docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 ote). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 15, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.284, by amending paragraph (b) by revising the entries for alfalfa (forage) and alfalfa (hay) to read as follows:

§ 180.284 Zinc phosphide; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Alfalfa (forage)	1.0	12/31/02
Alfalfa (hay)	1.0	12/31/02
* * *	*	* * *

* * * * *

[FR Doc. 00–4239 Filed 2–22–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6541–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting a petition submitted by Chaparral Steel Midlothian, L.P.(Chaparral Steel) to exclude from hazardous waste control (or delist) a certain solid waste. This action responds to the petition submitted by Chaparral Steel Midlothian, L.P., to delist the leachate from its Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater from various plant operations including storm water from the baghouse floor areas and the pelletizer sump on a ''generator specific'' basis from the lists of hazardous waste.

After careful analysis, we have concluded that the petitioned waste is

not hazardous waste when disposed of in the surface impoundments. This exclusion applies to leachate from Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater at Chaparral Steel's Midlothian, Texas, 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 surface impoundments but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

EFFECTIVE DATE: February 23, 2000.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th 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–99–TXDEL–CHAPARRAL.'' 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 information, contact Bill Gallagher, at (214) 665–6775. For technical information concerning this notice, contact David Vogler, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–7428.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information

A. What Action is EPA Finalizing?

The EPA is finalizing the decision to grant Chaparral Steel's petition to have their leachate and minor amounts of waste water excluded, or delisted, from the definition of a hazardous waste.

After evaluating the petition, EPA proposed, on August 24, 1999, to exclude the Chaparral Steel waste from the lists of hazardous wastes under §§ 261.31 and 261.32 (see 64 FR 46166).

B. Why is EPA Approving This Delisting?

Chaparral Steel petitioned to exclude the landfill leachate and other wastewaters because it does not believe that the petitioned waste meets the criteria for which it was listed.

Chaparral Steel 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 listing criteria and 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)–(4).

For reasons stated in both the proposal and this notice, EPA believes that Chaparral Steel's landfill leachate and other K061 wastewaters should be excluded from hazardous waste control. The EPA therefore is granting a final exclusion to Chaparral Steel, located in Midlothian, Texas, for its leachate from its Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater from various plant operations including storm water from the baghouse floor areas and the pelletizer sump.

C. What are the Limits of This Exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 are met. The waste described in the petition is leachate from Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater from various plant operations including storm water from the baghouse floor areas and the pelletizer sump.

D. How Will Chaparral Steel Manage the Waste if it is Delisted?

The leachate is currently sent to an offsite underground injection well facility for disposal. Although management of the wastes covered by this petition would not be subject to subtitle C jurisdiction upon final promulgation of an exclusion, Chaparral Steel must ensure that the onsite management of the delisted wastes is in accordance with the Texas Natural Resource Conservation Commission (TNRCC) rules and regulations or the waste is delivered to an off-site storage, treatment, or disposal facility, either which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

The facility would like to manage the waste in their onsite cooling system of which cooling ponds are a part. The wastewater would be substituted for some of the well water used for cooling purposes which would help conserve that natural resource. In this case, the requested change in waste management is subject to delisting by EPA and subsequent waste management practices in accordance with TNRCC rules and regulations.

E. When is the Final Delisting Exclusion Effective?

This rule is effective February 23, 2000. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010(b) 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).

F. How Does This Action Affect States?

Because EPA is issuing today's exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA

requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

Here are the details: We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

The EPA has also authorized some States (for example, Louisiana, Georgia, Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Chaparral Steel transports the petitioned waste to or manages the waste in any State with delisting authorization, Chaparral Steel must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What is a Delisting Petition?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude from the list of hazardous wastes, wastes the generator does not consider hazardous under RCRA.

B. What Regulations Allow Facilities to Delist a Waste?

Under 40 CFR 260.20 and 260.22, facilities may petition the 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 266, 268, and 273 of Title 40 of the Code of Federal Regulations. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists.

C. What Information Must the Generator Supply?

Petitioners must provide sufficient information to EPA to allow the 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.

III. EPA's Evaluation of the Waste Data

A. What Waste did Chaparral Steel Petition EPA to Delist?

Chaparral Steel Midlothian, L.P., petitioned the EPA to exclude from hazardous waste control leachate from its Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater from various plant operations including storm water from the baghouse floor areas and the pelletizer sump. The listed constituents of concern for K061 are chromium, lead, and cadmium.

B. How Much Waste did Chaparral Steel Propose to Delist?

Specifically, in its petition, Chaparral Steel requested that EPA grant an exclusion for leachate from its Landfill No. 3 containing K061 electric arc furnace dust and minor amounts of K061 wastewater from various plant operations including storm water from the baghouse floor areas and the pelletizer sump in the amount of 2,500 cubic yards (500,000 gallons) generated per calender year.

C. How did Chaparral Steel Sample and Analyze the Waste Data in This Petition?

To support its petition, Chaparral submitted:

(1) Historical analytical data for the Electric Arc Furnace Dust (K061), and leachate analytical data from their Landfill No. 3 containing the Electric Arc Furnace Dust, and analytical data for the liquid from the K061 waste water storage tank;

(2) Analytical results of the total constituent list for 40 CFR part 264, appendix IX volatiles, semivolatiles, metals (including hexavalent chromium), pesticides, herbicides, polychlorinated biphenyls, furans, and dioxins;

(3) Analytical results of the constituent list derived from appendix IX for identified constituents;

(4) Analytical results for reactive sulfide;

(5) Analytical results for reactive cyanide;

(6) Test results for corrosivity by pH;

(7) Analytical results of samples from bench tests of treated leachate/K061 wastewater; and

(8) Test results for oil and grease.

IV. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

i. One commenter supported the delisting but was concerned that the rule implies that storm water from melt shop baghouse areas at similar facilities would be required to be considered K061 waste water. The EPA does not intend to imply that this would be the case. Chaparral Steel removes its storm water from the baghouse area and places it in a tank containing K061 leachate and manages the waste as K061. Other generators must characterize their own storm water based on relevent circumstances involved with the generation, management, and disposal of the water.

ii. Two commenters from the same address submitted concerns that their private ground water well and the creek on their property would become contaminated because of the approval of the delisting. A public hearing was requested by these two requestors but not granted.

B. Is the Delisting of Chaparral Steel's Waste a Threat to Ground Water?

No, as explained in the proposed exclusion (delisting), EPA concluded that the constituents in the raw leachate, with the exception of lead, if released directly to the groundwater would not reach levels of concern at a down gradient well. The EPA added as a condition or requirement of delisting the waste that the maximum concentration level of lead in the leachate could not exceed 0.69 mg/l. *See* 64 FR 46176. The 0.69 mg/l concentration value is the Land Disposal Restriction (LDR) value for lead. This concentration is below the health-based value of 1.02 mg/l which is a value calculated for a theoretical down gradient well. The more conservative value was selected as a delisting limit.

Other assumptions made by EPA in the evaluation process were also very conservative. The value for largest amount of leachate generated on a per year basis was used in evaluation. Typically, the amount of leachate generated on a yearly basis is much less than the maximum and the amount generated is decreasing over time. Also, EPA evaluated the waste at the highest concentrations found in analyzing the waste or worst case concentrations. Actually, concentrations of constituents in the waste are less if the average value is used for evaluation purposes. If the leachate is added to the cooling system

as proposed by the facility, the concentrations of the constituents in the leachate would be reduced by the well water in the approximately eight million gallon cooling system. According to facility information, nearly 240 million gallons of well water is added to the system annually. The EPA conservatively evaluated a release of raw leachate to the ground water and not the leachate diluted by the cooling system water. The EPA also conservatively assumed a significant release of raw leachate would occur. However, the proposed management scenario for the raw leachate is in an above ground tank with secondary containment. Therefore, it is very unlikely a significant release to the environment would occur.

Because of the conservative assumptions made above (or reasonable worst case scenario), EPA concludes that granting the delisting adds no significant threat to contamination of ground water wells in general even if not managed as proposed in the onsite cooling pond system. As previously stated, although management of the wastes covered by this petition would not be subject to subtitle C jurisdiction upon final promulgation of an exclusion, Chaparral Steel must ensure that the onsite management of the delisted wastes is in accordance with the TNRCC rules and regulations or the waste is delivered to an off-site storage, treatment, or disposal facility, either which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

The EPA concludes that granting the delisting adds no significant threat to the contamination of the ground water of the commenter's well specifically. The commenter's well is about one mile away from the cooling water ponds and 500 foot in depth. The soils and geologic formations in the area have a low hydraulic conductivity. The combination of the distance to the well, the depth to the well, and the low hydraulic conductivity make it very unlikely that the commenter's well can be contaminated from the delisted waste.

C. Is the Delisting of Chaparral Steel's Waste a Threat to Surface Water?

No, the impact of the petitioned wastes via the surface water route is not a threat. If the leachate is added to the cooling system and associated holding ponds as proposed by the facility, an overflow is an unlikely event and would not ever occur under reasonable circumstances. A release to surface water would most potentially occur only if the plant was shut down and there was a large rainfall event at the same time. In the unlikely event of a release, the facility is required to meet applicable storm water permit concentration levels to protect human health and the environment.

Even though release to surface water is unlikely, EPA evaluated a 100-year, 24 hour rainfall event with the cooling ponds at no freeboard capacity which are also unlikely events. Under normal conditions the ponds would have enough additional capacity (freeboard) to catch all precipitation without an overflow occurring. If such a worst case scenario were to occur, calculations indicate that the concentrations of the constituents of concern would be below drinking water criteria and surface water criteria before reaching the stream at the facility's outfall. See regulatory docket for ''Docket Report on Evaluation of Contaminant Releases to Surface Water Resulting Form Chaparral Steel Midlotian, L.P.'s, Petitioned Waste'' document. Because of these reasons, EPA concludes that approving the delisting will not significantly impact the stream at the facility's outfall nor at the commenter's location which is approximately one mile downstream. The delisting is protective of human health and the environment.

D. Are There Any Typographical and Data Transfer Errors From the Proposed Delisting Publication?

The EPA is correcting the maximum organic total constituent concentration values for 2-butanone and carbon disulfide found in Table 1. of the proposed exclusion (64 FR 46169, August 24, 1999). The value for 2-butanone total constituent analysis for raw leachate (mg/l) should be 0.005 and not 0.003. The value for carbon disulfide total constituent analysis for treated leachate (mg/l) should be <0.005 and not 0.005.

The EPA is also making a change in Paragraph (5) of the Table 2 language to be consistent with Paragraph (6). The sentence which states ''Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA'' has been altered to read ''Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to reopen the exclusion as described in Paragraph (6).''

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The final to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as nonhazardous. There is no additional impact due to today's final rule. Therefore, this proposal would not be a significant regulation and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also 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 a small entities.

This rule if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation, if promulgated, 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 record-keeping requirements associated with this final rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (Public Law 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), Public Law 104–4, which was signed into law on March 22, 1995, EPA 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 upon State, local, or tribal governments or the private sector. In addition, the delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will become effective on the date of publication in the **Federal Register**.

X. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines: (1) Is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer and Advancement Act

Under Section 12(d) of the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List 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: February 2, 2000.

Carl E. Edlund,

Director, Multimedia Planning and Permitting Division.

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

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

* * * * *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Chaparral Steel Midlothian, L.P.	Midlothian, Texas	Leachate from Landfill No. 3, storm water from the baghouse area, and other K061 wastewaters which have been pumped to tank storage (at a maximum generation of 2500 cubic yards or 500,000 gallons per calender year) (EPA Hazardous Waste No. K061) generated at Chaparral Steel Midlothian, L.P., Midlothian, Texas, and is managed as nonhazardous solid waste after February 23, 2000. Chaparral Steel must implement a testing program that meets the following conditions for the exclusion to be valid: (1) *Delisting Levels:* All concentrations for the constituent total lead in the approximately 2,500 cubic yards (500,000 gallons) per calender year of raw leachate from Landfill No. 3, storm water from the baghouse area, and other K061 wastewaters that is transferred from the storage tank to nonhazardous management must not exceed 0.69 mg/l (ppm). Constituents must be measured in the waste by the method specified in SW–846. (2) *Waste Holding and Handling:* Chaparral Steel must store as hazardous all leachate waste from Landfill No. 3, storm water from the bag house area, and other K061 wastewaters until verification testing as specified in Condition (3), is completed and valid analyses demonstrate that condition (1) is satisfied. If the levels of constituents measured in the samples of the waste do not exceed the levels set forth in Condition (1), then the waste is nonhazardous and may be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed the delisting levels set in Condition (1), the waste volume corresponding to this sample must be treated until delisting levels are met or returned to the original storage tank. Treatment is designated as precipitation, flocculation, and filtering in a wastewater treatment system to remove metals from the wastewater. Treatment residuals precipitated will be designated as a hazardous waste. If the delisting level cannot be met, then the waste must be managed and disposed of in accordance with subtitle C of RCRA. (3) *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures, must be performed according to SW–846 methodologies. Chaparral Steel must analyze one composite sample from each batch of untreated wastewater transferred from the hazardous waste storage tank to non-hazardous waste management. Each composited batch sample must be analyzed, prior to non-hazardous management of the waste in the batch represented by that sample, for the constituent lead as listed in Condition (1). Chaparral may treat the waste as specified in Condition (2). If EPA judges the treatment process to be effective during the operating conditions used during the initial verification testing, Chaparral Steel may replace the testing requirement in Condition (3)(A) with the testing requirement in Condition (3)(B). Chaparral must continue to test as specified in (3)(A) until and unless notified by EPA or designated authority that testing in Condition (3)(A) may be replaced with by Condition (3)(B). (A) Initial Verification Testing: Representative composite samples from the first eight (8) full-scale treated batches of wastewater from the K061 leachate/wastewater storage tank must be analyzed for the constituent lead as listed in Condition (1), Chaparral must report to EPA the operational and analytical test data, including quality control information, obtained from these initial full scale treatment batches within 90 days of the eighth treatment batch. (B) Subsequent Verification Testing: Following notification by EPA, Chaparral Steel may substitute the testing conditions in (3)(B) for (3)(A). Chaparral Steel must analyze representative composite samples from the treated full scale batches on an annual basis. If delisting levels for any constituent listed in Condition (1) are exceeded in the annual sample, Chaparral must reinstitute complete testing as required in Condition (3)(A). As stated in Condition (3) Chaparral must continue to test all batches of untreated waste to determine if delisting criteria are met before managing the wastewater from the K061 tank as nonhazardous. (4) *Changes in Operating Conditions:* If Chaparral Steel significantly changes the treatment process established under Condition (3) (*e.g.,* use of new treatment agents), Chaparral Steel must notify the Agency in writing. After written approval by EPA, Chaparral Steel may handle the wastes generated as non-hazardous, if the wastes meet the delisting levels set in Condition (1). (5) *Data Submittals:* Records of operating conditions and analytical data from Condition (3) must be compiled, summarized, and maintained on site for a minimum of five years. These records and data must be furnished upon request by EPA, or the State of Texas, or both, and be made available for inspection. Failure to submit the required data within the specified time period or maintain the required records on site for the specified time will be considered by EPA, at its discretion, sufficient basis to reopen the exclusion as described in Paragraph (6). All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion. (6) *Reopener Language* (A) If, anytime after disposal of the delisted waste, Chaparral Steel possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) Based on the information described in paragraphs (5), or (6)(A) and any other information received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the Regional Administrator or his delegate determines that the reported information does require Agency action, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or delegate's notice to present such information. (D) Following the receipt of information from the facility described in paragraph (6)(C) or (if no information is presented under paragraph (6)(C)) the initial receipt of information described in paragraph (5) or (6)(A), the Regional Administrator or his delegate will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (7) *Notification Requirements:* Chaparral Steel 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 activity. The one-time written notification must be updated if the delisted waste is shipped to a different disposal facility. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–248; MM Docket No. 99–164; RM–9598; MM Docket No. 99–165; RM–9599; MM Docket No. 99–166, RM–9600]

Radio Broadcasting Services; Mitchell, NE, Lovelock, NV, Elko, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission at the request of Mountain West Broadcasting, allots Channel 257A to Mitchell, NE, as the community's first local aural service; at the request of Mountain West Broadcasting and Lovelock Broadcasting Company, allots Channel 292C1 to Lovelock, NV, as the community's first local aural service; and at the request of Mountain West Broadcasting and Elko Broadcasting Company, allots Channel 248C1 to Elko, NV, as the community's fifth local aural service. *See* 64 FR 28426, May 26, 1999. Channel 257A can be allotted to Mitchell, NE, without the imposition of a site restriction, at coordinates 41–56–36 NL; 103–48–30 WL. Channel 292C1 can be allotted to Lovelock, NV, without the imposition of a site restriction, at coordinates 40–10–48 NL; 118–28–24 WL. Channel 248C1 can be allotted to Elko, NV, without the imposition of a site restriction, at coordinates 40–49–48 NL; 115–45–36 WL. A filing window for these channels will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective March 27, 2000.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket Nos. 99–164, 99–165 and 99–166, adopted February 2, 2000, and released February 11, 2000.