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TITLE 329 SOLID WASTE MANAGEMENT BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #05-85(SWMB)

DEVELOPMENT OF NEW RULES CONCERNING EXCLUSION OF A HAZARDOUS WASTE FROM REGULATION UNDER 329 IAC 3.1 (DELISTING)

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules for exclusion of a hazardous waste from regulation under 329 IAC 3.1-5-2 (delisting). The purpose of this notice is to publish the commissioner's tentative recommendation for rulemaking and to seek public comment on the recommendation and the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 3.1-6-7.

AUTHORITY: IC 13-14-8; IC 13-14-9; IC 13-22-2.

STATUTORY REQUIREMENTS

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3] ... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

Delisting Process

"Delisting" is the process of excluding a hazardous waste that is listed in 40 CFR 261, Subpart D, from regulation as hazardous waste if the generator can show that the waste no longer meets the criteria for which it was listed as a hazardous waste, and that it will not exhibit a hazardous waste characteristic. Once delisted, the waste may be disposed of in a municipal solid waste landfill permitted under 329 IAC 10.

This proposed delisting is a "conditional exclusion" for a waste that may exhibit future variability that excludes the waste so long as it is managed in accordance with specific conditions, such as periodic testing.

P.L.128-1997 and P.L.45-1997 required the solid waste management board to "adopt rules that provide procedures and criteria for delisting wastes as hazardous wastes." These statutes also required IDEM to "apply to the United States Environmental Protection Agency (EPA) for authority to receive petitions and delist wastes under 40 CFR 260.20 and 40 CFR 260.22." Delisting rules were adopted at 329 IAC 3.1-5-2 and 329 IAC 3.1-5-3, effective on March 19, 1998. IDEM received EPA authorization for delisting on January 4, 2001.

Under IC 13-22-2-3, generators of hazardous wastes may petition IDEM to exclude a specific hazardous waste listed in 40 CFR 261, Subpart D, that is generated at a particular facility from regulation as a hazardous waste under 329 IAC 3.1. This petition must

be submitted in accordance with 329 IAC 3.1-5-2. The petition must include the information and meet the criteria required by 40 CFR 260.22 (incorporated by reference in 329 IAC 3.1-5-3).

Upon receipt of a petition that meets the requirements of 329 IAC 3.1-5-2, IDEM evaluates the petition:

- (1) to determine that the information provided in the petition complies with the requirements of 40 CFR 260.22,
- (2) to determine that the waste will meet the criteria in 40 CFR 260.22 when delisted,
- (3) to determine that exclusion of the waste from regulation under 329 IAC 3.1 will not result in increased risk to human health and the environment, and
- (4) to determine that the delisted waste can be safely managed as described in the petition.

The specific criteria for delisting are contained in 40 CFR 260.22. The petitioner must demonstrate in the petition that the waste proposed for delisting meets all applicable criteria.

Delisting of a waste under 329 IAC 3.1-5-2 affects waste generated, managed, and disposed of in Indiana. No other state recognizes Indiana's delisting authority. A waste generated in Indiana and delisted under 329 IAC 3.1-5-2 will be considered a hazardous waste when it is transported outside of Indiana unless it has also been delisted by the EPA under 40 CFR 260.20 and 40 CFR 260.22 or by the receiving state.

Petition for Delisting

On September 20, 2004, General Motors Corporation (General Motors) petitioned IDEM to exclude a hazardous waste from listing in 40 CFR 261, Subpart D, incorporated by reference at 329 IAC 3.1-6-1, also known as delisting. The hazardous waste to be delisted is described in 40 CFR 261.31 as "F019: 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". The particular hazardous waste for which delisting is sought is wastewater treatment sludge from the chemical conversion coating of automobile assemblies generated at General Motors' Fort Wayne Assembly Plant in Fort Wayne, Indiana. The delisted waste would be disposed of only at a municipal solid waste landfill permitted under 329 IAC 10 or a hazardous waste disposal facility permitted under 329 IAC 3.1. The petition requested delisting of up to three thousand (3,000) cubic yards of this particular wastewater treatment sludge annually.

The petition and all documents related to IDEM's review and analysis of the petition are available for viewing and copying in the Indiana Department of Environmental Management, Centralized File Room, Indiana Government Center-North, 100 North Senate Avenue, Room N1201, Indianapolis, Indiana.

Description of Proposed Action

IDEM is proposing to grant the petition submitted by General Motors for the Ft. Wayne Assembly Plant to exclude a hazardous waste from regulation under the hazardous waste rules in 329 IAC 3.1. F019 wastewater treatment sludge waste is generated when any aluminum part is attached to a vehicle body undergoing a treatment process to prepare it for painting. The conversion coating process prepares and cleans metals surfaces to accept paint. The F019 waste is listed for hexavalent chromium and cyanide. Because of the configuration of the wastewater treatment plant at the Fort Wayne Assembly Plant, the F019 waste causes all wastewater treatment sludge from this plant to be a hazardous waste. IDEM evaluated all constituents in the plant's wastewater in reviewing this petition.

Analysis of the Petition

A risk assessment using a fate and transport model was used to predict concentrations of hazardous constituents released from the waste after disposal to evaluate the potential impacts on human health and the environment. The risk assessment set specific concentrations that the waste, as a total concentration, or extracts of the waste must meet. The risk assessment was based on a specified annual volume of waste disposed and the disposal method. However, the total concentration constituent levels found in this waste are at such low levels compared to the total concentration delisting levels that it is very unlikely the waste could contain those levels. Therefore, the total concentration delisting levels are not used to determine delisting eligibility.

The risk assessment was done using Delisting Risk Assessment Software (DRAS) developed by EPA Region 6. Version 2.0 of the DRAS software was used with amendments and updates provided by EPA Region 5.

General Motors proposes to dispose of a maximum of three thousand (3,000) cubic yards of waste annually in a municipal solid waste landfill regulated under 329 IAC 10. The petition actually lists three different volumes of waste. The required concentrations of constituents for the maximum volume are the lowest concentrations and were used to determine if the exclusion is appropriate.

In addition to the hazardous constituents for which the waste was listed, several other hazardous constituents are included in the petition. The list of constituents in the petition is more extensive than the hazardous constituents of the waste or the underlying hazardous waste constituents because the wastewater treatment sludge is collected from all plant processes. However, the constituent list is abbreviated from list of hazardous constituents in 40 CFR 261, Appendix VIII.

The petition was prepared using sampling and analysis processes described in a Memorandum of Understanding (MOU) between EPA Region 5 and the Michigan Department of Environmental Quality. This MOU established a list of constituents, procedures, and consistent methods for delisting F019 in several automobile assembly plants in Michigan. IDEM agreed to use the MOU procedures with certain amendments for sampling, analysis, and preparation of this petition.

The waste was sampled with certain amendments according to the sampling and analysis plan developed in the MOU. A daily representative aliquot of the sludge was taken from the filter press and placed in a closed fifty-five (55) gallon drum. One drum was collected each week for six (6) weeks. After six (6) weeks, a sample amount adequate for all analyses was collected from the entire depth of the drum. A total of seven (7) sample sets were taken including duplicate samples. Appropriate field blanks were also taken. All samples were analyzed using appropriate methods from EPA Publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846).

The analytical data was validated by IDEM. Certain results are estimated values but are well below the maximum allowable concentrations and are acceptable.

The analytical results show that the extract concentrations determined using the Toxicity Characteristic Leaching Procedure (TCLP) (Method 1311 from SW-846) are below the levels requiring treatment under the land disposal restrictions of 40 CFR 268. The waste does not exhibit the characteristics of toxicity or reactivity.

Results of Analysis of the F019 Waste

The following table lists the maximum concentrations found in the waste, the maximum concentrations found in the TCLP extracts, and the maximum allowable TCLP concentrations for delisting.

Table A. Maximum Concentrations Observed for Hazardous Constituents

Constituent	CAS ¹ Number	Maximum Observed Total Concentration (mg/kg) ²	Maximum Observed Extract Concentration (mg/l) ³	Maximum Allowable Delisting Concentration (mg/l) ³
<u>Inorganic Constituents</u>				
Antimony	7440-36-0	ND ⁴	ND	0.5
Arsenic	7440-38-2	ND	ND	0.225
Barium	7440-39-3	100	ND	100 ⁵
Beryllium	7440-41-7	ND	ND	1.0
Cadmium	7440-43-9	ND	ND	0.36
Chromium	7440-47-3	48	ND	3.71
Cobalt	7440-48-4	1.9	ND	18.0
Cyanide	57-12-5	0.72	ND	8.63
Lead	7439-92-1	14	ND	5.0 ⁵
Mercury	7439-97-6	ND	ND	0.116
Nickel	7440-02-0	1270	6.77	67.8
Selenium	7782-49-2	0.65	ND	1.0 ⁵
Silver	7440-22-4	ND	ND	5.0 ⁵
Thallium	7440-28-0	ND	ND	0.211
Tin	7440-31-5	1610	8.0	540
Vanadium	7440-62-2	ND	ND	65.0
Zinc	7440-66-6	4550	2.64	673
<u>Volatile Organic Compounds</u>				
Acetone	67-64-1	ND ⁴	0.41	1500
Acetonitrile	75-05-8	ND	ND	77.5
Acrylonitrile	107-13-1	ND	ND	0.006
Allyl chloride	107-05-1	ND	ND	0.120
Benzene	71-43-2	ND	ND	0.057
n-Butanol	71-36-3	ND	0.26	171
Carbon tetrachloride	56-23-5	ND	ND	0.034
Chlorobenzene	108-90-7	ND	ND	2.70
Chloroform	67-66-3	ND	ND	0.035
Chloromethane	74-87-3	ND	ND	9.700
1,1-dichloroethane	75-34-3	ND	ND	61.35
1,2-dichloroethane	107-06-2	ND	ND	0.035

1,1-dichloroethene	75-35-4	ND	ND	0.300
cis-1,2-dichloroethene	156-59-2	ND	ND	3.19
trans-1,2-dichloroethene	156-60-5	ND	ND	4.56
Formaldehyde	50-00-0	13	0.64	43.5
Ethyl benzene	100-41-4	ND	ND	31.9
Methyl ethyl ketone	78-93-3	ND	ND	200 ⁵
Methyl isobutyl ketone	108-10-1	ND	ND	1000
Methyl methacrylate	80-62-6	ND	ND	460
Methylene chloride	75-09-2	ND	ND	0.216
Styrene	100-42-5	ND	ND	4.56
1,1,1,2-tetrachloroethane	630-20-6	ND	ND	0.175
1,1,2,2-tetrachloroethane	79-34-5	ND	ND	0.330
Toluene	108-88-3	ND	0.007	4.56
1,1,1-trichloroethane	71-55-6	ND	ND	9.11
1,1,2-trichloroethane	79-00-5	ND	ND	0.058
Trichloroethene	79-01-6	ND	ND	0.228
Vinyl acetate	108-05-4	ND	ND	320
Vinyl chloride	75-01-4	ND	ND	0.002
Xylenes	1330-20-7	ND	ND	13.93

Semivolatile Organic Compounds

bis-(2ethylhexyl) phthalate	117-81-7	1.9	ND ⁴	0.146
Butyl benzyl phthalate	85-68-7	ND	ND	69.6
m-Cresol	108-39-4	ND	ND	85.5
o-Cresol	95-48-7	ND	ND	85.5
p-Cresol (4-methylphenol)	106-44-5	3.5	0.025	85.5
1,4-dichlorobenzene	106-46-7	ND	ND	3.24
2,4-dimethylphenol	105-67-9	ND	ND	34.2
2,4-dinitrotoluene	121-14-2	ND	ND	0.005
Dioctyl phthalate	117-81-7	ND	ND	0.168
Hexachlorobenzene	118-74-1	ND	ND	1.6×10^{-4}
Hexachlorobutadiene	87-68-3	ND	ND	0.016
Hexachloroethane	67-72-1	ND	ND	0.225
Naphthalene	91-20-3	ND	ND	0.546
Nitrobenzene	98-95-3	ND	ND	0.855
Pentachlorophenol	87-86-5	ND	ND	0.007
Pyridine	110-86-1	ND	ND	1.71
2,4,5-trichlorophenol	95-95-4	ND	ND	68.6
2,4,6-trichlorophenol	88-06-2	ND	ND	0.290

¹CAS means Chemical Abstract Service.

²mg/kg means milligrams per kilogram.

³mg/l means milligrams per liter.

⁴ND means the constituent was not detected.

⁵The delisting level for this constituent was higher than the toxicity characteristic regulatory level in 40 CFR 261.24, therefore the toxicity characteristic regulatory level applies.

Proposed Conditions for Exclusion

IDEM is proposing the following conditions for granting this petition:

- (1) The delisted waste must not exceed any of the delisting concentrations for constituents of concern listed in Table A above.
- (2) The maximum annual volume of waste to be delisted under this petition is three thousand (3,000) cubic yards per year.

(3) GM must demonstrate on a quarterly basis that the constituents detected in the initial analysis are below the delisting levels in Table 1 of the draft rule. General Motors must extract a representative sample of the waste using Method 1311, Toxicity Characteristic Leaching Procedure, or Method 1330A, Oily Waste Extraction Procedure for tin. The extracts must be analyzed for the constituents listed in Table 2 of the draft rule using the methods listed in those tables or equivalent methods acceptable to the commissioner. Detection levels of the methods used must be equal to or lower than the delisting levels. The same level of analytical quality control used in the petition must be used in the quarterly verification analysis. General Motors must also ensure that the remaining constituents listed in Table 1 of the draft rule, for which quarterly testing is not required, do not exceed the delisting levels.

(4) If waste testing shows that any constituent has exceeded the delisting level for that constituent, General Motors must notify IDEM in writing within ten (10) days of first possessing or being made aware of such data, and must manage the delisted waste as hazardous waste until General Motors receives written approval from the department to resume managing the waste under this exclusion.

(5) General Motors must submit to IDEM an annual report by February 1 of each year describing the previous year's annual test results.

(6) General Motors must compile and summarize the records of operating conditions and analytical data and maintain those records on site for at least five (5) years. General Motors must make these records available for inspection. All reports must include a signed copy of the certification statement required by 40 CFR 260.22(i)(12).

(7) General Motors must notify IDEM if the manufacturing process that generates the waste or the chemicals involved change and must manage any waste generated after the process change as a hazardous waste until General Motors demonstrates that the waste meets all delisting levels and it has received written approval from IDEM to continue to manage the waste under this exclusion.

(8) The delisted waste must be disposed of in either a municipal solid waste landfill permitted under 329 IAC 10 or a hazardous waste disposal facility permitted under 329 IAC 3.1.

(9) After disposal of the waste, if at any time General Motors has any information that any constituent listed in Table A exceeds the delisting level for that constituent, General Motors must report that information in writing to IDEM within ten (10) days of first receiving the information.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This rule is authorized under IC 13-22-2-3. While this delisting imposes a number of conditions on the generator (petitioner), these conditions and the proposed delisting meet the federal standards for delisting at 40 CFR 260.20 and 40 CFR 260.22. Indiana was authorized by EPA to delist hazardous wastes on January 4, 2001 (66 FR 733). This delisting will result in streamlined hazardous waste management operations and significantly reduced costs for the petitioner.

FINDINGS

The commissioner of IDEM has prepared written findings and a tentative recommendation regarding rulemaking on delisting of the waste described in the petition submitted by General Motors. These findings are prepared under IC 13-14-9-7 and are as follows:

(1) Based on the department's analysis of the petition described above, I have determined that the waste described in the petition meets the criteria in 40 CFR 260.22 for delisting when tested as in the petition. At this time, I recommend that the waste described in the petition be excluded from regulation under 329 IAC 3.1-5-2 with certain conditions as described in the draft rule attached to and incorporated in these findings. This recommendation is subject to public comment as provided below. This recommendation may be modified or reversed based on the comments received.

(2) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.

(3) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly

Commissioner

Indiana Department of Environmental Management

INFORMAL PUBLIC HEARING

329 IAC 3.1-5-2(d) states that the commissioner may hold an informal public hearing to consider oral comments on the tentative recommendation for rulemaking. A person requesting a hearing must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. A person who requests an informal public hearing on this petition must submit the request in writing to the address below.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on both the tentative recommendation for rulemaking and the draft rule language, including suggestions for specific revisions to language to be contained in the rule. Mailed comments should be addressed to:

#05-85(SWMB)[General Motors F019 Delisting]

Marjorie Samuel

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor East, Indianapolis, Indiana. Comments may be submitted by facsimile at (317) 232-3403, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 233-1655 or (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked or hand delivered by July 1, 2005.

Additional information regarding this action may be obtained from Steve Mojonier of the Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 329 IAC 3.1-6-7 IS ADDED TO READ AS FOLLOWS:

329 IAC 3.1-6-7 Waste excluded from regulation; General Motors Corporation, Fort Wayne Assembly Plant, Fort Wayne, Indiana

Authority: IC 13-14-8; IC 13-14-9-7; IC 13-22-2

Affected: IC 13-22

Sec. 7. Wastewater treatment sludge, hazardous waste code F019, that is generated by General Motors Corporation (General Motors) at the Fort Wayne Assembly Plant, Fort Wayne, Indiana is excluded from regulation under this article so long as management of the waste complies with all of the following conditions:

(1) Delisting levels for the waste excluded by this section are the maximum level of any constituent in the extract of the wastewater treatment sludge using the extraction methods described in subdivision (2)(A)(i). The constituent concentrations measured in any of the extracts required by this section must not exceed any of the levels listed in Table 1:

Table 1. Maximum Delisting Levels for Inorganic and Organic Constituents

Constituent	CAS ¹ Number	SW-846 Analytical Method to be Used	Delisting Concentration (mg/l) ²
<u>Inorganic Constituents:</u>			
Antimony	7440-36-0	6010B or 6020	0.5
Arsenic	7440-38-2	6010B or 6020	0.225
Barium	7440-39-3	6010B or 6020	100
Beryllium	7440-41-7	6010B or 6020	1.0
Cadmium	7440-43-9	6010B or 6020	0.36
Chromium	7440-47-3	6010B or 6020	3.71
Cobalt	7440-48-4	6010B or 6020	18.0
Cyanide	57-12-5	9012A	8.63
Lead	7439-92-1	6010B or 6020	5.0 ³
Mercury	7439-97-6	7470A	0.116
Nickel	7440-02-0	6010B or 6020	67.8
Selenium	7782-49-2	6020	1.0 ³
Silver	7440-22-4	6010B or 6020	5.0 ³
Thallium	7440-28-0	6010B or 6020	0.211
Tin	7440-31-5	6010B or 6020	540
Vanadium	7440-62-2	6010B or 6020	65.0
Zinc	7440-66-6	6010B or 6020	673

Volatile Organic Compounds:

Acetone	67-64-1	8260B	1500
Acetonitrile	75-05-8	8260B	77.5
Acrylonitrile	107-13-1	8260B	0.006
Allyl chloride	107-05-1	8260B	0.120
Benzene	71-43-2	8260B	0.057
n-Butanol	71-36-3	8260B	171
Carbon tetrachloride	56-23-5	8260B	0.034
Chlorobenzene	108-90-7	8260B	2.70
Chloroform	67-66-3	8260B	0.035
Chloromethane	74-87-3	8260B	9.700
1,1-dichloroethane	75-34-3	8260B	61.35
1,2-dichloroethane	107-06-2	8260B	0.035
1,1-dichloroethene	75-35-4	8260B	0.300
cis-1,2-dichloroethene	156-59-2	8260B	3.19
trans-1,2-dichloroethene	156-60-5	8260B	4.56
Ethyl benzene	100-41-4	8260B	31.9
Formaldehyde	50-00-0	8315A	43.5
Methylene chloride	75-09-2	8260B	0.216
Methyl ethyl ketone	78-93-3	8260B	200 ³
Methyl isobutyl ketone	108-10-1	8260B	1000
Methyl methacrylate	80-62-6	8260B	460
Styrene	100-42-5	8260B	4.56
1,1,1,2-tetrachloroethane	630-20-6	8260B	0.175
1,1,2,2-tetrachloroethane	79-34-5	8260B	0.330
Tetrachloroethene	127-18-4	8260B	0.228
Toluene	108-88-3	8260B	45.6
1,1,1-trichloroethane	71-55-6	8260B	9.11
1,1,2-trichloroethane	79-00-5	8260B	0.058
Trichloroethene	79-01-6	8260B	0.228
Vinyl acetate	108-05-4	8260B	320
Vinyl chloride	75-01-4	8260B	0.002
Xylenes	1330-20-7	8260B	13.93

Semivolatile Organic Compounds:

bis-(2ethylhexyl) phthalate	117-81-7	8270C	0.146
Butyl benzyl phthalate	85-68-7	8270C	69.6
m-Cresol	108-39-4	8270C	85.5
o-Cresol	95-48-7	8270C	85.5
p-Cresol (4-methylphenol)	106-44-5	8270C	8.55
1,4-dichlorobenzene	106-46-7	8270C	3.24
2,4-dimethylphenol	105-67-9	8270C	34.2
2,4-dinitrotoluene	121-14-2	8270C	0.005
Dioctyl phthalate	117-81-7	8270C	0.168
Hexachlorobenzene	118-74-1	8270C	1.6×10^{-4}
Hexachlorobutadiene	87-68-3	8270C	0.016
Hexachloroethane	67-72-1	8270C	0.225
Naphthalene	91-20-3	8270C	0.546

Nitrobenzene	98-95-3	8270C	0.855
Pentachlorophenol	87-86-5	8270 ⁴	0.007
Pyridine	110-86-1	8270C	1.71
2,4,5-trichlorophenol	95-95-4	8270C	68.6
2,4,6-trichlorophenol	88-06-2	8270C	0.290

¹CAS means Chemical Abstract Service.

²mg/l means milligrams per liter.

³The delisting level for this constituent was higher than the toxicity characteristic regulatory level in 40 CFR 261.24, therefore the toxicity characteristic regulatory level applies.

⁴Using selected ion monitoring (SIM).

(2) General Motors shall demonstrate that the constituents in the delisted waste do not exceed the delisting levels in subdivision (1) as follows:

(A) General Motors shall analyze two (2) representative samples of the delisted waste each quarter for constituents listed in Table 2 using all of the following:

(i) Constituents must be extracted using Method 1311, Toxicity Characteristic Leaching Procedure (TCLP), described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods", U.S. Environmental Protection Agency Publication SW-846, Third Edition, as amended by Updates I, IIA, IIB, III, and IIIA* (SW-846), except that tin must be extracted using SW-846 Method 1330A, Oily Waste Extraction Procedure.

(ii) Constituents must be analyzed using the methods listed for each in Table 2.

Table 2. Constituents for which Quarterly Testing is Required

Constituent	CAS ¹ Number	SW-846 Analytical Method to be Used	Delisting Concentration (mg/l) ²
Acetone	67-64-1	8260B	1500
Barium	7440-39-3	6010B or 6020	100
bis-(2ethylhexyl) phthalate	117-81-7	8270C	0.146
n-Butanol	71-36-3	8260B	171
Chromium	7440-47-3	6010B or 6020	3.71
Cobalt	7440-48-4	6010B or 6020	18.0
p-Cresol (4-methylphenol)	106-44-5	8270C	8.55
Formaldehyde	50-00-0	8315A	43.5
Lead	7439-92-1	6010B or 6020	5.0 ³
Nickel	7440-02-0	6010B or 6020	67.8
Selenium	7782-49-2	6020	1.0 ³
Tin	7440-31-5	6010B or 6020	540
Toluene	108-88-3	8260B	45.6
Zinc	7440-66-6	6010B or 6020	673

¹CAS means Chemical Abstract Service.

²mg/l means milligrams per liter.

³The delisting level for this constituent was higher than the toxicity characteristic regulatory level in 40 CFR 261.24, therefore the toxicity characteristic regulatory level applies.

(B) The detection level for each method used must be less than the delisting level described in subdivision (1).

(C) General Motors must comply with Chapter 1, "Quality Control", of SW-846.

(D) General Motors shall ensure that no constituent listed in Table 1 that is not subject to quarterly testing exceeds the delisting level for that constituent listed in Table 1.

*U.S. Environmental Protection Agency Publication SW-846 is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238.

(3) If waste testing shows that any constituent has exceeded the delisting level for that constituent, General Motors must:

(A) notify the department in writing within ten (10) days of first possessing or being made aware of such data; and

(B) manage the waste as hazardous waste until General Motors receives written approval from the commissioner to resume managing the waste under this exclusion.

(4) Changes in the delisted waste must be managed as follows:

(A) General Motors must notify the department in writing if:

- (i) the aluminum coating process or chemicals used in the aluminum coating process change from those described in the petition for delisting; or
 - (ii) other changes in the Fort Wayne Assembly Plant occur that could cause hazardous constituents listed in 40 CFR 261, Appendix VIII that are not listed in Table 2 to be introduced into the plant's wastewater treatment system.
- (B) General Motors must handle all wastes generated after a change described in clause (A) as hazardous waste until all of the following occur:
- (i) General Motors has demonstrated that:
 - (AA) the wastes continue to meet all delisting levels in subdivision (1); and
 - (BB) no new hazardous constituents listed in 40 CFR Part 261, Appendix VIII have been introduced.
 - (ii) General Motors has received written approval from the commissioner to continue to manage the delisted waste under this exclusion. General Motors may request such approval in advance of implementing a change described in clause (A).
- (5) General Motors must submit an annual report that summarizes the data obtained through quarterly verification testing required by subdivision (2) to the department by February 1 of the following year. The report must include the results of each quarter's analysis for the previous calendar year.
- (6) General Motors must compile, summarize, and maintain records of operating conditions and analytical data. The records must be maintained for a minimum of five (5) years. The records must be made available for inspection by the department during normal working hours.
- (7) All data required by subdivisions (3) through (6) must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).
- (8) The delisted waste must be disposed of in:
- (A) a municipal solid waste landfill permitted under 329 IAC 10; or
 - (B) a hazardous waste disposal facility permitted under this article.
- (9) If, at any time after disposal of the delisted waste, General Motors possesses or is otherwise made aware of any data, including, but not limited to, leachate data or ground water monitoring data, or any other data relevant to the delisted waste indicating that any constituent identified in:
- (A) Table 1 is at a level in the leachate that is higher than the specified delisting level; or
 - (B) Table 3 is in the ground water at a concentration that is higher than the maximum allowable ground water concentration in Table 3;
- then General Motors must report such data in writing to the department within ten (10) days of first possessing or being made aware of that data.

Table 3. Maximum Allowable Ground Water Concentrations (mg/l)¹

Acetone	3.75	Formaldehyde	1.38
Barium	2.0	Lead	0.015
bis-(2ethylhexyl) phthalate	0.0015	Nickel	0.75
n-Butanol	3.75	Selenium	0.05
Chromium	0.1	Tin	22.5
Cobalt	2.2	Toluene	1.0
p-Cresol (4-methylphenol)	0.19	Zinc	11.2

¹mg/l means milligrams per liter.

(10) No more than three thousand (3,000) cubic yards of delisted waste may be disposed of in any calendar year under this exclusion.

(Solid Waste Management Board; 329 IAC 3.1-6-7)

Notice of First Meeting/Hearing

These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the IC 13-14-9 Notices section of the Indiana Register.

Additional information regarding this action may be obtained from Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or (800) 451-6027 (in Indiana).

Copies of these rules are now on file at the Office of Land Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Centralized File Room, Room N1201, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Assistant Commissioner
Office of Land Quality