the objection arises after the comment period allowed for in the proposal. 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 62

Environmental protection, Administrative practices and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Solid Waste Incinerators, Waste treatment and disposal.

Dated: March 27, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart OO—Rhode Island

■ 2. Subpart OO is amended by adding a new § 62.9995 and a new undesignated center heading to read as follows:

Air Emissions From Existing Other Solid Waste Incineration Units

§ 62. 9995 Identification of Plan-Negative Declaration.

On November 5, 2006, the Rhode Island Department of Environmental Management submitted a letter certifying that there are no existing other solid waste incineration units in the state subject to the emission guidelines under part 60, subpart EEEE of this chapter.

[FR Doc. E7–6460 Filed 4–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R05–RCRA–2007–0213; SW–FRL–8294–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA (also, ''the Agency'' or ''we'' in this preamble) is granting a petition to exclude (or ''delist'') wastewater treatment plant sludges from conversion coating on aluminum generated by AutoAlliance International, Inc. (AAI), a Ford/Mazda joint venture company in Flat Rock, Michigan, from the list of hazardous wastes.

Today's action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a lined Subtitle D landfill which is permitted, licensed, or registered by a State to manage industrial solid waste. The exclusion was proposed on March 7, 2002 as part of an expedited process to evaluate this waste under a pilot project developed with the Michigan Department of Environmental Quality (MDEQ). The rule also imposes testing conditions for waste generated in the future to ensure that this waste continues to qualify for delisting.

DATES: This rule is effective on April 6, 2007.

ADDRESSES: EPA has established an electronic docket for this action under Docket ID No. EPA–R05–RCRA–2007–0213. The electronic docket contains all relevant documents created after this action was proposed as well as a selection of pertinent documents from the original paper docket for the proposed rule, Docket ID No. R5–MIECOS–01. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. All documents in the electronic docket are listed on the *http://www.regulations.gov* Web site. Publicly available materials from Docket ID No. EPA–R05–RCRA–2007–0213 are available either electronically through *http://www.regulations.gov* or in hard copy. Materials from the original paper docket, Docket ID No. R5–MIECOS–01, are also available in hard copy. You can view and copy materials from both dockets at the Records Center, 7th floor, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. We recommend you telephone Todd Ramaly at (312) 353–9317 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Todd Ramaly, Waste, Pesticides, and Toxics Division, (Mail Code: DU–7J), EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604; *telephone number:* (312) 353–9317; *fax number:* (312) 353–4788; *e-mail address: ramaly.todd@epa.gov*.

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

I. Background

A. What is a delisting petition?

A delisting petition is a request from a generator to exclude waste from the list of hazardous wastes under RCRA regulations. In a delisting petition, the petitioner must show that waste generated at a particular facility does not meet any of the criteria for which EPA listed the waste as set forth in Title 40 Code of Federal Regulations (40 CFR) 261.11 and the background document for the waste. In addition, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (that is, ignitability, reactivity, corrosivity, and toxicity) and must present sufficient information for us to decide whether factors other than those for which the waste was listed warrant retaining it as a hazardous waste. See 40 CFR 260.22, 42 United States Code (U.S.C.) 6921(f) and the background documents for a listed waste.

Generators remain obligated under RCRA to confirm that their waste remains nonhazardous based on the hazardous waste characteristics even if EPA has ''delisted'' the wastes and to ensure that future generated wastes meet the conditions set.

B. What regulations allow a waste to be delisted?

Under 40 CFR 260.20, 260.22, and 42 U.S.C. 6921(f), facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them 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 revoke any provision of parts 260 through 266, 268, and 273 of 40 CFR. 40 CFR 260.22 provides a generator the opportunity to petition the Administrator to exclude a waste from the lists of hazardous wastes on a ''generator specific'' basis.

C. What waste did AAI petition to delist?

AAI petitioned to exclude wastewater treatment sludges resulting from a zinc phosphating conversion coating process on car and truck bodies, which have aluminum components. When treated, the wastewater from the conversion coating on aluminum results in a listed waste, F019. The wastewater from the phosphating process entering the wastewater treatment plant combines with wastewaters from other operations at the plant including cleaning and rinsing operations, electrocoating processes, vehicle leak testing, and floor scrubbing. Wastewaters include alkaline cleaners, surfactants, organic detergents, rinse conditioners from cleaning operations and overflows and rinse water from electrocoating. All sludge from the treatment of this wastewater is regulated as RCRA hazardous waste F019.

II. The Expedited Process for Delisting

A. Why was the expedited process developed for this waste?

Automobile manufacturers are adding aluminum components to automobile and light truck bodies. When aluminum is conversion coated in a zinc phosphating process in automobile assembly plants, the resulting wastewater treatment sludge must be managed as EPA hazardous waste F019. F019 wastes generated at other auto assembly plants using the same zinc phosphating and wastewater treatment processes have been shown to be nonhazardous.

This similarity of manufacturing processes and the resultant wastes provides an opportunity for the automobile industry to be more efficient in submitting delisting petitions and for EPA to be more efficient in evaluating them. Efficiency may be gained and time saved by using a standardized approach for gathering, submitting and evaluating data. Therefore, EPA, in conjunction with MDEQ, developed a pilot project to expedite the delisting process. This approach to making delisting determinations for this group of facilities is efficient while still being consistent with current laws and regulations and protective of human health and the environment.

By removing regulatory controls under RCRA, EPA is facilitating the use of aluminum in cars. EPA believes that incorporating aluminum in cars will be advantageous to the environment since lighter cars are capable of achieving better fuel economy.

B. What is the expedited process to delist F019?

The expedited process to delist F019 is an approach developed through a Memorandum of Understanding (MOU) with MDEQ for gathering and evaluating data in support of multiple petitions from automobile assembly plants. The expedited delisting process is applicable to wastes generated by automobile and light truck assembly plants in the State of Michigan which use a similar manufacturing process and generate similar F019 waste.

Based on available historical data and other information, the expedited process identified 70 constituents which might be of concern in the waste and provides that the F019 sludge generated by automobile assembly plants may be delisted if the levels of the 70 constituents do not exceed the allowable levels established for each constituent in this rulemaking. The maximum annual quantity of waste generated by any single facility that may be covered by an expedited delisting is 3,000 cubic yards. Delisting levels were also proposed for smaller quantities of 1,000 and 2,000 cubic yards.

III. EPA's Evaluation of This Petition

A. What information was submitted in support of this petition?

AAI submitted certification that its process was the same as the process described in the MOU between Region 5 and MDEQ. See 67 FR 10341, March 7, 2002. The facility also asserted that its waste does not meet the criteria for which F019 waste was listed and there are no other factors that might cause the waste to be hazardous.

To support its exclusion demonstration, AAI collected six samples representing waste generated over six discreet one-week periods. AAI stored six roll-off boxes of sludge generated weekly from May 6 through June 16, 2005. Composite and grab samples were collected from each of the six roll-off boxes on June 25, 2005. Each sample was analyzed for: (1) Total analyses of 69 constituents of concern; (2) Toxicity Characteristic Leaching Procedure (TCLP), SW–846 Method 1311, analyses of 69 constituents of concern; (3) oil and grease; and (4) leachable metals using the Extraction Procedure for Oily Wastes (OWEP), SW–846 Method 1330A, in lieu of Method 1311 if a sample contained more than 1% oil and grease. In addition, the pH of each sample was measured and a determination was made that the waste was not ignitable, corrosive or reactive (see 40 CFR 261.21–261.23). Although the expedited delisting project originally required analysis of 70 constituents, analysis of acrylamide required extreme methods to achieve a detection level at the level of concern and no acrylamide was detected in any sample analyzed by the original facilities participating in the expedited delisting project. Thus, the Agency decided it would not be appropriate to require analysis for acrylamide. Also, AAI was not required to analyze for total sulfide and total cyanide as long as they provided the narrative determination of reactivity required in 40 CFR Part 261.23. With the exception of the minor changes described above, all sampling and analyses were done in accordance with the sampling and analysis plan, which is an appendix to the MOU and is available in the docket for this rule.

The maximum values of constituents detected in any sample of the waste (in milligrams per kilogram—mg/kg) and in a TCLP or OWEP analysis of that waste (in milligrams per liter—mg/L) are summarized in the following table. The data submitted included the appropriate quality assurance and quality control (QA/QC) information validated by a third party.

Constituent detected	Maximum observed concentration		Maximum allowable concentration		GW (μg/L)
	Total (mg/kg)	TCLP (mg/L)	Total (mg/kg)	TCLP*(mg/L)	
Volatile Organic Compounds					
acetone	8.6	0.43	NA	228	3,750
formaldehyde	4.6	0.23	689	84.2	1,380
Semivolatile Organic Compounds					
bis(2-ethylhexyl)phthalate	4.9	<0.005	NA	0.0896	1.47
di-n-octyl phthalate	3.3	<0.002	NA	0.112	1.3
o-cresol	<1.5	0.0011	NA	114	1,875
p-cresol	<1.5	0.005	NA	11.4	188
Metals					
barium	208	<0.35	NA	100	2,000
chromium	58	<0.17	NA	4.95	100
lead	9.7	<0.2	NA	5	15
mercury	<0.1	0.0007	8.92	0.2	2
nickel	1,850	12.8	NA	90.5	750
tin	184	19.6	NA	721	22,500
zinc	13,300	0.45	NA	898	11,300

* Or OWEP as applicable.
< Not detected at the specified concentration.
NA not applicable.

B. How did EPA evaluate the information submitted?

EPA compared the analytical results submitted by AAI to the maximum allowable levels set forth in the proposed rule (67 FR 10341, March 7, 2002). The maximum allowable levels for constituents detected in the waste or a TCLP extract of the waste are summarized in the table above, along with the observed levels. The table also includes the maximum allowable levels in groundwater at a potential receptor well (in micrograms per liter—μg/L), as evaluated by the Delisting Risk Assessment Software (DRAS). These levels are the more conservative of either the Safe Drinking Water Act Maximum Contaminant Level (MCL) or the health-based value calculated by DRAS based on the target cancer risk level of 10^{-6}. For arsenic, the target cancer risk was set at 10^{-4} in consideration of the MCL and the potential for natural occurrence. The maximum allowable groundwater concentration and delisting level for arsenic correspond to a drinking water concentration less than one half the current MCL of 10 μg/L.

EPA also used the DRAS program to estimate the aggregate cancer risk and hazard index for constituents detected in the waste. The aggregate cancer risk is the cumulative total of all individual constituent cancer risks. The hazard index is a similar cumulative total of non-cancer effects. The target aggregate cancer risk is 1×10^{-5} and the target hazard index is one. The wastewater treatment plant sludge at AAI met both of these criteria based on maximum observed values.

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) *Comment:* EPA should revise the F019 listing to specify that wastewater treatment sludges from zinc phosphating operations are 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.

EPA Response: On January 18, 2007 (72 FR 2219), the Agency proposed to amend the F019 listing to exempt the wastewater treatment sludge generated from zinc phosphating, when zinc phosphating is used in the automobile assembly process and provided the waste is disposed in a landfill unit subject to certain liner design criteria.

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

EPA Response: See response to comment (1) above.

(3) *Comment:* 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.

EPA Response: 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) *Comment:* Alternatives to landfilling like recycling should be allowed within the petition process.

EPA Response: The risk assessment model currently used by the Agency cannot predict the risks from exposure to waste that are managed through recycling. EPA's conditional delisting policy is that in order to reduce the uncertainty caused by potential unrestricted use or management of delisted waste, delistings apply only to wastes managed in the type of unit (*e.g.*, ''a landfill'') modeled in the delisting risk assessment. EPA recognizes that several recent rulemakings related to RCRA-listed hazardous wastes have proposed conditional exemptions from the regulatory definition of ''solid waste'' when such wastes, by virtue of their being recycled, are treated more as commodities than as wastes. For example, see 68 FR 61588, October 28,

2005. The Agency is not aware of any recycling or reclamation of F019 sludges; therefore, EPA believes that current market conditions do not support the recycling of F019 waste for the purposes of recovering the metal content of such waste. EPA has requested comment on whether this understanding is accurate and whether recycling of F019 waste is economically feasible under today's market conditions. See 72 FR 2224, January 18, 2007. If recycling of F019 wastes becomes economically feasible or beneficial in the future, the Agency will consider its options for how to address this, including through a subsequent rulemaking, such as the ongoing rulemaking related to the definition of solid waste.

(5) *Comment:* 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.

EPA Response: 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 that are a function of the volume of petitioned waste. The Agency believes that the flexibility of performance based methods results in better data.

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

EPA Response: 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) *Comment:* 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 is 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.

EPA Response: 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) *Comment:* The final **Federal Register** should make it clear that assembly plants that manufacture light trucks are also eligible for the project.

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

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

EPA Response: A missing space or tab in the table caused the error. The maximum allowable concentrations proposed for 2,000 cubic yards of waste should have been 115 mg/kg total and 0.00234 mg/L TCLP.

V. Final Rule Granting This Petition

A. What decision is EPA finalizing?

Today the EPA is finalizing an exclusion to conditionally delist an annual volume of 2,000 cubic yards of wastewater treatment plant sludges generated at AAI from conversion coating on aluminum.

On March 7, 2002, EPA proposed to exclude or delist this wastewater treatment sludge 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 we believe that this waste should be excluded from hazardous waste control.

After EPA proposed the exclusion for AAI in 2002, the Agency promulgated the Methods Innovation Rule (MIR)(70 FR 34538, June 14, 2005). The MIR reformed RCRA-related testing and monitoring by restricting requirements to use the methods found in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' also known as ''SW–846,'' to those situations where the method is the only one capable of measuring the property (*i.e.*, it is used to measure a method-defined parameter). In addition, the MIR revised several conditional delistings to specifically mention method-defined parameters incorporated by reference at § 260.11 consistent with the Office of Federal Register's revised format for incorporation by reference. Therefore, EPA is including a specific reference to SW–846 Methods 1311, 1330A, and 9071B (method-defined parameters) for the generation of the leachate extract in the quarterly verification testing requirement for the AAI delisting. SW–846 Method 1311 must be used for generation of the leachate extract used in the testing of the delisting levels if oil and grease comprise less than 1% of the waste. SW–846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1% or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11.

B. What are the terms of this exclusion?

AAI must dispose of the waste in a lined Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial solid waste. AAI must obtain and analyze on a quarterly basis a representative sample of the waste. AAI must verify that the concentrations of the constituents of concern do not exceed the allowable levels set forth in this exclusion. The list of constituents for verification is a subset of those initially tested for and is based on the occurrence of constituents at the majority of facilities participating in the expedited process to delist F019 and the concentrations detected relative to the allowable levels.

This exclusion applies only to a maximum annual volume of 2,000 cubic yards and is effective only if all conditions contained in this rule are satisfied.

C. When is the delisting effective?

This rule is effective April 6, 2007. 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?

Today's exclusion is being issued under the federal RCRA delisting program. Therefore, only states subject to federal RCRA delisting provisions would be affected. This exclusion is not effective in states that have received authorization to make their own delisting decisions. Also, the exclusion may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements. EPA allows states to impose their own regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. 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, we urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law. If a participating facility transports the petitioned waste to or manages the waste in any state with delisting authorization, it must obtain a delisting from that state before it can manage the waste as nonhazardous in the state.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA.

Because this rule will affect only a particular facility, this final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. Similarly, because this rule will affect only a particular facility, this final rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule.

This rule also is not subject to Executive Order 13045,''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used the DRAS program, which considers health and safety risks to infants and children, to calculate the maximum allowable concentrations for this rule.

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

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

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

Dated: March 19, 2007.

Margaret M. Guerriero,

Director, Waste, Pesticides and Toxics Division.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX of part 261 the following wastestream is added in alphabetical order 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
* * * * * * *	
AutoAlliance International Inc., Flat Rock, Michigan.	Wastewater treatment sludges, F019, that are generated by AutoAlliance International, Inc. (AAI) at Flat Rock, Michigan at a maximum annual rate of 2,000 cubic yards per year. The sludges must be disposed of in a lined landfill with leachate collection which is licensed, permitted, or otherwise authorized to accept the delisted wastewater treatment sludges in accordance with 40 CFR part 258. The exclusion becomes effective as of April 6, 2007. 1. Delisting Levels: (A) The concentrations in a leachate extract of the waste measured in any sample must not exceed the following levels (mg/L): arsenic—0.3; cadmium—0.5; chromium—4.95; lead—5; nickel—90.5; selenium—1; tin—721; zinc—898; p-cresol—11.4; and formaldehyde—84.2. (B) The total concentration measured in any sample must not exceed the following levels (mg/kg): mercury—8.92; and formaldehyde—689.

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

Facility/address	Waste description
	2. Quarterly Verification Testing: To verify that the waste does not exceed the specified delisting levels, AAI must collect and analyze one representative sample of the waste on a quarterly basis. Sample collection and analyses, including quality control procedures, must be performed using appropriate methods. SW–846 Method 1311 must be used for generation of the leachate extract used in the testing of the delisting levels if oil and grease comprise less than 1% of the waste. SW–846 Method 1330A must be used for generation of the leaching extract if oil and grease comprise 1% or more of the waste. SW–846 Method 9071B must be used for determination of oil and grease. SW–846 Methods 1311, 1330A, and 9071B are incorporated by reference in 40 CFR 260.11. 3. Changes in Operating Conditions: AAI must notify the EPA in writing if the manufacturing process, the chemicals used in the manufacturing process, the treatment process, or the chemicals used in the treatment process change significantly. AAI must handle wastes generated after the process change as hazardous until it has demonstrated that the wastes continue to meet the delisting levels and that no new hazardous constituents listed in Appendix VIII of part 261 have been introduced and it has received written approval from EPA. 4. Data Submittals: AAI must submit the data obtained through verification testing or as required by other conditions of this rule to both U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604 and MDEQ, Waste and Hazardous Materials Division, Hazardous Waste Section, at P.O. Box 30241, Lansing, Michigan 48909. The quarterly verification data and certification of proper disposal must be submitted annually upon the anniversary of the effective date of this exclusion. AAI must compile, summarize and maintain on site for a minimum of five years records of operating conditions and analytical data. AAI must make these records available for inspection. A signed copy of the certification statement in 40 CFR 260.22(i)(12) must accompany all data. 5. Reopener Language: (a) If, anytime after disposal of the delisted waste AAI possesses or is otherwise made aware of any data (including but not limited to leachate data or groundwater monitoring data) relevant to the delisted waste indicating that any constituent is at a level in the leachate higher than the specified delisting level, or is in the groundwater at a concentration higher than the maximum allowable groundwater concentration in paragraph (e), then AAI must report such data, in writing, to the Regional Administrator within 10 days of first possessing or being made aware of that data. (b) Based on the information described in paragraph (a) and any other information received from any source, the Regional Administrator will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (c) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will inform AAI in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing AAI with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. AAI shall have 30 days from the date of the Regional Administrator's notice to present the information. (d) If after 30 days AAI presents no further information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise. (e) Maximum Allowable Groundwater Concentrations (μg/L): arsenic—5; cadmium—5; chromium—100; lead—15; nickel—750; selenium—50; tin—22,500; zinc—11,300; p-cresol—188; and formaldehyde—1,380.
* * * * * * *	

[FR Doc. 07–1650 Filed 4–5–07; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 14)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2007 Update

AGENCY: Surface Transportation Board.

ACTION: Final Rule.

SUMMARY: The Board adopts its 2007 User Fee Update and revises its fee schedule to recover the costs associated with the January 2007 Government salary increases and to reflect changes in overhead costs to the Board.

EFFECTIVE DATE: These rules are effective May 6, 2007.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 245–0327, or Anne Quinlan, (202) 245–0309. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations at 49 CFR 1002.3 require that the Board's user fee schedule be updated annually. The regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. Fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d).

Because Board employees received a salary increase of 2.64% in January 2007, the Board is updating its user fees to recover the increased personnel costs. With certain exceptions, all fees, including those adopted or amended in *Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2002 New Fees,* STB Ex Parte No. 542 (Sub-No. 4) (STB served Mar. 29, 2004) will also be updated based on the cost formula contained in 49 CFR 1002.3(d). In addition, changes to the overhead costs borne by the Board are reflected in the revised fee schedule.

The fee increases adopted here result from the mechanical application of the update formula in 49 CFR 1002.3(d), which was adopted through notice and comment procedures in *Regulations Governing Fees for Services—1987 Update*, 4 I.C.C.2d 137 (1987). No new fees are being proposed in this proceeding. Therefore, the Board finds