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TITLE 329 SOLID WASTE MANAGEMENT BOARD

Proposed Rule LSA Document #05-85

DIGEST

Adds 329 IAC 3.1-6-7 to conditionally exclude from regulation under 329 IAC 3.1 wastewater treatment sludge from the conversion coating of aluminum, hazardous waste code F019, generated by General Motors Corporation, Fort Wayne Assembly Plant, Fort Wayne, Indiana. Effective 30 days after filing with the Secretary of State.

HISTORY

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-7 and Second Notice of Comment Period: June 1, 2005, Indiana Register (28 IR 2821).

Notice of First Hearing: October 1, 2005, Indiana Register (29 IR 51).

Date of First Hearing: October 18, 2005.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9 until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on June 1, 2005, at 28 IR 2821. The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule that make the proposed rule so substantively different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestions for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Mailed comments should be addressed to:

#05-85 [General Motors F019 Delisting]

Marjorie Samuel

Office of Land Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204-2241

Hand delivered comments will be accepted by the receptionist on duty at the eleventh floor reception desk, Office of Land Quality, 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 December 22, 2005.

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

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from June 1, 2005, through July 1, 2005, on IDEM's draft rule language. IDEM received comments from the following parties:

Lenora Strohm, Staff Environmental Engineer, Worldwide Facilities Group, General Motors Corporation (GM)

Terry Behrman, Manager, Environmental Affairs, Alliance of Automobile Manufacturers (AAM)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: In the "Background" - Delisting Process Section, IDEM definitively states, "No other state recognizes Indiana's delisting authority." However, GM believes that another authorized state may make a delisting decision based upon IDEM's evaluation of this petition. It is GM's opinion that EPA [U.S. Environmental Protection Agency] and other states may accept Indiana's delisting decision at their own discretion and that it is not necessary for IDEM to make such a declaration in this rule. Therefore, GM respectfully requests that IDEM remove this specific language prior to final publication of the rule. (GM)(AAM)

Response: While this comment is not directed to the published draft rule language itself, IDEM feels it would be helpful to respond to correct certain misunderstandings about the delisting process and Indiana's authority to delist a listed hazardous waste.

Indiana was authorized by EPA to delist a hazardous waste on January 4, 2001 (66 FR 733). Indiana is authorized to delist wastes generated in Indiana, in lieu of federal delisting, if the generator meets the requirements of 40 CFR 260.22. When a waste delisted under Indiana rules crosses state lines, it is subject to the hazardous waste program effective in that state. If that waste has not been delisted by that state or by EPA, it is a hazardous waste in that state.

Among the requirements for a state authorized for delisting is the responsibility to evaluate a petition on its merits. For IDEM to accept another state's delisting decision on its face, without evaluating a petition as suggested by the commentor, would violate 40 CFR 260.22 and 329 IAC 3.1-5-2 and would also violate RCRA section 3006 by operating a hazardous waste program that is not equivalent to the federal hazardous waste program.

The statement referred to by the commentor is a statement of fact and is not part of the rule. The statement does not affect the actual rule language or the effectiveness of the delisting. While the statement is part of the record of this rulemaking, it will not appear in the final rule unless the rule language is amended to include the statement.

Comment: Quarterly Sampling - 329 IAC 3.1-6-7(2)(A) - The proposed delisting conditions require GM to collect and analyze two representative samples each quarter for the constituents listed in Table 2. This requirement is at least twice as onerous as those imposed by EPA and other states that have granted delisting petitions for this waste stream. GM requests that IDEM reduce this requirement to one sample per quarter for the first year, and then reduce this requirement to annual sampling and analysis following four quarters of successful sampling. As presented in the delisting petition, the process generating this waste stream is consistent, the waste is "hazardous" solely due to the use of aluminum, and the waste does not exhibit any characteristic of a hazardous waste. The additional sampling requirement adds to the cost of demonstrating compliance with the delisting conditions without providing additional environmental benefit. (GM)(AAM)

Response: The total amount of waste delisted under this rule would fill approximately 150 twenty-cubic yard roll-off containers. Quarterly sampling will sample four of these each year, or about 2.67% of the containers. Annual sampling would sample one of these containers each year, or about 0.67% of the containers. GM's petition covered a six week period of sampling. This sampling was conducted using duplicate samples and showed some variability in the waste. EPA has indicated that these delisted wastes at other automobile manufacturing facilities have shown significant variability over time. Quarterly testing is consistent with other similar delistings by EPA. IDEM does not believe that annual sampling is adequate to maintain reasonable oversight of this deregulated waste stream. Two samples per quarter will provide a reasonable level of assurance that variability in the waste will remain consistent over a longer period of time. However, IDEM has added a provision for GM to reduce sampling from two samples per quarter to one sample per quarter if the samples show a reasonable level of consistency over time.

Comment: Quality Assurance/Quality Control Requirements - 329 IAC 3.1-6-7(2)(A)(i) - IDEM states that "...tin must be extracted using SW-846 Method 1330A, Oily Waste Extraction Procedure" (OWEP). In the petition GM submitted to IDEM, and in previous delistings in other states, we have followed EPA's guidance (see EPA RCRA Delisting Program Guidance Manual for the Petitioner, March 23, 2000 at §6.1, Exhibit 2) which states that if the oil and grease (O&G) levels in the waste exceed 10,000 mg/kg then the petitioner would use the OWEP for metals. For consistency purposes we request that IDEM indicate that the OWEP is to be used if the total O&G levels exceed 1%. (GM)(AAM)

Response: IDEM has modified the draft rule to require use of Method 1330A if oil and grease levels exceed 10,000 mg/kg.

Comment: Quality Assurance/Quality Control Requirements - 329 IAC 3.1-6-7(2)(C) - This proposed delisting condition requires GM to "comply with Chapter 1, "Quality Control" of SW-846. Also, the "Proposed Conditions for Exclusion", item 3, states that the same level of analytical quality control used in the petition must be used in the quarterly verification analysis. The reference to Chapter 1 of SW-846 (Proposed 329 IAC 3.1-6-7(2)(C)), at its most rigid, would require GM to have a fully defined Sampling and Analysis plan for quarterly sampling. GM requests IDEM to modify this requirement as follows:

"GM will perform all of the sample management tasks associated with the quarterly monitoring in accordance with standard industry practices." (GM)(AAM)

Response: "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 IIA, commonly referred to as "SW-846," contains several levels of quality control standards that are required if the results of testing using SW-846 methods are to be accepted as valid, that is, having known accuracy and precision. Chapter 1, "Quality Control," contains general quality control requirements for all SW-846 methods when used for RCRA compliance purposes. In addition, each series of methods contains generalized quality control

procedures for methods in that series. Finally, each SW-846 method contains method-specific quality control requirements that must be followed for the data resulting from use of that method to be considered valid. Chapter 2, "Choosing the Correct Procedure," provides additional guidance on the application of quality control procedures. The following quote from Chapter 2 is helpful in understanding these relationships:

"2.1.3 Quality Control Criteria Precedence

Chapter One contains general quality control (QC) guidance for analyses using SW-846 methods. QC guidance specific to a given analytical technique (e.g., extraction, cleanup, sample introduction, or analysis) may be found in Methods 3500, 3600, 5000, 7000, and 8000. Method specific QC criteria may be found in Sec. 8.0 of each individual method (or in Sec. 11.0 of air sampling methods). When inconsistencies exist between the information in these locations, method specific QC criteria take precedence over both technique-specific criteria and those criteria given in Chapter One, and technique-specific QC criteria take precedence over the criteria in Chapter One."

QA/QC procedures are a means of assuring that data is valid and should be accepted by another party, such as IDEM. Failure to follow proper QA/QC procedures results in having data rejected. For consistency, GM should continue to use the sampling and analysis plan and QA/QC procedures that were used in preparing the petition, instead of preparing a new plan.

SW-846 is compiled from standard industry practices and methods and is the "standard industry practice" for RCRA analyses. The commentor's suggested language does not provide an ascertainable standard and cannot be adopted.

Comment: Compliance Demonstration with Table A and Table 1 Delisting Levels - 329 IAC 3.1-6-7(2)(D) - This requirement states that GM "shall ensure that no constituent that is in Table 1 that is not subject to quarterly testing exceeds the delisting level for that constituent listed in Table 1." The proposal also states in the "Proposed Conditions for Exclusion", Item 1, "the delisted waste must not exceed any of the delisting concentrations for constituents of concern listed in Table A..." These requirements, stated differently but being the same, are discussed in two separate portions of the proposal and create a significant compliance demonstration problem for GM.

In addition, the requirement is further exacerbated by item (3) of the "Proposed Conditions for Exclusion", which begins by stating "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". This section proceeds to detail how the sample will be taken, and then states that the sample extracts are to be analyzed for the constituents listed in Table 2. This section ends with the statement, "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". As proposed, this creates an unachievable compliance demonstration for Table 1 constituents that are not listed in Table 2.

IDEM intentionally developed the Table 2 list of constituents; it is a subset of Table A/Table 1 and is meant to reflect those constituents most likely to occur in a waste stream at detectable levels. This subset, Table 2, was developed based upon an extensive analysis of the information provided in the delisting petition. The specific purpose of developing this targeted, or reduced, list of constituents was to minimize unnecessary sampling and testing. The intent of addressing the Table A/Table 1 constituents is achieved through the testing of Table 2 constituents coupled with the other conditions addressing changes in operating conditions. Therefore, as proposed, the requirement to "ensure" that the Table A/Table 1 constituents are not exceeded is inconsistent with the intent of developing the list of Table 2 constituents to reduce testing. Further, it would be extremely difficult to demonstrate compliance with the requirement to "ensure" that the delisting levels for the entire Table A/Table 1 constituents are met without sampling and testing for each of those constituents.

The requirement to ensure that Table A/Table 1 delisting levels are not exceeded, yet only requiring testing for a subset of those constituents, creates a compliance issue. The process involved in preparing the delisting petition has demonstrated that the compounds included in Table A/Table 1 but not in Table 2 are not present in the sludge; GM assumes that they are not present unless a process change or other information indicates that these compounds may now appear in the sludge.

Therefore, for all of the reasons above, GM requests that any "demonstration" or "assurance" that the waste stream does not exceed the Table 1 or Table A delisting levels be removed from the proposal. (GM)(AAM)

Response: This comment addresses the background information as well as the draft rule language. The background information is provided to allow the public to see the petition review process and understand the basis for the requirements in the draft rule. This response will only deal with the portion of the comment that deals with the draft rule language.

40 CFR 260.22 requires states which are authorized to delist hazardous waste in lieu of EPA to consider all of the factors listed in 40 CFR 260.22. This requires IDEM to consider hazardous constituents in addition to the constituents for which the waste was originally listed. This requirement complies with section 3001(f) of RCRA and was added in response to Congressional concerns about EPA's early delisting activities. [See the discussion at "F. Delisting Procedures," 50 FR 28727, July 15, 1985.] Where the waste is a mixture of a solid waste and a listed hazardous waste, the analysis must consider the waste stream as a whole, including factors that could cause the waste mixture to be a hazardous waste. As a result, the proposed list of constituents in proposed 329 IAC 3.1-6-7(1), Table 1 is large.

Table 1 lists the constituents that both IDEM and GM reasonably believe could be found in this waste stream. In its delisting petition, GM has assured the department that the constituents listed in Table 1 that are not also listed in Table 2 do not occur in this

waste stream. IDEM has analyzed the petition and agrees with GM's assertion. In addition, GM maintains internal processes that allow it to be aware of every chemical constituent introduced into plant processes and potentially into the wastewater treatment sludge. The general requirement proposed in 329 IAC 3.1-6-7(1) that no constituent exceed its delisting level is intended to create a duty for GM to pay attention to the levels of all hazardous constituents they introduce into the waste stream using existing information.

To reduce testing requirements, we have only proposed to require quarterly testing for constituents that were actually found in the waste during the analysis used to develop the petition. These constituents are listed in Table 2

The requirement to act on this information is contained in proposed 329 IAC 3.1-6-7(3), which requires GM to notify IDEM if at any time they become aware that constituents listed in Table 1 are higher than the delisting levels.

GM has already demonstrated that the constituents listed in Table 1 but not included in Table 2 were not detected during the analysis for the petition and has expressed confidence in that information. As an environmentally responsible entity, GM may use its discretion as to how and when to track the levels of these constituents during the life of the delisting. GM has made a demonstration that all constituents are below delisting levels, and this requirement is only intended to ensure that GM continues to use its initiative to maintain these levels in this waste stream as demonstrated, without additional regulatory requirements.

Because the proposed rule does not contain a requirement for "demonstration" or "assurance" for constituents in Table 1 that are not also listed in Table 2, this comment cannot be adopted.

Comment: Delisting Levels Below Detection Levels - Delisting levels that are below the detection limit of current methods have been included in Table 1 for hexachlorobenzene and pentachlorophenol. (GM)(AAM)

Response: GM is not required to conduct quarterly testing for these substances, so the issue of detection limits for these substances will rarely if ever arise. SW-846 and IDEM guidance contain adequate guidance to select an analytical method with detection limits that are lower than the proposed delisting levels.

Comment: Process and Chemical Changes - 329 IAC 3.1-6-7(4)(A) - This proposed rule requires that GM notify the department in writing if there is a change in the aluminum coating process or in the chemicals used in the aluminum coating process other than those described in the petition for delisting. GM must also notify the department if there are other changes in the facility 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. GM requests that these requirements be modified to appropriately identify changes in operations that would result in a significant change to the waste stream.

The aluminum coating process is designed to consistently operate as described in the delisting petition, however, insignificant day-to-day operational changes may occur. Examples might be (1) slight modifications to the treatment chemicals used due to wastewater volume fluctuations, or (2) modifications to the process chemicals due to changes in suppliers. These types of changes would not cause a significant change in the waste stream. GM believes that it is appropriate to regulate the resulting waste stream rather than the manufacturing process itself.

Further, it would be infeasible, if not impossible, to monitor every chemical used in the assembly plant on an ongoing basis for constituents that may simply be "introduced" into the wastewater treatment system in any concentration at any given moment that do not affect the waste stream in any significant way. GM believes that this requirement is overly onerous, inappropriate relative to the non-hazardous characteristics of this waste stream, and makes compliance with this provision impossible. Besides, the language in 329 IAC 3.1-6-7(4)(A)(ii) requires GM to demonstrate that no new hazardous constituents listed in 40 CFR 261, Appendix VIII have been introduced *after* it had been determined that a significant change has occurred.

Therefore, GM requests IDEM to replace the language in 329 IAC 3.1-6-7(4)(A)(i) and (ii) with the following:

"329 IAC 3.1-6-7(4)(A) Changes in Operating Conditions: The facility must notify IDEM in writing if the manufacturing process or the chemicals used in the manufacturing process significantly change and cause the delisting levels in Table 2 to be exceeded."

It is GM's opinion that this revision will not alleviate GM's obligation to monitor its operations for significant changes that may cause the waste to exceed the delisting criteria. Further, nothing in the delisting affects GM's ongoing obligation to ensure that the wastewater treatment sludge is not hazardous under other RCRA provisions. (GM)(AAM)

Response: Indiana law and administrative rules drafting standards prohibit use of such terms as "significant" and require use of ascertainable standards. While EPA F019 delisting rules routinely use the term "significant," Indiana rules must provide real, definable thresholds and ascertainable standards. The referenced requirement was carefully written to provide a specific, ascertainable threshold for a change that would trigger a requirement for GM to notify IDEM.

A change that causes a constituent to exceed a delisting level is a significant change, and we have modified 329 IAC 3.1-6-7(3) of the draft rule to use that threshold.

Comment: Potential Errors in the Proposal - GM has reviewed the analytical information published as part of this proposal and identified several values to be different from the data reported in the delisting petition. It may be that some of the delisting values are different as a result of revisions to the DRAS [Delisting Risk Assessment Software] model, however, we present these potential errors for your consideration. [table deleted]

In addition, tetrachloroethene is listed in Table 1 but not in Table A. For consistency, GM suggests that Table A be revised to

incorporate the data for tetrachloroethene or that it be removed from Table 1. (GM)(AAM)

Response: IDEM agrees and has incorporated this information in the draft rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST PUBLIC HEARING

On October 18, 2005, the solid waste management board (board) conducted the first public hearing/board meeting concerning the development of new rules at 329 IAC 3.1-6-7. No comments were made at the first public hearing.

FISCAL ANALYSIS PREPARED BY THE LEGISLATIVE SERVICES AGENCY

IDEM has estimated that the economic impact of this rule will be less than five hundred thousand dollars (\$500,000) on the regulated entities. The proposed rule was not submitted to the Legislative Services Agency for analysis under IC 4-22-2-28.

329 IAC 3.1-6-7

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) No concentration of a constituent listed in Table 1 may exceed the delisting level for that constituent listed in Table 1. The delisting levels listed in Table 1 are the maximum concentration of that constituent measured in the extract of the wastewater treatment sludge using the extraction methods described in subdivision (2).

Table 1. Maximum Delisting Levels for Inorganic and Organic Constituents

Constituent	Chemical Abstract Service Registry Number	Delisting Level (mg/L)¹
Inorganic Constituents:		
Antimony	7440-36-0	0.5
Arsenic	7440-38-2	0.225
Barium	7440-39-3	100
Beryllium	7440-41-7	1.0
Cadmium	7440-43-9	0.36
Chromium	7440-47-3	3.71
Cobalt	7440-48-4	18.0
Cyanide	57-12-5	8.63
Lead	7439-92-1	5.0 ²
Mercury	7439-97-6	0.116
Nickel	7440-02-0	67.8
Selenium	7782-49-2	1.0 ²
Silver	7440-22-4	5.0 ²
Thallium	7440-28-0	0.211
Tin	7440-31-5	540
Vanadium	7440-62-2	65.0
Zinc	7440-66-6	673
Volatile Organic Compounds:		
Acetone	67-64-1	1500
Acetonitrile	75-05-8	77.5
Acrylonitrile	107-13-1	0.006

Allyl chloride	107-05-1	0.120
Benzene	71-43-2	0.057
n-Butanol	71-36-3	171
Carbon tetrachloride	56-23-5	0.034
Chlorobenzene	108-90-7	2.70
Chloroform	67-66-3	0.035
Chloromethane	74-87-3	9.700
1,1-dichloroethane	75-34-3	61.35
1,2-dichloroethane	107-06-2	0.035
1,1-dichloroethene	75-35-4	0.300
cis-1,2-dichloroethene	156-59-2	3.19
trans-1,2-dichloroethene	156-60-5	4.56
Ethyl benzene	100-41-4	31.9
Formaldehyde	50-00-0	43.5
Methylene chloride	75-09-2	0.216
Methyl ethyl ketone	78-93-3	200 ²
Methyl isobutyl ketone	108-10-1	1000
Methyl methacrylate	80-62-6	460
Styrene	100-42-5	4.56
1,1,1,2-Tetrachloroethane	630-20-6	0.182
1,1,2,2-Tetrachloroethane	79-34-5	0.330
Tetrachloroethene	127-18-4	0.228
Toluene	108-88-3	45.6
1,1,1-trichloroethane	71-55-6	9.11
1,1,2-trichloroethane	79-00-5	0.058
Trichloroethene	79-01-6	0.228
Vinyl acetate	108-05-4	32
Vinyl chloride	75-01-4	0.002
Xylenes	1330-20-7	13.93
Semivolatile Organic Compounds:		
bis-(2ethylhexyl) phthalate	117-81-7	0.146
Butyl benzyl phthalate	85-68-7	69.6
m-Cresol	108-39-4	85.5
o-Cresol	95-48-7	85.5
p-Cresol (4-methylphenol)	106-44-5	8.55
1,4-dichlorobenzene	106-46-7	3.24
2,4-dimethylphenol	105-67-9	34.2
2,4-dinitrotoluene	121-14-2	0.005
Diethyl phthalate	117-84-0	0.168
Hexachlorobenzene	118-74-1	1.6 × 10 ⁻⁴
Hexachlorobutadiene	87-68-3	0.016
Hexachloroethane	67-72-1	0.225
Naphthalene	91-20-3	0.546
Nitrobenzene	98-95-3	0.855
Pentachlorophenol	87-86-5	0.007
Pyridine	110-86-1	1.71
2,4,5-trichlorophenol	95-95-4	68.6
2,4,6-trichlorophenol	88-06-2	0.290

¹mg/L means milligrams per liter.

²The 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.

(2) Except as provided in clauses (E) and (F), General Motors shall obtain two (2) duplicate representative samples of the delisted waste each quarter and analyze them for the constituents listed in Table 2 as follows:

(A) 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).

*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.

(B) Metals must be extracted using Method 1330A, Oily Waste Extraction Procedure, if oil and grease levels exceed ten thousand (10,000) milligrams per kilogram.

(C) Constituents must be analyzed in accordance with the SW-846 methods listed for each in Table 2.

(D) The detection level for each method used to analyze the constituents in Table 2 must be less than the delisting level described in Table 1.

(E) If the relative percent difference (RPD) between the two (2) samples is forty percent (40%) or less for the first four (4) quarters, then General Motors may obtain and analyze one (1) representative sample of the delisted waste each following quarter. The RPD is calculated for each constituent and equals one hundred (100) times the absolute value of the difference between

the results divided by the average of the results, as follows:

$$RPD = 100 [(x_1 - x_2) / \{(x_1 + x_2) / 2\}]$$

where x_1 equals sample results and x_2 equals duplicate results.

(F) If any sample result shows any constituent listed in Table 2 at or above fifty percent (50%) of the delisting level for that constituent, then General Motors must analyze two (2) duplicate samples each quarter until authorized by the department to analyze one (1) sample each quarter.

(G) Nothing in this section prohibits General Motors from requesting at any time that the solid waste management board modify this section to allow less frequent verification testing.

Table 2. Constituents for which Quarterly Testing is Required

Constituent	SW-846 Method	Constituent	SW-846 Method
Acetone	8260B	Formaldehyde	8315A
Barium	6010B or 6020	Lead	6010B or 6020
bis-(2ethylhexyl) phthalate	8270C	Nickel	6010B or 6020
n-Butanol	8260B	Selenium	6020
Chromium	6010B or 6020	Tin	6010B or 6020
Cobalt	6010B or 6020	Toluene	8260B
p-Cresol (4-methylphenol)	8270C	Zinc	6010B or 6020

(3) If waste testing or other information available to General Motors shows that any constituent in Table 1 has exceeded the delisting level for that constituent, or General Motors makes changes in the Fort Wayne Assembly Plant that cause hazardous constituents listed in Table 1 to exceed the delisting level for that constituent, General Motors must do all of the following:

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

(B) Demonstrate that the waste continues to meet all delisting levels in Table 1.

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

(4) 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 required analysis for the previous calendar year.

(5) General Motors must compile, summarize, and maintain records of operating conditions and analytical data. The records must be:

(A) maintained for a minimum of five (5) years; and

(B) made available for inspection by the department during normal working hours.

(6) All data required by this section must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

(7) The delisted waste must be disposed of in a:

(A) municipal solid waste landfill permitted under 329 IAC 10; or

(B) hazardous waste disposal facility permitted under this article.

(8) 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	0.75
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.

(9) 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 Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on January 17, 2006 at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Solid Waste Management Board will hold a public hearing on proposed new rules and amendments to rules at 329 IAC 3.1.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rules and amendments to rules. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Steve Mojonier, Rules, Planning and Outreach Section, Office of Land Quality, (317) 233-1655 or call (800) 451-6027 (in Indiana) and ask for extension 3-1655.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

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Indianapolis, Indiana 46206-6015

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bruce H. Palin
Deputy Assistant Commissioner
Office of Land Quality