because speciation reactions between metallic ions in the leachate and the soil particles may cause further attenuation of metal concentrations in the subsurface. These higher DAFs would result in even higher allowable leachable levels of metals in CSI's waste.

In addition, the Agency disagrees with the commenter's claim that the Monte Carlo simulation mode implemented in the EPACML is inappropriate for multiple site delistings and disagrees with the commenter's remaining contentions regarding the use of the EPACML model. See the Response to Comment document for a further discussion of all of these issues.

Verification Testing Conditions

Comment: One commenter (HRD) stated that the proposed initial and subsequent testing conditions are insufficient. The commenter believed that these testing conditions will result in over-compositing of the samples collected from each batch, as they require only a minimum of four composite samples during the 20-day initial verification testing period and thereafter a minimum of one monthly composite sample.

Response: Although the concentrations of metals in the CSEAFD are expected to be somewhat variable over time (e.g., as the source and type of scrap charged to the EAF changes over time), EPA does not expect these variations to be significant on a day-today basis (i.e., most steel mills procure large volumes of scrap and their EAF operations do not vary widely on a daily basis). Also, at any given facility, the daily variations in EAFD metals concentrations are dampened where the EAFD is mixed together within the pneumatic EAFD transport system, baghouse, electrostatic precipitator, and/or storage silos. The Agency, therefore, believes that the proposed initial verification testing requirement is sufficient.

In addition, the data demonstrate that CSI's Super DetoxTM process can effectively immobilize the constituents of concern, and justify the Agency's proposal to require less frequent, but long-term, verification testing (monthly or more frequently at CSI's discretion) subsequent to the initial verification testing.

Delisting Levels

In the proposed rule EPA solicited comments on the proposed maximum allowable leachable concentrations for a specific set of inorganic constituents (the "delisting levels") that CSI would need to meet during verification testing.

In this respect, the Agency also requested comments on the option of applying the generic exclusion levels for K061 HTMR nonwastewater residues set under §261.3(c)(2)(ii)(C) to CSI's CSEAFD for the sake of national consistency. No comments were received on which of these two approaches should be chosen. The Agency has now concluded that the delisting levels applying to CSI's CSEAFD should be at least as stringent as the K061 HTMR generic exclusion levels. Therefore, the Agency is finalizing the delisting levels by using the lesser of the proposed levels for CSI's CSEAFD and the respective generic exclusion levels for HTMR residues, as shown below (in ppm): Antimony–0.06; arsenic–0.50; barium—7.6; beryllium—0.010; cadmium—0.050; chromium—0.33; lead—0.15; mercury—0.009; nickel—1; selenium-0.16; silver-0.30; thallium-0.020; vanadium-2; and zinc-70.

Economics and Related Issues

Comment: A number of commenters raised issues concerning the economic and related implications of this delisting. First, the Steel Manufacturers Association ("SMA") claimed that this delisting is necessary in order to increase the number of cost-effective alternatives for managing K061 waste Because of the high cost of HTMR, SMA stated, steelmakers ultimately may be forced to substitute greater tonnages of direct reduced iron as feedstock instead of using scrap metal. Direct reduced iron contains only pure iron, so any EAFD generated from it would not contain hazardous metals (obviating the need to use HTMR processes). By granting the delisting, EPA will be promoting the continued resource recovery of iron and other valuable metals from scrap metal (of which, SMA claimed, about 40 million tons per year are currently used as EAF steelmaking feedstock).

Another commenter (HRD) disagreed with the above claims. It pointed out that the cost of managing EAFD by either HTMR or chemical stabilization and disposal is less than one percent of the steel production cost, and that the savings from switching to chemical stabilization would amount to only cents per ton of production. HRD claimed that direct reduced iron is much more expensive than scrap metal, affecting the cost of steelmaking 10 times as much as the cost of EAF dust management. Hence, HRD disputed the claim that steel makers might discontinue the use of scrap feedstock if this delisting is not granted. HRD also

stated that the steel industry in fact has a number of EAFD management options, including HTMR processing by HRD and other firms, treatment and disposal as a hazardous waste, use as a fertilizer ingredient, and export for processing.

Response: The focus of today's delisting decision is on whether or not CSI's stabilized EAFD should continue to be listed as hazardous waste in light of the relevant statutory and regulatory criteria. As explained above, EPA has found that CSI's chemically stabilized K061 wastes do not meet any of the criteria for which K061 wastes were listed as hazardous and there is no reason to believe that any factors other than those for which K061 wastes were listed (including additional constituents) could cause these wastes to be hazardous. Therefore, today's rule finalizes EPA's determination to exclude these residues from the RCRA Subtitle C regulatory regime. See 40 CFR § 260.22(a) and RCRA Section 3001(f).

EPA explained above that the effect of today's delisting decision on K061 recycling (*i.e.*, whether granting this delisting effectively promotes treatment and disposal of K061 wastes over HTMR recycling of these wastes) is irrelevant to the delisting determination. Similarly, the economic and related issues that have been raised by the commenters are not relevant to today's delisting decision because they bear no nexus to the issue of whether the stabilized K061 wastes remain hazardous. See the Response to Comments document for a further discussion of these issues.

D. Final Agency Decision

For the reasons stated in both the proposal and this notice, the Agency believes that CSI's chemically stabilized electric arc furnace dust, upon meeting certain verification testing requirements, should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to Conversion Systems, Inc., Horsham, Pennsylvania, for its treatment residue (CSEAFD) generated at its Sterling, Illinois facility and other facilities yet to be constructed nationwide, described in its petition as EPA Hazardous Waste No. K061.

This exclusion applies initially to only CSI's Super DetoxTM treatment facility located at Northwestern Steel in Sterling, Illinois. As stated in Condition (5), CSI must notify EPA at least one month prior to operation of a new Super DetoxTM treatment facility in order to provide EPA with sufficient time to initiate the process to amend CSI's exclusion. CSEAFD generated from a new Super DetoxTM treatment facility will not be excluded until the Agency