Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

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 merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry our policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

As required by section 3 of Executive Order 12988 (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.

Governmental Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order, and has determined that the rule's requirements do not constitute a taking.

Paperwork Reduction Act

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.*).

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, EPA 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 July 26, 2004. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 7, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Section 52.720 is amended by adding paragraph (c)(172) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(172) On September 19, 2003, Illinois submitted a site-specific revision to the State Implementation Plan which relaxes the volatile organic material (VOM) content limit for the coating operations at Louis Berkman Company, d/b/a/ the Swenson Spreader Company's Lindenwood, Ogle County, Illinois facility from 3.5 pounds VOM per gallon to a monthly average of 4.75 pounds VOM per gallon until May 7, 2008.

(i) Incorporation by reference. Order contained in a May 7, 1998, Opinion and Order of the Illinois Pollution Control Board, AS 97–5, effective May 7, 1998.

[FR Doc. 04–11925 Filed 5–26–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–7667–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'') in this preamble is granting a petition submitted by Bekaert Corporation (Bekaert) to exclude (or delist) a certain solid waste generated by its Dyersburg, Tennessee facility from

the lists of hazardous wastes. Sludge generated from the treatment of wastewaters generated from electroplating processes are listed as hazardous waste number F006 under the Resource Conservation and Recovery Act (RCRA).

Today's action conditionally excludes the petitioned waste from the list of hazardous wastes only if the waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste.

DATES: *Effective Date:* This rule is effective on May 27, 2004.

ADDRESSES: The RCRA regulatory docket for this final rule, number R4DLP–0401–Bekaert, is located at the RCRA Enforcement and Compliance Branch, Waste Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303, and is available for viewing from 8 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call Daryl Himes at (404) 562–8614 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general and technical information about this final rule, contact Daryl Himes, South Enforcement and Compliance Section, (Mail Code 4WD–RCRA), RCRA Enforcement and Compliance Branch, U.S. Environmental Protection Agency, Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303 or call (404) 562–8614.

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

I. Background

A. What Is a Delisting Petition, and What Does It Require of a Petitioner?

A delisting petition is a request from a facility to the EPA or an authorized State to exclude wastes from the list of hazardous wastes. The facility petitions the EPA because it does not consider the wastes hazardous under RCRA regulations.

In a delisting petition, the petitioner must show that wastes generated at a particular facility do not meet any of the criteria for which the waste was listed. The criteria for which the EPA lists a waste are in part 261 and further explained in the background documents for the listed waste.

In addition, under 40 CFR 260.22, a petitioner must prove that the waste does not exhibit any of the hazardous waste characteristics (ignitability, reactivity, corrosivity, and toxicity) and present sufficient information for the EPA to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. (See part 261 and the background documents for the listed waste.)

Generators remain obligated under RCRA to confirm whether their waste remains nonhazardous based on the hazardous waste characteristics even if the EPA has ''delisted'' the waste.

B. What Regulations Allow a Waste To Be Delisted?

Under 40 CFR 260.20 and 260.22, a generator may petition the EPA to remove its wastes from hazardous waste control by excluding it from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Specifically, 40 CFR 260.20 allows any person to petition the Administrator to modify or evoke any provision of parts 260 through 266, 268, and 273 of Title 40 of the Code of Federal Regulations. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste on a ''generator specific'' basis from the hazardous waste lists.

II. Bekaert's Delisting Petition

A. What Wastes Did Bekaert Petition the EPA To Delist?

On October 28, 2002, Bekaert petitioned the EPA to exclude from the lists of hazardous waste contained in 40 CFR 261.31 and 261.32, a dewatered WWTP sludge generated from the facility located in Dyersburg, Tennessee. The waste (EPA Hazardous Waste No. F006) is generated by treating wastewater from the copper and zinc electroplating of steel cords for the automobile tire industry. Specifically, in its petition, Bekaert requested that the EPA grant an exclusion for 1250 cubic yards per calendar year of dewatered WWTP sludge resulting from the treatment of waste waters from an electroplating operation at its facility.

B. What Information Must the Generator Supply?

A generator must provide sufficient information to allow the EPA to determine that the waste does not meet any of the criteria for which it was listed as a hazardous waste. In addition, where there is a reasonable basis to believe that factors other than those for which the waste was listed (including additional constituents) could cause the waste to be hazardous, the Administrator must determine that such factors do not warrant retaining the waste as hazardous.

C. What Information Did Bekaert Submit To Support This Petition?

To support its petition, Bekaert submitted detailed chemical and physical analysis of the dewatered WWTP sludge generated by its facility.

III. EPA's Evaluation and Final Rule

A. What Decision Is EPA Finalizing and Why?

Today the EPA is finalizing an exclusion for 1250 cubic yards per calendar year of dewatered WWTP sludge resulting from the treatment of waste waters from an electroplating operation at its facility in Dyersburg, Tennessee.

Bekaert petitioned EPA to exclude, or delist, the dewatered WWTP sludge because Bekaert believes that the petitioned waste does not meet the criteria for which it was listed and that there are no additional constituents or factors which could cause the waste to be hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 222 of HSWA, 42 United States Code (U.S.C.) 6921(f), and 40 CFR 260.22(d)(2)–(4).

On February 20, 2004, EPA proposed to exclude or delist Bekaert's dewatered WWTP sludge from the treatment of waste waters from an electroplating operation from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (69 FR 7888). EPA received no comments on the proposed rule and for the reasons stated in both the proposal and this document, EPA believes that

Bekaert's waste should be excluded from hazardous waste control.

B. What Are the Terms of This Exclusion?

Bekaert must dispose of the WWTP sludge resulting from the treatment of waste waters from an electroplating operation at its facility in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste. Any amount of WWTP sludge which is generated in excess of 1250 cubic yards per calendar year is not considered delisted under this exclusion. This exclusion is effective only if all conditions contained in today's rule are satisfied.

C. When Is the Delisting Effective?

This rule is effective May 27, 2004. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

D. How Does This Action Affect the 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 States who have received authorization from the EPA to make their own delisting decisions.

EPA allows the States to impose their own non-RCRA regulatory requirements that are more stringent than the 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. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, the EPA urges petitioners to contact the state regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some states to administer a delisting program in place of the federal program to make state delisting decisions. Therefore, this exclusion does not apply in those authorized states. If Bekaert transports the petitioned waste to or manages the waste in any state with delisting authorization, Bekaert must obtain a delisting from that state before it can manage the waste as nonhazardous in the state. Delisting petitions approved by the EPA Administrator under 40 CFR 260.22 are effective in the State of Tennessee only after the final rule has been published in the **Federal Register**.

IV. Public Comments Received on the Proposed Exclusion

No comments were received from the public pursuant to the proposed rule delisting this action.

V. Regulatory Impact

Under Executive Order 12866, the EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions.

The proposal to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of the EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from the EPA's lists of hazardous wastes, thus enabling a facility to manage its waste as nonhazardous.

Because there is no additional impact from this proposed rule, 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

Under 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 (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 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 the EPA's hazardous waste regulations and would be limited to one facility. Accordingly, the EPA hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

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

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, the EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

When such a statement is required for the EPA rules under section 205 of the UMRA, the EPA must identify and consider alternatives. The alternatives must include 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 the 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 the EPA's 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 this delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. 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 the 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 EPA 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 EPA. This proposed rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

X. Executive Order 13084

Because this action does not involve any requirements that affect Indian Tribes, the requirements of section 3(b) of Executive Order 13084 do not apply. Under Executive Order 13084, the 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, the EPA must provide to the Office Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of the 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 the EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to have ''meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XI. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the EPA 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 the EPA, the Act requires that the EPA 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 EPA has no need to consider the use of voluntary consensus standards in developing this final rule.

XII. Executive Order 13132 Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires the 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'' are 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.''

Under section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implication. It 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, because it affects only one facility.

Lists of Subjects in 40 CFR Part 261

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

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

Dated: May 18, 2004.

J. Scott Gordon,

Acting Director, Waste Management Division, Region 4.

■ 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. Tables 1, 2 and 3 of appendix IX of part 261 are amended by adding the following entry in alphabetical order in each table to read as follows:

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

Facility	Address	Waste description
Bekaert Corp	Dyersburg, TN	Dewatered wastewater treatment plant (WWTP) sludge (EPA Hazardous Waste Nos. F006) generated at a maximum rate of 1250 cubic yards per calendar year after May 27, 2004, and disposed in a Subtitle D landfill. For the exclusion to be valid, Bekaert must implement a verification testing program that meets the following paragraphs: (1) Delisting Levels: All leachable concentrations for those constituents must not exceed the maximum allowable concentrations in mg/l specified in this paragraph. Bekaert must use the leaching method specified at 40 CFR 261.24 to measure constituents in the waste leachate. (A) Inorganic Constituents TCLP (mg/l): Cadmium—0.672; Chromium—5.0; Nickel—127; Zinc—1260.0. (B) Organic Constituents TCLP (mg/l): Methyl ethyl ketone—200.0.

Facility	Address	Waste description
		(2) Waste Holding and Handling: (A) Bekaert must accumulate the hazardous waste dewatered WWTP sludge in accordance with the applicable regulations of 40 CFR 262.34 and continue to dispose of the dewatered WWTP sludge as hazardous waste. (B) Once the first quarterly sampling and analyses event described in paragraph (3) is completed and valid analyses demonstrate that no constituent is present in the sample at a level which exceeds the delisting levels set in paragraph (1), Bekaert can manage and dispose of the dewatered WWTP sludge as nonhazardous according to all applicable solid waste regulations. (C) If constituent levels in any sample taken by Bekaert exceed any of the delisting levels set in paragraph (1), Bekaert must do the following: (i) notify EPA in accordance with paragraph (7) and (ii) manage and dispose the dewatered WWTP sludge as hazardous waste generated under Subtitle C of RCRA. (D) Quarterly Verification Testing Requirements: Upon this exclusion becoming final, Bekaert may begin the quarterly testing requirements of paragraph (3) on its dewatered WWTP sludge. (3) Quarterly Testing Requirements: Upon this exclusion becoming final, Bekaert may perform quarterly analytical testing by sampling and analyzing the dewatered WWTP sludge as follows: (A)(i) Collect four representative composite samples of the hazardous waste dewatered WWTP sludge at quarterly (ninety (90) day) intervals after EPA grants the final exclusion. The first composite sample may be taken at any time after EPA grants the final approval. (ii) Analyze the samples for all constituents listed in paragraph (1). Any roll-offs from which the composite sample is taken exceeding the delisting levels listed in paragraph (1) must be disposed as hazardous waste in a Subtitle C landfill. (iii) Within forty-five (45) days after taking its first quarterly sample, Bekaert will report its first quarterly analytical test data to EPA. If levels of constituents measured in the sample of the dewatered WWTP sludge do not exceed the levels set forth in paragraph (1) of this exclusion, Bekaert can manage and dispose the nonhazardous dewatered WWTP sludge according to all applicable solid waste regulations. (4) Annual Testing: (A) If Bekaert completes the quarterly testing specified in paragraph (3) above and no sample contains a constituent with a level which exceeds the limits set forth in paragraph (1), Bekaert may begin annual testing as follows: Bekaert must test one representative composite sample of the dewatered WWTP sludge for all constituents listed in paragraph (1) at least once per calendar year. (B) The sample for the annual testing shall be a representative composite sample (according to SW–846 methodologies) for all constituents listed in paragraph (1). (C) The sample for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken. (5) Changes in Operating Conditions: If Bekaert significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated as established under paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), it must notify the EPA in writing; it may no longer handle the wastes generated from the new process as nonhazardous until the wastes meet the delisting levels set in paragraph (1) and it has received written approval to do so from the EPA. (6) Data Submittals: Bekaert must submit the information described below. If Bekaert fails to submit the required data within the specified time or maintain the required records on-site for the specified time, the EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (7). Bekaert must: (A) Submit the data obtained through paragraph (3) to the Chief, North Section, RCRA Enforcement and Compliance Branch, Waste Division, U. S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia, 30303, within the time specified. (B) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when either the EPA or the State of Tennessee request them for inspection. (D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: ''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. If any of this information is determined by the 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 the 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.''

Facility	Address	Waste description
		(7) Reopener: (A) If, anytime after disposal of the delisted waste Bekaert possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water 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 ten (10) days of first possessing or being made aware of that data. (B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph (1), Bekaert must report the data, in writing, to the Regional Administrator or his delegate within ten (10) days of first possessing or being made aware of that data. (C) If Bekaert fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires the EPA 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 the Regional Administrator or his delegate determines that the reported information requires action the EPA, 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 notification 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 the EPA action is not necessary. The facility shall have ten (10) days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the EPA actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (8) Notification Requirements: Bekaert must do following before transporting the delisted waste: (A) Provide a one-time written notification to any State Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, sixty (60) days before beginning such activities. (B) Update the one-time written notification if Bekaert ships the delisted waste into a different disposal facility. (C) Failure to provide this notification will result in a violation of the delisting variance and a possible revocation of the decision.
*	*	* * * * *

[FR Doc. 04–11927 Filed 5–26–04; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 11

[FCC 03–167]

Reorganization of the Enforcement Bureau and Establishment of the Office of Homeland Security

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its rules to promote more efficient and effective organizational structure and to promote homeland security. Specifically, the Commission is revising its rules to reflect the creation of the Office of Homeland Security within the Enforcement Bureau, describe the Office's functions and delegated authority, and make other conforming changes. The Commission is also revising its rules to clarify how an Emergency Relocation Board will operate during times of emergency under the Commission's Continuity of Operations Plan (COOP) and setting out the line of succession to chair the Board when no Commissioner is available to serve on the Board.

DATES: These rule changes became effective on July 8, 2003.

FOR FURTHER INFORMATION CONTACT: Sharlene Lofty, Enforcement Bureau, Office of Homeland Security, at (202) 418–2761, or via the Internet at *sharlene.lofty@fcc.gov*.

SUPPLEMENTARY INFORMATION: On July 8, 2003, the Commission adopted an Order (FCC 03–167) revising its rules to reflect the reorganization of the Enforcement Bureau. Commissioner Copps issued a separate statement when this action was taken. In order to promote a more efficient and effective organizational structure and to promote homeland security, the Commission created the Office of Homeland Security within the Enforcement Bureau. The Commission revised its rules to reflect the creation of the Office of Homeland Security, describe its functions and delegated authority, and make other conforming changes. Additionally, the Commission revised its rules to clarify the functions of an Emergency Relocation Board during times of emergency under the Commission's COOP and the line of succession to chair the Board.

Authority for the adoption of the foregoing revisions is contained in sections 4(i), 4(j), 5(b), 5(c), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(b), and 303(r).

The amendments adopted herein pertain to agency organization,