

which Ford will be disposing, the allowable concentration for methyl methacrylate is too high to be a practical concern.

#### IV. Public Comments Received on the Proposed Exclusion

##### A. Who Submitted Comments on the Proposed Rule?

The EPA received public comments on the proposed notice published on March 7, 2002 from Alliance of Automobile Manufacturers, Honda of America Mfg., Inc., Alcoa Inc., and The Aluminum Association. All commenters were supportive of the proposal and suggested expanding the project and revising the listing.

##### B. Comments Received and Responses from EPA

(1) EPA should revise the F019 listing to specify that wastewater treatment sludge from zinc phosphating operations is not within the scope of the listing. Data gathered as a result of the Expedited Delisting Project together with the available historical data, should provide enough data to fully characterize this waste and to justify a revision of the listing.

The Agency is now considering revising the F019 listing. EPA is examining the data collected as a result of this project, as well as past data, as a basis for a possible revision to the F019 listing.

(2) EPA should issue an interpretive rule clarifying that zinc phosphating operations are outside the scope of the F019 listing.

An interpretive rule presents administrative and technical difficulties. A revision to the listing will require a rulemaking process. See response to comment (1) above.

(3) Automobile assembly facilities outside of Michigan would like to take advantage of the precedent set by this expedited delisting project to delist F019 generated by similar operations in other states and regions.

The Agency believes that the expedited delisting procedures and requirements set forth in this proposal are appropriate for similar automotive assembly facilities outside the State of Michigan, subject to the discretion of the regulatory agency (state or region).

(4) Alternatives to landfilling like recycling should be allowed within the petition process.

The Agency does not delist wastes which are recycled because the model used to estimate risk is based only on disposal of waste in a Subtitle D landfill. The risk which might result from any other scenario is not evaluated

by the delisting program. However, the Agency encourages safe recycling, and variances and exclusions from the definition of solid and hazardous wastes are available for wastes which are recycled.

(5) Analytical methods should be specified in the pre-approved common sampling plan instead of requiring each participant to submit a site-specific list of methods.

Allowing the petitioner to choose an analytical method which meets the data quality objectives specific to the delisting petition provides flexibility. Data quality objectives will vary depending on the allowable levels which are a function of the volume of petitioned waste. The Agency believes that the flexibility of performance based methods results in better data.

(6) Detection limits should not be required prior to sampling since they cannot be adequately predicted without a way to estimate matrix effects.

Although matrix effects cannot be assessed in advance of laboratory analysis, a laboratory should be able to provide estimated detection levels and reporting levels which are lower than, or at least equal to, the allowable delisting level for each constituent.

(7) Since the process generating the sludge is extremely stable, verification sampling should be conducted on an annual, instead of quarterly, basis. The requirement that any process change be promptly reported and the exclusion suspended until EPA gives written approval that the delisting can continue is an adequate safeguard justifying the decrease in sample event frequency.

Verification data submitted in conjunction with past delistings of this waste have shown significant variation on a quarterly basis over longer periods of time. Annual sampling would not detect such variations. Once enough verification data are collected to support a statistical analysis, a change in the frequency of verification sampling and/or sampling parameters may be considered.

(8) The final **Federal Register** should make it clear that assembly plants that manufacture light trucks are also eligible for the project.

Today's notice specifically defines eligible facilities as inclusive of manufacturers of light trucks.

(9) The table of maximum allowable levels in the March 7, 2002 proposed rule contains errors in the columns for vinyl chloride.

The error was caused by a missing space or tab in the table. Although vinyl chloride was not detected in the waste at any of the six facilities, the maximum allowable concentrations proposed for

1,000 cubic yards of waste should have been a total of 178 milligrams per kilogram (mg/kg) and 0.00384 milligrams per liter (mg/L) in the TCLP. For 2,000 cubic yards of waste, 115 mg/kg total and 0.00234 mg/L TCLP were proposed. For 3,000 cubic yards of waste, 89.4 mg/kg total and 0.00175 mg/L TCLP were proposed.

#### V. Final Rule Granting these Petitions

##### A. What Decision Is EPA Finalizing?

Today the EPA is finalizing exclusions to conditionally delist wastewater treatment plant sludge from conversion coating on aluminum generated at the following facilities: (1) General Motors Corporation, Pontiac East Plant, in Pontiac, Michigan (3,000 cubic yards annually); (2) General Motors Corporation, Hamtramck Plant, in Detroit, Michigan (3,000 cubic yards annually); (3) General Motors Corporation, Flint Truck, in Flint, Michigan (3,000 cubic yards annually); (4) General Motors Corporation, City of Lansing, and Trigen/Cinergy-USFOS of Lansing LLC, Lansing Grand River Plant, in Lansing, Michigan (2,000 cubic yards annually); (5) Ford Motor Company, Wixom Assembly Plant, in Wixom, Michigan (2,000 cubic yards annually); and (6) Ford Motor Company, Michigan Truck/Wayne Integrated Stamping and Assembly Plant, in Wayne, Michigan (2,000 cubic yards annually).

On March 7, 2002, EPA proposed to exclude or delist these wastewater treatment sludges from the list of hazardous wastes in 40 CFR 261.31 and accepted public comment on the proposed rule (67 FR 10341). EPA considered all comments received, and for reasons stated in both the proposal and this document, we believe that these wastes should be excluded from hazardous waste control.

##### B. What Are the Terms of This Exclusion?

The facilities must dispose of the waste in a lined Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste. The facilities must verify on a quarterly basis that the concentrations of the constituents of concern do not exceed the allowable levels set forth in this exclusion by obtaining and analyzing a representative sample of the waste according to the current waste analysis plan modified to include the improved methodologies discussed in section III. B.

The list of constituents for verification is a subset of those initially tested for and is based on the occurrence of