

appropriate circuit by November 25, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: September 6, 1996.
Chuck Clarke,
Regional Administrator.

PART 52—[AMENDED]

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(61) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(61) SIP revisions received from WDOE on August 21, 1995, requiring vehicle owners to comply with its I/M program in the two Washington ozone nonattainment areas classified as "marginal" and in the three carbon monoxide nonattainment areas classified as "moderate". This revision applies to the Washington counties of Clark, King, Pierce, Snohomish, and Spokane.

(i) Incorporation by reference.

(A) July 26, 1995 letter from Director of WDOE to the Regional Administrator of EPA submitting revisions to WDOE's SIP consisting of the July 1995 *Washington State Implementation Plan for the Motor Vehicle Inspection and Maintenance Program* (including Appendices A through F), adopted August 1, 1995, and a supplement letter

and "Tools and Resources" table dated May 10, 1996.

[FR Doc. 96-24523 Filed 9-24-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[LA-34-1-7300; FRL-5615-1]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Correction of Classification; Approval of the Maintenance Plan; Redesignation of Pointe Coupee Parish to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of final rule.

SUMMARY: The EPA published without prior proposal a Federal Register notice approving a request from the State of Louisiana to remove Pointe Coupee Parish, Louisiana, from the Baton Rouge serious ozone nonattainment area, to reclassify the parish from serious to marginal, and to redesignate it to attainment for ozone. The direct final approval was published on July 22, 1996 (61 FR 37833).

The EPA subsequently received adverse comments on the action. Accordingly, the EPA is withdrawing its direct final approval. All public comments received will be addressed in a subsequent final rule.

EFFECTIVE DATE: This withdrawal is effective on September 25, 1996.

ADDRESSES: Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency,
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700,
Dallas, Texas 75202-2733.
Air and Radiation Docket and
Information Center, Environmental
Protection Agency, 401 M Street,
S.W., Washington, D.C. 20460.
Louisiana Department of Environmental
Quality, Office of Air Quality, 7290
Bluebonnet Boulevard, Baton Rouge,
Louisiana 70810.

Anyone wishing to review this petition at the EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7219.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping, and Volatile organic compounds.

40 CFR Part 81

Air pollution control, Designation of areas for air quality planning purposes.

Authority: 42 U.S.C. 7401-7671q.

Therefore, the final rule appearing at 61 FR 37833, July 22, 1996, which was to become effective September 20, 1996, is withdrawn.

Dated: September 18, 1996.

Carol M. Browner,
Administrator.

[FR Doc. 96-24522 Filed 9-20-96; 9:44 am]
BILLING CODE 6560-50-P

40 CFR PART 261

[SW-FRL-5615-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition submitted by the Texas Eastman Division of Eastman Chemical Company (Texas Eastman) to exclude from hazardous waste control (or delist), certain solid wastes. The wastes being delisted consists of ash generated from the incineration of waste water treatment sludge at its facility. This action responds to Texas Eastman's petition to delist these wastes on a "generator specific" basis from the lists of hazardous wastes. After careful analysis, EPA has concluded that the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies only to the fluidized bed incinerator (FBI) ash generated at Texas Eastman's Longview, Texas, facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills.

EFFECTIVE DATE: September 25, 1996.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas,

Texas 75202, and is available for viewing in the EPA library on the 12th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665-6444 for appointments. The reference number for this docket is "F-96-TXDEL-TXEASTMAN." The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

FOR FURTHER INFORMATION, CONTACT: For technical information concerning this notice, contact Michelle Peace, Delisting Program (6PD-O), Region 6, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-7430.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to

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

B. History of this Rulemaking

Texas Eastman petitioned EPA to exclude from hazardous waste control the ash produced from the incineration of sludge from their waste water treatment plant. The ash is currently disposed in an on-site hazardous waste landfill at Texas Eastman in Longview, Texas. After evaluating the petition, EPA proposed, on June 25, 1996, to exclude Texas Eastman's waste from the lists of hazardous waste under §§ 261.31 and 261.32. See 61 FR 32753. This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Texas Eastman's petition.

II. Disposition of Delisting Petition

Eastman Chemical Company—Texas Eastman Division, Longview, Texas, 75607

A. Proposed Exclusion

Texas Eastman petitioned EPA to exclude from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, an annual volume of ash generated from incineration of sludge from its wastewater treatment plant. Specifically, in its petition, Texas Eastman requested that EPA grant a standard exclusion for 7,000 cubic yards of incinerator ash generated per calendar year. The FBI ash is listed for 56 EPA Hazardous Waste Numbers due to the "derived-from" and mixture rules. The waste is listed as D001, D003, D018, D019, D021, D022, D027, D028, D029, D030, D032, D033, D034, D035, D036, D038, D039, D040, F001, F003, F005, K009, K010, U001, U002, U003, U019, U028, U031, U037, U044, U056, U069, U070, U107, U108, U112, U113, U115, U117, U122, U140, U147, U151, U154, U159, U161, U169, U190, U196, U211, U213, U226, U239, and U359. The listed constituents of concern for these EPA Hazardous Waste Numbers are shown in Table 1. See, part 261, Appendix VII.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS

Waste code	Basis for characteristic/listing
D001	Ignitability.
D003	Reactivity.
D018	Benzene.
D019	Carbon Tetrachloride.
D021	Chlorobenzene.
D022	Chloroform.
D027	1,4-Dichlorobenzene.
D028	1,2-Dichloroethane.
D029	1,1-Dichloroethylene.
D030	2,4-Dinitrotoluene.
D032	Hexachlorobenzene.
D033	Hexachlorobutadiene.
D034	Hexachloroethane.
D035	Methyl ethyl ketone.
D036	Nitrobenzene.
D038	Pyridine.
D039	Tetrachloroethylene.
D040	Trichloroethylene.
F001	Tetrachloroethylene, methylene chloride, Trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons.
F002	Tetrachloroethylene, methylene chloride, Trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2 trichloroethane, ortho-dichlorobenzene, trichlorofluoromethane.
F003	Not applicable, waste is hazardous because it fails the test for characteristics of ignitability, corrosivity, or reactivity.
F005	Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane.
K009	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid.
K010	Chloroform, formaldehyde, methylene chloride, methyl chloride, paraldehyde, formic acid, chloroacetaldehyde.
U001	Acetaldehyde.
U002	Acetone.
U003	Acetonitrile.
U019	Benzene.
U028	Benzenetrichloride.

TABLE 1.—HAZARDOUS WASTE CODES ASSOCIATED WITH WASTEWATER STREAMS—Continued

Waste code	Basis for characteristic/listing
U031	n-Butyl alcohol.
U037	Chlorobenzene.
U044	Chloroform.
U056	Cyclohexane.
U069	Dibutyl phthlate.
U070	o-Dichlorobenzene.
U107	Di-n-octyl-phthlate.
U108	1,4-Diethyleneoxide.
U112	Ethyl acetate.
U113	Ethyl acrylate.
U115	Ethlene oxide.
U117	Ethyl ether.
U122	Formaldehyde.
U140	Isobutyl alcohol.
U147	Maleic anhydride.
U151	Mercury.
U154	Methanol.
U159	Methyl ethyl ketone.
U161	Methyl isobutyl ketone.
U169	Nitrobenzene.
U190	Phthalic anhydride.
U196	Pyridine.
U211	Carbon Tetrachloride.
U213	Tetrahydrofuran.
U226	1,1,1-Trichloroethane (methyl chloroform).
U239	Xylene.
U359	Ethylene glycol monoethyl ether.

Texas Eastman petitioned EPA to exclude this annual volume of FBI ash because it does not believe that the waste meets the criteria for which it was listed. Texas Eastman also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the HSWA of 1984. See, section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4).

In support of its petition, which included the sampling and analysis plan and ground water monitoring data from the landfill, Texas Eastman submitted: (1) Descriptions of its wastewater treatment processes and the incineration activities associated with the petitioned waste; (2) results from total constituent analyses for the Toxicity Characteristic (TC) metals listed in § 261.24 (i.e., the TC metals) antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (3) results from the Toxicity Characteristic Leaching Procedure (TCLP), (SW-846 Method 1311) for the TC metals antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (4) results from the Multiple Extraction Procedure (MEP), (SW-846

Method 1330) for antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, tin, vanadium, and zinc from representative samples of the waste; (5) test results from the total constituent analyses for dioxins/furans from representative samples of the waste; (6) results from total oil and grease analyses from representative samples of the waste; (7) test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity; (8) results from total constituent and TCLP analyses for 40 CFR Part 264 Appendix IX volatile and semi-volatile organic compounds from representative samples of the waste; and (9) results from the Land Disposal Restriction Analysis performed on the untreated ash. Texas Eastman also provided total constituent analyses and for the biological treatment sludge, scrubber water blowdown, influent wastewater and waste liquid fuel associated with the generation of the FBI ash.

B. Summary of Response to Comments

The EPA received public comment on the June 25, 1996, proposal from one interested party, Texas Eastman. The commenter provided a variety of clarifications and corrections, primarily for the record, on various items and details addressed in the proposed rule. The commenter also recommended

slight modifications to the proposed language for the testing conditions detailed in the regulatory exclusion. Specifically, Texas Eastman would like paragraph 5 of the verification testing conditions revised so the data submittal for the initial testing will occur 90 days after the receipt of the validated analytical results instead of 90 days after the incineration of the wastewater treatment sludge as stated in the proposed rule. Texas Eastman also expressed concerns regarding the delisting levels of several constituents, benzo(a)pyrene, benzo(a) anthracene, benzo(b)fluoranthene, 1,4-dioxane, and methylene chloride. Texas Eastman states that the delisting levels are significantly lower than the Practical Quantitation Limits (PQLs) for the methods commonly used to analyze these constituents and that the delisting level for methylene chloride, does not account for the fact that it is a common laboratory contaminant.

Response: The EPA will revise the verification testing condition language in paragraph 5 as suggested by Texas Eastman to account for laboratory analysis time, validation, and compilation of the data collected. The EPA recognizes that determination of some organic constituents using SW-846 analytical methods may be difficult. However, delisting levels for the leachable organic concentrations are not set at PQLs, because PQLs are matrix dependent. The EPA understands that

using current analytical methodologies, Texas Eastman may not be able to obtain quantitation levels for some of the constituents below the delisting levels set in paragraph 1 (B). For these constituents, EPA will accept data that are reported as "not detected" or "below the detection limit" as long as an appropriate analytical method is used, the detection limit reported is reasonable for the analyzed matrix, and that all of the required Quality Assurance/Quality Control information is provided and is determined to be adequate. In the case for methylene chloride, EPA can not allow the concentration of any constituent detected in the waste to exceed the maximum allowable leachate concentration, even common laboratory contaminants. The health-based level for methylene chloride is 1.0×10^{-2} mg/l, so the maximum allowable leachate concentration is 0.45, using the dilution attenuation factor of 45. In the information provided to support the Texas Eastman petition, methylene chloride did not appear at concentrations above the delisting level in the leachate samples of the waste.

C. Final Agency Decision

For reasons stated in both the proposal and this notice, EPA believes that Texas Eastman's FBI ash should be excluded from hazardous waste control. The EPA, therefore, is granting a final exclusion to Eastman Chemical Company-Texas Eastman Division, located in Longview, Texas, for its FBI ash. This exclusion applies to the waste described in the petition, only if the requirements described in Table 1 of part 261 are satisfied. The maximum annual volume of FBI ash covered by this exclusion is 7,000 cubic yards.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued

exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, Illinois) are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, Texas Eastman must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

IV. Effective Date

This rule is effective September 25, 1996. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. This 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, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact due to today's rule. Therefore, 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.

VI. Regulatory Flexibility Act

Pursuant to 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 that describes the impact of the rule on small entities (i.e., 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 any small entities.

This rule, if promulgated, will not have any adverse economic impact on any 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, I hereby certify 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.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, which was signed into law on March 22, 1995, 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. The 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 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. The EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon state, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory

requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. List of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling, and Reporting and Recordkeeping Requirements.

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

Dated: September 17, 1996.
Jerry Clifford,
Deputy Regional Administrator.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. Tables 1, 2, and 3 of Appendix IX of part 261 are amended by adding the following waste stream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * * * *	* * * * *	* * * * *
Texas Eastman	Longview, Texas	<p>Incinerator ash (at a maximum generation of 7,000 cubic yards per calendar year) generated from the incineration of sludge from the wastewater treatment plant (EPA Hazardous Waste No. D001, D003, D018, D019, D021, D022, D027, D028, D029, D030, D032, D033, D034, D035, D036, D038, D039, D040, F001, F002, F003, F005, and that is disposed of in Subtitle D landfills after September 25, 1996. Texas Eastman must implement a testing program that meets the following conditions for the petition to be valid:</p> <p>1. <i>Delisting Levels:</i> All leachable concentrations for those metals must not exceed the following levels (mg/l). Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR § 261.24.</p> <p>(A) Inorganic Constituents Antimony—0.27; Arsenic—2.25; Barium—90.0; Beryllium—0.0009; Cadmium—0.225; Chromium—4.5; Cobalt—94.5; Copper—58.5; Lead—0.675; Mercury—0.045; Nickel—4.5; Selenium—1.0; Silver—5.0; Thallium—0.135; Tin—945.0; Vanadium—13.5; Zinc—450.0</p> <p>(B) Organic Constituents Acenaphthene—90.0; Acetone—180.0; Benzene—0.135; Benzo(a)anthracene—0.00347; Benzo(a)pyrene—0.00045; Benzo(b) fluoranthene—0.00320; Bis(2 ethylhexyl) phthalate—0.27; Butylbenzyl phthalate—315.0; Chloroform—0.45; Chlorobenzene—31.5; Carbon Disulfide—180.0; Chrysene—0.1215; 1,2-Dichlorobenzene—135.0; 1,4-Dichlorobenzene—0.18; Di-n-butyl phthalate—180.0; Di-n-octyl phthalate—35.0; 1,4 Dioxane—0.36; Ethyl Acetate—1350.0; Ethyl Ether—315.0; Ethylbenzene—180.0; Flouranthene—45.0; Fluorene—45.0; 1-Butanol—180.0; Methyl Ethyl Ketone—200.0; Methylene Chloride—0.45; Methyl Isobutyl Ketone—90.0; Naphthalene—45.0; Pyrene—45.0; Toluene—315.0; Xylenes—3150.0</p> <p>2. <i>Waste Holding and Handling:</i> Texas Eastman must store in accordance with its RCRA permit, or continue to dispose of as hazardous all FBI ash generated until the Initial and Subsequent Verification Testing described in Paragraph 4 and 5 below is completed and valid analyses demonstrate that all Verification Testing Conditions are satisfied. After completion of Initial and Subsequent Verification Testing, if the levels of constituents measured in the samples of the FBI ash do not exceed the levels set forth in Paragraph 1 above, and written notification is given by EPA, then the waste is non-hazardous and may be managed and disposed of in accordance with all applicable solid waste regulations.</p>

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

Facility	Address	Waste description
		<p>3. <i>Verification Testing Requirements:</i> Sample collection and analyses, including quality control procedures, must be performed according to SW-846 methodologies. If EPA judges the incineration process to be effective under the operating conditions used during the initial verification testing described in Paragraph 4 below, Texas Eastman may replace the testing required in Paragraph 4 with the testing required in Paragraph 5 below. Texas Eastman must, however, continue to test as specified in Paragraph 4 until notified by EPA in writing that testing in Paragraph 4 may be replaced by the testing described in Paragraph 5.</p> <p>4. <i>Initial Verification Testing:</i> During the first 40 operating days of the FBI incinerator after the final exclusion is granted, Texas Eastman must collect and analyze daily composites of the FBI ash. Daily composites must be composed of representative grab samples collected every 6 hours during each 24-hour FBI operating cycle. The FBI ash must be analyzed, prior to disposal of the ash, for all constituents listed in Paragraph 1. Texas Eastman must report the operational and analytical test data, including quality control information, obtained during this initial period no later than 90 days after receipt of the validated analytical results.</p> <p>5. <i>Subsequent Verification Testing:</i> Following the completion of the Initial Verification Testing, Texas Eastman may request to monitor operating conditions and analyze samples representative of each quarter of operation during the first year of ash generation. The samples must represent the untreated ash generated over one quarter. Following written notification from EPA, Texas Eastman may begin the quarterly testing described in this Paragraph.</p> <p>6. <i>Termination of Organic Testing:</i> Texas Eastman must continue testing as required under Paragraph 5 for organic constituents specified in Paragraph 1 until the analyses submitted under Paragraph 5 show a minimum of two consecutive quarterly samples below the delisting levels in Paragraph 1. Texas Eastman may then request that quarterly organic testing be terminated. After EPA notifies Texas Eastman in writing it may terminate quarterly organic testing.</p> <p>7. <i>Annual Testing:</i> Following termination of quarterly testing under either Paragraphs 5 or 6, Texas Eastman must continue to test a representative composite sample for all constituents listed in Paragraph 1 (including organics) on an annual basis (no later than twelve months after the date that the final exclusion is effective).</p> <p>8. <i>Changes in Operating Conditions:</i> If Texas Eastman significantly changes the incineration process described in its petition or implements any new manufacturing or production process(es) which generate(s) the ash and which may or could affect the composition or type of waste generated established under Paragraph 3 (by illustration {but not limitation}, use of stabilization reagents or operating conditions of the fluidized bed incinerator), Texas Eastman must notify the EPA in writing and 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.</p> <p>9. <i>Data Submittals:</i> The data obtained through Paragraph 3 must be submitted to Mr. William Gallagher, Chief, Region 6 Delisting Program, U.S. EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, Mail Code, (6PD-O) within the time period specified. Records of operating conditions and analytical data from Paragraph 3 must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:</p>
		<p>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 USC 1001 and 42 USC 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.</p>

