

provided to EPA thirty days after the samples are taken, which is 60 days after the exclusion has been issued—Management of the waste as non-hazardous may begin after the EPA reviews and approves the data; (3) GM must then perform subsequent verification by collecting and analyzing two samples for each sampling event for the next three quarters of the first year. Quarterly reports are due to EPA within 30 days of the sampling event; and (4) After completion of the Initial and Subsequent testing and notification by letter from EPA, GM will be required to collect one sample annually, and provide EPA with the results from the annual verification test within 30 days of the sampling event.

Initial Sludge Management

Comment: GM requests that the Arlington, TX facility be allowed to manage its sludge as non-hazardous upon completion of the first successful verification sampling event.

Response: As stated above, EPA Region 6 will allow GM to manage its waste as non-hazardous if the sludge meets the delisting levels after the initial verification testing.

Retesting

Comment: GM supports the delisting conditions of Table 1, condition 2(c) which allows GM-Arlington to collect one additional sample and perform expedited analysis to verify an exceedance of a delisting level.

Response: While in such limited testing scenarios EPA does not expect a petitioned waste to fail the delisting levels, there are instances where anomalous results may be reported. EPA will allow a petitioner to retest to confirm or disprove an anomalous result.

Reduced Verification Requirements

Comment: GM supports EPA's approach to allow GM to end the quarterly sampling requirement after one year of successfully demonstrating that the waste meets the delisting levels.

Response: Annual sampling is required after one year of quarterly sampling as it states in Table 1 Condition (3)(C)(ii).

Analytical Quality Control Information

Comment: GM requests clarification as to what information will satisfy the requirement in Condition (3)(A)(iii) regarding analytical quality control information.

Response: EPA expects that analytical quality control information and the sample analysis include the data from an equipment blank, quality of distilled

water or extraction solvent, duplicates for precision measurement, a spike to measure % recovery for accuracy to define the closeness of the true values of measured data.

7. Data Submittals/Certification Statement

Comment: GM requests that EPA allow GM to replace the certification language proposed with the certification language in 40 CFR 260.22(i)(12), consistent with other delisting petitions granted by EPA for similar waste streams. This comment is also supported by the Alliance of Automobile Manufacturers.

Response: The certification language included in the proposed exclusion is consistent with the language in all EPA Region 6 conditional exclusions. No change to this language will be made.

Other Comments and Changes in the EPA Proposed Rule for GM

1. Page 41360, III A. There is a typographical error "Felist". This should be "Delist".
2. Page 41360. Arsenic should be deleted from Table 1, since its concentration is below the detection limit.
3. Page 41362. The web link to access the DRAS model should be corrected.
4. Page 41362. The middle column states "Using the risk level(carcinogenic risk of 10-5 and non-cancer hazard index of 1.0) * * *" We use a hazard quotient for individual chemical is 0.1, assuming average number of chemicals on site is 10. Therefore, the wording of hazard index of 1.0 should be changed to hazard *quotient* of 0.1 because we are talking about the risk level of each chemical. Hazard index means the summation of quotients from individual non-carcinogenic compounds.
5. Page 41366. For Table 1 the number of delisting sixty-six (66) constituents will be reduced to sixteen (16) chemicals by eliminating undetected chemicals.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular

facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism", (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, "Civil Justice Reform", (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The Congressional