

**ADDRESSES:** The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and is available for viewing [Room M2616] from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 260-9327 for appointments. The reference number for this docket is "F-95-CSEF-FFFFF." The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (703) 412-9810. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (Mail Code 5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-7392.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow the Agency to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

###### B. History of This Rulemaking

Conversion Systems, Inc., (CSI), Horsham, Pennsylvania, petitioned the Agency to exclude from hazardous waste control its stabilized waste generated at electric arc furnace dust (EAFD) treatment facilities across the nation. After evaluating the petition, EPA proposed, on November 2, 1993 to

exclude CSI's waste from the lists of hazardous wastes under §§ 261.31 and 261.32 (see 58 FR 58521). Subsequently, in response to a commenter's request, the Agency published a notice extending the comment period until January 3, 1994 (see 58 FR 67389, December 21, 1993).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant CSI's petition.

##### II. Disposition of Petition

Conversion Systems, Inc., Horsham, Pennsylvania

###### A. Proposed Exclusion

CSI petitioned the Agency for a multiple-site exclusion for chemically stabilized electric arc furnace dust (CSEAFD) resulting from the Super Detox™ treatment process as modified by CSI. (The original Super Detox™ treatment process was developed by Bethlehem Steel Corporation and used at its Johnstown and Steelton, Pennsylvania facilities.) Specifically, CSI requested that the Agency grant a multiple-site exclusion for CSEAFD generated by CSI using its modified Super Detox™ process at the existing Sterling, Illinois facility at Northwestern Steel and future facilities to be constructed (CSI initially is planning to construct 12 other facilities nationwide). The resulting CSEAFD is classified as a K061 hazardous waste by virtue of the "derived from" rule (§ 261.3(c)(2)(i)), because it is generated from the treatment of a hazardous waste (electric arc furnace dust) which is currently listed as EPA Hazardous Waste No. K061—"Emission control dust/sludge from the primary production of steel in electric furnaces." The listed constituents of concern for EPA Hazardous Waste No. K061 are cadmium, hexavalent chromium, and lead. CSI petitioned to exclude Super Detox™ treatment residues because it does not believe that the CSEAFD meets the criteria for which K061 was listed. CSI also believes that the Super Detox™ process, as modified by CSI, generates a non-hazardous waste because the constituents of concern, although present in the waste, are in an essentially immobile form. CSI further believes that the waste is not hazardous for any other reason (i.e., there are no additional constituents or factors that could cause the waste to be hazardous). Lastly, CSI believes that a multiple-site delisting will save both EPA and CSI the cost and administrative burden of multiple petitions each providing essentially the same, duplicative information of a process already well

known and accepted by the Agency as effective in treating EAFD wastes (see final exclusions for Bethlehem Steel Corporation's Johnstown and Steelton, Pennsylvania facilities in 54 FR 21941, May 22, 1989). 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 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)-(4).

In support of its petition, CSI submitted: (1) Detailed descriptions and schematics of the Super Detox™ treatment process for both wet and dry electric arc furnace dust<sup>1</sup>; (2) total constituent analyses results for the eight Toxicity Characteristic (TC) metals listed in § 261.24 and six other metals from representative samples of the untreated (non-stabilized) EAFD; (3) Toxicity Characteristic Leaching Procedure (TCLP, SW-846 Method 1311) results for the eight TC metals from a representative sample of untreated EAFD; (4) TCLP results for the eight TC metals and six other metals from representative samples of the uncured CSEAFD; (5) Multiple Extraction Procedure (MEP, SW-846 Method 1320) results for the TC metals and six other metals from representative samples of the uncured CSEAFD; (6) total oil and grease (TOG), total cyanide, and total sulfide results from representative samples of the untreated EAFD; (7) information and test results regarding the hazardous waste characteristics of ignitability, corrosivity, and reactivity for the CSEAFD; and (8) ground-water monitoring data from the landfill containing the CSEAFD generated from CSI's Sterling, Illinois Super Detox™ facility.

###### B. Request for Public Hearing

During the comment period, Horsehead Resource Development Company, Inc. ("HRD") and one Congressman requested a formal public hearing to allow interested parties a sufficient opportunity to comment on the November 2, 1993 proposed rulemaking. HRD also indicated its desire to cross-examine EPA and CSI witnesses. Following review of the issues raised by the commenters, the Agency found no compelling need for a public hearing and, therefore, notified the commenters of its decision not to

<sup>1</sup> CSI has claimed some treatment process descriptions, including information on how they improved the original Super Detox™ treatment process, as confidential business information (CBI). This information, therefore, is not available in the RCRA public docket for today's notice.