

Commodity	Parts per million
Sheep, kidney	0.2
Sheep, liver	0.1
Sheep, meat	0.04
Sheep, meat by-products, except kidney and liver	0.04
Sorghum, grain, forage	1.0
Sorghum, grain, stover	4.0
Sorghum, grain, grain	0.3
Soybean, forage ...	5.0
Soybean, hay	8.0
Soybean, seed	0.2
* * *	* * *
Tomato, paste	0.3
Vegetable, brassica, head and stem, subgroup 5A	0.6
Vegetable, foliage of legume, except soybean, subgroup 7A	15.0
Vegetable, fruiting group 8, (except tabasco pepper)	0.1
Vegetable, leaf petioles, subgroup 4B	0.1
Vegetable, legume, edible podded, subgroup 6A	0.5
Vegetable, legume, pea and bean, dried shelled, (except soybean) subgroup 6C	0.1
Vegetable, root, (except sugar beet) subgroup 1B	0.3
Vegetables, tuberous and corm, subgroup 1C	0.2

* * * * *

(c) * * *

(2) Tolerances with regional registration as defined in § 180.1(n) are established for the combined residues (free and bound) of the herbicide S-metolachlor [S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide], its R-enantiomer, and its metabolites, determined as the derivatives, 2-[2-ethyl-6-methylphenyl]amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pepper, tabasco ...	0.5

(d) *Indirect or inadvertent residues.* Tolerances are established for the

indirect or inadvertent combined residues (free and bound) of the herbicide S-metolachlor [S-2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide], its R-enantiomer, and its metabolites, determined as the derivatives, 2-[2-ethyl-6-methylphenyl]amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain	0.1
Barley, hay	1.0
Barley, straw	0.5
Buckwheat, grain ..	0.1
Nongrass, animal feed (forage, fodder, straw, hay) group 18	1.0
Oat, forage	0.5
Oat, grain	0.1
Oat, hay	1.0
Oat, straw	0.5
Rice, grain	0.1
Rice, straw	0.5
Rye, forage	0.5
Rye, grain	0.1
Rye, straw	0.5
Wheat, forage	0.5
Wheat, grain	0.1
Wheat, hay	1.0
Wheat, straw	0.5

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL-7961-3]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA, also the Agency or we in this preamble) today is granting a petition to modify an exclusion (or delisting) from the lists of hazardous waste previously granted to BMW Manufacturing Co., LLC (BMW) in Greer, South Carolina. This action responds to a petition for amendment submitted by BMW to eliminate the total concentration limits in its wastewater treatment sludge covered by its current conditional exclusion.

EPA received public comments on the November 26, 2004, Proposed Rule (69 FR 68851) and took into account all

public comments before granting this final rule. The Agency re-evaluated the specific information initially provided by the petitioner in its original request and delistings granted to other automobile manufactures for their F019 waste. This final decision eliminates the total concentration limits for barium, cadmium, chromium, lead, nickel, and cyanide from its conditionally excluded wastewater treatment sludge from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). The waste will still be subject to local, State, and Federal regulations for nonhazardous solid wastes.

DATES: Effective August 31, 2005.

ADDRESSES: The RCRA regulatory docket for this final rule is located at the EPA Library, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. 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 copying at the South Carolina Department of Health and Environmental Control, please see below.

FOR FURTHER INFORMATION CONTACT: For general and technical information concerning this final rule, please contact Kris Lippert, RCRA Enforcement and Compliance Branch (Mail Code 4WD-RCRA), U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562-8605, or call, toll free (800) 241-1754, and leave a message, with your name and phone number, for Ms. Lippert to return your call. Questions may also be e-mailed to Ms. Lippert at lippert.kristin@epa.gov. You may also contact Cindy Carter, Appalachia III District, South Carolina Department of Health and Environmental Control (SCDHEC), 975C North Church Street, Spartanburg, South Carolina. If you wish to copy documents at SCDHEC, please contact Ms. Carter for copying procedures and costs.

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

- I. Overview Information
 - A. What Action Is EPA Finalizing?
 - B. Why Is EPA Approving This Petition for Amendment?
 - C. What Are the Terms of This Exclusion?
 - D. When Is the Final Amendment Effective?
 - E. How Does This Action Affect States?

II. Background

- A. What Is a Delisting Petition?
- B. What Regulations Allow Hazardous Waste Generators to Delist Waste?
- C. What Information Must the Generator Supply?

III. EPA's Evaluation of the Waste Data

- A. What Waste Is the Subject of This amendment?

- B. How Did EPA Evaluate This Petition?

IV. Public Comments on the Proposed Amendment

- A. Who Submitted Comments on the Proposed Rule?

- B. Comments and Responses From EPA

V. Administrative Assessments

I. Overview Information

A. What Action Is EPA Finalizing?

After evaluating BMW's petition and public comments received in response to the November 26, 2004, Proposed Rule (69 FR 68851), we are amending the current BMW's delisting to eliminate the total concentration limits for barium, cadmium, chromium, lead, nickel, and cyanide from its conditionally excluded wastewater treatment sludge from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). The waste will still be subject to local, State, and Federal regulations for nonhazardous solid wastes.

B. Why Is EPA Approving This Petition for Amendment?

EPA believes that the information provided by BMW provides a reasonable basis to eliminate all total concentration limits. We, therefore, grant BMW an amendment to its current delisting for an elimination of all total concentration limits on its delisted wastewater treatment sludge. EPA believes that this amendment to eliminate all concentration limits will not harm human health and the environment when disposed in a nonhazardous waste landfill, if the required delisting levels are met. EPA grants the elimination of all total concentration limits, based on descriptions of waste management and waste history, evaluation of the results of waste sample analysis, on the requirement that BMW's petitioned waste must meet the required delisting level of all the constituents of concern concentration limits as state in the May 2, 2001, Final Rule before disposal, and that no substantial public comments were received during the public comment period. The petitioned waste will not be subject to regulation under 40 CFR parts 262 through 268 and the permitting standards of 40 CFR part 270. Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the waste will

remain a solid waste under RCRA. As such, the waste must be handled in accordance with all applicable Federal, State, and local solid waste management regulations. Pursuant to RCRA section 3007, EPA may also sample and analyze the waste to determine if delisting conditions are met. EPA believes that BMW's petitioned waste will not harm human health and the environment when disposed in a nonhazardous waste landfill if the delisting levels are met as granted in the May 2, 2001, Final Rule and amended in this exclusion.

C. What Are the Terms of This Exclusion?

The following summarizes the maximum allowable constituent concentrations (delisting levels) for BMW's waste. We calculated these delisting levels for each constituent that is part of BMW's current delisting based on the Delisting Risk Assessment Software (DRAS) EPA Composite Model for Leachate Migration with Transformation Products (EPACMTP) model, which grants BMW an exclusion from the lists of hazardous wastes in subpart D of 40 CFR part 261 for its petitioned waste when disposed in a Subtitle D landfill. BMW must meet all of the following delisting conditions in order for this exclusion to be valid: delisting levels in mg/l in the TCLP extract of the waste of 100.0 for Barium, 1.0 for Cadmium, 5.0 for Chromium, 33.6 for Cyanide, 5.0 for Lead, and 70.3 for Nickel.

This amended exclusion applies to the waste described in the petition only if the requirements described above as well as in Table 1 of Appendix IX to part 261 of Title 40 of the Code of Federal Regulations are satisfied. The maximum annual volume of the wastewater treatment sludge is 2850 cubic yards.

D. When Is the Final Amendment Effective?

This rule is effective August 31, 2005. HSWA 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. For these same reasons, this rule can become effective immediately (that is, upon publication in the **Federal Register**) under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

E. 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 directly 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 EPA's authorization to make their own delisting decisions. We describe these two situations below.

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, or that prohibits a Federally issued exclusion from taking effect in the State until the State approves the exclusion through a separate State administrative action. Because a dual system (that is, both Federal and State programs) may regulate a petitioner's waste, we urge petitioners to contact the applicable State regulatory authorities or agencies to establish the status of their waste under that State's program.

We have also authorized some States to administer a delisting program in place of the Federal program; that is, to make State delisting decisions. Therefore, this exclusion does not necessarily apply within those authorized States. If BMW transports the petitioned waste to, or manages the waste in, any State with delisting authorization, BMW must obtain delisting approval from that State before it can manage the waste as nonhazardous in that State.

In order for this amendment to be effective in an authorized State, that State must adopt this amendment through its State administrative process.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a formal request from a generator to EPA or another agency with jurisdiction to exclude from the lists of hazardous waste regulated by RCRA, a waste that the generator believes should not be considered hazardous.

B. What Regulations Allow Hazardous Waste Generators To Delist Waste?

Under 40 CFR 260.20 and 260.22, a generator may petition EPA to remove its waste from hazardous waste control by excluding it from the lists of hazardous wastes contained in 40 CFR 261.31, 261.32 and 261.33. Specifically, 40 CFR 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. 40 CFR 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. A generator can petition EPA for an amendment to an existing exclusion under these same provisions of the Code of Federal Regulations.

C. What Information Must the Generator Supply?

A petitioner must provide sufficient information 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 that the waste is not hazardous for any other reason.

III. EPA's Evaluation of the Waste Data

A. What Waste Is the Subject of This Amendment?

BMW in Greer, South Carolina, manufactures automobiles for domestic consumption and for shipment to foreign markets. The assembly plant operations include body welding, conversion coating, painting, final assembly, and shipment. The manufacturing process that causes F019 to be generated is conversion coating, when applied to automobile bodies that contain aluminum. Conversion coating takes place in the plant's paint shop and treats the metal surface of each automobile body before painting to provide resistance to corrosion and to prepare the metal surface for optimum paint adhesion. Wastewater from all plant operations is treated at BMW's wastewater pretreatment plant which is located in an area of the paint shop. The wastewater is treated to meet the requirements of BMW's wastewater pretreatment permit before discharging the water to the publicly owned treatment works (POTW). Treatment results in the formation of insoluble metal hydroxides and phosphates. Wastewater treatment sludge is generated when these metal hydroxides and phosphates are dewatered in a filter press. The sludge that exits from the filter press is classified as F019 when the automobile bodies contain aluminum, and the exit from the filter press will be the point of generation of F019. BMW was granted its current Federal delisting exclusion for this F019 wastewater treatment sludge at a maximum annual volume of 2,850 cubic yards on May 2, 2001 (66 FR 21877).

A full description of this waste and the Agency's evaluation of the original BMW's petition are contained in the "Proposed Rule and Request for Comments" published in the **Federal Register** on February 12, 2001 (66 FR 9781). After evaluating public comment on the proposed rule, we published a final decision in the **Federal Register** on May 2, 2001 (66 FR 21877), to exclude BMW's wastewater treatment sludge derived from the treatment of EPA Hazardous Waste No. F019 from the list of hazardous wastes found in 40 CFR 261.31. The hazardous constituents of concern for which F019 was listed are hexavalent chromium and cyanide (complexed). BMW petitioned the EPA to exclude its F019 waste because BMW does not use either of these constituents in the manufacturing process. Therefore, BMW did not believe that the waste meets the criteria of the listing. EPA's final decision to grant the delisting exclusion on May 2, 2001, was conditioned on the following delisting levels: (1) Delisting levels in mg/l in the TCLP extract of the waste of 100.0 for Barium, 1.0 for Cadmium, 5.0 for Chromium, 33.6 for Cyanide, 5.0 for Lead, and 70.3 for Nickel; (2) the total concentration of cyanide (total, not amenable) in the waste, not the waste leachate, must not exceed 200 mg/kg; (3) the total concentrations, in mg/kg, of metals in the waste, not the waste leachate, must not exceed 2,000 for Barium, 500 for Cadmium, 1,000 for Chromium, 2,000 for Lead, and 20,000 for Nickel. If the waste exceeded any of the delisting limits, then the waste has to be managed as hazardous waste.

C. How Did EPA Evaluate This Petition?

In support of its original petition, BMW submitted: (1) Descriptions of its manufacturing and wastewater treatment processes, the generation point of the petitioned waste, and the manufacturing steps that will contribute to its generation; (2) Material Safety Data Sheets (MSDSs) for materials used to manufacture automobiles and to treat wastewater; (3) the minimum and maximum annual amounts of wastewater treatment sludge generated from 1996 through 1999, and an estimate of the maximum annual amount expected to be generated in the future; (4) results of analysis for metals, cyanide, sulfide, fluoride, and volatile organic compounds in the currently generated waste at the BMW plants in Greer, South Carolina, and Dingolfing, Germany; (5) results of the analysis of leachate obtained by means of the Toxicity Characteristic Leaching Procedure ((TCLP), SW-846 Method 1311), from these wastes; (6) results of

the determinations for the hazardous characteristics of ignitability, corrosivity, and reactivity, in these wastes; (7) results of determinations of dry weight percent, bulk density, and free liquids in these wastes; and (8) results of the MEP analysis of the currently generated waste at the plant in Greer, South Carolina.

EPA reviewed the allowable total concentrations in the waste, as calculated by DRAS for the waste, to determine if eliminating the total concentration limits for the constituents of concern would be still protective to human health and the environment. The allowable total concentrations, according to the DRAS, were all at least 1,000 times greater than the actual maximum total concentrations found in the waste. Based on the DRAS results, EPA grants BMW's petition for amendment to eliminate all total concentration limits.

IV. Public Comments on the Proposed Amendment

A. Who Submitted Comments on the Proposed Rule?

EPA received public comments on the proposed noticed published on November 26, 2004, from Alliance of Automobile Manufacturers; The Aluminum Association; BMW Manufacturing Co., LLC; Donald Humphrey; and EPA. All commenters were supportive of the proposal except Donald Humphrey.

B. Comments and Responses From EPA

Comment: On October 30, 2002, (67 FR 66251), EPA's Office of Solid Waste proposed the Methods Innovation Rule (MIR) to remove from the regulations unnecessary requirements to use only SW-846 Methods other than those considered to be Method Defined Parameters (MDP). The Agency is no longer generally requiring the use of only SW-846 Methods for regulatory applications other than those involving MDPs. The general purpose of this rule is to allow more flexibility when conducting RCRA-related sampling and analysis activities.

Response: EPA has revised Table 1: (2) Verification Testing Requirements: in Appendix IX of this Final Rule with appropriate language.

Comment: The Alliance of Automobile Manufacturers, the Aluminum Association, and BMW believe the F019 listing itself should be revised to exclude wastewater treatment sludges from automotive industry conversion coating on aluminum when hexavalent chromium and cyanides are not used in the process.

Response: Today's final rule is site-specific and waste-specific; it applies only to BMW's plant in Greer, South Carolina, and only to the petitioned waste. EPA understands the commenters' concern, but it is outside the scope of this delisting.

Comment: Donald Humphrey disagreed with granting this final rule, because he feels that BMW must abide by the rules of RCRA.

Response: On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in section 261.11(a)(2) or (a)(3). Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, sections 260.20 and 260.22 provide an exclusion procedure, allowing BMW to demonstrate that its F019 waste from its specific facility should not be regulated as a hazardous waste. BMW has complied with the requirements of sections 260.20 and 260.22, and therefore, is having its petition to amend an exclusion (or delisting) from the lists of hazardous waste granted.

V. Administrative Assessments

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a rule of general applicability and therefore is not a "regulatory action" subject to review by the Office of Management and Budget. Because this action is a rule of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Because the rule will affect only one facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA, or communities of Indian tribal governments, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). For the same reason, this rule will not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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. Section 804 exempts from section 801 the following types of rules (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

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

Dated: July 15, 2005.

Alan Farmer,

Acting Director, Waste Management Division.

■ 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, 6924(y) and 6938.

■ 2. In Table 1 of Appendix IX, Part 261 revise the entry for BMW Manufacturing Co., LLC to read as follows:

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

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
BMW Manufacturing Co., LLC	Greer, South Carolina	Wastewater treatment sludge (EPA Hazardous Waste No. F019) that BMW Manufacturing Corporation (BMW) generates by treating wastewater from automobile assembly plant located on Highway 101 South in Greer, South Carolina. This is a conditional exclusion for up to 2,850 cubic yards of waste (hereinafter referred to as "BMW Sludge") that will be generated each year and disposed in a Subtitle D landfill after August 31, 2005. With prior approval by the EPA, following a public comment period, BMW may also beneficially reuse the sludge. BMW must demonstrate that the following conditions are met for the exclusion to be valid. (1) Delisting Levels: All leachable concentrations for these metals and cyanide must not exceed the following levels (ppm): Barium-100; Cadmium-1; Chromium-5; Cyanide-33.6; Lead-5; and Nickel-70.3. These metal and cyanide concentrations must be measured in the waste leachate obtained by the method specified in 40 CFR 261.24, except that for cyanide, deionized water must be the leaching medium. Cyanide concentrations in waste or leachate must be measured by the method specified in 40 CFR 268.40, Note 7.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		<p>(2) Annual Verification Testing Requirements: Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A, (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that representative samples of the BMW Sludge meet the delisting levels in Condition (1). (A) Annual Verification Testing: BMW must implement an annual testing program to demonstrate that constituent concentrations measured in the TCLP extract do not exceed the delisting levels established in Condition (1).</p> <p>(3) Waste Holding and Handling: BMW must hold sludge containers utilized for verification sampling until composite sample results are obtained. If the levels of constituents measured in the composite samples of BMW Sludge do not exceed the levels set forth in Condition (1), then the BMW Sludge is non-hazardous and must be managed in accordance with all applicable solid waste regulations. If constituent levels in a composite sample exceed any of the delisting levels set forth in Condition (1), the batch of BMW Sludge generated during the time period corresponding to this sample must be managed and disposed of in accordance with Subtitle C of RCRA.</p> <p>(4) Changes in Operating Conditions: BMW must notify EPA in writing when significant changes in the manufacturing or wastewater treatment processes are implemented. EPA will determine whether these changes will result in additional constituents of concern. If so, EPA will notify BMW in writing that the BMW Sludge must be managed as hazardous waste F019 until BMW has demonstrated that the wastes meet the delisting levels set forth in Condition (1) and any levels established by EPA for the additional constituents of concern, and BMW has received written approval from EPA. If EPA determines that the changes do not result in additional constituents of concern, EPA will notify BMW, in writing, that BMW must verify that the BMW Sludge continues to meet Condition (1) delisting levels.</p> <p>(5) Data Retention: Records of analytical data from Condition (2) must be compiled, summarized, and maintained by BMW for a minimum of three years, and must be furnished upon request by EPA or the State of South Carolina, and made available for inspection. Failure to maintain the required records for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).</p> <p>(6) Reopener Language: (A) If, at any time after disposal of the delisted waste, BMW 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 in the delisting verification testing is at a level higher than the delisting level allowed by EPA in granting the petition, BMW must report the data, in writing, to EPA and South Carolina within 10 days of first possessing or being made aware of that data. (B) If the testing of the waste, as required by Condition (2)(A), does not meet the delisting requirements of Condition (1), BMW must report the data, in writing, to EPA and South Carolina within 10 days of first possessing or being made aware of that data. (C) Based on the information described in paragraphs (6)(A) or (6)(B) and any other information received from any source, EPA will make a preliminary determination as to whether the reported information requires that EPA take 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. (D) If EPA determines that the reported information does require Agency action, EPA will notify the facility in writing of the action believed necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing BMW with an opportunity to present information as to why the proposed action is not necessary. BMW shall have 10 days from the date of EPA's notice to present such information. (E) Following the receipt of information from BMW, as described in paragraph (6)(D), or if no such information is received within 10 days, EPA will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment, given the information received in accordance with paragraphs (6)(A) or (6)(B). Any required action described in EPA's determination shall become effective immediately, unless EPA provides otherwise.</p>

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(7) Notification Requirements: BMW must provide a one-time written notification to any State Regulatory Agency in a State to which or through which the delisted waste described above will be transported, 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 conditions and a possible revocation of the decision to delist.
*	*	*

[FR Doc. 05–17359 Filed 8–30–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 64**

[CC Docket No. 98–67 and CG Docket No. 03–123; FCC 05–139]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities**AGENCY:** Federal Communications Commission.**ACTION:** Final rule; petition for reconsideration.

SUMMARY: In this document, the Commission grants petitions for reconsideration of the *2004 TRS Report & Order*. Through this action, the Commission reverses its conclusion that translation from American Sign Language (ASL) into Spanish is not a telecommunications relay service (TRS) eligible for compensation from the Interstate TRS Fund. This decision will allow Spanish-speaking people who are deaf to communicate with others who speak only Spanish and will allow them to integrate more fully into society.

DATES: Effective September 30, 2005.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer & Governmental Affairs Bureau, Disability Rights Office at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail at Thomas.Chandler@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order on Reconsideration*, FCC 05–139, adopted July 14, 2005, and released July 19, 2005, in CC Docket 98–67 and CG Docket 03–123. This *Order on Reconsideration* does not contain new or modified information collections requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified “information collection burden for

small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4). The full text of the *Order on Reconsideration* and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The *Order on Reconsideration* and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI at their Web site: <http://www.bcpweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The *Order on Reconsideration* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

Synopsis

Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the Commission to ensure that TRS is available to the extent possible in the most effective manner to persons with hearing or speech disabilities in the United States. TRS enables a person with a hearing or speech disability to have access to the telephone system to communicate with hearing individuals. The statute requires that TRS offers persons with hearing and speech disabilities telephone transmission services that are functionally equivalent to voice telephone services. When TRS was first implemented in 1993, persons desiring to use TRS to call a hearing person through the telephone system generally used a TTY (text-telephone)

device connected to the public switched telephone network (the PSTN). In what is now referred to as a traditional TRS call (*e.g.*, TTY text-based), the person with a hearing or speech disability dials (*i.e.*, types) a telephone number for a TRS facility using a TTY, and then types the number of the party he or she desires to call. The CA, in turn, places an outbound voice call to the called party. The CA serves as the link in the conversation, converting all TTY messages from the caller into voice messages, and all voice messages from the called party into typed messages for the TTY user. The process is performed in reverse when a voice telephone user initiates a traditional TRS call to a TTY user.

The most striking development in the short history of TRS has been the enormous growth in the use of VRS. As most frequently used, VRS allows a deaf person whose primary language is ASL to communicate in ASL with the CA through a video link. The CA, in turn, places an outbound telephone call to a hearing person. During the call, the CA communicates in ASL with the deaf person and by voice with the hearing person. As a result, the conversation between the two end users, deaf and hearing, flows in near real time and in a faster and more articulate manner than with a TTY or text-based TRS call. As a result, VRS calls reflect a degree of functional equivalency that is not attainable with text-based TRS.

Section 225 of the Communications Act, creates a cost recovery framework whereby providers of TRS are compensated for their costs of providing TRS. This framework is based on a jurisdictional separation of costs. As a general matter, providers of *intrastate* TRS are compensated by the states, and providers of *interstate* TRS are compensated from the Interstate TRS Fund (Fund). The Interstate TRS Fund is funded by contributions from all carriers providing interstate telecommunications services, and is administered by the TRS fund administrator, currently the National Exchange Carrier Association, Inc.