the petitioned waste would not pose a threat to human health and the environment. Specifically, the Agency used the modified EPA Composite Model for Landfills (EPACML) to predict the potential mobility of the hazardous constituents found in the petitioned waste. Based on this evaluation, the Agency determined that the constituents in BSC's petitioned waste would not leach and migrate at levels that would result in groundwater concentrations above the Agency's health-based levels used in delisting decision-making. See 59 FR 10352, March 4, 1994, for a detailed explanation of why EPA proposed to grant Bethlehem Steel Corporation's petition for its chemically stabilized wastewater treatment filter cake.

B. Response to Public Comments

The Agency did not receive any comments on the proposed rule.

C. Final Agency Decision

For the reasons stated in the proposal and in this final rule, the Agency believes that BSC's chemically stabilized wastewater treatment filter cake should be excluded from listing as a hazardous waste. The Agency, therefore, is granting a final exclusion to Bethlehem Steel Corporation, located in Sparrows Point, Maryland for its chemically stabilized wastewater treatment filter cake, described in its petition as EPA Hazardous Waste No. F006.

This exclusion only applies to the processes and waste volume (a maximum of 1,100 cubic yards generated annually in stabilized filter cake form) covered by the original demonstration. The facility would require a new or amended exclusion if there is an adverse change in composition of treated waste such that levels of hazardous constituents increase significantly (e.g., from changes to manufacturing or treatment processes). (Note, however, that changes in the stabilization process are allowed as described in Condition (4).) Continued evaluation for levels of hazardous constituents will be achieved by the annual verification testing specified in Condition (1)(C). Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated either in excess of 1,100 cubic yards per year or from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction by this final exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a state to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation (see 40 CFR part 260, appendix I).

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, 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 both Federal and State programs, petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective January 5, 1995. 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 reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date of 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 rule should be effective immediately upon publication. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an "assessment of the potential costs and benefits" for all "significant" regulatory actions. This rule to grant an exclusion is not significant, since its effect, is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as nonhazardous. There is no additional economic impact due to today's rule. Therefore, this rule is not a significant regulation, and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This amendment will not have any adverse economic impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and it is limited to one facility. Accordingly, I hereby certify that this regulation 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 recordkeeping requirements associated with this final 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 USC § 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

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

Dated: December 19, 1994.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows: