

DRAS calculates the maximum allowable concentration of chemical constituents in the incinerator ash. Since all maximum TCLP concentrations found in Table I are equal to or less than the maximum allowable TCLP concentration specified by DRAS and the associated risk assessment conducted by the EPA, the petitioned waste meets the applicable delisting criteria. In addition, on the basis of explanations and analytical data provided by Teris, pursuant to § 260.22, the EPA concludes that the petitioned waste does not exhibit any of the characteristics of toxicity, ignitability, corrosivity, or reactivity. See §§ 261.21, 261.22, and 261.23, respectively.

#### *F. What Did the EPA Conclude About Teris' Analysis?*

The EPA concluded, after reviewing Teris' processes that no other hazardous constituents of concern, other than those for which tested, are likely to be present or formed as reaction products or by-products in Teris' wastes. In addition, on the basis of explanations and analytical data provided by Teris, pursuant to § 260.22, the EPA concludes that the petitioned wastes do not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See §§ 261.21, 261.22 and 261.23, respectively.

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

During the evaluation of this petition, the EPA also considered the potential impact of the petitioned waste via non-ground water routes (*i.e.*, air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from the petitioned waste is unlikely. Therefore, no appreciable air releases are likely from the stabilized incinerator ash under any likely disposal conditions. The EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from the stabilized incinerator ash in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from the hazardous waste incinerator ash. A description of the EPA's assessment of the potential impact of incinerator ash, regarding airborne dispersion of waste contaminants, is presented in the RCRA public docket for this proposed rule. This docket is designated with the following code F-03-ARDEL-TERIS.

The EPA also considered the potential impact of the petitioned waste via a

surface water route. The EPA believes that containment structures at municipal solid waste landfills can effectively control surface water runoff, as the Subtitle D regulations (*See* 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the runoff will tend to be lower than the levels in the TCLP leachate analyses reported in this notice due to the aggressive acidic medium used for extraction in the TCLP. The EPA believes that, in general, leachate derived from the waste is unlikely to directly enter a surface water body without first traveling through the saturated subsurface where dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of solubility of a toxic constituent in water and are indicative of the fraction of the constituent that may be mobilized in surface water as well as ground water.

Based on the reasons discussed above, the EPA believes that the contamination of surface water through runoff from the waste disposal area is very unlikely. Nevertheless, the EPA evaluated the potential impacts on surface water if the stabilized incinerator ash were released from a municipal solid waste landfill through runoff and erosion. See the RCRA public docket for this proposed rule for further information on the potential surface water impacts from runoff and erosion. The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below the EPA Chronic Water Quality Criteria for aquatic organisms (USEPA, OWRS, 1987). The EPA, therefore, concluded that this stabilized hazardous waste incinerator ash is not a present or potential substantial hazard to human health and the environment via the surface water exposure pathway.

#### *H. What Is the EPA's Evaluation of This Delisting Petition?*

The descriptions by Teris of the hazardous waste process and analytical characterization, with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis for the EPA to grant the exclusion. The data submitted in support of the petition show that constituents in the waste are below the maximum allowable leachable concentrations (See Table 1). The EPA believes that the thermal treatment and subsequent stabilization process operated by Teris will substantially reduce the likelihood of migration of

hazardous constituents from the petitioned waste. These treatment processes will also minimize short-term and long-term threats from the petitioned waste to human health and the environment.

Thus, the EPA believes that it should grant to Teris an exclusion for the stabilized hazardous waste incinerator ash. The EPA believes the data submitted in support of the petition show the stabilization treatment process operated by Teris can render the hazardous waste incinerator ash nonhazardous.

The EPA has reviewed the sampling procedures used by Teris and has determined they satisfy the EPA's criteria for collecting representative samples of variable constituent concentrations in the hazardous waste incinerator ash. The data submitted in support of the petition show that constituents in Teris' waste are presently below the compliance point concentrations used in the delisting decision-making process and would not pose a substantial hazard to the environment. The EPA believes that Teris has successfully demonstrated that the stabilized hazardous waste incinerator ash is nonhazardous.

The EPA therefore proposes to grant an exclusion to Teris, in El Dorado, Arkansas, for the stabilized hazardous waste incinerator ash described in its petition. The EPA's decision to exclude this waste is based on descriptions of the treatment activities associated with the petitioned waste and characterization of the stabilized hazardous waste incinerator ash.

If the EPA finalizes the proposed rule, the EPA will no longer regulate the stabilized incinerator ash under Parts 262 through 268 and the permitting standards of Part 270.

## **IV. Next Steps**

### *A. With What Conditions Must the Petitioner Comply?*

The petitioner, Teris, must comply with the requirements in 40 CFR part 261, appendix IX, table 1 as amended by this notice. The text below gives the rationale and details of those requirements.

#### **(1) Delisting Levels**

This paragraph provides the levels of constituents that Teris must test the leachate from the stabilized incinerator ash, below which these wastes would be considered nonhazardous.

The EPA selected the set of inorganic and organic constituents specified in Paragraph (1) of 40 CFR part 261, appendix IX, table 1, based on