

## **Toxicity Characteristic Exceedance for Benzene in Liquid Waste, July 28, 2010**

On July 28, 2010, EPA and BP collected split samples from a tank at a staging area in Louisiana holding a skimmed oil/water mixture to determine if the liquid contained any hazardous constituents above the threshold in EPA's Toxicity Characteristic (TC) regulation. EPA's sample did not show any hazardous constituents above regulatory levels, but BP reported that its sample showed an exceedance of the TC level for benzene.

A second round of split sampling ensued on August 13, 2010, and BP reported that their sample did not show an exceedance for any TC constituent. However, on Saturday, August 14, 2010, the results of EPA's second sampling showed an exceedance of the TC level for benzene. Subsequently, the skimmed oil/water mixture was mixed with another similar skimmed oil/water mixture.

An information request letter sent to BP did not yield any significant new information about the waste that exhibited TC for benzene. On September 2, 2010, EPA and BP took samples of the combined oil/water mixture and found no exceedance of any TC constituents.

Although wastes from the exploration and production of crude oil are generally exempt from hazardous waste management regulations under the Resource Conservation and Recovery Act (RCRA), EPA believes that the Clean Water Act provides authority to require that the skimmed oil/water mixture be disposed in a facility permitted to manage hazardous waste. Based upon the two test results indicating an exceedance for benzene, EPA advised the Coast Guard, in their capacity as Federal On Scene Coordinator for the BP oil spill response, that the prudent approach would be to direct BP to dispose of the skimmed oil/water in a Class I hazardous waste underground injection control (UIC) well. On September 22, 2010, a BP contractor disposed of the waste in a Class II UIC well. The exploration and production exemption under RCRA was the overriding criterion that led the Coast Guard to direct BP to dispose this waste stream as non-hazardous waste.