01–R6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste;Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant an exclusion from the list of hazardous wastes to WRB Refining LP (Petitioner) located in Borger, Texas. This action responds to a petition to exclude (or ''delist'') up to 7,000 cubic yards per year of solids removed from four stormwater tanks from the list of federal hazardous wastes when disposed of in a Resource Conservation Recovery Act (RCRA) Subtitle D Landfill. The EPA is proposing to grant the petition based on an evaluation of waste-specific information provided by the Petitioner. A previous proposed action was published in the **Federal Register** on November 23, 2022, that proposed to grant this petition (see Docket ID Number EPA–R06–RCRA–2022–0653). However, after the proposed rule was published, EPA received notification during the public comment period from the Petitioner that the table detailing the delisting constituents and levels was incorrect. After review, EPA agreed that the information contained in the table in question was incorrect. EPA has corrected the table to reflect the appropriate constituents and values and is withdrawing the previously published proposed rule from November 23, 2022. EPA is issuing a new action proposing to grant the petition, which will include a new 30-day comment period.

DATES: Comments on this proposed exclusion must be received by October 30, 2023.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: shah.harry@epa.gov.*

Instructions: The EPA must receive your comments by October 30, 2023. Direct your comments to Docket ID Number EPA–R06–RCRA–2023–0040. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment with any CBI you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* 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, will be publicly available only in hard copy.

You can view and copy the delisting petition and associated publicly available docket materials either through *www.regulations.gov* or at: EPA, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270. The EPA facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Harry Shah, at (214) 665–6457, before visiting the Region 6 office. Interested persons wanting to examine these documents should make an appointment with the office.

FOR FURTHER INFORMATION CONTACT: Harry Shah, (214) 665–6457, *shah.harry@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview Information

The EPA is proposing to grant a May 2020 petition (''Delisting Petition for Stormwater Solids'') request submitted by WRB Refining LP in Borger, Texas to exclude (or ''delist'') up to 7,000 cubic yards per year of F037 stormwater solids from the list of federal hazardous waste set forth in 40 CFR 261.3 (hereinafter, all sectional references are to 40 CFR unless otherwise indicated). The Petitioner claims that the petitioned wastes do not meet the criteria for which the EPA listed it, and that there are no additional constituents or factors which could cause the waste to be hazardous. Based on our review described in Section III, we propose to approve the petition request, and allow the delisted waste to be disposed in a Subtitle D landfill. A copy of the May 2020 petition is located in the docket to this proposal action.

II. Background

A. What is the history of the delisting program?

The EPA published an amended list of hazardous wastes from non-specific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA. The EPA has amended this list several times and codifies the list in §§ 261.31 and 261.32.

The EPA lists the Petitioner's wastes as hazardous because: (1) the wastes typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity), (2) the wastes meet the criteria for listing contained in § 261.11(a)(2) or (a)(3), or (3) the wastes are mixed with or derived from the treatment, storage or disposal of such characteristic and listed wastes and which therefore become hazardous under § 261.3(a)(2)(iv) or (c)(2)(i), known as the ''mixture'' or ''derived-from'' rules, respectively.

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these part 261 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 the EPA should not regulate a specific waste from a particular generating facility as a hazardous waste.

B. What is a delisting petition, and what does it require of a petitioner?

A delisting petition is a request from a facility to the EPA or an authorized state to exclude wastes from the list of hazardous wastes. The facility petitions the EPA because it does not consider the waste as hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which the EPA lists a waste are in 40 CFR part 261 and further explained in the background documents for the listed waste in the June 30, 1992 publication of the ''Final Best Demonstrated Available Technology (BDAT) Background Document for Newly Listed Refinery Wastes F037 and F038'' (*https://nepis.epa.gov/Exe/ZyNET.exe/P100VUGS.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1991+Thru+1994&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C91thru94%5CTxt%5C00000035%5CP100VUGS.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL*).

In addition, under 40 CFR 260.22, a petitioner must prove 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 EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste.

Generators remain obligated under RCRA to confirm whether their waste remains non-hazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the waste.

C. What factors must the EPA consider in deciding whether to grant a delisting petition?

Besides considering the criteria in 40 CFR 260.22(a) and § 3001(f) of RCRA, 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents) aside from those for which EPA listed the waste, if a reasonable basis exists that these additional factors could cause the waste to be hazardous.

The EPA must also consider hazardous waste mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See § 261.3(a)(2)(iii and iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. These wastes are also eligible for exclusion and remain hazardous wastes until excluded. See 66 FR 27266 (May 16, 2001).

D. Environmental Justice Evaluation

To better meet EPA's ''responsibilities related to the protection of public health and the environment, EPA has developed a new environmental justice (EJ) mapping and screening tool called EJ Screen'' that reports values as a percentile when compared to a state or the nation. ''It is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports,'' (*https://www.epa.gov/ejscreen*). EPA is providing analysis of environmental justice associated with this action. We are doing so for the purpose of providing information to the public, not as a basis of our final action.

EPA utilized EJScreen to evaluate potential environmental justice concerns in communities at one-, three-, and five-mile radiuses around the Borger facility. EPA considers the potential for EJ concerns in a community when one or more of the 13 supplemental EJ indices is at or above the 80th percentile when compared to the rest of the USA. At the one-mile radial measurement, six supplemental EJ indices exceeded the 80th percentile, at the three-mile radial measurement, five supplemental EJ indices exceeded the 80th percentile, and at the five-mile radial measurement, three supplemental EJ indices exceeded the 80th percentile. This information is provided below in Table 1. More information on EJ Screen, including an explanation of the 13 EJ indices can be found at *www.epa.gov/ejscreen/what-ejscreen*.

TABLE 1—SUPPLEMENTAL EJ INDICES AT ONE-, THREE-, AND FIVE-MILE RADIUSES AROUND THE FACILITY

Supplemental EJ index (USA percentile)	1 Mile radius around the facility	3 Mile radius around the facility	5 Mile radius around the facility
Particulate Matter 2.5 Supplemental Index	13	12	11
Ozone Supplemental Index	81	79	75
Diesel Particulate Matter Supplemental Index	62	60	53
Air Toxics Cancer Risk Supplemental Index	44	43	40
Air Toxics Respiratory HI Supplemental Index	27	26	25
Toxic Releases to Air Supplemental Index	92	89	86

TABLE 1—SUPPLEMENTAL EJ INDICES AT ONE-, THREE-, AND FIVE-MILE RADIUSES AROUND THE FACILITY—Continued

Supplemental EJ index (USA percentile)	1 Mile radius around the facility	3 Mile radius around the facility	5 Mile radius around the facility
Traffic Proximity Supplemental Index	68	61	57
Lead Paint Supplemental Index	84	83	79
Superfund Proximity Supplemental Index	44	42	39
RMP Facility Proximity Supplemental Index	92	91	88
Hazardous Waste Proximity Supplemental Index	79	71	65
Underground Storage Tanks Supplemental Index	84	80	75
Wastewater Discharge Supplemental Index	85	83	81

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

A. What waste did the Petitioner petition the EPA to delist?

In May 2020, WRB Refining LP petitioned the EPA to exclude from the list of hazardous wastes contained in § 261.31, stormwater tank solids (F037) generated from its facility located in Borger, Texas. The waste falls under the classification of listed waste pursuant to § 261.31. Specifically, in its petition, WRB Refining requested that the EPA grant a standard exclusion for 7,000 cubic yards per year of the stormwater tank solids.

B. How did the Petitioner generate the waste?

The principal products manufactured at the Refinery are gasoline, diesel, aviation fuel, natural gas liquids (NGL), petroleum coke, and solvents. The stormwater tanks are active and have been in operation for approximately 25 years. To restore capacity in the stormwater tanks, the Borger Refinery will be removing accumulated solids. The solids removal process will typically occur within a calendar year and will be an ongoing operational item for the refinery in the future.C

The solids are removed from the four stormwater tanks. These tanks are listed as the North Stormwater Tank, West Stormwater Tank, North Dropout Basin, and West Grit Trap (hereafter collectively referred to as ''the stormwater tanks''). The four stormwater tanks are identified as solid waste management unit (SWMU) No. 50 on the facility's notice of registration (NOR) with the Texas Commission on Environmental Quality (TCEQ).

The stormwater tanks solids originated from both historical and current operation of the wastewater treatment system at the refinery. To the extent possible, hydrocarbons present in refinery wastewaters have been recovered. However, historically more hydrocarbons passed through the ''oil recovery system'' and flowed into the stormwater tanks. Hydrocarbons in the wastewater can result from various sources (*e.g.,* crude oil). Over time, more of the oily streams were routed to storage tanks from collection system piping and/or smaller tanks for interception and recovery instead of into the stormwater tanks. Recovered oil from the oil recovery system is stored in tanks prior to being reintroduced into the refining process. Historically, these oily flows occurred in conjunction with facility operations, were relatively routine in nature, and not directly associated with precipitation. As such, they were classified by the EPA as ''dry weather'' flows. By contrast, wastewater directly associated with precipitation (*i.e.,* stormwater) is referred to as ''wet weather'' flows. The EPA listing criteria for F037 generally encompasses primary solids associated with dry-weather, oily flows.

Since the stormwater tanks receive what could be classified as dry-weather, oily flows as specified in the November 2, 1990, **Federal Register** rule publication (55 FR 46354, Nov. 2, 1990), the solids within the four tanks are believed to be classified as F037 when generated. WRB Refining assumes that solids removed from the stormwater tanks bear the F037 (primary oil/water/solids separation sludge) listing when generated.

C. How did the Petitioner sample and analyze the petitioned waste?

A total of eight acceptable sample results were provided by Petitioner to support the petition. The EPA considered all 8 samples of the stormwater tank solids and the disposal scenario of the landfill was modeled using the Delisting Risk Assessment Software. The worst-case scenario of the constituents' concentrations for the F037 solids were used as input in the model to determine if it would meet the hazardous waste criteria for which it was listed. The maximum total and leachate concentrations for the inorganic and organic constituents which were found in the analytical data provided by Petitioner are presented in Table 2.

TABLE 2—MAXIMUM TOTAL AND TCLP CONCENTRATIONS

Chemical name	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/l)
Acenaphthene	0.04	<0.00030
Acetone	<0.0033	<0.040
Anthracene	0.18	<0.00030
Antimony	6.93	0.0293
Arsenic	10.5	0.0277
Barium	732	3.1
Benz(a)anthracene	0.26	<0.00030
Benzene	0.19	<0.012
Benzo(a)pyrene	0.19	<0.00040
Benzo(b)fluoranthene	0.17	<0.00040
Benzo(k)fluoranthene	0.16	<0.00070
Beryllium	0.91	<0.0020
Bis(2-ethylhexyl)phthalate	1.2	<0.00080

TABLE 2—MAXIMUM TOTAL AND TCLP CONCENTRATIONS—Continued

Chemical name	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/l)
Cadmium	1.03	0.00689
Carbon disulfide	0.026	<0.018
Chlorobenzene	<0.00098	<0.0080
Chloroform	<0.00082	<0.012
Chromium	80.8	0.00495
Chrysene	0.34	<0.00080
Cobalt	13.3	0.0355
Dibenz(a,h)anthracene	0.061	<0.00060
1,2-Dichlorobenzene	<0.0099	<0.00040
1,3-Dichlorobenzene	<0.0099	<0.00050
1,4-Dichlorobenzene	<0.017	<0.00040
1,1-Dichloroethane	<0.00082	<0.0080
1,2-Dichloroethane	<0.00098	<0.010
1,1-Dichloroethylene	<0.00082	<0.010
Diethyl phthalate	<0.017	<0.00070
Dimethyl phthalate	0.034	<0.00050
2,4-Dimethylphenol	<0.054	<0.00040
Di-n-butyl-phthalate	0.0057	<0.00080
2,4-Dinitrophenol	<0.074	<0.00050
1,4-Dioxane	<0.033	<0.82
Ethylbenzene	0.0063	<0.010
Fluoranthrene	0.84	<0.00040
Fluorene	0.17	<0.00050
Indeno(1,2,3-cd)pyrene	0.12	<0.00060
Lead	301	0.974
Mercury	1.58	<0.000030
Methyl ethyl ketone	0.092	<0.020
Naphthalene	0.18	0.0047
Nickel	439	0.142
4-Nitrophenol	<0.031	<0.00060
Phenanthrene	1.2	<0.00040
Phenol	<0.018	<0.00040
Pyrene	0.92	<0.00030
Pyridine	<0.015	<0.00030
Selenium	2.8	<0.0110
Silver	0.08	<0.00200
Styrene	<0.0011	<0.010
Tetrachloroethylene	<0.0011	<0.012
Toluene	0.036	<0.010
1,1,1-Trichloroethane	<0.00082	<0.010
Trichloroethylene (1,1,2-Trichloroethylene)	<0.00098	0.010
Vanadium	50.4	<0.00600
Xylenes, Total	0.087	<0.010
Zinc	930	2.76

D. What factors did the EPA consider in deciding whether to grant the delisting petition?

In reviewing this petition, we considered the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See § 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2) through (4). We evaluated the petitioned wastes against the listing criteria and factors cited in § 261.11(a)(2) and (3).

In addition to the criteria in 40 CFR 260.22(a), 261.11(a)(2) and (3), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, the EPA also considered factors (including additional constituents) other than those for which EPA listed the waste if these additional factors could cause the waste to be hazardous (*See* the background documents).

Our proposed decision to grant the May 2020 petition to delist the waste from Petitioner's facility in Borger, Texas is based on our evaluation of the wastes for factors or criteria which could cause the waste to be hazardous. These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the constituents to migrate and to bioaccumulate; (5) the persistence in the environment of any constituents once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

The EPA must also consider as hazardous wastes mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. Mixture and derived-from wastes are also eligible for exclusion but remain hazardous until excluded.

E. How did the EPA evaluate the risk of delisting this waste?

For this proposed delisting determination, we evaluated the risk that the waste would be disposed of as a non-hazardous waste in a landfill. We considered transport of waste

constituents through groundwater, surface water and air. We evaluated Petitioner's analysis of the petitioned waste using the Delisting Risk Assessment Software (DRAS) to predict the concentration of hazardous constituents that might be released from the petitioned waste and to determine if the waste would pose a threat to human health and the environment. The DRAS software and associated documentation can be found at *www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.*

To predict the potential for release to groundwater from landfilled wastes and subsequent routes of exposure to a receptor, the DRAS uses dilution attenuation factors derived from the EPA's Composite Model for leachate migration with transformation products. From a release to groundwater, the DRAS considers routes of exposure to a human receptor through ingestion of contaminated groundwater, inhalation from groundwater while showering and dermal contact from groundwater while bathing.

From a release to surface water by erosion of waste from an open landfill into storm water run-off, DRAS evaluates the exposure to a human receptor by fish ingestion and ingestion of drinking water. From a release of waste particles and volatile emissions to air from the surface of an open landfill, DRAS considers routes of exposure of inhalation of volatile constituents, inhalation of particles, and air deposition of particles on residential soil and subsequent ingestion of the contaminated soil by a child. The technical support document and the user's guide to DRAS are available at *https://www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.*

F. What did the EPA conclude?

Petitioner stated in its petition that the petitioned waste meets the criteria of F037 for which the EPA listed it. Petitioner also stated that no additional constituents or factors could cause the waste to be hazardous. Petitioner also stated that disposal in a landfill will not adversely impact human health or the environment. The 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 CFR 260.22(d)(1)–(4). In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, the EPA agrees with the Petitioner that the petitioned waste is nonhazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would propose to deny the petition.) The 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. The 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 The EPA believes that the petitioned waste does not meet the listing criteria and thus, should not be a listed waste. The EPA's proposed decision to delist the waste from Petitioner's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Borger, Texas facility, and that is contained in the Petition and attachments, all of which are included in the docket to this action.

IV. Conditions for Exclusion

A. How will the Petitioner manage the waste if it is delisted?

If the petitioned wastes are delisted as proposed, the Petitioner must dispose of them in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste or in the on-site landfill.

B. What are the maximum allowable concentrations of hazardous constituents in the waste?

The EPA notes that in some instances the maximum allowable total constituent concentrations provided by the DRAS model exceed 100% of the waste—these DRAS results are an artifact of the risk calculations that do not have physical meaning. In instances where DRAS predicts a maximum constituent greater than 100 percent of the waste (that is, greater than 1,000,000 mg/kg or mg/L, respectively, for total and TCLP concentrations), the EPA is not proposing to require the Petitioner to perform sampling and analysis for that constituent and sampling type (total or TCLP).

C. How frequently must the Petitioner test the waste?

The testing approach for this waste stream will be conducted as generated. Prior to disposal of any future tank cleanouts, Petitioner must conduct sampling and analysis as described in the delisting sampling and analysis plan and ensure that the wastes do not exceed the delisting parameters. If compliance with the delisting parameters is demonstrated with analytical testing (TCLP analysis), the Petitioner may dispose of the tank cleanouts. The annual amount of solids generated from the tank clean outs may not exceed 7,000 cubic yards. The annual sampling report shall include the volume of solids disposed of in the landfill, as well as annual testing event data. The petitioner should monitor and report increasing trends of constituents which will affect the overall compliance with the stormwater discharge permit.

D. What data must the Petitioner submit?

The Petitioner must submit the data obtained through verification testing to U.S. EPA Region 6, Office of Land, Chemicals and Redevelopment Division, 1201 Elm Street, Suite 500, M/C 6LCR–RP, Dallas, Texas 75270–2102, within 30 days after receiving the final results from the laboratory. These results may be submitted electronically to Harry Shah, *shah.harry@epa.gov.* The Petitioner must make those records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

E. What happens if the Petitioner fails to meet the conditions of the exclusion?

If this Petitioner violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion. Additionally, the terms of the exclusion provide that ''[a]ny waste volume for which representative composite sampling does not reflect full compliance with the exclusion criteria must continue to be managed as hazardous.''

If the testing of the waste does not demonstrate compliance with the delisting concentrations described in section IV.C above, or other data (including but not limited to leachate data or groundwater monitoring data from the final land disposal facility) relevant to the delisted waste indicates that any constituent is at a concentration in waste above specified delisting verification concentrations in Table 1, the Petitioner must notify the

Agency within 10 days, or such later date as the EPA may agree to in writing, after receiving the final verification testing results from the laboratory or of first possessing or being made aware of other relevant data. The EPA may require the Petitioner to conduct additional verification sampling to better define the particular volume of wastes within the affected unit that does not fully satisfy delisting criteria. For any volume of wastes for which the corresponding representative sample(s) do not reflect full compliance with delisting exclusion levels, the exclusion by its terms does not apply, and the waste must be managed as hazardous.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978*) et seq.* to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated or, are otherwise not being met.

F. What must the Petitioner do if the process changes?

Any process changes or additions implemented at Petitioner's facility which would significantly impact the constituent concentrations of the waste must be reported to the EPA in accordance with Condition VI. of the exclusion language.

V. When would the EPA finalize the proposed delisting exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for public comment before granting or denying a final exclusion. Thus, the EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments, including any at public hearings. Upon receipt and consideration of all comments, the EPA will publish its final determination as a final rule. Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with § 3010 of RCRA, as amended by HSWA.

VI. How would this action affect states?

Because the EPA is proposing to issue this exclusion under the federal RCRA delisting regulations, only states subject to federal RCRA delisting provisions will be affected. This exclusion may not be effective in states which have received authorization from the EPA to make their own delisting decisions.

RCRA allows states to impose more stringent regulatory requirements than RCRA's under § 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally-issued exclusion from taking effect in the state. We urge Petitioners to contact the state regulatory authority to establish the status of its wastes under the state law.

The EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those states. If the Petitioner manages the wastes in any state with delisting authorization, the Petitioner must obtain delisting authorization or other determination from the receiving state before it can manage the waste as nonhazardous in that state.

VII. Public Comments Received From the Previous Proposed Exclusion

A. Who submitted comments on the previous proposed rule?

The EPA received four public comments on the November 23, 2022 (87 FR 71532), proposed rule via *regulations.gov* and email submittal. The previous proposed rule has since been withdrawn due to a discrepancy with information contained in the **Federal Register** publication, which was brought to EPA's attention by the Petitioner. The Petitioner subsequently submitted a public comment via email during the public comment period to the EPA Region 6 office identifying the discrepancy regarding the delisting constituents and values listed in the table titled ''Appendix IX to Part 261 Wastes Excluded Under §§ 260.2 and 260.22'' (see comment 4). Since the previous proposed rule was withdrawn, the four previously submitted public comments will be addressed under a new proposed rule at the conclusion of a new 30-day comment period.

B. Comments Submitted on the November 23, 2022, Proposed Rule (Docket ID Number EPA–R06–RCRA–2022–0653)

Comment 1. ''Although I am not sure where I stand overall on delisting the waste in question, I do believe that the processes in which this decision was made were appropriate. I trust the EPA in its decision to approve delisting the waste and removal of solids at WRB Refining LP in Borger, Texas. The how this decision was made could have been a lot more careless. However, the EPA took a lot into consideration and tested multiple samples from the petitioner's facility and agreed with the petitioner that the wastes are nonhazardous. It also did an environmental justice evaluation. Environmental justice is often overlooked when it comes to making decisions concerning discarding waste. This proposed rule is a great example of how to go about making such decisions while taking caution.''

Comment 2. ''I appose this rule/exception being passed through. When you take the table and look at some of the chemicals that make up this storm drain runoff products there are some very hazardous chemicals that make up these products. One chemical that makes up this product is Beryllium. Beryllium can be lethal in humans and cause a variety of health concerns. According to the EPA website ''beryllium is toxic at 0.002 milligrams per kilogram body weight per day (mg/kg/d)'' (Beryllium compounds—US EPA). Using this equation the average size man weighing 200lbs can only be exposed to .4mg a day. That is roughly only 146mg a year. The refinery is requesting that they be allowed to dump .91mg per kg a year into a nonhazardous waste landfill. That would mean that they would be dumping enough material (Beryllium) to lethally infect 50,000 people per year.''

Comment 3. ''I believe that to not consider stormwater as a hazardous waste is a bold statement, but since a lot of measures are taken to ensure this is not a health hazard for animals and for humans. I think if it keeps being measured how many toxic chemicals this stormwater has before being disposed somewhere else. Since the stormwater waste is going to be disposed in a landfill that is permitted to manage industrial waste, this can give a sense of safety, but it is not truly known how this landfill will manage and treat this waste, and if it will do it correctly to ensure that no animals have contact or do not get poisoned by the stormwater. Stormwater usually has many toxic chemicals that can pollute water sources such as oil, pesticides, antifreeze, grease and other types of chemicals that can be dangerous and poisonous to the environment and the wildlife that inhabit these water sources. Also, one of the consequences is that they can cause toxic algae blooms that sink and decompose in the water removing oxygen from it. Animals and other organisms can't live in water with low dissolved oxygen levels. It can also contaminate drinking water supplies if not treated properly. These consequences should be kept in mind before agreeing, as the public, to these types of petitions. If stormwater is treated properly in a treatment plant this can reduce how hazardous this might be. Since the stormwater that the petitioner wants to delist as a possible hazard has such small amounts of these toxic chemicals, it makes sense why the

EPA thinks to delist this waste. One of the examples of this small amounts is Arsenic, which is a solid that occurs naturally in water and soil but that is also produced industrially in big quantities. The amount of Arsenic that is considered as a hazard is 6.1 while the amount of arsenic that the stormwater in this facility has it's 0.1. However, all these amounts need to be tested each time that the facility wants to dispose of them, to ensure that it is still not considered a hazard, which is one of the rules of EPA to consider the petition of the facility. I think if it is proved that the stormwater waste from this facility is treated properly in this landfills, it is safe to say that this would not be a hazard for humans or wildlife.

Comment 4. ''On November 23, 2022, EPA published the draft delisting petition for WRB Refining LP (Petitioner), which was submitted in May 2020. On behalf of WRB Refining LP and Big Star Consulting LLC, please accept the comments to the draft publication that are contained herein.

The delisting levels calculated using EPA's Delisting Risk Assessment Software (DRAS) were presented in the 2020 petition request and subsequently updated in March 2022 using DRAS Version 4.0. The delisting values reflected in the **Federal Register** are not in agreement with the calculated values. Specifically, it appears that the delisting values published on November 23rd were inadvertently carried forward from a prior delisting petition. We respectfully request that Item (1) in the table found on Page 71538 of the **Federal Register** be revised to reflect the following desilting levels:

Stormwater Solids Leachate: Acenapthene—219; Anthracene—534; Antimony—2.52; Arsenic—0.266; Barium—100; Benz(a)anthracene—10.5; Benzo(a)pyrene—3,960; Benzo(b)fluoranthene—33,700; Benzene—1.59; 2-Butanone—7,150; Cadmium—1.0; Carbondisulfide—1,150; Chromium—1.56; Chrysene—1,050; Cobalt—5.56; Di-n-butyl-phthalate—507; Ethylbenzene—16.2; Fluoranthrene—50.7; Fluorene—101; Indeno(1,2,3-cd)pyrene—3.71; Lead—5.0; Mercury—0.2; Napthalene—1.95; Nickel—279; Pyrene—91.7; Selenium—1.0; Silver—5.0; Toluene—311; Vanadium—85.6; Xylenes, Total—177; Zinc—4,060.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://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 proposed action is exempt from review by the Office of Management and Budget because it is a rule of particular applicability, not general applicability. The proposed action approves a delisting petition under RCRA for the petitioned waste at a particular facility.

B. Paperwork Reduction Act

This proposed 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.

C. 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.*).

D. Unfunded Mandates Reform Act

This proposed 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.

E. Executive Order 13132: Federalism

This proposed 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.

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

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

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

This proposed action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 13045 and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This proposed action's health and risk assessments using the Agency's Delisting Risk Assessment Software (DRAS), which considers health and safety risks to children, are described in section III.E above. The technical support document and the user's guide for DRAS are included in the docket.

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

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

I. National Technology Transfer and Advancement Act

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

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

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies,'' (*https://www.epa.gov/environmentaljustice/learn-about-environmental-justice*).

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples. The EPA has determined that this proposed 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 Agency's risk assessment, as described in section III.E above, 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.) or the on-site landfill. Therefore, the EPA believes that any populations in proximity of the landfills used by the Borger facility should not be adversely affected by common waste management practices for this delisted waste.

K. Congressional Review Act

This proposed 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: September 14, 2023.

Monica Smith,

Acting Director, Land, Chemicals and Redevelopment Division.

For the reasons set out in the preamble, the EPA proposes to amend 40 CFR part 261 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, 6924(y) and 6938.

■ 2. Amend table 1 of Appendix IX to part 261, by adding an entry for ''WRB Refining LP'' at the end of the table to read as follows:

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

* * * * * * *

Facility	Address	Waste description
WRB Refining LP	Borger, Texas	Stormwater Solids (the EPA Hazardous Waste No. F037) generated at a maximum generation of 7,000 cubic yards per calendar year after (*date rule finalized*) and disposed in a landfill. WRB Refining must implement a verification program that meets the following Paragraphs: (1) *Delisting Levels:* All leachable constituent concentrations must not exceed the following levels. The petitioner must use the method specified in 40 CFR 261.24 to measure constituents in the waste leachate (mg/L). Stormwater Solids Leachate: Acenaphthene—219; Anthracene—534; Antimony 2.52; Arsenic—0.266; Barium—100; Benz(a)anthracene—10.5; Benzene—0.5; Benzo(a)pyrene—3,960; Beryllium—2.95; Cadmium—1; Carbon disulfide—1,150; Chlorobenzene—31.1; Chloroform—1.64; Chromium—1.56; Chrysene—1,050; Cobalt—5.56; Di-n-butyl phthalate—507; 1,2-Dichlorobenzene—192; 1,4-Dichlorobenzene—4.26; 1,1-Dichloroethane—1,080; 1,2-Dichloroethane—0.5; 1,1-Dichloroethylene—0.7; 2,4-Dimethylphenol—234; 2,4-Dinitrophenol—23.8; 1,4-Dioxane—2.32; Ethylbenzene—16.2; Fluoranthene—50.7; Fluorene—101; Lead—5; Mercury—0.2; Methyl ethyl ketone—200; Napthalene—1.95; Nickel—279; Phenol—3,580; Pyrene—91.7; Pyridine—5; Selenium—1; Silver—5; Styrene—31.1; Tetrachloroethylene—0.7; Toluene—311; Trichloroethylene—0.5; Vanadium—85.6; Xylenes—177; Zinc—4,060 (2) *Waste Holding and Handling:* (A) All stormwater solids from tank clean outs must be tested to assure they have met the concentrations described in Paragraph (1). Solids that do not meet the concentrations must be disposed of as hazardous waste. (B) Levels of constituents measured in the samples of the solids that do not exceed the levels set forth in Paragraph (1) are non-hazardous. WRB Refining can manage and dispose the non-hazardous stormwater solids according to all applicable solid waste regulations. (C) WRB Refining must maintain a record of the actual volume of the stormwater solids to be disposed in the Subtitle D or on-site landfill according to the requirements in Paragraph (4). (3) *Changes in Operating Conditions:* If WRB Refining significantly changes the process described in its petition or starts any processes that may or could 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), they must notify the EPA in writing; they may no longer handle the wastes generated from the new process as nonhazardous until the test results of the wastes meet the delisting levels set in Paragraph (1) and they have received written approval to do so from the EPA. (4) *Data Submittals:* WRB Refining must submit the information described below. If WRB Refining fails to submit the required data within the specified time or maintain the required records on-site for the specified time, the EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 5. WRB Refining must: (A) Submit the data obtained through Paragraph 3 to the Chief, RCRA Permits & Solid Waste Section, Mail Code, (6LCR–RP) US EPA Region 6, 1201 Elm Street, Suite 500, Dallas, TX 75270 within the time specified. Data may be submitted via email to the technical contact for the delisting program. (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 the EPA or the State of Texas request them for inspection.

Facility	(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. If any of this information is determined by the 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 the 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.'' (5) *Reopener:* (A) If, any time after disposal of the delisted waste, WRB Refining 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 the verification testing of the waste does not meet the delisting requirements in Paragraph 1, WRB Refining 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 WRB Refining fails to submit the information described in paragraphs (4), (5)(A) or (5)(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 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. (D) If the Division Director determines that the reported information does require Agency 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 Agency action 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 (5)(D) or (if no information is presented under paragraph (5)(D)) the initial receipt of information described in paragraphs (4), (5)(A) or (5)(B), the Division Director 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 Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (6) *Notification Requirements:* WRB Refining 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 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. If WRB Refining transports the excluded waste to or manages the waste in any state with delisting authorization, WRB Refining must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state. (B) Update the one-time written notification if they ship the delisted waste to a different disposal facility. (C) Failure to provide the notification will result in a violation of the delisting variance and a possible revocation of the exclusion.

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