local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

Petitions for Judicial Review

Under section 307(b)(1) of the CAAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 1996. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding the Northern Virginia ozone Emission Inventory may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: August 21, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2425 is amended by adding paragraph (c) to read as follows:

§ 52.2425 1990 Base Year Emission Inventory.

* * * * *

(c) EPA approves as a revision to the Virginia State Implementation Plan the 1990 base year emission inventories for the Northern Virginia ozone nonattainment areas submitted by the Director, Virginia Department Environmental Quality, on November 30, 1992, November 1, 1993, and April 3, 1995. These submittals consist of the 1990 base year point, area, non-road mobile, biogenic and on-road mobile source emission inventories in each area for the following pollutants: volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_X).

[FR Doc. 96–23262 Filed 9–13–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 261

[SW–FRL–5608–9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a petition submitted by Bekaert Steel Corporation (Bekaert) of Rogers, Arkansas, to exclude from hazardous waste control (or delist) certain solid wastes generated at its facility. This action responds to Bekaert's petition to delist these wastes under those regulations that allow any person to petition the Administrator to modify or revoke any provision of certain hazardous waste regulations of the Code of Federal Regulations, and specifically provide generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. After careful analysis, EPA has concluded that the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies only to wastewater treatment sludge generated from electroplating operations at Bekaert's Rogers, Arkansas, facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills.

EFFECTIVE DATE: September 16, 1996.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Library of the 12th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–96–ARDEL–BEKAERT'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general and technical information concerning this notice, contact David Vogler, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–7428.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the

waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

B. History of this Rulemaking

Bekaert petitioned EPA to exclude from hazardous waste control the its filter cake resulting from the treatment of wastewaters originating from its electroplating operations at the Rogers, Arkansas, facility. After evaluating the petition, EPA proposed, on June 25, 1996, to exclude Bekaert's waste from the lists of hazardous wastes under §§ 261.31 and 261.32. *See* 61 *FR* 32746. This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Bekaert's petition.

II. Disposition of Petition

Bekaert Steel Corporation, Rogers, Arkansas

A. Proposed Exclusion

Bekaert petitioned the EPA to exclude from the lists of hazardous wastes contained in 40 CFR § 261.31 and 261.32, its wastewater treatment sludges form its electroplating operations. Specifically, in its petition, Bekaert petitioned the Agency to exclude its wastewater treatment filter cake presently listed as EPA Hazardous Waste No. F006—''Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.'' The listed constituents of concern for EPA Hazardous Waste No. F006 are: cadmium, hexavalent chromium, nickel and cyanide (complexed). *See* 40 CFR part 261, Appendix VII. Bekaert petitioned the EPA to exclude this waste because it does not believe that the waste meets the criteria for which it was listed. Bekaert also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. *See* section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2) through (4).

In support of its petition, Bekaert submitted: (1) Descriptions of its manufacturing and wastewater treatment processes, including schematic diagrams; (2) a list of all raw materials and Material Safety Data Sheets (MSDSs) for all trade name products used in the manufacturing and waste treatment processes; (3) results from total constituent analyses for fourteen metals including the eight Toxicity Characteristic (TC) metals listed in § 261.24 (i.e., the TC metals) and antimony, beryllium, copper, nickel, thallium, and zinc from representative samples of the petitioned waste; (4) results from the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) for fourteen metals which include the eight TC metals, and antimony, beryllium, copper, nickel, thallium, and zinc from representative samples of the petitioned waste; (5) results from total constituent analysis for total and reactive sulfide and cyanide for representative samples of the petitioned waste; (6) results from total oil and grease analyses from representative samples of the petitioned waste; (7) test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity; and (8) results from total constituent analyses for certain volatile and semi-volatile organic compounds from representative samples of the petitioned waste.

B. Summary of Responses to Public Comments

The EPA received public comment on the June 25, 1996, proposal from one interested party, the American Zinc Association (AZA).

Classification of Zinc as a Hazardous Constituent

Comment: The AZA is concerned that EPA, in connection with the delisting petition filed by Bekaert Steel Corporation, appears to view zinc as a '' hazardous constituent'' to which the EPA Composite for Model Landfills (EPACML) must be applied. The AZA contends that zinc is not considered a ''hazardous constituent'' as defined under RCRA, is not listed on Appendix VIII to 40 CFR part 261 and is specifically excluded from the definition of ''underlying hazardous constituents'' in 40 CFR 268.2 (i). The AZA requests that the final rule be changed to exclude zinc.

Response: The criteria for making a successful petition to amend part 261 to exclude a waste produced at a particular facility can be found in 40 CFR part 260.22. The regulations in 40 CFR part 260.22(a)(2) state that based on a complete application, the Administrator must determine where there is a reasonable basis to believe that factors (including additional constituents), other than those for which the waste was listed, could cause the waste to be a hazardous waste; and that such factors do not warrant retaining the waste as a hazardous waste.

The EPA understands the AZA's concern regarding implication that zinc is being viewed as a ''hazardous constituent'' in this delisting petition. In response to this concern, EPA will revise the preamble language to future rulemakings to read ''the EPACML will be used to predict the concentrations of constituents that may be released from the petitioned waste, once it is disposed.'' To evaluate delisting petitions, any constituent detected in the leachate of the petitioned waste must be evaluated by the EPACML. All organic and inorganic constituents detected in the leachate of a petitioned waste are evaluated for their potential hazard to human health and the environment. Zinc, while it may not meet the definitions of hazardous constituent or ''underlying hazardous constituent'' as defined under the Land Disposal Restrictions, is a constituent found in Bekaert Steel's waste and moreover, in the leachate of the petitioned waste. Therefore, to meet the delisting criteria, zinc must be evaluated to determine if, as a result of leaching into the groundwater, the concentration of zinc would pose a significant hazard to human health or the environment.

In the analysis of the leachate from Bekaert's waste, levels of zinc were detected and the maximum value is reported on the list of inorganic constituents found in Table 1 of the June 25, 1996, notice. The evaluation of zinc as an ''additional constituent'' is conducted and compared to its health-based value and the secondary drinking water regulations to determine whether the levels of zinc detected could cause the waste to be a potential hazard. In the case of Bekaert's waste, the value for zinc is below the level of regulatory concern and should not present a hazard to human health or the environment.

C. Final Agency Decision

For reasons stated in both the proposal and this notice, EPA believes that Bekaert's petitioned waste should be excluded from hazardous waste control. The EPA, therefore, is granting a final exclusion to Bekaert Steel Corporation, located in Rogers, Arkansas, for a maximum annual rate 1,250 cubic yards of waste to be measured on a calendar year basis, described in its petition as EPA Hazardous Waste No. F006. This exclusion only applies to the waste described in the petition.

Although management of the waste covered by this petition is relieved from

Subtitle C jurisdiction, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation *See* 40 CFR part 260, Appendix I.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, Illinois) are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, Bekaert must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

IV. Effective Date

This rule is effective September 16, 1996. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The effect of this rule is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. The reduction is achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling a facility to treat its waste as non-hazardous. As discussed in EPA's response to public comments, this rule is unlikely to have an adverse annual effect on the economy of $100 million or more. Therefore, this rule does not represent a significant regulatory action under the Executive Order, and no assessment of costs and benefits is necessary. The Office of Management and Budget (OMB) has exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This regulation will not have an adverse impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, today's delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

Lists of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling, Reporting and recordkeeping requirements.

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

Dated: September 3, 1996.

Jane N. Saginaw,

Regional Administrator.

For the reasons set out in the preamble, 40 CFR part 261 is 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 2 of Appendix IX, part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

* * * * *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
		* * * * * * *
Bekaert Steel Corporation	Rogers, Arkansas	Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated from electroplating operations (at a maximum annual rate of 1250 cubic yards to be measured on a calendar year basis) after [insert publication date of the final rule]. In order to confirm that the characteristics of the waste do not change significantly, the facility must, on an annual basis, before July 1 of each year, analyze a representative composite sample for the constituents listed in § 261.24 as well as antimony, copper, nickel, and zinc using the method specified therein. The annual analytical results, including quality control information, must be compiled, certified according to § 260.22(i)(12) of this chapter, maintained on site for a minimum of five years, and made available for inspection upon request of any employee or representative of EPA or the State of Arkansas. Failure to maintain the required documents on site will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. *Notification Requirements:* Bekaert Steel Corporation must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

[FR Doc. 96–23657 Filed 9–13–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91–259; RM–7309, RM–7942, RM–7943, RM–7944, RM–7948]

Radio Broadcasting Services; Canovanas, Culebra, Las Piedras, Mayaguez, Quebradillas, San Juan, and Vieques, PR, and Christianted and Frederiksted, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document directs WKJB AM-FM, Inc.licensee of Station WKJB-FM, Channel 256B, Mayaguez, Puerto Rico, and Arso Radio Corporation, licensee of Station WPRM-FM, Channel 253B, San Juan, Puerto Rico, to show cause why their respective licenses should not be modified to specify operations on Channel 254B and Channel 256B. These modifications would accommodate a Channel 252A channel substitution at Vieques, Puerto Rico, a reallotment of Channel 252A to Las Piedras, Puerto Rico, and modification of the license of Station WSAN license to specify operation on Channel 252A at Las Piedras.

EFFECTIVE DATE: September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order to Show Cause* in MM Docket No. 91–259, adopted August 12, 1996, and released August 19, 1996. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A.Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–23621 Filed 9–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–126; RM–8815]

Radio Broadcasting Services; Cross Hill, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ron Moore, allots Channel 231A at Cross Hill, South Carolina, as the community's first local aural transmission service. *See* 61 FR 31490, June 20, 1996. Channel 231A can be allotted to Cross Hill in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.7 kilometers (9.1 miles) southeast to avoid short-spacings to the licensed sites of Station WGOR(FM), Channel 230C3, Martinez, Georgia, and Station WMUU-FM, Channel 233C, Greenville, South Carolina. The coordinates for Channel 231A at Cross Hill are North Latitude 34–13–04 and West Longitude 81–51–41. With this action, this proceeding is terminated.

DATES: Effective October 21, 1996. The window period for filing applications will open on October 21, 1996, and close on November 21, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 96–126, adopted August 30, 1996, and released September 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of