

where the waste is disposed. The waste must be disposed in the type of unit the fate and transport model evaluates.

The EPA also considers the applicability of groundwater monitoring data during the evaluation of delisting petitions. In this case, OxyVinyls disposes of its wastewater in an NPDES permitted facility with surface impoundments (part of the Shell South Effluent Treatment system), with existing groundwater contamination sources other than the surface impoundments impacting monitoring wells in the area. The groundwater contamination is currently being addressed and managed through a RCRA Corrective Actions Program. Consequently the groundwater data would not be relevant to this exclusion. Therefore, the EPA has determined that it would be unnecessary to request groundwater monitoring data.

The EPA believes that the descriptions of OxyVinyls' hazardous waste process and analytical characterization provide a reasonable basis to conclude that the likelihood of migration of hazardous constituents from the petitioned waste will be substantially reduced so that short-term and long-term threats to human health and the environment are minimized.

The DRAS results which calculate the maximum allowable concentration of chemical constituents in the waste are presented in Table I. Based on the comparison of the DRAS results and maximum TCLP concentrations found in Table I, the petitioned waste should be delisted because no constituents of concern tested are likely to be present or formed as reaction products or by products in OxyVinyls' waste. In addition, on the basis of explanations and analytical data provided by OxyVinyls, pursuant to § 260.22, the EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See §§ 261.21, 261.22, and 261.23, respectively.

F. What Did the EPA Conclude About OxyVinyls' Analysis?

The EPA concluded, after reviewing OxyVinyls' 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 the wastes. In addition, on the basis of explanations and analytical data provided by OxyVinyls, 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 OxyVinyls' petition, the EPA also considered the potential impact of the petitioned waste via non-groundwater routes (i.e., air emission and surface runoff). With regard to airborne dispersion in particular, the EPA believes that exposure to airborne contaminants from OxyVinyls' petitioned waste is unlikely. Therefore, no appreciable air releases are likely from OxyVinyls waste under any likely disposal conditions. The EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from OxyVinyls' waste in an open surface impoundment. 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 OxyVinyls' incinerator offgas treatment scrubber water. A description of the EPA's assessment of the potential impact of OxyVinyls' waste, regarding airborne dispersion of waste contaminants, is presented in the RCRA public docket for this proposed rule, F-02-TX-OxyVinyls.

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 surface impoundments 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, the incinerator offgas scrubber water 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. Since the waste is a liquid, the 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 groundwater.

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 OxyVinyls' waste were released from a

municipal solid waste surface impoundment 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 OxyVinyls incinerator offgas treatment scrubber water 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 of OxyVinyls' 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 I). The EPA believes OxyVinyls' process will substantially reduce the likelihood of migration of hazardous constituents from the petitioned waste. OxyVinyls' process also minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

Thus, the EPA believes that it should grant OxyVinyls an exclusion for the incinerator offgas treatment scrubber water. The EPA believes the data submitted in support of the petition show OxyVinyls' process can render the incinerator offgas treatment scrubber water non-hazardous.

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

The EPA therefore, proposes to grant an exclusion to OxyVinyls, in Deer Park, Texas, for the incinerator offgas treatment scrubber water described in