information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

V. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note, EPA must use voluntary consensus standards to carry out policy objectives or activities unless it would be impractical to do so. In this case, such standards, applicable to this regulation, do not exist. Accordingly, the use of such standards is not required.

VI. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 8

Environmental protection, Antarctica, Enforcement, Environmental documentation, Environmental impact assessment, Penalties, Prohibited acts.

Dated: April 2, 1998.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 98–10007 Filed 4–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–5996–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a petition submitted by Kokoku Steel Cord Corporation in Scottsburg, Indiana to exclude (or ''delist'') certain solid wastes generated by its wastewater treatment plant from the lists of hazardous wastes contained in Title 40 of the Code of Federal Regulations, Subpart D of Part 261. Since submitting the petition, Kokoku Steel Cord has been bought by American Steel Cord, a division of Michelin North America, Inc. and the name of the facility has been changed to American Steel Cord. American Steel Cord has stated that no changes have occurred in the raw material or the processes generating the waste as described in the original petition. American Steel Cord has adopted the petition as its own, and has certified that all information contained in the original petition and in subsequent submittals is true, accurate, and complete. This action responds to a ''delisting'' petition submitted under § 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 266, 268 and 273, and under § 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be conditionally excluded from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: EPA is requesting public comments on this proposed decision. Comments must be received in writing by June 1, 1998. Comments postmarked after the close of the comment period will be stamped ''late.''

Any person may request a hearing on this proposed decision by filing a request with Norman R. Niedergang, Director, Waste, Pesticides and Toxics Division, at the address below, by May 15, 1998. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Two copies of any comments should be sent to Judy Kleiman, Waste Management Branch (DRP–8J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604.

Requests for a hearing should be addressed to Norman R. Niedergang, Director, Waste, Pesticides and Toxics Division (D–8J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604.

The RCRA regulatory docket for this proposed rule is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. Call Judy Kleiman at (312) 886–1482 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Judy Kleiman at the address above or at (312) 886–1482.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

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 §§ 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently 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 § 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, §§ 260.20 and 260.22 provide an exclusion procedure, allowing a person to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have its waste excluded, a petitioner must show that the waste generated at the facility does not meet any of the criteria for which the waste was listed. See § 260.22(a)(1) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require EPA to consider any

factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. See § 260.22(a)(2). Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for EPA to determine whether the waste contains any other constituents at hazardous levels. Although a waste which is ''delisted'' (*i.e.*, excluded) has been evaluated to determine whether or not it exhibits any of the characteristics of hazardous waste, a generator remains obligated under RCRA to determine whether or not its waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See § 261.3(a)(2)(iv) and (c)(2)(I), referred to as the ''mixture'' and ''derived-from'' rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived from'' rules and remanded them to EPA on procedural grounds. *Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). EPA plans to address issues related to waste mixtures and residues in a future rulemaking.

B. Approach Used to Evaluate This Petition

American Steel Cord's petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a). Based on this review, EPA tentatively agreed with the petitioner, pending public comment, that the waste is non-hazardous 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 then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that other factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, and considered the concentration of the constituents in the waste, the toxicity of the constituents, 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.

For this delisting determination, EPA used the gathered information to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. EPA determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for American Steel Cord's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, EPA used a fate and transport model to predict the maximum concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of American Steel Cord's petitioned waste on human health and the environment. Specifically, EPA used the maximum estimated waste volume and the health based numbers as inputs to estimate maximum allowable leachate concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site at an assumed risk of 10^{-6} used in delisting decision-making for the hazardous constituents of concern. The maximum concentrations detected in the leachate were then compared directly to the maximum allowable levels determined by the volume dependent dilution attenuation factor times the health-based level.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C (Parts 260 through 266 and 268). The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, should not pose a threat to human health or the environment.

EPA also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, EPA determined that it would be inappropriate to request ground-water monitoring data because American Steel Cord currently disposes of the petitioned waste off-site. For petitioners using off-site management, EPA believes that, in most cases, the ground water monitoring data would not be meaningful. Most commercial land disposal facilities accept waste from numerous generators. Any ground water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, EPA believes that it would be impossible to isolate ground water impacts associated with any one waste disposed of in a commercial landfill. Therefore, the EPA did not request ground water monitoring data from American Steel Cord.

From the evaluation of the delisting petition, a list of constituents was developed for annual verification testing. Proposed maximum allowable leachable concentrations for these constituents were derived by back-calculating from the delisting health-based levels through the proposed fate and transport model. These concentrations (*i.e.*, ''delisting levels'') are part of the verification testing conditions of this proposed exclusion.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

American Steel Cord is located at Route 1 Box 357K, Scottsburg, Indiana, 47170.

A. Petition for Exclusion

American Steel Cord, located in Scottsburg, Indiana, manufactures steel cord for use in steel belted radial tires. In the manufacturing process, rods of raw carbon steel are cleaned and drawn down by a series of dies to reduce the diameter and produce a thin wire. The wire is then electrically plated, first with a non-cyanidic base coat of copper followed by a non-cyanidic coat of zinc. The wastewater treatment plant (WWTP) filter press sludge generated from this process is presently listed as EPA Hazardous Waste No. F006: ''Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-alumiuum plating on

carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.'' The constituents of concern for EPA Hazardous Waste No F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed) (see appendix VII of part 261).

American Steel Cord petitioned to exclude its WWTP filter press sludge because it believes that the petitioned waste does not meet any of the criteria under which the waste was listed and that there are no additional constituents or factors that 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 (HSWA) of 1984. See Section 222 of HSWA, 42 USC 6921(f), and § 260.22.

B. Background

On September 1, 1993, Kokoku Steel Cord Corporation, now American Steel Cord petitioned EPA to exclude an annual volume of 500 cubic yards of WWTP filter press sludge from the list of hazardous wastes contained in § 261.31. American Steel Cord subsequently provided additional information to complete its petition and to amend the annual volume of petitioned waste to 950 cubic yards. In support of its petition, American Steel Cord submitted detailed descriptions and schematic diagrams of its manufacturing and wastewater treatment processes, and analytical testing results for representative samples of the petitioned waste, including (1) the hazardous characteristics of ignitability, corrosivity, reactivity, and toxicity; (2) total constituent analysis for the eight toxicity characteristic metals listed in § 261.24 plus nickel and Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) analyses for the eight toxicity characteristic metals, plus copper, nickel, thallium, vanadium, and zinc; (3) total constituent analyses for 121 volatile and semi-volatile organic compounds and TCLP analyses for those compounds detected; (4) total constituent analysis for sulfide and cyanide; (5) TCLP analyses for cyanide; and (6) analysis for total oil and grease, and percent solids.

American Steel Cord produces steel cord for use in steel belted radial tires. Raw carbon steel rods are cleaned in a hydrochloric acid bath and then placed into two cold water rinses. The effluent from the cold water rinses is pumped to the holding tanks of the WWTP. The steel rod is placed into a hot water rinse and then into a bonder solution which puts a zinc coating on the rod. The rod is rinsed and placed into a neutralization tank, then heated and cooled in preparation for the dry drawing process. There is no discharge of materials to the wastewater treatment plant from the hot water rinse tank, bonder tank, bonder rinse tank or the neutralization tank. Sludges from the bottoms of these tanks are shipped off-site for disposal.

The wire is hydraulically pulled or ''drawn'' through a series of six dies followed by a series of seven dies. Each die extrudes the wire out to a smaller diameter. There are no materials discharged to the wastewater treatment plant from the dry draw process. After the wire has been reduced to the proper diameter, it is fed into a furnace at 1,000 degrees C to burn off any impurities remaining on the wire. The wire is then pulled through a 30% sulfuric acid bath followed by a water rinse. Splashes from either of these tanks are pumped into the 'strong acid tank'. Water from the rinse tank is continually pumped directly to the WWTP holding tanks. The steel wire is then put into a 15% sodium hydroxide bath and rinse. Splashes are pumped into the 'strong alkaline tank'. Next, the wire is electrically plated with a non-cyanidic base coat of copper. The wire is then rinsed and electroplated with a non-cyanidic coat of zinc. The zinc plating is followed by a water rinse. Effluent from the copper rinse and the zinc rinse are pumped to the WWTP holding tanks. Splashes from the copper plating and copper rinse tanks are collected in the 'strong copper tank' and splashes from the zinc plating and zinc rinse tanks are collected in the 'strong acid tank'. The strong acid tank, the strong copper tank, and the strong alkaline tank are pumped to the WWTP holding tanks on a regular basis.

The plated wire is fed into a diffusion fluidized bed furnace to form a brass plating. After the wire is brassed, the diameter is further reduced by a wet draw process through a series of dies containing a lubricating material. The wire is then stranded or twisted together to form a wire cord according to specifications.

Treatment at the WWTP is a batch operation. The wastewaters collected from the various processes in the two holding tanks are neutralized by the addition of a lime slurry in a neutralization tank where the pH is carefully controlled between 9.5 and 10.5. The water is then pumped into a clarifier where polymers are added to aid flocculation. Effluent from the clarifier is discharged to the City of Scottsburg's Wastewater Treatment Plant under an NPDES permit. Sludge from the clarifier is pumped into two solids holding tanks. When the holding tanks are full, the sludge is pumped to a plate filter press and dewatered. Effluent from the filter press is either discharged to the Scottsburgh Treatment Plant or it is pumped to the head of the plant for retreatment. The filtercake falls off or is scraped from the plates into two hoppers and is transferred to a roll-off dumpster. The filtercake is currently being disposed of as hazardous waste off site.

American Steel Cord submitted a signed certification stating that, based on projected annual waste generation, the maximum annual generation rate of WWTP filter press sludge (filtercake) will not exceed 950 cubic yards (approximately 950 tons) per year. The EPA reviews a petitioner's estimates and, on occasion, has requested a petitioner to reevaluate the estimated waste generation rate. EPA accepts American Steel Cord's estimate.

C. Waste Analysis

American Steel Cord developed a list of analytical constituents based on a review of facility processes, Material Safety Data Sheets for raw materials and chemical additives used in the manufacturing process, and recommendations contained in EPA delisting guidance. See Petitions to Delist Hazardous Wastes, A Guidance Manual, dated March 1993.

For American Steel Cord's petition, the WWTP filtercake sludge was sampled once a week for 4 weeks. Samples were collected on February 2, February 9, February 18, March 3, 1993, April 22, May 4, May 21, and June 11, 1993. In response to a request by the EPA, American Steel Cord also collected additional samples of the filtercake on January 23, January 29, February 5, and February 11, 1997 using the same procedures as for the previous samples. Since the filter press is run only on a batch basis, the collection of samples was done over a period of time in order to characterize temporal variability. At each sampling event, the two hoppers were each divided into 6 sections and a sample was taken at various depths from each of the 12 sections. All samples were collected with a trowel. Each sample was packed in an appropriately labeled bottle. The 12 grab samples collected were composited by the lab.

To quantify the total constituent and leachate concentrations, American Steel Cord used SW–846 methods 7061 and

7061A[1] for arsenic; methods 7080 and 7080A for barium; method 7130 for cadmium; method 7190 for chromium; method 7210 for copper; method 7420 for lead; methods 7470, 7470A and 7471 for mercury; method 7520 for nickel; methods 7741 and 7741A for selenium; methods 7760 and 7760A for silver; method 7840 for thallium; method 7910 for vanadium; method 7950 for zinc; methods 9010 and 9010A for total cyanide; methods 9030 and 9030A for sulfide; methods 8240 and 8260 for volatile organic compounds; and method 8270 for semi-volatile organic compounds. Using SW–846 method 9071, American Steel Cord determined that the samples of the petitioned waste had a maximum oil and grease content of 199 mg/kg. American Steel Cord also used these methods on the leachate obtained using the Toxicity Characteristic Leaching Procedure (SW–846 method 1311), as described below, to determine leachable levels of cyanide, metals, volatile organic compounds, and semi-volatile organic compounds.

Characteristic testing of the samples included analysis of reactive cyanide (SW–846 Method 7.3.3.2) and reactive sulfide (SW–846 Method 7.3.4.2).

Table 1 presents the maximum total and leachate concentrations for 13 metals, total and leachate concentration for cyanide, and total sulfide. Table 1 also includes maximum total concentrations for reactive cyanide and reactive sulfide.

The detection limits presented in Table 1 represent the lowest concentrations quantifiable by American Steel Cord when using the appropriate SW–846 methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, i.e., the ''cleanliness'' of waste matrices varies and ''dirty'' waste matrices may cause interferences, thus raising detection limits.)

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[WWTP Filtercake Sludge]

Inorganic constituents	Total constituent analyses(mg/kg)	TCLP leachate analyses (mg/l)
Arsenic	4.9	.003

[1] A letter at the end of the method number indicates the method has been updated since originally promulgated in SW–846. Additional samples collected in 1997 were analyzed by the most current version of the method. For constituents which were subsequently analyzed by updated versions of a method, both versions of the method are noted.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]—Continued

[WWTP Filtercake Sludge]

Inorganic constituents	Total constituent analyses(mg/kg)	TCLP leachate analyses (mg/l)
Barium	32.8	2.1
Cadmium	.7	0.15
Chromium (total)	14	0.26
Copper	1990	0.1
Lead	28	0.16
Mercury	0.1	0.001
Nickel	109	0.73
Selenium	0.02	0.002
Silver	1.13	0.02
Thallium	8.0	<2
Vanadium	6.0	<2
Zinc	21,000	1.48
Cyanide (total)	15	.06
Sulfide (total)	96	NA
Cyanide (reactive)	.25	NA
Sulfide (reactive)	34	NA

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

< Denotes that the constituent was not detected at the detection limit specified in the table.

NA Denotes that the constituent was not analyzed.

American Steel Cord analyzed the samples of petitioned waste for 58 volatile and 63 semi-volatile organic compounds. Table 2 presents the maximum total and leachate concentrations for all detected organic constituents in American Steel Cord's waste samples.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[WWTP Filtercake Sludge]

Organic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Acetone	.247	.736
Anthracene	.264	<.05
Butyl benzyl phthlate	NA	.1
Carbon disulfide	.021	<.005
carbon tetrachloride	.177	<.005
Chloroform	.020	.042
1,4-Dichlorobenzene	<.16	.014
cis-1,2-Dichloroethene	NA	.022
Fluoranthene	.166	<.05
Methylene chloride	.100	.065
Naphthalene	1.848	.009
Phenanthrene	.297	<.05
Styrene	<.01	.014
Tetrachloroethene	<.01	.008
Toluene	<.005	.017

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]—Continued

[WWTP Filtercake Sludge]

Organic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Xylenes	.022	.033

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

< Denotes that the constituent was not detected at the detection limit specified in the table.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results.

D. EPA Evaluation

EPA has reviewed the sampling procedures used by American Steel Cord and has determined that they satisfy EPA criteria for collecting representative samples. EPA considered the appropriateness of alternative waste management scenarios for American Steel Cord's WWTP filter press sludge and decided, based on the information provided in the petition, that disposal in a Subtitle D landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. EPA, therefore, evaluated American Steel Cord's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for ground water contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991), and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable, worst-case contaminant levels in ground water at a compliance point (i.e., a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground water recharge for a specific volume of waste. The DAFs generated using the EPACML

vary from a maximum of 100 for smaller annual volumes of waste (i.e., less than 1,000 cubic yards per year) to DAFs approaching ten for larger volume wastes (i.e., 400,000 cubic yards per year).

Typically, EPA uses the maximum annual waste volume to derive a petition-specific DAF. American Steel Cord's maximum waste volume of 950 cubic yards per year corresponds to a DAF of 100. EPA's evaluation used a DAF of 100 times the health based level (HBL) used in delisting decision making to determine the maximum allowable leachate concentrations for American Steel Cord's waste (see Table 3).

TABLE 3.—EPACML: MAXIMUM ALLOWABLE LEACHATE CONCENTRATIONS

[WWTP Filtercake Sludge]

Inorganic and organic constituents	Maximum leachate concentrations in waste (mg/l)	Levels of regulatory concern (mg/l)	HBL [1]
Arsenic	0.003	5	0.05
Barium	2.1	200	2
Cadmium	.15	.5	.005
Chromium (total)	.26	10	0.1
Copper	.1	130	1.3
Lead	.16	1.5	.015
Mercury	.001	.2	.002
Nickel	.73	10	0.1
Selenium	.002	5	.05
Silver	.02	20	.2
Zinc	1.48	1,000	10
Cyanide	.06	20	.2
Acetone	.736	400	4
Benzo butyl phthlate	.1	10	.1
Chloroform	.042	10	.01
1,4-Dichlorobenzene	.0014	7.5	.075
cis-1,2-Dichloroethene	0.022	7	.07
Methylene chloride	.065	.5	.005
Naphthalene	.009	100	1.0
Styrene	.014	10	0.1
Tetrachloroethene	.008	.5	.005
Toluene	.017	100	1.0
Xylene	.033	1,000	10

[1] See ''Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions,'' December 1994, located in the RCRA public docket for today's notice.

For inorganic constituents, the maximum reported leachate concentrations of arsenic, barium, cadmium, chromium (total), copper, lead, mercury, nickel, selenium, silver, and zinc in the WWTP filtercake sludge were well below the maximum allowable leachate concentrations. EPA did not evaluate the mobility of the remaining inorganic constituents (i.e., thallium and vanadium) from American Steel Cord's waste because they were not detected in the leachate using the appropriate analytical test methods (see Table 1). EPA believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), EPA assumes that the constituent is not present and therefore does not present a threat to human health or the environment.

EPA also evaluated the potential hazards of the organic constituents detected in the TCLP extract of the samples (i.e., acetone, butyl benzyl phthlate, chloroform, 1,4-dichlorobenzene 1,2-dichloroethene, methylene chloride, naphthalene, styrene, tetrachloroethene, toluene, 1,2,4-trimethyl benzene, and xylene). The maximum leachate concentrations detected are significantly below the calculated maximum allowable levels.

After reviewing American Steel Cord's processes, EPA accepts American Steel Cord's analysis that no other hazardous constituents, other than those tested for, are likely to be present in the waste, and that any migration of hazardous constituents from the waste would result in concentrations below delisting health-based levels of concern. In addition, on the basis of test results and information provided by American Steel Cord pursuant to § 260.22, EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity, or toxicity.

In its evaluation of American Steel Cord's petition, EPA also considered the potential impact of the petitioned waste via non-ground water routes (i.e., air emission and surface runoff). With regard to airborne dispersal, EPA believes that no appreciable air releases are likely from American Steel Cord's waste under any likely disposal conditions. Therefore, there is no substantial present or potential hazard to human health from airborne exposure to constituents from American Steel Cord's petitioned waste.

EPA also considered the potential impact of the petitioned wastes via a surface water route. EPA believes that containment structures at municipal solid waste landfills can effectively control surface water run-off, as the Subtitle D regulations (see 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents in the run-off will tend to be lower than the extraction procedure test results reported in today's notice because of the aggressive acidic media used for extraction in the TCLP. EPA believes that, in general, leachate derived from the waste is unlikely to directly enter a surface water

body without first traveling through the saturated subsurface where dilution/attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of the solubility of a toxic constituent in water, and are indicative of the fraction of the constituent that may be mobilized in surface water, as well as ground water. The reported TCLP data show that the constituents which might leach from American Steel Cord's waste and be released to surface water would not be likely to exceed the health-based levels of concern. EPA, therefore, concludes that American Steel Cord's waste is not a significant hazard to human health or the environment via the surface water exposure pathway.

E. Conclusion

Based on descriptions of the process from which the petitioned waste is derived, descriptions of American Steel Cord's wastewater treatment process, and analytical characterization of the petitioned waste, EPA believes that American Steel Cord has successfully demonstrated that the petitioned waste is not hazardous. EPA, therefore, proposes to grant an exclusion to American Steel Cord for its WWTP filtercake sludge described in its petition as EPA Hazardous Waste No. F006. If made final, the proposed exclusion will apply only to 950 cubic yards (approximately equivalent to 950 tons) of petitioned waste generated annually, on a calendar year basis. The facility must treat waste generated in excess of 950 cubic yards per year as hazardous. If either the manufacturing or treatment processes are altered such that an adverse change in waste composition occurs (*e.g.,* higher levels of hazardous constituents), this exclusion would no longer be valid.

Although management of the waste covered by this petition would be removed from Subtitle C jurisdiction upon final promulgation of an exclusion, this exclusion applies only where this waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

F. Verification Testing Conditions

EPA is proposing to require American Steel Cord to demonstrate on an annual basis that the constituents of concern in the petitioned waste do not exceed the levels of concern in paragraph 1 below. These levels are based on delisting health-based values and a DAF of 100. American Steel Cord must analyze four representative samples of the WWTP filtercake sludge on an annual, calendar-year basis using methods with appropriate detection levels and quality control procedures. If the level of any constituent measured in any sample of WWTP filtercake sludge exceeds the levels set forth in paragraph 1 below, then the waste is hazardous and must be managed in accordance with Subtitle C of RCRA.

1. Delisting Levels

Concentrations measured in the TCLP extract of the waste of the following constituents must not exceed the following levels (mg/l).

Arsenic—5; Barium—200; Cadmium—.5; Chromium —10; Copper— 130; Lead—1.5; Mercury—.2; Nickel—10; Selenium—5; Silver—20; Zinc—1,000; Acetone—400; Benzo butyl phthlate—10; Chloroform— 10; 1,4-Dichlorobenzene—7.5; cis-1,2-Dichloroethane—7; Methylene chloride—.5; Naphthalene—100; Styrene—10; Tetrachloroethene—.5; Toluene—100; Xylene—1,000.

2. Changes in Operating Conditions

If American Steel Cord significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, American Steel Cord may handle the WWTP filtercake sludge generated from the new process under this exclusion after the facility has demonstrated that the waste meets the levels set in paragraph 1 and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced.

3. Data Submittals

The data obtained through annual verification testing or paragraph 2 must be submitted to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be made available for inspection. All data must be accompanied by a signed copy of the certification statement in 260.22(i)(12).

III. Effect on State Authorizations

This proposed exclusion, if promulgated, would be issued under the Federal (RCRA) delisting program. States, however, may impose more stringent regulatory requirements than EPA, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program (i.e., to make their own delisting decisions). Therefore, this proposed exclusion, if promulgated, may not apply in those authorized States. If the petitioned waste will be transported to any State with delisting authorization, American Steel Cord must obtain delisting authorization from that State before the waste may be managed as nonhazardous in the State.

IV. Effective Date

This rule, if made final, will become effective immediately upon such final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for a person generating a hazardous waste. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 USC 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is ''major'' and therefore subject to the requirement of a Regulatory Impact Analysis. The proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as non-hazardous. There is no additional impact, therefore, due to today's proposed rule. This proposal is not a major regulation; therefore, no Regulatory Impact Analysis is required.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

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

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.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, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local or tribal governments or the private sector. EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon State, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. The Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (''CRA'') 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. Rules of particular applicability are exempt, however, from the CRA. 5 U.S.C. 804(3). Inasmuch as this action affects only one facility, it would be a rule of particular applicability which is exempt from the requirements of the CRA and the EPA is not required to submit a rule report regarding today's action under section 801.

X. Children's Health Protection

Under Executive Order (''EO'') 13045, for all ''significant'' regulatory actions as defined by EO 12866, EPA must provide an evaluation of the environmental health or safety effect of a proposed rule on children and an explanation of why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This proposal is not a significant regulatory action and is exempt from EO 13045.

List of Subjects in 40 CFR Part 261

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

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

Dated: March 25, 1998.

Norman R. Niedergang,

Director, Waste, Pesticides and Toxics 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, and 6938.

2. In Table 1 of Appendix IX of Part 261 it is proposed to add the following waste stream 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
*	*	*
American Steel Cord Corporation ...	Scottsburg, Indiana	Dewatered wastewater treatment plant (WWTP) filtercake (EPA Hazardous Waste No. F006) generated from electroplating operations at a maximum annual rate of 950 cubic yards per year, after (insert publication date of the final rule).

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

Facility	Address	Waste description
		1. *Verification Testing:* American Steel Cord must implement an annual testing program to demonstrate that the constituent concentrations measured in the TCLP extract of the waste do not exceed the following levels (mg/1). Arsenic—5; Barium—200; Cadmium—.5; Chromium—10; Copper—130; Lead—1.5; Mercury—.2; Nickel—10; Selenium—5; Silver—20; Zinc—1,000; Cyanide—20; Acetone—400; Benzo butyl phthlate—10; Chloroform—10; 1,4-Dichlorobenzene—7.5; cis–1,2–Dichloroethene—7; Methylene chloride—.5; Naphthalene—100; Styrene—10; Tetrachloroethene—.5; Toluene—100; Xylene—1,000. 2. *Changes in Operating Conditions:* If American Steel Cord changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, American Steel Cord may handle the WWTP filtercake sludge generated from the new process under this exclusion after the facility has demonstrated that the waste meets the levels set forth in paragraph 1 and that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced. 3. *Data Submittals:* The data obtained through annual verification testing or paragraph 2 must be submitted to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be made available for inspection. All data must be accompanied by a signed copy of the certification statement in 260.22(I)(12).
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