address all applicable requirements of the CAA, including sections 110(a), 172(c), 176(c) and 189(c)(1).

Because the applicable attainment date for both nonattainment areas was December 31, 2006, under section 189(d), the submittal deadline for the plans will be December 31, 2007.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action in and of itself establishes no new requirements, it merely notes that the air quality in the Phoenix nonattainment area and the Owens Valley nonattainment area did not meet the federal health standard for PM–10 by the CAA deadline. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not in and of itself establish new requirements, EPA believes that it is questionable whether a requirement to submit a SIP revision constitutes a federal mandate. The obligation for a State to revise its SIP arises out of sections 110(a), 179(d), and 189(d) of the CAA and is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 658(a)(I)). Even if it did, the duty could be viewed as falling within the exception for the condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)). Therefore, today's action does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Several Indian tribes have reservations located within the boundaries of the Phoenix and Owens Valley nonattainment areas. EPA is responsible for the implementation of federal Clean Air Act programs in Indian country, including findings of failure to attain. EPA has notified the affected tribal officials and consulted with all interested tribes, as provided for by Executive Order 13175 (65 FR 67249, November 9, 2000). EPA contacted each tribe and gave them the opportunity to enter into consultation on a government-to-government basis. This action also does not have Federalism implications because it does 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 action does not in and of itself create any new requirements and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. Because these findings of failure to attain are factual determinations based on air quality considerations, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) 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. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 6, 2007. Filing a petition for reconsideration by the Administrator of this final 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 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 24, 2007.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E7–10857 Filed 6–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R07–RCRA–2006–0923; FRL–8322–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting a petition submitted by the Ford Motor Company Kansas City Assembly Plant (Ford) to exclude (or delist) a wastewater treatment plant (WWTP) sludge generated by Ford in Claycomo, Missouri, from the lists of hazardous wastes. This final rule responds to the petition submitted by Ford to delist F019 WWTP sludge generated from the facility's waste water treatment plant.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. This exclusion applies to 2,000 cubic yards per year of the F019 WWTP sludge. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when it is disposed in a Subtitle D Landfill.

DATES: The final rule is effective on June 6, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–RCRA–2006–0923. All documents in the docket are listed on www.regulations.gov Web site. Although listed in the index, some information is not publicly available,

e.g., confidential business information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or by appointment by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section below. Appointments can be made during the hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Kenneth Herstowski at (913) 551–7631, or *herstowski.ken@epa.gov*, RCRA Corrective Action and Permits Branch, Air, RCRA and Toxics Division, 901 North 5th Street, Kansas City, Kansas 66101.

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

I. Overview Information

A. What action is EPA finalizing?

After evaluating the petition, EPA proposed on December 20, 2006, to exclude the waste water treatment plant sludge from the lists of hazardous waste under 40 Code of Federal Regulations (CFR) 261.31 and 261.32 (see 71 FR 76255). EPA is finalizing the decision to grant Ford's delisting petition to have its waste water treatment sludge managed and disposed as non-hazardous waste provided certain verification and monitoring conditions are met.

B. Why is EPA approving this action?

Ford's petition requests a delisting from the F019 waste listing under 40 CFR 260.20 and 260.22. Ford does not believe that the petitioned waste meets the criteria for which EPA listed it. Ford also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 3001(f) of RCRA, 42 United States Code (U.S.C.) 6921(f), and 40 CFR 260.22 (d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's final decision to delist waste from Ford's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Claycomo, Missouri, facility.

C. What are the limits of this exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in § 261, Appendix IX, Table 1 and the conditions contained herein are satisfied.

D. How will Ford manage the waste if it is delisted?

The WWTP sludge from Ford will be disposed of in a RCRA Subtitle D landfill.

E. When is the final delisting exclusion effective?

This rule is effective June 6, 2007. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA, 42 U.S.C. 6930(b)(1), allows rules to become effective less than six months after the rule is published 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 waste. This reduction in existing requirements also provides 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 final rule affect states?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude states which have received authorization from EPA to make their own delisting decisions.

EPA allows states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 U.S.C. 6929. These more stringent requirements may include a provision that prohibits a Federally-issued exclusion from taking effect in the state. If so, Ford must obtain authorization from that state before it can transport or manage the waste as nonhazardous in the state. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, EPA urges petitioners to contact each State regulatory authority to establish the status of their wastes under the State law while it is transported or managed as nonhazardous in the state.

EPA has also authorized some states (for example, Georgia, Illinois, Louisiana, Nebraska, and Oklahoma) to administer a RCRA delisting program in place of the Federal program; that is, to make state delisting decisions. Therefore, this exclusion does not apply in authorized states unless that state makes the rule part of its authorized program. If Ford transports the petitioned waste to or manages the waste in any state with delisting authorization, Ford must obtain

delisting authorization from that state before it can transport or 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 or delist from the RCRA list of hazardous waste, certain wastes the generator believes should not be considered hazardous under RCRA.

B. What regulations allow facilities to delist a waste?

Under §§ 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste regulation 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 40 CFR Parts 260 through 265 and 268. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste from a particular generating facility from the hazardous waste lists.

C. What information must the generator supply?

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 and that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Information and Data

A. What waste did Ford petition EPA to delist?

On May 31, 2006, Ford petitioned EPA to exclude from the lists of hazardous wastes contained in § 261.31, WWTP sludge (F019) generated from its facility located in Claycomo, Missouri. The waste falls under the classification of listed waste pursuant to § 261.31.

B. How much waste did Ford propose to delist?

Specifically, in its petition, Ford requested that EPA grant a standard exclusion for 2,000 cubic yards per year of the WWTP sludge.

C. How did Ford sample and analyze the waste data in this petition?

To support its petition, Ford submitted:

(1) Historical information on waste generation and management practices;

(2) Analytical results from six samples for total concentrations of constituents of concern; and

(3) Analytical results from six samples for Toxicity Characteristic Leaching Procedure (TCLP) extract values.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

Comments were submitted by Ford Motor Company requesting clarification of certain testing requirements, the Alliance of Automobile Manufacturers supporting the proposed delisting and the Missouri Department of Natural Resources to correct information in the proposed rule.

B. What were the comments and what are EPA's responses to them?

1. Revision of the F019 Listing as it Pertains to Auto Manufacturers

Comment: The Alliance of Automobile Manufacturers in its comments urged EPA to comprehensively resolve the longstanding issue of the F019 listing as it pertains to auto manufacturers by issuing an interpretive rule, which would exclude for the F019 classification all wastewater treatment sludges from facilities that use zinc phosphate aluminum processes rather than hexavalent chromium and cyanide processes that led to the original listing of F019 sludge.

Response: EPA has proposed changes to the F019 listing that are responsive to the commenter (see 72 FR 2219, January 18, 2007). Given EPA's proposed rulemaking on this issue, EPA will not provide further response here.

2. Analysis of Excluded Wastes

Comment: The Alliance of Automobile Manufacturers in its comments requests EPA remove the requirements for analysis of total concentrations of constituents as part of the verification testing of Ford's delisted sludge. The commenter believes that total concentrations of a constituent have no scientific correlation with environmental impacts.

Response: EPA evaluates the potential environmental impact of plausible mismanagement of the waste in a solid waste landfill. EPA evaluates the potential off-site migration of waste particles and volatile organic compounds via air and surface water pathways as a result of inadequate cover and runoff control. EPA believes that inadequate daily cover and rainwater runoff control are plausible mismanagement scenarios for a solid waste landfill. Furthermore, since the source of this potential off-site migration is newly deposited waste at the surface of the landfill, total concentrations are appropriate inputs for fate and transport modeling.

3. Delisting Levels

Toxicity Characteristic Leaching Procedure

Comment: The Missouri Department of Natural Resources comments that as proposed Ford's sludge could exhibit a characteristic of hazardous waste and still be excluded. Specifically, the commenter points out that Toxicity Characteristic Leaching Procedure (TCLP) results greater than those which would make a solid waste hazardous under 40 CFR 261.24 are allowed in the proposal.

Response: EPA reviewed the proposed TCLP delisting levels in Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22, Table 1.—Wastes Excluded from Non-Specific Sources. The constituents found in 40 CFR 261.24 for which TCLP delisting levels were proposed included: barium—100 mg/l, chromium—5 mg/l, and mercury—0.155 mg/l. All of those levels are at or below the levels at which a solid waste would exhibit a characteristic of hazardous waste and therefore be a hazardous waste. There may be confusion regarding the application of these delisting levels as when the waste meets the exclusion. EPA has clarified in the final language that the TCLP concentrations may not equal or exceed the levels given in the table.

The commenter may also be suggesting that the exclusion should include delisting levels for all TCLP parameters. EPA evaluated all the constituents in Ford's waste and developed delisting levels based upon that information. Inclusion of additional TCLP parameters is not justified at this time. Ford must notify EPA of any significant changes in the manufacturing process, the chemicals used, the treatment process or the chemicals used in the treatment process. If any of those changes occur, Ford must manage the sludge as a hazardous waste until it can be demonstrated that it still meets the delisting levels in the exclusion, that no new hazardous constituents listed in Appendix VIII of 40 CFR part 261 have been introduced

and has received approval from EPA for the changes.

Land Disposal Restrictions and Delisting Levels

Comment: The Missouri Department of Natural Resources comments that the delisting levels proposed do not correspond to the Land Disposal Restriction treatment standards found in 40 CFR part 268.

Response: Ford is requesting delisting of its F019 waste at the point of its generation. EPA's proposed exclusion was also at the point of generation. Since the waste will be excluded at the point of its generation (subject to periodic verification testing), the land disposal restrictions will not apply. This is in contrast to a hypothetical case where a hazardous waste is treated subsequent to its generation and the residuals from the treatment of the hazardous waste would be subject to the land disposal restrictions. If a person were to seek delisting of the residuals in the aforementioned hypothetical case, the land disposal restriction treatment standards for which the original waste were subject to would continue to apply and would be considered in determining the appropriate delisting levels.

4. Verification Sample Analysis

Comment: Ford requests clarification if the TCLP cyanides parameter listed in the proposed exclusion for quarterly verification sampling is a total cyanide test on the TCLP leachate. The possible options would be amenable or available cyanide.

Response: EPA affirmed the distinction between free cyanide and complex metal cyanides in its 1992 final rule, Drinking Water; National Primary Drinking Water Regulations—Synthetic Organic Chemicals and Inorganic Chemicals (57 FR 31776, July 17, 1992). EPA specifically stated that the maximum contaminant level goal (MCLG) of 0.2 mg/L cyanide applies to free cyanides, not complex metal cyanides. EPA further stated that a total cyanide analytical technique is allowed to screen samples. If the total cyanide results are greater than the MCL, then the analysis for free cyanide would be required to determine whether there is an exceedance of the MCL. EPA specifies the use of the cyanide amenable to chlorination test for determining free cyanide. Therefore, the cyanide amenable to chlorination test is the appropriate test for verification sampling and analysis to demonstrate continued compliance with the exclusion. Ford may use a total cyanide test for the TCLP leachate as a screening test. However, if the results of a total cyanide test on the TCLP leachate exceed the delisting levels and the cyanide amenable to chlorination test is not conducted, then EPA will rely on the total cyanide test results to determine Ford's compliance with the exclusion.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). 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.*) because it applies to a particular facility only. Because this rule is 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, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this final rule does not have federalism implications. It 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, ''Federalism'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. 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 note) do not apply. As required by section 3 of Executive Order 12988, ''Civil Justice Reform'', (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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, Waste treatment and disposal.

Authority: Section 3001(f) RCRA, 42 U.S.C. 6921(f). Authority for this action has been delegated to the Regional Administrator (61 FR 32798, June 25, 1996).

Dated: May 29, 2007.

John B. Askew,

Regional Administrator, Region 7.

■ 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 1 of Appendix IX of part 261 the following wastestream 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 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
Ford Motor Company, Kansas City Assembly Plant.	Claycomo, Missouri	Wastewater treatment sludge, F019, that is generated at the Ford Motor Company (Ford) Kansas City Assembly Plant (KCAP) at a maximum annual rate of 2,000 cubic yards per year. The sludge must be disposed of in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludge in accordance with 40 CFR part 258. The exclusion becomes effective as of June 6, 2007. 1. Delisting Levels: (a) The concentrations in a TCLP extract of the waste measured in any sample may not equal or exceed the following levels (mg/L): barium—100; chromium—5; mercury—0.155; nickel—90; thallium—0.282; zinc—898; cyanides—11.5; ethyl benzene—42.6; toluene—60.8; total xylenes—18.9; bis(2-ethylhexyl) phthalate—0.365; p-cresol—11.4; 2,4-dinitrotoluene—0.13; formaldehyde—343; and napthalene—.728; (b) The total concentrations measured in any sample may not exceed the following levels (mg/kg): chromium 760000; mercury—10.4; thallium—116000; 2,4-dinitrotoluene—100000; and formaldehyde—6880. 2. Quarterly Verification Testing: To verify that the waste does not exceed the specified delisting levels, Ford must collect and analyze one representative sample of KCAP's sludge on a quarterly basis. 3. Changes in Operating Conditions: Ford must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process at KCAP significantly change. Ford must handle wastes generated at KCAP after the process change as hazardous until it has demonstrated that the waste continues to meet the delisting levels and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced and Ford has received written approval from EPA for the changes. 4. Data Submittals: Ford must submit the data obtained through verification testing at KCAP or as required by other conditions of this rule to EPA Region 7, Air, RCRA and Toxics Division, 901 N. 5th, Kansas City, Kansas 66101. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. Ford must compile, summarize, and maintain at KCAP records of operating conditions and analytical data for a minimum of five years. Ford must make these records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12). 5. Reopener Language—(a) If, anytime after disposal of the delisted waste, Ford possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste at KCAP indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (e), then Ford must report such data in writing to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator 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 determines that the reported information does require Agency action, the Regional Administrator will notify Ford in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing Ford with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. Ford shall have 30 days from the date of the Regional Administrator's notice to present the information.

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

Facility	Address	Waste description
		(d) If after 30 days Ford presents no further information, the Regional Administrator 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's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
* * *	* * *	* * *

[FR Doc. E7–10854 Filed 6–5–07; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 03–108; FCC 07–66]

Cognitive Radio Technologies and Software Defined Radios

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document responds to two petitions concerning the rules adopted in the *Report and Order* in this proceeding (''Cognitive Radio Report and Order''). The Commission granted a petition for clarification filed by Cisco Systems, Inc. (''Cisco'') requesting that the Commission clarify the requirement to approve certain devices as software defined radios, and its policy on the confidentiality of software that controls security measures in software defined radios. The Commission also granted in part and denied in part a petition for reconsideration filed by Marcus Spectrum Solutions (''MSS'') requesting that the Commission clarify the rules concerning the submission of radio software source code, clarify the rules concerning the certification of software defined amateur radio equipment, and initiate a further proceeding to adopt regulatory requirements for high-power, high-speed digital-to-analog (D/A) converters.

DATES: Effective July 6, 2007.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Policy and Rules Division, Office of Engineering and Technology, (202) 418–7506, e-mail: *Hugh.VanTuyl@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* ET Docket No. 03–108, FCC 07–66, adopted April 20, 2007 and released April 25, 2007. The full text of this document is available on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

Summary of the Memorandum Opinion and Order

1. On March 17, 2005, the Commission adopted the *Cognitive Radio Report and Order* 70 FR 23032, May 4, 2005, in which it modified the rules to reflect ongoing technical developments in cognitive and software defined radio technologies. In response to the *Cognitive Radio Report and Order,* Cisco and MSS each filed a petition seeking reconsideration or clarification of various aspects of the Commission's decisions in the *Cognitive Radio Report and Order.* The Information Industry Technology Council (''ITI'') filed comments in opposition of MSS' petition. No comments were filed in response to Cisco's petition. In response to the two petitions concerning the rules adopted in the *Cognitive Radio Report and Order* in this proceeding, the Commission granted the petition for clarification filed by Cisco Systems, Inc. (''Cisco'') requesting that the Commission clarify: (1) The requirement to approve certain devices as software defined radios, and (2) its policy on the confidentiality of software that controls security measures in software defined radios. The Commission also granted in part and denied in part a petition for reconsideration filed by Marcus Spectrum Solutions (''MSS'') requesting that the Commission (1) Clarify the rules concerning the submission of radio software source code, (2) clarify the rules concerning the certification of software defined amateur radio equipment, and (3) initiate a further proceeding to adopt regulatory requirements for high-power, high-speed digital-to-analog (D/A) converters.

2. In the *Cognitive Radio Report and Order,* the Commission modified the rules to require that radios in which the software is designed or expected to be modified by a party other than the manufacturer be certified as software defined radios. To minimize the filing burden on manufacturers, this requirement was narrowly tailored to affect only those radios where the software can be modified by a party other than the manufacturer because such radios pose a higher risk of interference to authorized radio services. The definition of software defined radio (SDR) is intentionally broad, while the category of equipment that is required to be certified as SDRs is intentionally narrow. The Commission agrees with Cisco that a reading of the definition of SDR in the rules by itself may give the incorrect impression that more devices must be certified as SDRs than the rules intended to require. The Commission finds that the appropriate solution to Cisco's concern is to add an additional sentence following the definition of SDR to indicate the class of radios that must be certified as SDRs. It therefore clarifies the rules by adding the following statement to the definition of SDR: ''In accordance with § 2.944 of this part, only radios in which the software is designed or expected to be modified by a party other than the manufacturer and would affect the listed operating parameters or circumstances under which the radio transmits must be certified as software defined radios.'' This action clarifies the intent of the rules adopted in the *Cognitive Radio Report and Order.*

3. With regard to Cisco's second request, the Commission recognizes that some manufacturers may wish to use open source software (*e.g.*, GNU/Linux) in developing SDRs. The use of such software may have advantages for manufacturers such as lower cost and decreased product development time.