

considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 6 offices, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, and at the Texas Natural Resource Conservation Commission offices, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote at (214) 665-7219.

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

Dated: September 24, 1999.

Pamela Phillips,

Acting Regional Administrator, Region 6.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-6455-2]

Hazardous Waste Management System; Proposed Exclusion for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, "the Agency" or "we" in this preamble) is proposing to grant a petition submitted by General Motors Corporation, Lansing Car Assembly—Body Plant (GM) in Lansing, Michigan, to exclude (or "delist") certain solid wastes generated by its wastewater treatment plant (WWTP) from the lists of hazardous wastes contained in Subpart D of Part 261.

GM submitted the petition under 40 CFR 260.20 and 260.22(a). Section 260.20 allows any person to petition the Administrator to modify or revoke any provision of §§ 260 through 266, 268 and 273. Section 260.22 (a) specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists.

The Agency has tentatively decided to grant the petition based on an evaluation of waste-specific information provided by GM. This proposed decision, if finalized, conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

We conclude that GM's petitioned waste is nonhazardous with respect to the original listing criteria.

DATES: We will accept public comments on this proposed decision until

November 29, 1999. We will stamp comments postmarked after the close of the comment period as "late." These "late" comments may not be considered in formulating a final decision.

Your request for a hearing must reach EPA by October 28, 1999. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Please send two copies of your comments to Peter Ramanauskas, Waste Management Branch (DW-8J), Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL, 60604.

Any person may request a hearing on this proposed decision by filing a request with Robert Springer, Director, Waste, Pesticides and Toxics Division, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL, 60604.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Peter Ramanauskas at the address above or at 312-886-7890. The RCRA regulatory docket for this proposed rule is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. Call Peter Ramanauskas at (312) 886-7890 for appointments. The public may copy material from the regulatory docket at \$0.15 per page.

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I. Overview Information

A. What Action Is EPA Proposing?

The EPA is proposing to grant GM's petition to have its wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste. We used a fate and transport model to predict the concentration of hazardous constituents released from the petitioned waste once it is disposed to evaluate the potential impact of the petitioned waste on human health and the environment.

B. Why is EPA Proposing to Approve This Delisting?

GM petitioned EPA to exclude, or delist, the wastewater treatment sludge because GM believes that the petitioned waste does not meet the RCRA criteria for which EPA listed it. GM also believes there are no additional constituents or factors which could cause the wastes to be hazardous.

Based on our review described below, we agree with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If our review had found that the waste remained hazardous based on the factors for which we originally listed the waste, we would have proposed to deny the petition.

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

We also evaluated the waste for other factors or criteria which could cause the waste to be hazardous. These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity

of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the hazardous constituents to migrate and to bioaccumulate; (5) its persistence in the environment once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

We believe that the petitioned waste does not meet the criteria for which the waste was listed, and therefore, should be delisted. Our tentative decision to delist waste from GM's Lansing facility is based on the description of the process which generates the waste and the analytical data submitted to support today's proposed rule.

C. How Will GM Manage the Waste If It Is Delisted?

If the petitioned waste is delisted, GM must dispose of it in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste.

D. When Would EPA Finalize the Proposed Delisting Exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments (including those at public hearings, if any) on today's proposal.

This rule, if finalized, will become effective upon demonstration that the waste is in full compliance with land disposal restrictions. Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with Section 3010 of RCRA as amended by HSWA.

E. How Would This Action Affect the States?

Because EPA is issuing today's exclusion under the federal RCRA delisting program, only states subject to federal RCRA delisting provisions would be affected. This exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements, or in states which have received our authorization 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. These more stringent requirements may include a

provision that prohibits a federally issued exclusion from taking effect in the state. Because a dual system (that is, both federal (RCRA) and state (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

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

II. Background

A. What Is the History of the Delisting Program?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA. The EPA has amended this list several times and published it in 40 CFR 261.31 and § 261.32.

We list these wastes as hazardous because: (1) They 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) or (2) they meet the criteria for listing contained in §§ 261.11(a)(2) or (3).

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to demonstrate 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 the Agency because it does not consider the wastes hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a

particular facility do not meet any of the criteria for listed wastes. The criteria for which EPA lists a waste are in 40 CFR 261.11 and in the background documents for the listed wastes.

In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See § 260.22, 42 U.S.C. 6921(f) and the background documents for the listed wastes.)

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has "delisted" the wastes.

C. What Factors Must EPA Consider in Deciding Whether To Grant a Delisting Petition?

Besides considering the criteria in 40 CFR 260.22(a), 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 we listed the waste if these additional factors could cause the waste to be hazardous. (See The Hazardous and Solid Waste Amendments (HSWA) of 1984.)

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

The "mixture" and "derived-from" rules are now final, after having been vacated, remanded, and reinstated.

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

A. What Wastes Did GM Petition EPA To Delist?

In November 1998, GM petitioned EPA to exclude an annual volume of 1,250 cubic yards of F019 WWTP filter press sludge generated at its Lansing Car Assembly—Body Plant located in Lansing, Michigan from the list of hazardous wastes contained in 40 CFR 261.31. The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate the estimated waste generation rate. EPA accepts GM's estimate. F019 is defined as "Wastewater treatment sludges from the chemical conversion coating of

aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process." GM believes that the petitioned waste does not meet the criteria for which F019 was listed (i.e., hexavalent chromium and complexed cyanide).

B. What Information and Analyses Did GM Submit To Support This Petition?

To support its petition, GM submitted (1) descriptions and schematic diagrams of its manufacturing and wastewater treatment processes; (2) results of analyses for the characteristics of ignitability, corrosivity, and reactivity; (3) total constituent analyses and Extraction Procedure for Oily Wastes (OWEP, SW-846 Method 1330A) analyses for the eight toxicity characteristic metals listed in 40 CFR 261.24, plus antimony, beryllium, cobalt, copper, hexavalent chromium, nickel, tin, thallium, vanadium, and zinc; (4) total constituent and Toxicity Characteristic Leaching Procedure (TCLP), SW-846 Method 1311 analyses for 56 volatile and 117 semi-volatile organic compounds and formaldehyde; (5) total constituent and TCLP analyses for sulfide, cyanide, and fluoride; (6) total constituent and TCLP analyses for organochlorine pesticides and chlorinated herbicides; and (7) analysis for oil and grease, and percent solids.

C. How Does GM Generate the Petitioned Waste?

GM's automobile assembly process includes the treatment of automobile bodies by alkaline cleaning and phosphating in preparation for a cathodic electrodeposited paint film (i.e., electrocoat). Prior to phosphate coating, GM cleans, rinses, and conditions the automobile bodies to promote phosphate crystal refinement. The automobile bodies then pass through a 5,050 gallon zinc-nickel phosphate spray tank where the phosphate coating solution is applied. The phosphate coating provides a micro-crystalline corrosion resistant base required for the application of electro-deposited paint. Following phosphate coating, the automobile bodies are rinsed, sprayed with a trivalent chromium sealer and rinsed again. The wastewater from the rinse spray overflows to the general wastewater stream. After leaving the phosphate process line, the automobile bodies enter the electro-deposition process line where the automobile bodies are rinsed, dipped in a 68,000 gallon tank where an electro-deposited paint film is applied, rinsed, and then baked in an oven at 325 degrees

Fahrenheit for 20 minutes. The automobile body then goes to the paint shop process line where primer paint and basecoats, antichip coats, and clearcoats are applied in spraybooths.

The WWTP treats the assembly plant's general industrial waste stream, electro-deposition process line waste stream, and deionized water system waste stream. The general industrial waste stream is composed primarily of car washing and plant clean-up and maintenance water, wastewater generated by the phosphate process line, spraybooth recirculation system blowdown, welding wastewater, non-contact cooling water blowdown, boiler blowdown, and boiler condensate. The electro-deposition waste stream is composed of a deionized water rinse overflow stream and the deionized water system waste stream is composed of deionized water system regenerate and deionized water reject.

Treatment at the WWTP is a batch operation. General wastewater from the assembly plant enters one of two solids separators. Each separator has a surface skimmer for removing floating and settleable solids. The wastewater discharges to one of three process wastewater holding tanks where the general industrial waste stream blends with the electro-deposition and deionized water waste streams. Sulfuric acid may be added to the holding tanks as necessary to break metal chelates. A cationic polymer coagulant is added to the wastewater as it is pumped from the holding tanks to a blend basin. Caustic is added to the wastewater within the blend basin to raise wastewater pH to 9.5-9.8. From the blend basin, wastewater discharges to a flash mix tank where an anionic polymer is added to floc the suspended solids. Two clarifiers in parallel separate the liquid and solid phases of the wastewater. The settled sludge is pumped to either a sludge thickener or a sludge conditioning tank and the supernatant passes through one of two rapid sand filters operating in parallel and before discharging to the Lansing Publicly Owned Treatment Works sewer system. In the sludge thickener tank, the sludge is thickened with a sludge rake and then pumped to the sludge conditioning tank. The conditioned sludge is then pumped to one of two filter presses. Filtrate from the filter presses, as well as supernatant generated in the sludge thickener, is returned to the WWTP influent wet well. After dewatering, the filter press cake falls into 23 cubic yard roll-off boxes beneath the filter presses. Once a roll-off box is filled, GM disposes of the waste in a land-based

management facility as a hazardous waste.

D. How Did GM Sample and Analyze the Data in This Petition?

GM developed a list of analytical constituents based on a review of facility processes, Material Safety Data Sheets for raw materials and chemical additives used in the manufacturing process, and recommendations contained in EPA delisting guidance. See Petitions to Delist Hazardous Wastes, A Guidance Manual, dated March 1996.

For GM's petition, GM sampled the WWTP filter press sludge from four separate roll-off boxes on December 19, 1997 and January 29, 1998. Each roll-off box contained WWTP filter press sludge generated over a period of approximately one week and the four boxes were filled on consecutive weeks. GM collected one composite and one grab sample of sludge from each roll-off box during each sampling event. Composite samples consisted of four individual full-depth core grab samples mixed together to form one sample. GM analyzed composite samples for semi-volatile organic compounds, organochlorine pesticides, chlorinated herbicides, and inorganic constituents and analyzed full-depth core grab samples for volatile organic compounds (VOC). Grab samples were collected for VOC analysis to eliminate the possibility of VOC loss due to volatilization which may occur during preparation of composite samples.

To quantify the total constituent and leachate concentrations, GM used the following SW-846 Methods: 6020 for antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, nickel, selenium, silver, thallium, tin, vanadium, and zinc; 7471A for total mercury; 7470A for leachate mercury; 7196A for hexavalent chromium; 9013 for total cyanide; 9012 for amenable cyanide; 9030A for sulfide; 8260A for volatile organic compounds; 8270B for semi-volatile organic compounds; 8081 for organochlorine pesticides; and 8151 for chlorinated herbicides. GM used the following SW-846 Methods for characteristic testing of the samples: 7.3.3.2 for reactive cyanide; 7.3.4.2 for reactive sulfide; 1010 for ignitability; and 9045C for corrosivity. GM used method 9071 to determine oil and grease content. Based on results of 149,000 mg/kg to 193,000 mg/kg, GM used the Extraction Procedure for Oily Wastes (OWEP, SW-846 Method 1330A) and the Toxicity Characteristic Leaching Procedure (TCLP, SW-846 Method 1311), as described below, to determine leachate concentrations. GM used EPA

Methods 9056 & 340.2 to detect fluoride, Association of Official Analytical Chemists (AOAC) Method 931.08 to detect formaldehyde, and EPA Method 160.3 to determine percent solids.

E. What Were the Results of GM's Analysis?

Table 1 presents the maximum total and leachate concentrations for 18

metals, total cyanide, total sulfide, reactive sulfide, and fluoride. Reactive cyanide was not detected in any of the samples.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS ¹
[WWTP Filter Cake]

Inorganic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Antimony	7.4	0.053
Arsenic	7.2	0.048
Barium	727.0	0.239
Beryllium	1.1	0.013
Cadmium	1.2	0.009
Chromium (total)	1820.0	0.164
Chromium (hexavalent)	0.158	0.003
Cobalt	12.8	0.038
Copper	523.0	0.242
Lead	10800.0	0.794
Mercury	0.15	0.0075
Nickel	3240.0	17.823
Selenium	4.6	0.044
Tin	2310.0	35.441
Vanadium	43.9	0.348
Zinc	17400.0	3.941
Cyanide (total)	2.34	0.0122
Sulfide (total)	1780.0	1.53
Fluoride	403.0	0.898

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

GM analyzed the samples of petitioned waste for 173 volatile and semi-volatile organic compounds. Table

2 presents the maximum total and leachate concentrations for all detected

organic constituents in GM's waste samples.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS ¹
[WWTP Filter Cake]

Organic constituents	Total constituent analyses (Mg/kg)	TCLP leachate analyses (mg/l)
Acetone	<11.4 UJ	0.170
Allyl Chloride	0.067	ND
Beta-BHC	<0.88 U	0.00005
2-Butanone	0.618	ND
m,p-Cresol	<587 U	0.0223
Chloroform	0.013	ND
DDT	<1.76 U	0.000045
1,1-Dichloroethane	<0.08 U	0.0087
Ethylbenzene	0.457	0.0044
Formaldehyde	1520.0	0.508
Methylene Chloride	1.680	ND
Oil & Grease	193,000	NA
Phenol	<587 U	0.339
Toluene	0.19	0.0031
1,1,1-Trichloroethane	<0.08 UJ	0.0494
Trichloroethene	0.0436	ND
Xylenes, Total	6.58	0.0399

¹ These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

UJ, U—Constituent not detected above quantitation limit.

ND—Denotes that the constituent was not detected.

NA—Not Applicable.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results. GM submitted a signed Certification of Accuracy and Responsibility statement presented in 40 CFR 260.22(i)(12).

F. How Did EPA Evaluate the Risk of Delisting this Waste?

For this delisting determination, we used information gathered to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. We determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for GM's petitioned waste, and that the major exposure route of concern would

be ingestion of contaminated ground water. We, therefore, evaluated GM's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for ground water contamination from landfilled wastes. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991). We believe this model is appropriate when evaluating whether a waste should be delisted from RCRA Subtitle C (Parts 260 through 266 and 268).

Specifically, we used the maximum estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site. The calculated receptor well

concentration was then compared directly to the health-based level at an assumed risk of 1×10^{-6} for each hazardous constituent of concern. For the petitioned waste, none of the calculated values at the receptor well exceeded the health based level (HBL) at the target risk level of 1×10^{-6} . The HBL was then used to back calculate the maximum allowable concentration in the waste extract which would not exceed protective levels at the receptor well for each constituent of concern.

We used GM's maximum annual waste volume to derive a petition-specific dilution-attenuation factor (DAF) of 96. In our evaluation, we used a DAF of 96 times the health based level to determine the maximum allowable leachate concentration for GM's waste (see Table 3).

Table 3.—EPACML: Maximum Allowable Leachate Concentrations
[WWTP Filter Cake]

Inorganic and Organic Constituents	TCLP leachate analyses (mg/l)	Levels of regulatory concern ¹ (mg/l)
Antimony	0.053	0.576
Arsenic	0.048	4.8
Barium	0.239	100.0
Beryllium	0.013	0.384
Cadmium	0.009	0.48
Chromium	0.164	5.0
Cobalt	0.038	201.6
Copper	0.242	124.8
Lead	0.794	1.44
Mercury	0.0075	0.192
Nickel	17.823	67.2
Selenium	0.044	1.0
Silver	0.028	5.0
Thallium	0.020	0.192
Tin	35.441	2016.0
Vanadium	0.348	28.8
Zinc	3.941	960.0
Cyanide (total)	0.0122	19.2
Fluoride	0.898	384.0
Acetone	0.170	336.0
Beta-BHC	0.00005	0.00454
m,p-Cresol	0.0223	19.2
DDT	0.000045	0.024
1,1-Dichloroethane	0.0087	0.0864
Ethylbenzene	0.0044	67.2
Formaldehyde	0.508	672.0
Phenol	0.3390	1920.0
Toluene	0.0031	96.0
1,1,1-Trichloroethane	0.0494	19.2
Xylenes	0.0399	960.0

¹ See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," May 1996, located in the RCRA public docket for today's notice.

Note: See the RCRA public docket for today's notice for the specific reference doses and the calculation of the health-based levels of regulatory concern.

For inorganic constituents, the maximum reported leachate concentrations for metals, cyanide, and fluoride in the WWTP filter press sludge were well below the health-based levels of concern used in decision-making for delisting. We also evaluated the

potential hazards of the organic constituents detected in the TCLP extract of GM's samples. The maximum detected leachate concentrations were significantly below the respective levels of concern. We believe that it is inappropriate to evaluate non-detectable

concentrations of a constituent of concern in our modeling efforts if the non-detectable value was obtained using the appropriate analytical method.

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

We also considered the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, we determined that it would be inappropriate to request ground-water monitoring data because GM currently disposes of the petitioned waste off-site. For petitioners using off-site management, EPA believes that, in most cases, the ground water monitoring data would not be meaningful. Most commercial land disposal facilities accept waste from numerous generators. Any ground water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, EPA believes that it would be impossible to isolate ground water impacts associated with any one waste disposed of in a commercial landfill. Therefore, we did not request ground water monitoring data from GM.

During the evaluation of GM's petition, we also considered the potential impact of the petitioned waste via air emission and storm water run-off.

We evaluated the exposure to waste particles and volatile emissions released from the surface of an open landfill. We considered exposure to hazardous constituents through (1) inhalation of particulates and absorption into the lungs; (2) ingestion of particulates eliminated from respiratory passages and subsequently swallowed; (3) inhalation of gas from the release of volatile compounds; and (4) air deposition of particulates and subsequent ingestion of the soil/waste mixture.

The estimated levels of the hazardous constituents of concern released into the air are below health-based levels for ingestion and inhalation levels of concern, and the EPA Concentration-Based Exemption Criteria for Soils (57 FR 21450, May 20, 1992), with the singular exception of formaldehyde. The concentration of formaldehyde in all waste samples exceeded a 1×10^{-6} cancer risk level for inhalation with the maximum value estimated at 3.58×10^{-6} .

Formaldehyde is present in resins used in the automotive painting process. The maximum formaldehyde levels in the waste are deemed acceptable for the following reasons: (1) Formaldehyde is not a constituent for which this waste was listed; (2) the estimated cancer risk from the maximum formaldehyde level was still within the 10^{-4} to 10^{-6} range; (3) the volatile emissions model may have been overly conservative by ignoring competing fate and transport

phenomenon; and (4) formaldehyde was the only constituent exceeding target risk levels. Although the waste as tested is deemed acceptable, we are imposing a limit on the maximum allowable concentration of formaldehyde to ensure that risks posed by the waste do not increase. A delisting limit of 2100 mg/kg total formaldehyde corresponds with a cancer risk of 5×10^{-6} at the receptor, based on the modeling in this evaluation. This concentration is well above the average and maximum values observed in the current samples evaluated (921 and 1520 mg/kg, respectively).

We believe that exposure to airborne contaminants from GM's petitioned wastes is unlikely. The results of this worse-case analysis suggested no substantial hazard to human health from airborne exposure to constituents in GM's wastewater treatment sludge.

For a description of EPA's assessment of the potential impact of airborne dispersion from GM's waste, see the RCRA public docket for today's proposed rule.

We evaluated the potential hazards resulting from exposure to hazardous constituents released into surface water as a result of land disposal of the wastewater treatment sludge. We investigated the potential hazard from exposure of ecological receptors to dissolved hazardous constituents in a small stream considered large enough to support a fishery. We also evaluated the potential hazard from human consumption of aquatic organisms from the stream. A larger stream was evaluated based on the same criteria and the potential hazards from ingestion of contaminated drinking water. The larger stream size was deemed large enough to support a public water supply. We assumed an amount of uncovered waste would be exposed to soil erosion losses through run-off. We modeled soil containing waste particles to flow into a nearby stream followed by complete dissolution of hazardous constituents into the water column. No resultant concentrations of hazardous constituents in the surface water exceeded water quality criteria for ecological or human exposures.

Based on this worst case evaluation, we conclude that GM's wastewater treatment sludge is not a substantial or potential hazard to human health and the environment via surface water exposure.

For a description of EPA's assessment of the potential impact of runoff from GM's waste, see the RCRA public docket for today's proposed rule.

H. What Did EPA Conclude About GM's Analysis?

After reviewing GM's processes, the EPA concludes that (1) no hazardous constituents of concern are likely to be present in GM's waste; and (2) the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23, respectively.

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

The descriptions of the GM hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis for EPA to grant the exclusion.

We have reviewed the sampling procedures used by GM and have determined they satisfy EPA criteria for collecting representative samples of constituent concentrations in the wastewater treatment sludge.

We believe the data submitted in support of the petition show that GM's waste will not pose a threat when disposed of in a Subtitle D landfill. We therefore, propose to grant GM an exclusion for its WWTP sludge.

If we finalize the proposed rule, the Agency will no longer regulate the petitioned waste under 40 CFR Parts 262 through 268 and the permitting standards of Part 270.

IV. Conditions for Exclusion

A. What Are the Maximum Allowable Concentrations of Hazardous Constituents in the Waste?

Concentrations measured in the TCLP (or OWEP, where appropriate) extract of the waste of the following constituents must not exceed the following levels (mg/l): Antimony—0.576; Arsenic—4.8; Barium—100; Beryllium—0.384; Cadmium—0.48; Chromium—5; Cobalt—201.6; Copper—124.8; Lead—1.44; Mercury—0.192; Nickel—67.2; Selenium—1; Silver—5; Thallium—0.192; Tin—2016; Vanadium—28.8; Zinc—960; Cyanide—19.2; Fluoride—384; Acetone—336; m,p,-Cresol—19.2; 1,1-Dichloroethane—0.0864; Ethylbenzene—67.2; Formaldehyde—672; Phenol—1920; Toluene—96; 1,1,1-Trichloroethane—19.2; Xylene—960; Beta-BHC—0.00454; DDT—0.024.

GM may not dispose of the excluded waste in a Subtitle D landfill until it has demonstrated compliance with land disposal restrictions of 11.0 mg/l for nickel and 0.75 mg/l for lead as measured in a TCLP extract.

The total concentration of formaldehyde in the waste must not exceed 2100 mg/kg.

Analysis for determining reactivity must be added to the required verification testing when an EPA-approved method becomes available.

B. How Frequently Must GM Test the Waste?

GM must demonstrate on an annual basis that the constituents of concern in the petitioned waste do not exceed the levels of concern in Section IV.A above. In addition, GM must demonstrate compliance with land disposal restrictions for Nickel and Lead on a monthly basis. GM must analyze four representative samples of the WWTP filter press sludge using methods with appropriate detection levels and quality control procedures.

C. What Must GM Do If the Process Changes?

If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM may not handle the WWTP filter press sludge generated from the new process under this exclusion until it has demonstrated to the EPA that the waste meets the levels set in Section IV.A and that no new hazardous constituents listed in Appendix VIII of 40 CFR Part 261 have been introduced. GM must manage wastes generated after the process change as hazardous waste until GM has received written approval from EPA.

D. What Data Must GM Submit?

GM must submit the data obtained through annual verification testing to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. GM must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(l)(12).

E. What Happens If GM Fails To Meet the Conditions of the Exclusion?

If GM violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion.

If the annual testing of the waste does not meet the delisting levels described in Section IV.A above, GM must notify the Agency according to Section IV.D. The exclusion will be suspended and the waste managed as hazardous until

GM has received written approval for the exclusion from the Agency. GM may provide sampling results which support the continuation of the delisting exclusion.

The EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. § 551 (1978) *et seq.* (APA), to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated.

V. 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 today's 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.

VI. 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 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, the Agency 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.

VII. 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 (Public Law 96-511, 44 USC 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. 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, EPA 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 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.

IX. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a

mandate upon a state, local, or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

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, the Agency 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 the Agency.

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

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects that 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 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) if the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless doing so

would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where EPA does not use available and potentially applicable voluntary consensus standards, the Act requires that Agency 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 the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

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

Dated: September 21, 1999.

Robert Springer,

Director, Waste, Pesticides and Toxics Division.

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 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

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

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* General Motors Corporation	* Lansing, Michigan	* Wastewater treatment plant (WWTP) sludge from the chemical conversion coating (phosphate coating) of aluminum (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 1,250 cubic yards per year and disposed of in a Subtitle D landfill, after (insert publication date of the final rule).

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

Facility	Address	Waste description
		<p>1. Delisting Levels: (A) The constituent concentrations measured in the TCLP extract may not exceed the following levels (mg/L): Antimony—0.576; Arsenic—4.8; Barium—100; Beryllium—0.384; Cadmium—0.48; Chromium (total)—5; Cobalt—201.6; Copper—124.8; Lead—1.44; Mercury—0.192; Nickel—67.2; Selenium—1; Silver—5; Thallium—0.192; Tin—2016; Vanadium—28.8; Zinc—960; Cyanide—19.2; Fluoride—384; Acetone—336; m,p-Cresol—19.2; 1,1-Dichloroethane—0.0864; Ethylbenzene—67.2; Formaldehyde—672; Phenol—1920; Toluene—96; 1,1,1-Trichloroethane—19.2; Xylene—960; Beta-BHC—0.00454; DDT—0.024.</p> <p>(B) The total concentration of formaldehyde in the waste may not exceed 2100 mg/kg.</p> <p>(C) Analysis for determining reactivity must be added to verification testing when an EPA-approved method becomes available.</p> <p>2. Verification Testing: GM must implement an annual testing program to demonstrate that the constituent concentrations measured in the TCLP extract (or OWE, where appropriate) of the waste do not exceed the delisting levels established in Condition (1). GM must also demonstrate compliance with LDR treatment standards for Nickel and Lead on a monthly basis.</p> <p>3. Changes in Operating Conditions: If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM must notify the EPA of the changes in writing. GM must handle wastes generated after the process change as hazardous until GM has demonstrated that the wastes meet the delisting levels set forth in Condition 1 and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced and GM has received written approval from EPA.</p> <p>4. Data Submittals: GM must submit the data obtained through annual verification testing or as required by other conditions of this rule to U.S. EPA Region 5, 77 W. Jackson Blvd. (DW-8J), Chicago, IL 60604, within 60 days of sampling. GM must compile, summarize, and maintain on site for a minimum of five years records of operating conditions and analytical data. GM must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(l)(12).</p> <p>5. Reopener Language—(a) If, anytime after disposal of the delisted waste, GM 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 in Condition (1) is at a level in the leachate higher than the delisting level established in Condition (1), or is at a level in the ground water or soil higher than the level predicted by the CML model, then GM must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data.</p> <p>(b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p>(c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify GM in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing GM with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. GM shall have 10 days from the date of the Regional Administrator's notice to present the information.</p> <p>(d) If after 10 days GM presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.</p>
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[FR Doc. 99-26662 Filed 10-12-99; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800 and 2880

[WO-350-2800 24 1A]

RIN 1004-AC74

Rights-of-Way, Principles and Procedures; Rights-of-Way Under the Mineral Leasing Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed regulations, extension of comment period.

SUMMARY: On June 15, 1999, the Bureau of Land Management (BLM) published a document in the **Federal Register** announcing a proposed rule to amend its right-of-way regulations by: revising the rent and cost recovery procedures and policies, adjusting cost recovery fees to reflect cost increases since the current regulations became effective in July 1987, and reorganize the regulations to better reflect the sequence in which BLM accepts and processes applications and monitors right-of-way grants once they are issued. The 120-day comment period ends on October 13, 1999. BLM has received several requests for an extension of the comment period and is extending the comment period for 30 days.

DATES: Submit comments on the proposed regulations by November 12, 1999.

ADDRESSES: If you want to comment, you may:

(1) Hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, N.W., Washington, D.C.;

(2) Mail comments to: Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C St., N.W., Washington, D.C. 20240; or

(3) Send comments by way of the Internet to: WoComment@blm.gov. If you submit your comments electronically, please submit them as an ASCII file to minimize computer problems and include "Attn: AC74" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452-0350.

You can review the public comments received on the proposed rule at BLM's

Regulatory Affairs Group office, 1620 L St., N.W., Room 401, Washington, D.C., during regular business hours (7:45 am to 4:15 pm) Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

Ron Montagna, (202) 452-7782, ron-montagna@blm.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339, 24 hours a day, 7 days a week.

Dated: October 6, 1999.

Michael H. Schwartz,

Group Manager, Regulatory Affairs Group.

[FR Doc. 99-26615 Filed 10-12-99; 8:45 am]

BILLING CODE 4310-84-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99-1946, MM Docket No. 99-127; RM-9521]

Radio Broadcasting Services; Kanarraville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; withdrawal.

SUMMARY: This document denies the allotment of Channel 268C2 at Kanarraville, Utah, in response to a petition filed by Victor A. Michael d/b/a Mountain West Broadcasting. See 64 FR 23254, November 30, 1999. The *Notice* questioned community status and requested additional information. Based on the information supplied by petitioner, it was determined that Kanarraville did not qualify as a community for allotment purposes.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99-127, adopted September 15, 1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857-3800, facsimile (202) 857-3805.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-26421 Filed 10-12-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99-1954, MM Docket No. 99-137; RM-9571]

Radio Broadcasting Services; Amazonia, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document denies the allotment of Channel 273A at Amazonia, Missouri, in response to a petition filed by Victor A. Michael d/b/a Mountain West Broadcasting. See 64 FR 24998, May 10, 1999. The *Notice* questioned community status and requested additional information. Based on the information supplied by petitioner, it was determined that Amazonia did not qualify as a community for allotment purposes.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99-137, adopted September 15, 1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-26420 Filed 10-12-99; 8:45 am]

BILLING CODE 6712-01-P