do the research data or findings show consumers' beliefs as to which specific grains or other ingredients are not present in foods labeled ''gluten-free''?

E. Consumer Purchasing Practices

9. Are there available research data or findings on how consumers with celiac disease or their caregivers identify packaged foods that do not contain gluten? Do the data establish how much time these consumers devote to identifying such foods?

10. Are there available research data or findings on whether the packaged foods consumers with celiac disease or their caregivers currently purchase or consume are primarily or exclusively those foods labeled ''gluten-free''? Do the research data or findings identify the types of ''gluten-free'' packaged foods (e.g., breads, dairy foods, canned vegetables) purchased or consumed by persons with celiac disease or their caregivers? Do the research data or findings show whether a ''gluten-free'' label influences the purchasing decision of persons with celiac disease or their caregivers when presented with products having identical ingredient lists?

IV. Registration

Please submit your registration information (including name, title, firm name (if applicable), address, telephone number, fax number (if available), and e-mail address (if available)) by August 12, 2005. We encourage you to register online at *http://www.cfsan.fda.gov/~comm/register.html* or by fax to Marion V. Allen at 301–436–2605. We will also accept registration onsite; however, space is limited and registration will be closed when the maximum seating capacity is reached. If you need special accommodations due to a disability (e.g., sign language interpreter), please inform Marion V. Allen (see **FOR FURTHER INFORMATION CONTACT**) no later than August 12, 2005, when you register. Please also specify whether you need onsite parking when you register.

If you wish to make a presentation, indicate this desire when registering and submit the following information by August 12, 2005: (1) A brief written statement about the general nature of the views you wish to present and (2) the names of any copresenters who must also register to attend. The amount of time allowed for each oral presentation at the public meeting may be limited (e.g., 5 minutes each), depending upon the number of persons who request to speak. Individuals and organizations that do not preregister to make a presentation may have the opportunity to speak if time permits.

Persons preregistered or wishing to register onsite should check in between 7:30 and 8:30 a.m. Because the meeting will be held in a Federal building, meeting participants must present photo identification and plan adequate time to pass through the security system.

V. Comments

In addition to attending or presenting oral comments at the meeting, interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments related to the questions and the focus of this public meeting. All relevant data and information should be submitted with the written comments. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VI. Meeting Transcript

A transcript will be made of the meeting's proceedings. You may request a copy in writing from FDA's Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 30 working days after the public meeting at a cost of 10 cents per page. The transcript of public meeting and all comments submitted will be available for public examination at the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, as well as on the FDA Web site at *http://www.fda.gov/ohrms/dockets/default.htm*.

VII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSESS**) and may be viewed between 9 a.m. and 4 p.m., Monday through Friday.

1. National Institutes of Health, Consensus Development Conference Statement, Celiac Disease, June 28 through 30, 2004, accessible on June 2005 at *http://consensus.nih.gov/cons/118/118celiacPDF.pdf*. (FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

2. Kasarda, D.D., ''Grains in Relation to Celiac Disease,'' *Cereal Foods World*, 46(5):209–210, 2001.

3. Janatuinen, E.K., T.A. Kemppainen, R.J. Julkunen, et al., ''No Harm From Five Year Ingestion of Oats in Coeliac Disease,'' *Gut*, 50(3):332–335, 2002.

4. Janatuinen, E.K., T.A. Kemppainen, P.H. Pikkarainen, et al., ''Lack of Cellular and Humoral Immunological Responses to Oats in Adults With Coeliac Disease,'' *Gut*, 46(3):327–331, 2000.

5. Janatuinen, E.K., P.H. Pikkarainen, T.A. Kemppainen, et al., ''A Comparison of Diets With and Without Oats in Adults With Celiac Disease,'' *New England Journal of Medicine*, 333(16):1033–1037, 1995.

6. Lundin, K.E., E.M. Nilsen, H.G. Scott, et al., ''Oats Induced Villous Atrophy in Coeliac Disease,'' *Gut*, 52(11):1649–1652, 2003.

7. Arentz-Hansen, H., B. Fleckenstein, O. Molberg, et al., ''The Molecular Basis for Oat Intolerance in Patients With Celiac Disease,'' *PLoS Medicine*, 1:84–92, 2004.

8. Thompson, T., ''Gluten Contamination of Commercial Oat Products in the United States,'' *New England Journal of Medicine*, 351(19):2021–2022, 2004.

9. Brown A., *Understanding Food Principles and Preparation, Second Edition*, Wadsworth/Thomson Learning, Belmont CA, USA, pp. 402–403, 2004.

10. Corrao, G., G.R. Corazza, V. Bagnardi, et al., ''Mortality in Patients With Coeliac Disease and Their Relatives: A Cohort Study,'' *Lancet*, 358:356–361, 2001.

11. Dewar, D., S.P. Pereira, and P.J. Ciclitira, ''The Pathogenesis of Coeliac Disease,'' *International Journal of Biochemistry & Cell Biology*, 36:17–24, 2001.

12. Fasano, A. and C. Catassi, ''Current Approaches to Diagnosis and Treatment of Celiac Disease: An Evolving Spectrum,'' *Gastroenterology*, 120(3):636–651, 2001.

Dated: July 13, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–14196 Filed 7–14–05; 4:31 pm]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7940–2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: EPA is proposing to grant a petition submitted by General Motors Corporation-Arlington Truck Assembly Plant (GM-Arlington) to exclude (or delist) a wastewater treatment plant (WWTP) sludge generated by GM-Arlington in Arlington, TX. from the lists of hazardous wastes.

EPA used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

EPA bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision, if finalized, would exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, EPA would conclude that GM-Arlington's petitioned waste is non-hazardous with respect to the original listing criteria. EPA would also conclude that GM-Arlington's process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

DATES: EPA will accept comments until September 2, 2005. EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Your requests for a hearing must reach EPA by August 3, 2005. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Please send three copies of your comments. You should send two copies to Ben Banipal, Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD–C), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. You should send a third copy to Sam Barrett, Waste Section Manager, Texas Commission on Environmental Quality, 2309 Gravel Dr., Ft. Worth, TX 76118–6951. Identify your comments at the top with this regulatory docket number: ''F–05–TXDEL–GM–Arlington.''

You should address requests for a hearing to Ben Banipal, Chief of the Corrective Action and Waste Minimization Section, Multimedia Planning and Permitting Division (6PD-C), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Comments may also be submitted electronically to Youngmoo Kim at *kim.youngmoo@epa.gov*.

SUPPLEMENTARY INFORMATION:

The information in this section is organized as follows:

I. Overview Information
A. What action is EPA proposing?
B. Why is EPA proposing to approve this delisting?
C. How will GM-Arlington manage the waste, if it is delisted?
D. When would the proposed delisting exclusion be finalized?
E. How would this action affect States?
II. Background
A. What is the history of the delisting program?
B. What is a delisting petition, and what does it require of a petitioner?
C. What factors must EPA consider in deciding whether to grant a delisting petition?
III. EPA's Evaluation of the Waste Information and Data
A. What wastes did GM-Arlington petition EPA to delist?
B. Who is GM-Arlington and what process does it use to generate the petitioned waste?
C. How did GM-Arlington sample and analyze the data in this petition?
D. What were the results of GM-Arlington's sample analysis?
E. How did EPA evaluate the risk of delisting this waste?
F. What did EPA conclude about GM-Arlington's analysis?
G. What other factors did EPA consider in its evaluation?
H. What is EPA's evaluation of this delisting petition?
IV. Next Steps
A. With what conditions must the petitioner comply?
B. What happens if GM-Arlington violates the terms and conditions?
V. Public Comments
A. How may I as an interested party submit comments?
B. How may I review the docket or obtain copies of the proposed exclusions?
VI. Regulatory Impact
VII. Regulatory Flexibility Act
VIII. Paperwork Reduction Act
IX. Unfunded Mandates Reform Act
X. Executive Order 13045
XI. Executive Order 13084
XII. National Technology Transfer and Advancements Act
XIII. Executive Order 13132 Federalism

I. Overview Information

A. What Action Is EPA Proposing?

EPA is proposing:

(1) To grant GM-Arlington's delisting petition to have its WWTP sludge excluded, or delisted, from the definition of a hazardous waste; and be subject to certain verification and monitoring conditions.

(2) To use the Delisting Risk Assessment Software (DRAS) 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.

B. Why Is EPA Proposing To Approve This Delisting?

GM-Arlington's petition requests an exclusion from the F019 waste listing pursuant to §§ 260.20 and 260.22. GM-Arlington does not believe that the petitioned waste meets the criteria for which EPA listed it. GM-Arlington 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 GM-Arlington is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Arlington, TX facility.

C. How Will GM-Arlington Manage the Waste if It Is Delisted?

If the sludge is delisted, the WWTP sludge from GM-Arlington will be disposed of at the following RCRA Subtitle D lined landfill with a leachate collection system: Waste Management, East Oak Landfill, 3201 Mostley Road, Oklahoma City, OK 73141, EPA ID: OKD149934705. Since GM-Arlington intends to send its waste to Oklahoma and the Oklahoma Department of Environmental Quality (ODEQ) in the State is authorized for the delisting program, GM-Arlington must obtain delisting authorization from ODEQ before it can manage the waste as non-hazardous in Oklahoma.

D. When Would the Proposed Delisting Exclusion Be Finalized?

RCRA section 3001(f) specifically requires EPA to provide a notice and an

opportunity for comment before granting or denying a final exclusion. Thus, EPA will not grant the exclusion until it addresses all timely public comments (including those at public hearings, if any) on this proposal.

RCRA section 3010(b)(1) at 42 USCA 6930(b)(1), allows rules to become effective in less than six months when the regulated facility does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes.

EPA believes that this exclusion should be effective immediately upon final publication because a six-month deadline is not necessary to achieve the purpose of section 3010(b), and a later effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide good cause for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

E. How Would This Action Affect the States?

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

EPA allows States to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some States (for example, Louisiana, Oklahoma, Georgia, Illinois) to administer a RCRA delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States unless that State makes the rule part of its authorized program. If GM-Arlington transports the petitioned waste to or manages the waste in any State with delisting authorization, GM-Arlington must obtain delisting authorization from that State before it can manage the waste as non-hazardous in the State.

II. Background

A. What Is the History of the Delisting Program?

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. EPA has amended this list several times and published it in §§ 261.31 and 261.32.

EPA lists these 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 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, §§ 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.

B. What Is a Delisting Petition, and What Does It Require of a Petitioner?

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

In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which the waste was listed. The criteria for which EPA lists a waste are in part 261 and further explained in the background documents for the listed waste.

In addition, under § 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 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. (See part 261 and the listing background documents for F019 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 EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in § 260.22(a) and section 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) other than those for which EPA listed the waste, if a reasonable basis exists that these additional factors could cause the waste to be hazardous.

EPA must also consider as 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).

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

A. What Waste Did GM-Arlington Petition EPA To Felist?

On September 14, 2004, GM-Arlington petitioned EPA to exclude from the lists of hazardous wastes contained in § 261.31, WWTP sludge (F019) generated from its facility located in Arlington, Texas. The waste falls under the classification of listed waste pursuant to § 261.31. Specifically, in its petition, GM-Arlington requested that EPA grant a standard exclusion for 3,000 cubic yards per year of the WWTP sludge.

B. Who Is GM-Arlington and What Process Does It Use To Generate the Petitioned Waste?

The GM-Arlington is a Truck Assembly Plant. The Plant currently coats vehicle bodies containing at least one aluminum part with zinc phosphate. The zinc phosphate system at the Arlington Truck Assembly Plant consists of a nine-stage system designed to facilitate chemical cleaning of the product to ensure tight, uniform, defect-free phosphate coatings. The zinc phosphate coating is the foundation of the entire paint system that provides

paint adhesion and prevents under-film corrosion when the paint film is broken. Subsequent stages are intended to rinse and recover any deposited paint prior to oven baking. Overflows and rinse water from the coating process are discharged to the waste water treatment plant. In the waste water treatment process, the sludge listed as F019 from the thickeners and clarifiers is dewatered in one of several types of filter presses.

Acrylamide was a major compound of concern for other nationwide GM plant's petitions, but the waste analysis indicates no presence of acrylamide in the waste of GM-Arlington. The analytical data show that it is not a characteristic waste and contains little to no detectable concentrations of organic constituents.

C. How Did GM-Arlington Sample and Analyze the Data in This Petition?

To support its petition, GM-Arlington submitted:

(1) Historical information on waste generation and management practices;

(2) background information and Memorandum of Understanding for the Michigan Environmental Council of States project;

(3) analytical results from six samples for total concentrations of constituents of concern (COCs);

(4) analytical results from six samples for Toxicity Characteristic Leaching Procedure (TCLP) extract values; and

(5) multiple pH testing for the petitioned waste.

D. What Were the Results of GM-Arlington's Analyses?

EPA believes that the descriptions of the GM-Arlington analytical characterization provide a reasonable basis to grant GM-Arlington's petition for an exclusion of the WWTP sludge. EPA believes the data submitted in support of the petition show the WWTP sludge is non-hazardous. Analytical data for the WWTP sludge samples were used in the DRAS to develop delisting levels. The data summaries for COCs are presented in Table I. EPA has reviewed the sampling procedures used by GM-Arlington and has determined that it satisfies EPA criteria for collecting representative samples of the variations in constituent concentrations in the WWTP sludge. In addition, the data submitted in support of the petition show that constituents in GM-Arlington's waste are presently below health-based levels used in the delisting decision-making. EPA believes that GM-Arlington has successfully demonstrated that the WWTP sludge is non-hazardous.

TABLE 1.—ANALYTICAL RESULTS/MAXIMUM ALLOWABLE DELISTING CONCENTRATION

[Wastewater Treatment Sludge, General Motors Truck Assembly Plant, Arlington, Texas]

Constituents	Maximum total (mg/kg)	Maximum TCLP (mg/L)	Maximum allowable TCLP delisting level (mg/L)
Acetone	<7.5	0.23	171
Acetonitrile	<2.9	<0.10	399
Acrylonitrile	<0.59	<0.005	0.05
Allyl Chloride	<10	<0.01	0.12
Benzene	<0.59	<0.002	0.43
Carbon Tetrachloride	<0.59	<0.002	0.3
Chlorobenzene	<0.59	<0.002	4.56
Chloroform	<0.59	<0.01	0.58
1,1-Dichoroethane	<0.59	<0.002	9
1,2-Dichloroethane	<0.59	<0.002	0.012
1,1-Dichloroethylene	<0.59	<0.002	0.053
cis-1,2-Dichoroethylene	<0.59	<0.005	3.19
trans-1,2-Dichloroethylene	<0.59	<0.005	4.56
Ethylbenzene	<0.59	0.0038	31.9
Formaldehyde	<2.0	<0.10	257
Methyl Chloride	<2.5	<0.005	9.71
Methyl Ethyl Ketone	<2.5	<0.05	(200)
Methyl Isobutyl Ketone	<2.5	<0.10	137
Methyl Methacrylate	<2.9	<0.025	46
Methylene Chloride	<2.5	<0.05	0.216
n-Butyl Alcohol	<25	0.41	171
Styrene	<0.59	<0.005	4.56
1,1,1,2-Tetrachloroethane	<0.59	<0.002	1.82
1,1,2,2-Tetrachloroethane	<0.59	<0.005	3.29
Tetrachloroethane	<0.59	<0.002	0.23
Toluene	<0.59	0.0026	45.6
1,1,1-Trichloroethane	<0.59	<0.002	0.11
1,1,2-Trichloroethane	<0.59	<0.01	0.23
Trichloroethylene	<0.59	<0.002	0.23
Vinyl Acetate	<1.8	<0.005	83
Vinyl Chloride	<0.59	<0.002	0.022
Xylene(Total)	<1.8	<0.05	456
Bis(2-Ethylhexyl) Phthalate	2.1	<0.005	0.27
Butyl Benzyl Phthalate	<7.5	<0.005	69.6
o-Cresol	<1.5	<0.001	85.5
m-Cresol	<1.5	<0.001	85.5
p-Cresol	<1.5	0.014	8.55
1,4-Dichlorobenzene	<1.5	<0.001	1.31
2,4-Dimethylphenol	<3.0	<0.002	34.2
2,4-Dinitrotoluene	<1.5	<0.001	0.049
Di-n-Octyl Phthalate	<1.5	<0.002	0.084

TABLE 1.—ANALYTICAL RESULTS/MAXIMUM ALLOWABLE DELISTING CONCENTRATION—Continued

[Wastewater Treatment Sludge, General Motors Truck Assembly Plant, Arlington, Texas]

Constituents	Maximum total (mg/kg)	Maximum TCLP (mg/L)	Maximum allowable TCLP delisting level (mg/L)
Hexachlorobenzene	<1.5	<0.001	0.0016
Hexachlobutadiene	<1.5	<0.005	0.045
Hexachloroethane	<7.5	<0.005	0.74
Naphthalene	<1.5	0.0022	3.11
Nitrobenzene	<1.5	<0.001	0.86
Pentachlorophenol	<1.5	<0.002	0.043
Pyridine	<3.0	<0.02	1.71
2,4,5-Trichlorophenol	<1.5	<0.001	68.6
2,4,6-Trichlorophenol	<1.5	<0.001	(2)
Antimony	<20	<0.05	0.49
Arsenic	<50	<0.02	0.022
Barium	2,200	0.5	(100)
Beryllium	<1.0	<0.027	0.998
Cadmium	1.5	<0.03	0.36
Chromium	76	<0.15	(5)
Cobalt	3.4	<0.036	18.02
Lead	69	<0.18	(5)
Mercury	<0.1	<0.0006	0.19
Nickel	2,770	22.5	67.8
Selenium	<20	<0.072	(1)
Silver	46	0.31	(5)
Thallium	<20	<0.02	0.21
Tin	396	15.6	540
Vanadium	<5	<0.036	50.6
Zinc	9,530	0.91	673

Notes:

1. These levels represent the highest constituent concentration found in any one sample and do not necessarily represent the specific level found in one sample.
2. The delisting levels are from the DRAS analyses except the chemicals with a parenthesis which are the TCLP regulatory levels.

E. How Did EPA Evaluate the Risk of Delisting the Waste?

For this delisting determination, EPA used such information gathered to identify plausible exposure routes (*i.e.*, groundwater, surface water, air) for hazardous constituents present in the petitioned waste. EPA determined that disposal in a landfill is the most reasonable, worst-case disposal scenario for GM-Arlington's petitioned waste. EPA applied the Delisting Risk Assessment Software (DRAS) described in 65 FR 58015 (September 27, 2000) and 65 FR 75637 (December 4, 2000), to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and determined the potential impact of the disposal of GM-Arlington's petitioned waste on human health and the environment. A copy of this software can be found on the World Wide Web at *http://www.epa.gov/earth1r6/6pd/rcra_c/pd-o/dras.htm.* In assessing potential risks to groundwater, EPA used the maximum waste volumes and the maximum reported extract concentrations as inputs to the DRAS program to estimate the constituent concentrations in the groundwater at a hypothetical receptor well down gradient from the disposal site. Using the risk level (carcinogenic risk of 10^{-5} and non-cancer hazard index of 1.0), the DRAS program can back-calculate the acceptable receptor well concentrations (referred to as compliance-point concentrations) using standard risk assessment algorithms and EPA health-based numbers. Using the maximum compliance-point concentrations and EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) fate and transport modeling factors, the DRAS further back-calculates the maximum permissible waste constituent concentrations not expected to exceed the compliance-point concentrations in groundwater.

EPA believes that the EPACMTP fate and transport model represents a reasonable worst-case scenario for possible groundwater contamination resulting from disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of some reasonable worst-case scenarios resulted in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a significant threat to human health or the environment.

The DRAS also uses the maximum estimated waste volumes and the maximum reported total concentrations to predict possible risks associated with releases of waste constituents through surface pathways (*e.g.*, volatilization from the landfill). As in the above groundwater analyses, the DRAS uses the risk level, the health-based data and standard risk assessment and exposure algorithms to predict maximum compliance-point concentrations of waste constituents at a hypothetical point of exposure. Using fate and transport equations, the DRAS uses the maximum compliance-point concentrations and back-calculates the maximum allowable waste constituent concentrations (or ''delisting levels'').

In most cases, because a delisted waste is no longer subject to hazardous waste control, EPA is generally unable to predict, and does not presently control, how a petitioner will manage a waste after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. EPA does control the type of unit where the waste is

disposed. The waste must be disposed in the type of unit the fate and transport model evaluates.

The DRAS results which calculate the maximum allowable concentration of chemical constituents in the waste are presented in Table I. Based on the comparison of the DRAS and TCLP Analyses results found in Table I, the petitioned waste should be delisted because no constituents of concern tested are likely to be present or formed as reaction products or by-products in GM-Arlington waste.

F. What Did EPA Conclude About GM-Arlington's Waste Analysis?

EPA concluded, after reviewing GM-Arlington's processes that no other hazardous constituents of concern, other than those for which tested, are likely to be present or formed as reaction products or by-products in the waste. In addition, on the basis of explanations and analytical data provided by GM-Arlington, pursuant to § 260.22, EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity or toxicity. See §§ 261.21, 261.22 and 261.23, respectively.

G. What Other Factors Did EPA Consider In Its Evaluation?

During the evaluation of GM-Arlington's petition, EPA also considered the potential impact of the petitioned waste via non-groundwater routes (*i.e.*, air emission and surface runoff). With regard to airborne dispersion in particular, EPA believes that exposure to airborne contaminants from GM-Arlington's petitioned waste is unlikely. Therefore, no appreciable air releases are likely from GM-Arlington's waste under any likely disposal conditions. EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from GM-Arlington's waste in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from GM-Arlington's WWTP sludge.

H. What Is EPA's Evaluation of This Delisting Petition?

The descriptions of GM-Arlington's hazardous waste process and analytical characterization provide a reasonable basis for EPA to grant the exclusion. The data submitted in support of the petition show that constituents in the waste are below the leachable concentrations (see Table I). EPA believes that GM-Arlington's waste, F019 from zinc phosphate coating process will not impose any threat to human health and the environment.

Thus, EPA believes GM-Arlington should be granted an exclusion for the WWTP sludge. EPA believes the data submitted in support of the petition show GM-Arlington's WWTP sludge is non-hazardous. The data submitted in support of the petition show that constituents in GM-Arlington's waste are presently below the compliance point concentrations used in the delisting decision and would not pose a substantial hazard to the environment. EPA believes that GM-Arlington has successfully demonstrated that the WWTP sludge is non-hazardous.

EPA therefore, proposes to grant an exclusion to GM-Arlington in Arlington, Texas, for the WWTP sludge described in its petition. EPA's decision to exclude this waste is based on descriptions of the treatment activities associated with the petitioned waste and characterization of the WWTP sludge.

If EPA finalizes the proposed rule, EPA will no longer regulate the petitioned waste under parts 262 through 268 and the permitting standards of part 270.

IV. Next Steps

A. With What Conditions Must the Petitioner Comply?

The petitioner, GM-Arlington, must comply with the requirements in 40 CFR part 261, appendix IX, table 1. The text below gives the rationale and details of those requirements.

(1) Delisting Levels

This paragraph provides the levels of constituents for which GM-Arlington must test the WWTP sludge, below which these wastes would be considered non-hazardous.

EPA selected the set of inorganic and organic constituents specified in paragraph (1) of 40 CFR part 261, appendix IX, table 1, (the exclusion language) based on information in the petition. EPA compiled the inorganic and organic constituents list from the composition of the waste, descriptions of GM-Arlington's treatment process, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making. These delisting levels correspond to the allowable levels measured in the TCLP concentrations.

(2) Waste Holding and Handling

The purpose of this paragraph is to ensure that GM-Arlington manages and disposes of any WWTP sludge that contains hazardous levels of inorganic and organic constituents according to subtitle C of RCRA. Managing the WWTP sludge as a hazardous waste until initial verification testing is performed will protect against improper handling of hazardous material. If EPA determines that the data collected under this paragraph do not support the data provided for in the petition, the exclusion will not cover the petitioned waste. The exclusion is effective upon publication in the **Federal Register** but the disposal as non-hazardous cannot begin until the verification sampling is completed.

(3) Verification Testing Requirements

GM-Arlington must complete a rigorous verification testing program on the WWTP sludge to assure that the sludge does not exceed the maximum levels specified in paragraph (1) of the exclusion language. This verification program operates on two levels. The first part of the verification testing program consists of testing the WWTP sludge for specified indicator parameters as per paragraph (1) of the exclusion language.

If EPA determines that the data collected under this paragraph do not support the data provided for the petition, the exclusion will not cover the generated wastes. If the data from the initial verification testing program demonstrate that the leachate meets the delisting levels, GM-Arlington may request quarterly testing. EPA will notify GM-Arlington, in writing, if and when it may replace the testing conditions in paragraph (3)(A) with the testing conditions in (3)(B) of the exclusion language.

The second part of the verification testing program is the quarterly testing of representative samples of WWTP sludge for all constituents specified in paragraph (1) of the exclusion language. EPA believes that the concentrations of the constituents of concern in the WWTP sludge may vary over time. Consequently this program will ensure that the sludge is evaluated in terms of variation in constituent concentrations in the waste over time.

The proposed subsequent testing would verify that GM-Arlington operates a treatment facility where the constituent concentrations of the WWTP sludge do not exhibit unacceptable temporal and spatial levels of toxic constituents. EPA is proposing to require GM-Arlington to analyze representative samples of the WWTP sludge quarterly during the first year of waste generation. GM-Arlington would begin quarterly sampling 60 days after

the final exclusion as described in paragraph (3)(B) of the exclusion language.

EPA, per paragraph (3)(C) of the exclusion language, is proposing to end the subsequent testing conditions after the first year, if GM-Arlington has demonstrated that the waste consistently meets the delisting levels. To confirm that the characteristics of the waste do not change significantly over time, GM-Arlington must continue to analyze a representative sample of the waste on an annual basis. Annual testing requires analyzing the full list of components in paragraph (1) of the exclusion language. If operating conditions change as described in paragraph (4) of the exclusion language, GM-Arlington must reinstate all testing in paragraph (1) of the exclusion language.

GM-Arlington must prove through a new demonstration that their waste meets the conditions of the exclusion. If the annual testing of the waste does not meet the delisting requirements in paragraph (1), GM-Arlington must notify EPA according to the requirements in paragraph (6) of the exclusion language. The facility must provide sampling results that support the rationale that the delisting exclusion should not be withdrawn.

(4) Changes in Operating Conditions

Paragraph (4) of the exclusion language would allow GM-Arlington the flexibility of modifying its processes (for example, changes in equipment or change in operating conditions) to improve its treatment process. However, GM-Arlington must prove the effectiveness of the modified process and request approval from EPA. GM-Arlington must manage wastes generated during the new process demonstration as hazardous waste until it has obtained written approval and paragraph (3) of the exclusion language is satisfied.

(5) Data Submittals

To provide appropriate documentation that GM-Arlington's WWTP sludge is meeting the delisting levels, GM-Arlington must compile, summarize, and keep delisting records on-site for a minimum of five years. It should keep all analytical data obtained through paragraph (3) of the exclusion language including quality control information for five years. Paragraph (5) of the exclusion language requires that GM-Arlington furnish these data upon request for inspection by any employee or representative of EPA or the State of Texas.

If the proposed exclusion is made final, it will apply only to 3,000 cubic yards per year of wastewater treatment sludge generated at the GM-Arlington after successful verification testing.

EPA would require GM-Arlington to file a new delisting petition under any of the following circumstances:

(a) If it significantly alters the manufacturing process treatment system except as described in paragraph (4) of the exclusion language;

(b) If it uses any new manufacturing or production process(es), or significantly changes from the current process(es) described in their petition; or

(c) If it makes any changes that could affect the composition or type of waste generated.

GM-Arlington must manage waste volumes greater than 3,000 cubic yards per year of WWTP sludge as hazardous until EPA grants a new exclusion.

When this exclusion becomes final, GM-Arlington's management of the wastes covered by this petition would be relieved from subtitle C jurisdiction and the WWTP sludge from GM-Arlington will be disposed in the RCRA subtile D landfill of Waste Management East Oak Landfill in Oklahoma City, OK, with EPA ID: OKD149934705.

(6) Reopener

The purpose of paragraph (6) of the exclusion language is to require GM-Arlington to disclose new or different information related to a condition at the facility or disposal of the waste, if it is pertinent to the delisting. GM-Arlington must also use this procedure if the waste sample in the annual testing fails to meet the levels found in paragraph (1). This provision will allow EPA to reevaluate the exclusion if a source provides new or additional information to EPA. EPA will evaluate the information on which EPA based the decision to see if it is still correct, or if circumstances have changed so that the information is no longer correct or would cause EPA to deny the petition, if presented.

This provision expressly requires GM-Arlington to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

EPA believes that it has the authority under RCRA and the Administrative Procedures Act (APA), 5 U.S.C. 551 (1978) *et seq.*, to reopen a delisting decision. EPA may reopen a delisting decision when it receives new information that calls into question the assumptions underlying the delisting.

EPA believes a clear statement of its authority in delistings is merited in light of EPA's experience. See Reynolds Metals Company at 62 FR 37694 and 62 FR 63458 where the delisted waste leached at greater concentrations in the environment than the concentrations predicted when conducting the TCLP, thus leading EPA to repeal the delisting. If an immediate threat to human health and the environment presents itself, EPA will continue to address these situations on a case by case basis. Where necessary, EPA will make a good cause finding to justify emergency rulemaking. *See* APA § 553 (b).

(7) Notification Requirements

In order to adequately track wastes that have been delisted, EPA is requiring that GM-Arlington provide a one-time notification to any state regulatory agency through which or to which the delisted waste is being carried. GM-Arlington must provide this notification 60 days before commencing this activity.

B. What Happens if GM-Arlington Violates the Terms and Conditions?

If GM-Arlington violates the terms and conditions established in the exclusion, EPA will start procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, EPA will evaluate the need for enforcement activities on a case-by-case basis. EPA expects GM-Arlington to conduct the appropriate waste analysis and comply with the criteria explained above in paragraph (1) of the exclusion.

V. Public Comments

A. How Can I as an Interested Party Submit Comments?

EPA is requesting public comments on this proposed decision. Please send three copies of your comments. Send two copies to Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, Environmental Protection Agency (EPA), 1445 Ross Avenue, Dallas, Texas 75202. Send a third copy to Sam Barrett, Waste Section Manager, Texas Commission on Environmental Quality, 2309 Gravel Dr., Ft. Worth, TX 76118–6951. Identify your comments at the top with this regulatory docket number: ''F–05–TXDEL–GM-Arlington.'' You may submit your comments

electronically to Youngmoo Kim at *kim.youngmoo@epa.gov.*

You should submit requests for a hearing to Ben Banipal, Section Chief of the Corrective Action and Waste Minimization Section (6PD–C), Multimedia Planning and Permitting Division, U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

B. How May I Review the Docket or Obtain Copies of the Proposed Exclusion?

You may review the RCRA regulatory docket for this proposed rule at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202. It is available for viewing in EPA Freedom of Information Act Review Room from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at fifteen cents per page for additional copies.

VI. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from this proposed rule, this proposal would not be a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (that is, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on a small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, EPA hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VIII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

IX. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 501 *et seq.*, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law.

Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector.

EPA finds that this delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

X. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines: (1) Is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XI. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of Executive Order 13084 do not apply.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments.

If the mandate is unfunded, EPA must provide to the Office Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to have ''meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not

involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XII. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, 15 U.S.C. 3701, *et seq.,* EPA is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that EPA to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, EPA has no need to consider the use of voluntary consensus standards in developing this proposed rule.

XIII. Executive Order 13132 Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that impose substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one facility.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and record-keeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: July 11, 2005.

Bill Luthans,

Acting Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX of part 261 add the following waste stream in alphabetical order by facility to read as follows:

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

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility/Address	Waste description
* *	* * * * * *
General Motors Corporation Arlington, Arlington, TX.	Wastewater Treatment Plant (WWTP) Sludge (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 3,000 cubic yards per calendar year after [insert publication date of the final rule] will be disposed in a Subtitle D landfill. For the exclusion to be valid, GM-Arlington must implement a verification testing program that meets the following paragraphs: (1) *Delisting Levels:* All leachable concentrations for those constituents must not exceed the following levels (mg/l for TCLP). (i) Inorganic Constituents: Antimony–0.49; Arsenic–0.022; Barium–100; Beryllium 0.998; Cadmium–0.136; Chromium–5; Cobalt–18.02; Lead–5; Mercury–0.19; Nickel–67.8; Selenium–1; Silver–5; Thallium–0.21; Tin–540; Vanadium–50.6; Zinc–673. (ii) Organic Constituents: Acetone–171; Acetonitrile–399: Acrylonitrile–0.05; Allyl Chloride–0.12; Benzene–0.43; Carbon Tetrachloride–0.3; Chlorobenzene–4.56; Chloroform–0.58; 1,1–Dichoroethane–9; 1,2–Dichloroethane 0.012; 1,1–Dichloroethylene–0.053; cis–1,2–Dichloroethylene–3.19; trans–1,2–Dichloroethylene–4.56; Ethylbenzene–31.9; Formaldehyde–257; Methyl Chloride–9.71; Methyl Ethyl Ketone–200; Methyl Isobutyl Ketone–137; Methyl Methacrylate–461; Methylene Chloride–0.216; N–Butyl Alcohol–171; Styrene–4.56; 1,1,1,2–Tetrachloroethane–1.82; 1,1,2,2–Tetrachloroethane–3.29; Tetrachloroethane–0.23; Toluene–45.6; 1,1,1–Trichloroethane–9.11; 1,1,2–Trichloroethane–0.23; Trichloroethylene–0.23; Vinyl Acetate 183; Vinyl Chloride–0.022; Xylene(Total)–456; Bis(2–Ethylhexyl) Phthalate–0.27; Butyl Benzyl Phthalate–69.6; o–Cresol–85.5; m–Cresol–85.5; p–Cresol–8.55; 1,4–Dichlorobenzene–1.31; 2,4–Methylphenol–34.2; 2,4–Dinitrotoluene –0.049; Di–n–Octyl Phthalate–0.084; Hexachlorobenzene–0.0016; Hexachlobutadiene–0.045; Hexachloroethane–0.74; Naphthalene–3.11; Nitrobenzene–0.86; Pentachlorophenol; 0.043; Pyridine–1.71; 2,4,5–Trichlorophenol–68.6; 2,4,6–Trichlorophenol–2.0. (2) *Waste Management:* (A) GM-Arlington must manage as hazardous all WWTP sludge it generates, until it has completed initial verification testing described in paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the WWTP sludge that do not exceed the levels set forth in paragraph (1) are non–hazardous. GM-Arlington can manage and dispose of the non-hazardous WWTP sludge according to all applicable solid waste regulations.

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

Facility/Address	Waste description
	(C) If constituent levels in a sample exceed any of the Delisting Levels set in paragraph (1), GM-Arlington can collect one additional sample and perform expedited analyses to verify if the constituent exceeds the delisting level. If this sample confirms the exceedance, GM-Arlington must, from that point forward, treat the waste as hazardous until it is demonstrated that the waste again meets the levels in paragraph (1).GM-Arlington must manage and dispose of the waste generated under Subtitle C of RCRA from the time that it becomes aware of any exceedance. (D) Upon completion of the Verification Testing described in paragraph (3)(A) and (B), as appropriate, and the transmittal of the results to EPA, and if the testing results meet the requirements of paragraph (1), GM-Arlington may proceed to manage its WWTP sludge as non-hazardous waste. If subsequent Verification Testing indicates an exceedance of the Delisting Levels in paragraph (1), GM-Arlington must manage the WWTP sludge as a hazardous waste until two consecutive quarterly testing samples show levels below the Delisting Levels in paragraph (I). (3) *Verification Testing Requirements:* GM-Arlington must perform sample collection and analyses, including quality control procedures, using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031,0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that representative samples of GM-Arlington's F019 sludge meet the delisting levels in paragraph (1). If EPA judges the process to be effective under the operating conditions used during the initial verification testing, GM-Arlington may replace the testing required in paragraph (3)(A) with the testing required in paragraph (3)(B). GM-Arlington must continue to test as specified in paragraph (3)(A) until and unless notified by EPA in writing that testing in paragraph (3)(A) may be replaced by paragraph (3)(B). (A) *Initial Verification Testing:* After EPA grants the final exclusion, GM-Arlington must do the following: (i) Within 60 days of this exclusions becoming final, collect eight samples, before disposal, of the WWTP sludge. (ii) The samples are to be analyzed and compared against the Delisting Levels in paragraph (1) (iii) Within sixty (60) days after this exclusion becomes final, GM-Arlington will report initial verification analytical test data for the WWTP sludge, including analytical quality control information for the first thirty (30) days of operation after this exclusion becomes final. If levels of constituents measured in the samples of the WWTP sludge that do not exceed the levels set forth in paragraph (1) are also non-hazardous in two consecutive quarters after the first thirty (30) days of operation after this exclusion becomes effective, GM-Arlington can manage and dispose of the WWTP sludge according to all applicable solid waste regulations. (B) *Subsequent Verification Testing:* Following written notification by EPA, GM-Arlington may substitute the testing conditions in paragraph (3)(B) for paragraph (3)(A). GM-Arlington must continue to monitor operating conditions, and analyze two representative samples of the wastewater treatment sludge for each quarter of operation during the first year of waste generation. The samples must represent the waste generated during the quarter. After the first year of analytical sampling verification sampling can be performed on a single annual sample of the wastewater treatment sludge. The results are to be compared to the Delisting Levels in paragraph (1). (C) *Termination of Testing:* (i) After the first year of quarterly testing, if the Delisting Levels in paragraph (1) are met, GM-Arlington may then request that EPA not require quarterly testing. (ii) Following cancellation of the quarterly testing, GM-Arlington must continue to test a representative sample for all constituents listed in paragraph (1) annually. (4) *Changes in Operating Conditions:* If GM-Arlington significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could significantly affect the composition or type of waste generated as established under paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify EPA in writing; it may no longer handle the wastes generated from the new process as non-hazardous until the wastes meet the Delisting Levels set in paragraph (1) and it has received written approval to do so from EPA. (5) *Data Submittals:* GM-Arlington must submit the information described below. If GM-Arlington fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (6). GM-Arlington must: (A) Submit the data obtained through paragraph (3) to the Section Chief, Corrective Action and Waste Minimization Section, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code (6PD–C) within the time specified. (B) Compile records of operating conditions and analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the state of Texas requests them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

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

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

* * * * * * *

[FR Doc. 05–14189 Filed 7–18–05; 8:45 am]
BILLING CODE 6560–50–P