

US EPA ARCHIVE DOCUMENT

**Response to Comments to the Proposed Regulation:
Land Disposal Restrictions: Notice of Intent to Grant
Two Site-Specific Treatment Variances-U.S. Ecology
Idaho, Incorporated in Grandview, Idaho and CWM
Chemical Services, LLC in Model City, New York**

U.S. Environmental Protection Agency
Office of Solid Waste and Emergency Response (5302 W)
1200 PA Ave., NW
Washington, DC 20460

May 2002

There were three comments received on the July 24, 2001 proposed regulation. They are:

1. Brian Correa - Safety Kleen, Docket Number TVLN-00001
2. Safety Kleen, Chemical Services Division, Docket Number TVLN-00002
3. Alcoa, Docket Number TVLN-00003

Comment #1: It is fine for the 26.1 ppm total arsenic standard to apply to newly-generated K088. All other mixture, derived-from and contained-in K088 should use the 5.0 ppm arsenic TCLP Universal Treatment Standard. Instead of repeating the variance process, EPA should consider permanently fixing it by bifurcating the treatment standard between newly-generated K088 and derived from K088. The cost and delay to industry and taxpayers seems unnecessary.

Response: EPA does not believe it is an appropriate course of action to bifurcate the treatment standard for arsenic. The existing regulations are sufficient. In cases where site-specific variances from the 26.1 ppm total arsenic standard are appropriate, EPA's regulations set forth the infrastructure for generators or treaters of hazardous waste to file petitions for variances from treatment. To date, EPA has responded to only four petitions regarding the treatment standard for arsenic in K088 derived-from waste in the past two years. (66 FR 33887, June 26, 2001 and 65 FR 45978, July 26, 2000, plus the two granted today.) There are no outstanding treatment variance petitions.

Comment #2: Based on its own experiences in meeting the relevant Land Disposal Restrictions, Safety Kleen, Chemical Services Division supports EPA's decision to grant site-specific treatment variances from the 26.1 ppm total arsenic standard.

Response: No response needed.

Comment #3: Alcoa supports EPA's proposal to grant alternate treatment standards for the relevant wastes, with clarifications and changes as seen in the detailed comments below.

A-1: "Clarify that the alternate treatment standard for arsenic in the K088-derived baghouse dust and incinerator residue "generated" at CWM's facility is not limited to the waste currently managed on-site."

Response: The treatment standard granted under this variance applies to existing and future baghouse dust generated at CWM's Model City facility. The treatment standard also applies to existing and future incinerator ash treated at CWM's Model City facility. (The comment did not address filtercake. The variance also applies to any K088 derived-from filtercake generated in the future at the Model City facility.)

A-2: Clarify what incinerator residue at CWM's Model City facility are covered by the rule.

Response: The variance granted to CWM's Model City facility under this rulemaking is limited to incinerator residue wastes generated at the Model City facility, i.e., from treatment processes occurring at this facility.

A-3: If EPA would allow CWM to dispose of K088-derived incinerator residue received from off-site without further treatment provided the incinerator residue meets the LDR treatment standards, why is EPA limiting the disposal of these residues to CWM's Model City Subtitle C landfill? The result seems unnecessary, since other Subtitle C landfills would be protective.

Response: As stated above, the variance granted to CWM's Model City facility under this rulemaking is limited to wastes generated or treated at the Model City facility. Waste from off-site that meets the 26.1 ppm total arsenic standard (i.e., the non-variance standard), could be disposed in the CWM landfill. Facilities other than CWM's Model City facility who believe their wastes meet the criteria for a variance from the K088 standard can submit their own variance petition to EPA for consideration.

A-4: Amend the LDR treatment standard for arsenic in K088 wastes as opposed to requiring facilities to submit site-specific treatability variances.

Response: As mentioned in our response to comment #1, EPA does not believe it is an appropriate course of action at this time to bifurcate the treatment standard for arsenic. The existing regulations are sufficient. EPA's regulations set forth the infrastructure for generators or treaters of hazardous waste to file petitions for variances from the treatment standard. To date, EPA has responded to only four petitions regarding the treatment standard for arsenic in K088 derived-from waste in the past two years. (66 FR 33887, June 26, 2001 and 65 FR 45978, July 26, 2000, plus the two granted today.)