

responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one facility.

Lists of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: September 19, 2003.

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Acting Director, Multimedia Planning and Permitting Division, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX of Part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility/Address	Waste description
* OxyVinyls, L.P., Deer Park, TX	* Incinerator Offgas Scrubber Water (EPA Hazardous Waste Nos. K017, K019 and K020) generated at a maximum annual rate of 919,990 cubic yards per calendar year after [insert publication date of the final rule] and disposed in a Subtitle D surface impoundment. For the exclusion to be valid, OxyVinyls must implement a testing program that meets the following Paragraphs: (1) <i>Delisting Levels:</i> All leachable concentrations for those constituents must not exceed the following levels (mg/l). The petitioner must use the leaching specified in 40 CFR Part 261.24 to measure constituents in the incinerator offgas scrubber water. Incinerator offgas treatment scrubber water (i) Inorganic Constituents Antimony-0.0204; Arsenic-0.385; Barium-2.92; Beryllium-0.166; Cadmium-0.0225; Chromium-5.0; Cobalt-13.14; Copper-418.00; Lead-5.0; Nickel-1.13; Mercury-0.0111; Vanadium-0.838; Zinc-2.61 (ii) Organic Constituents Acetone-1.46; Bromoform-0.481; Bromomethane-8.2; Bromodichloromethane-0.0719; Chloroform-0.683; Dibromochloromethane-0.057; Iodomethane-0.19; Methylene Chloride-0.029; 2,3,7,8-TCDD equivalents as TEQ-0.0000926 (2) <i>Waste Management:</i> (A) OxyVinyls must manage as hazardous all incinerator offgas treatment scrubber water generated, until it has completed initial verification testing described in Paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the incinerator offgas treatment scrubber water that do not exceed the levels set forth in Paragraph (1) are non-hazardous. OxyVinyls can manage and dispose the non-hazardous incinerator offgas treatment scrubber water according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), OxyVinyls can collect one additional sample and perform expedited analyses to confirm if the constituent exceeds the delisting level. If this sample confirms the exceedance, OxyVinyls must, from that point forward, treat the waste as hazardous until it is demonstrated that the waste again meets the levels. (D) If the facility has not treated the waste, OxyVinyls must manage and dispose of the waste generated under Subtitle C of RCRA from the time that it becomes aware of any exceedance. (E) Upon completion of the Verification Testing described in Paragraph 3(A) and (B) as appropriate and the transmittal of the results to the EPA, and if the testing results meet the requirements of Paragraph (1), OxyVinyls may proceed to manage its incinerator offgas treatment scrubber water as non-hazardous waste. If Subsequent Verification Testing indicates an exceedance of the Delisting Levels in Paragraph (1), OxyVinyls must manage the incinerator offgas treatment scrubber water as a hazardous waste until two consecutive quarterly testing samples show levels below the Delisting Levels. (3) <i>Verification Testing Requirements:</i> OxyVinyls must perform sample collection and analyses, including quality control procedures, according to SW-846 methodologies. If the EPA judges the process to be effective under the operating conditions used during the initial verification testing, OxyVinyls may replace the testing required in Paragraph (3)(A) with the testing required in Paragraph (3)(B). OxyVinyls must continue to test as specified in Paragraph (3)(A) until and unless notified by the EPA in writing that testing in Paragraph (3)(A) may be replaced by Paragraph (3)(B). (A) <i>Initial Verification Testing:</i> After the EPA grants the final exclusion, OxyVinyls must do the following: (i) Within 60 days of this exclusion's becoming final, collect four samples, before disposal, of the incinerator offgas treatment scrubber water. (ii) The samples are to be analyzed and compared against the delisting levels in Paragraph (1).