with Indian Tribal Governments (65 FR 67249, November 9, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 12, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In §180.960, the table is amended by adding alphabetically the following polymer to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

Polymer	CAS No.
* * * *	*
2-oxepanone, homopolymer, minimum number average molecular weight (in amu) 52,000.	24980-41-4
* * * *	*

[FR Doc. E8–11980 Filed 6–3–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 302

[EPA–HQ–RCRA–2006–0984, FRL–8575–4]

RIN 2050–AG15

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the list of hazardous wastes from non-specific sources (called F-wastes) by modifying the scope of the EPA Hazardous Waste No. F019 (Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). The Agency is amending the F019 listing to exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, provided that the wastes are not placed outside on the land prior to shipment to a landfill for disposal, and the wastes are placed in landfill units that are subject to or meet the specified landfill design criteria. This final action on the F019 listing does not affect any other wastewater treatment sludges either from the chemical conversion coating of aluminum, or from other industrial sources. Additionally, this rule amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list of Hazardous Substances and Reportable Quantities so that the F019 listing description is consistent with the amendment to F019 under regulations for hazardous wastes from non-specific sources.

DATES: This final rule is effective on July 7, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–RCRA–2006–0984. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OSWER Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744 and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: For general information, review our Web site at *http://www.epa.gov/epaoswer/hazwaste*. For information on specific aspects of the rule, contact James Michael of the Office of Solid Waste (5304P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (E-mail address and telephone number: *michael.james@epa.gov,* (703) 308–8610).

SUPPLEMENTARY INFORMATION:

General Information

Who Is Potentially Affected by This Final Rule?

This final rule could directly affect businesses that generate certain wastes from the manufacturing of motor vehicles in the (1) automobile manufacturing industry and (2) light truck/utility vehicle manufacturing industry (NAICS codes 336111 and 336112, respectively). Other motor vehicle manufacturing industries (e.g., heavy duty truck or motor home manufacturing) are not affected by this rule. The wastes affected by this final rule are wastewater treatment sludges generated from the chemical conversion coating of aluminum using a zinc phosphating process and are currently listed as EPA Hazardous Waste No. F019 (see 40 CFR 261.31). These wastes will not be subject to the F019 listing, provided the wastes are not placed outside on the land prior to the shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301, or § 265.301. Impacts on potentially affected entities are summarized in Section VI of this Preamble. The ''Regulatory Impact Analysis'' (RIA) for this action presents an analysis of potentially affected entities and is available in the docket

established in support of this final rule. Entities potentially affected by this action are at least 7 current F019 generators within these two industries, consisting of four auto and three light truck/utility vehicle plants, and up to 42 other facilities in these two industries that may begin applying aluminum parts and could potentially generate regulated F019 waste without this final rule (based on 2005 Biennial Report data).[1] This action might also affect the 19 auto and light truck plants with prior F019 de-listings issued between 1997 and 2007, because this action could supplant their delisting status and conditions, depending upon the extent of state government voluntary adoption of this final rule.

To determine whether your facility is affected by this action, you should examine 40 CFR Parts 260 and 261 carefully, along with the final regulatory language amending Chapter I of the Code of Federal Regulations (CFR). This language is found at the end of this **Federal Register** notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

Preamble Outline

I. Legal Authority

The hazardous waste regulations are promulgated under the authority of Sections 2002 and 3001(b) and (f), 3004(d)–(m) and 3007(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended, most importantly by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912, 6921(b), 6924(d)–(m) and 6927(a). These statutes combined are commonly referred to as the ''Resource Conservation and Recovery Act'' (RCRA) and will be referred to as such for the remainder of this Notice.

Because EPA is amending the national listing of F019, EPA believes the appropriate statutory authority is that found in section 3001(b), rather that the authority in section 3001(f). RCRA section 3001(f) pertains solely to the exclusion of a waste generated at a particular facility in response to a petition. Accordingly, neither the procedures nor the standards established in that provision, or in EPA's regulations at 40 CFR 260.22 are applicable to this rulemaking.

Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602(a) is the authority under which the CERCLA aspects of this rule are promulgated.

II. List of Acronyms

ACRONYMS

Acronym	Definition
CBI	Confidential Business Information.
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act.
CFR	Code of Federal Regulations.
DRAS	Delisting Risk Assessment Software.
EPA	Environmental Protection Agency.
ICR	Information Collection Request.
IWEM	Industrial Waste Management Evaluation Model.
MSWLF	Municipal Solid Waste Landfill.
NAICS	North American Industrial Classification System.
NTTAA	National Technology and Transfer Act.
OMB	Office of Management and Budget.
OSWER	Office of Solid Waste and Emergency Response.
PRA	Paperwork Reduction Act.
RCRA	Resource Conservation and Recovery Act.
RFA	Regulatory Flexibility Act.
RQ	Reportable Quantity.
UMRA	Unfunded Mandates Reform Act.

[1] EPA, in partnership with the States, biennially collects information regarding the generation, management, and final disposition of hazardous wastes regulated under RCRA. See the 2005 Biennial Report on the EPA Web site at *http://www.epa.gov/epaoswer/hazwaste/data/br05/index.htm.*

III. Summary of This Action

In this notice, EPA is promulgating regulations that amend the list of hazardous wastes from non-specific sources under 40 CFR 261.31 by modifying the scope of EPA Hazardous Waste No. F019. The revised listing will now read:

F019—Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in § 261.31(b)(4)(i) of this section and paragraph § 261.31(b)(4)(ii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.

The Agency is amending the F019 listing to exempt the wastewater treatment sludge generated from zinc phosphating, when zinc phosphating is used in the automobile assembly process, provided the waste are not placed outside on the land prior to shipment to a landfill for disposal and the waste is disposed in a landfill unit subject, or otherwise meeting, certain liner requirements. Wastes that meet these conditions will be exempted from the listing from their point of generation, and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal (including the land disposal restrictions). The Agency is also requiring that the generator maintain records on site to show that the waste meets the conditions of the listing.

For the purposes of the F019 listing, motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). The motor vehicle manufacturing industry incorporates aluminum into vehicle parts and bodies for the purpose of making them lighter-weight and thus more capable of increasing gas mileage. However, when aluminum is incorporated into the body of an automobile, the conversion coating step in the manufacturing process resulted in the generation of an RCRA-listed hazardous waste (F019) in the form of a wastewater treatment sludge from the conversion coating process. Wastewaters from the conversion coating of steel in the same industry do not generate a listed hazardous waste. By removing the regulatory controls under RCRA, EPA is facilitating the use of aluminum in motor vehicles. The Agency believes that the incorporation of aluminum will be advantageous to the environment since lighter-weight vehicles are capable of achieving increased fuel economy and associated decreased exhaust air emissions. These modifications to the F019 listing will not affect any other wastewater treatment sludges either from the chemical conversion coating of aluminum, or from other industrial sources.

The Agency is also promulgating conforming changes to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) list of Hazardous Substances and Reportable Quantities under 40 CFR 302.4 so that the F019 listing description is consistent with the changes to the F019 listing.

IV. Summary of the Proposed Action

On January 18, 2007 (72 FR 2219), the Agency proposed to amend the list of hazardous wastes from non-specific sources (called F-wastes) under 40 CFR 261.31 by modifying the scope of the EPA Hazardous Waste No. F019 (Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process). Specifically, the Agency proposed to amend the F019 listing to exempt 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. A summary of the proposed listing amendment is presented below. More detailed discussions are provided in the preamble to the proposed rule and in the background documents included in the docket for this rule.

A. Summary of Risk Assessment Approach Used

The Agency's risk assessment evaluated risks to human health and the environment from a landfill disposal scenario. (See the ''Technical Support Document: Assessment of Potential Risks from Managing F019 Waste from the Motor Vehicle Manufacturing Industry'' in the docket for this rulemaking for a detailed description of the analysis that the Agency performed, hereinafter referred to as the Technical Support Document.) EPA initially evaluated the potential risks posed by the volumes of F019 waste from the automobile manufacturers that might be disposed of in an unlined nonhazardous waste landfill, and then evaluated potential risks from disposal in landfills that use different liner technologies. The risk evaluation used several environmental fate, transport, and exposure/risk models: the Delisting Risk Assessment Software (DRAS), version 2.0, the Industrial Waste Management Evaluation Model (IWEM),[2] and EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP). See the Technical Support Document for a detailed description of the use of these models and their peer review.

EPA's Regional Offices, and certain states, use the DRAS model to determine whether to grant requests for delistings under 40 CFR 260.22. The RCRA regulations provide a form of relief for listed wastes through a site-specific process known as ''delisting.'' Under this process, any person may petition EPA to remove its waste from regulation under the lists of hazardous wastes contained in Part 261. EPA has granted delistings to a number of motor vehicle manufacturing facilities that generate F019 wastes.

EPA used the DRAS model to calculate the levels of constituents in a waste that would not exceed the 10^{-5} risk level for carcinogens (i.e., less than or equal to an increased probability of developing cancer that is one in one hundred thousand).[3] For non-carcinogens, EPA used a ''hazard quotient'' (HQ) less than or equal to 1.0; the hazard quotient is the ratio of an individual's chronic daily exposure to a standard, such as the chronic reference dose.[4] Using the DRAS model, EPA evaluated risks from potential exposures

[2] IWEM is the groundwater modeling component of the *Guide for Industrial Waste Management,* used for recommending appropriate liner system designs for the management of RCRA Subtitle D industrial waste.

[3] These risk levels are consistent with those discussed in EPA's hazardous waste listing determination policy (see the discussion in a proposed listing for wastes from the dye and pigment industries, December 22, 1994; 59 FR 66072).

[4] The reference dose is ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily oral exposure for a chronic duration (up to a lifetime) to the human population (including sensitive subpopulations) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' See EPA's Integrated Risk Information System (IRIS).

to waste constituents resulting from releases to groundwater, air (both waste particles and volatile emissions), and surface water. See the Technical Support Document for a complete description of the scenario that was modeled using DRAS, the human health and ecological exposure pathways, and the data sources the Agency used as model inputs. For the purposes of this national rulemaking, EPA chose to adopt a conservative modeling approach in order to assure continued protection of human health and the environment. While this process was used to determine if these wastes would pose a risk if disposed of in unlined landfills, the Agency notes that facilities can petition for a separate site-specific delisting of their F019 wastestreams based on their chemical composition.

To identify waste constituents, EPA reviewed information from 13 motor vehicle manufacturing facilities' delisting petitions. This included information on the specific chemicals used in the conversion coating process, and the analytical data received from the 13 facilities' delisting petitions. The Agency evaluated the chemicals that were detected in the F019 sludge from the analyses conducted by the petitioners for approximately 240 chemical constituents. EPA's evaluation assumed that the waste volume equaled the volume resulting from 20 to 30 years of disposal into a landfill (90,000 cubic yards).

Based on the assessment of the groundwater pathway using DRAS, the Agency determined that two constituents (arsenic and nickel) had maximum detected values that, in certain scenarios, exceeded the 10^{-5} risk level or an HQ of 1. The DRAS modeling for unlined landfills yielded an estimated HQ of 3 for nickel, and an estimated individual excess lifetime cancer risk for arsenic of three in one hundred thousand. Thus, using conservative modeling and exposure assumptions, the Agency found that the projected levels for these two constituents could exceed these risk levels by up to a factor of three.

The potential risks found by the DRAS modeling were from the groundwater exposure pathway, therefore, units with liner systems should dramatically lessen releases to groundwater. DRAS does not have an option to model the impact of liners on landfill releases. To examine the potential impact of liners, the Agency compared the levels calculated by the Industrial Waste Management Evaluation Model (IWEM), for clay-lined and composite-lined landfills. [5] The initial IWEM evaluation clearly showed that the use of a composite-lined landfill would result in risk levels for the two key constituents of concern, below 10^{-5} for arsenic and an HQ of less than 1 for nickel. EPA also referred to the modeling performed for lined landfills in the recent listing rule for dye and pigment production wastes to show that composite-lined landfills provided significant protection compared to an unlined unit (February 24, 2005, 70 FR 9138).

The IWEM results for a clay-lined unit also indicated that a single clay liner offers added protection compared to an unlined unit. For nickel, the risk level achieved by a single clay liner was approximately 3-fold less than the risk level for an unlined unit. For arsenic, the risk level achieved by a single clay liner was approximately 7-fold less than the level for an unlined unit. Given that the DRAS results for these two constituents exceeded these levels by only a factor of 3, EPA concluded that disposal in a landfill with a single clay liner would also be sufficiently protective.

B. Proposed Landfill Liner Design Options

Based on the modeling results, EPA proposed two landfill design options under which F019 sludge from motor vehicle manufacturers would not be hazardous. Under option one, EPA proposed that the landfill unit must meet the liner requirements for municipal solid waste landfills (MSWLFs) in 40 CFR 258.40 or other liner designs containing a composite liner.[6] Under option two, the Agency proposed to also allow disposal in state-permitted municipal and industrial solid waste landfills, provided the landfill unit includes at least a single clay liner (this option would also allow disposal in the types of landfill units allowed under option one, i.e., units equipped with composite liners). The Agency sought comment on whether option two would provide any significant regulatory relief over option one. MSWLFs are required to have composite liners (or performance based equivalents), except for ''existing'' units (i.e., generally units that existed prior to 1993). Thus, EPA believes that most MSWLF units are likely to have composite liners (or equivalents). The Agency solicited comment on whether option two would be straightforward to implement or whether it will raise implementation or compliance issues for the waste generator, such as the availability of state standards for liners in older landfills, and on any issues that might be raised for recordkeeping and documentation.

C. Proposed Options on Recordkeeping and Storage

In the proposal, EPA noted that disposal in a landfill subject to or meeting the landfill design requirements was a condition of the exemption, so that if a generator does not fulfill this condition, the sludges would be F019 listed wastes and subject to the applicable Subtitle C requirements. The Agency encouraged generators to properly store the wastes that are claimed to be nonhazardous wastes to ensure that improper releases do not occur. Generators wishing to qualify for the exemption from the F019 listing would be required to maintain records to show that their wastes are placed in a landfill unit that meets the specified liner requirements. The Agency proposed a flexible performance standard that would allow the generator to demonstrate that shipments of waste were received by an appropriate landfill unit through various means. The proposal stated that a generator could use contracts with landfills and shipping documents to demonstrate that the landfill owner/operator used units that met the liner design requirements: The generator could also use bills of lading, manifests, or invoices documenting delivery. The proposed regulatory text (§ 261.31(b)(4)(iii)) specified the necessary records.

The Agency requested comment on whether the proposed recordkeeping requirements should be made conditions of the exemption, rather than established as separate recordkeeping requirements. In addition, the Agency sought comment on whether additional requirements or conditions would be necessary to ensure that the waste is not improperly disposed or released prior to disposal. The Agency also asked for comment on possible regulatory language that might be used to specify that the waste be stored so as to minimize releases to the environment. The Agency sought any information as to the current and likely sludge management practices at motor vehicle manufacturers. The Agency noted that, if such information indicated generators are already handling the waste to

[5] A composite liner as defined in § 258.40 consists of a combination of a synthetic liner and an underlying compacted soil/clay liner.

[6] Disposal in hazardous waste landfills would also be allowed, because the regulations in §§ 264.301 and 265.301 include composite liners. Federal regulations for municipal solid waste landfills require that new units (and lateral expansions of existing units) meet design criteria for composite liners and leachate collection systems (or other approved performance standards).

minimize releases, the Agency would consider this when deciding whether storage conditions are necessary.

V. Rationale for This Final Rule and Response to Comments

While all of the commenters generally supported the exemption, they differed over the types of management and landfill conditions that are necessary for the exempt waste. Some commenters also suggested that the Agency expand the scope of the exemption in various ways. After reviewing the comments, the Agency has decided to promulgate the final rule with limited revisions to the proposed regulation. This section will describe the revisions to the rule, which encompass the Agency's decision on a number of options presented in the proposal. This section also provides responses to the key comments received on the proposal. More details of the Agency's responses are contained in the document entitled ''Response to Comments Document: Amendment to Hazardous Waste Listing Code F019 (Final Rule)'', which is in the docket for this rulemaking.

A. Landfill Liner Conditions

The proposed exemption was conditioned on the disposal of the waste in a landfill meeting certain liner design requirements. The proposal presented two options for the landfill liner design. Under option one, the landfill unit would have a liner system that meets, or is subject to, the design requirements for an MSWLF (§ 258.40) or a Subtitle C waste landfill (§§ 264.301 and 265.301). Option two would also allow the generator the option of disposing the waste in a state permitted/authorized Subtitle D landfill (municipal or industrial) that is equipped with a single clay liner. The Agency sought comment on whether the second option would provide significant additional regulatory relief, and whether it would provide any special compliance or implementation issues.

Most commenters stated that the exemption should allow disposal of the exempt waste in any clay-lined landfill, and not be restricted to disposal in landfills that would typically have composite liners. Some commenters specifically supported the second option, arguing that this would provide more flexibility for possible disposal sites, which might be important for generators in remote locations. Commenters noted that this would not raise any special implementation, compliance, or recordkeeping problems, because generators would rely on state permitting authorities to identify adequate landfills. Other commenters stated that the regulatory language of the exemption should not conflict with, but rather acknowledge, existing state regulations, e.g., it should allow disposal in a landfill unit ''meeting state regulatory liner requirements.'' Another commenter stated that disposal should be limited to ''permitted Subtitle C or D landfills.''

The Agency has decided to adopt the second landfill liner option in the final rule. That is, the regulations will specify that the waste is exempt, provided the wastes are either disposed in a permitted Subtitle D (municipal or industrial) landfill unit that is equipped with at least a single clay liner, or in a unit that is subject to, or otherwise meets, the liner requirements for MSWLFs (§ 258.40) or hazardous waste landfills (§ 264.301 or § 265.301). The modeling performed for the proposed rule demonstrated that disposal of the waste in a landfill equipped with either a composite liner or a clay liner would be protective. The Agency believes that a clay liner is sufficiently protective and provides added regulatory flexibility for generators. As described in the proposed rule, the protective factor provided by a clay-lined unit compared to an unlined unit was sufficient to reduce risks from an unlined unit to below 10^{-5} risk level or an HQ of 1.

The Agency also notes that the modeling performed for clay-lined landfills in the recent listing for dye and pigment production wastes (February 24, 2005, 70 FR 9138) showed that the clay-lined units provided a similar level of risk reduction for metals released from a landfill (i.e., the clay-lined unit reduced risks for metals by a factor of 3.2 to 3.8 compared to an unlined unit).[7] These results provide further support that the margin of protection offered by a single clay liner is sufficient.

The final rule will require the generator to document that the wastewater treatment sludge went to a permitted landfill that was equipped with at least a single clay liner. As discussed in the proposed rule, the generators may obtain information on the landfill units in question from the state permitting authorities (or the receiving landfill, if the facility has adequate documents, such as a permit to operate). It is the responsibility of the generator to document the adequacy of the receiving landfill's design and to keep records that demonstrate that the landfill condition for disposal was met.

B. The Need for Storage Requirements

In the proposed rule, the Agency requested comment on the option of adding storage conditions to the exemption. The Agency also sought further information on the sludge management practices of the motor vehicle manufacturers generating F019 waste. The proposal presented some possible regulatory language that would require proper storage of sludges before disposal. Most commenters stated that storage conditions were unnecessary for the exempt sludge prior to shipment off site for disposal. Commenters stated that it was ''standard industry-wide practice'' for dewatering equipment and containers to be inside buildings, and for containers to be routinely covered when moved outside for shipment off site to prevent precipitation from entering the containers. These commenters also stated that requirements to constantly cover and uncover containers could cause, rather than prevent, spills. Two commenters, however, supported the concept of some storage conditions. One simply stated they concurred with the proposed regulatory language for storage. The other commenter suggested that the exempt waste should be regulated as hazardous until disposed in a landfill to ensure safe handling.

The Agency does not believe there is a need for detailed storage conditions or regulation of the waste as hazardous prior to disposal. The Agency has decided that detailed storage requirements or conditions are not necessary, given the known management practices for the waste. As noted in the proposed rule, during visits to vehicle manufacturing sites, the Agency found that dewatering equipment and containers were kept inside buildings, reducing any potential for releases. This is consistent with the comments provided by automobile manufacturers on the proposed rule. The Agency also expects, as commenters stated, that containers are kept covered when moved outside for transport off site to prevent the entrance of precipitation. The Agency has no information to suggest that such sludges have been stored improperly or that releases have occurred from on-site management of either F019 waste, or the formerly F019 wastes that were delisted. None of the 19 delistings that have been granted for this waste have imposed any special storage requirements for the delisted waste. Furthermore, as comments submitted by state authorities

[7] The modeling results for clay-lined units, while not specifically cited in the proposal, were included in the risk document for the Dyes and Pigments waste listing that was placed into the docket to support the conclusion that liners reduce risks for the exempt waste to below 10^{-5} for carcinogens or an HQ of less than or equal to 1 for non-carcinogens.

noted, the exempt waste remains subject to regulation as an industrial solid waste.

Based on the analysis described in section IV.A of this notice, the Agency believes that the waste in question carries risk below the 10^{-5} risk level or an HQ of 1 when properly disposed. The Agency evaluated potential releases of the sludge to air, surface water, and groundwater that may arise from the disposal of the waste in a landfill for 20 to 30 years, and found no significant risk, provided disposal occurs in units equipped with certain liner designs. This waste does not present any apparent acute risk (e.g., fire/explosion hazard, or highly toxic chemicals), and the relatively high water content of the sludge would also reduce the likelihood of any air dispersal of the sludge on site.

However, the Agency recognizes that commenters have some concerns over management practices for the waste prior to disposal. In lieu of detailed storage conditions, the Agency has decided to include regulatory language specifying that the waste must not be placed outside on the land prior to disposal. Given that the exemption is conditioned upon the ultimate disposal in an appropriate landfill, EPA believes that a requirement that the generator not place the waste on the land prior to disposal is implicit in that condition, and therefore the inclusion of this specific direction is reasonable. Such a prohibition addresses any potential risks from management of the waste on the land prior to shipment offsite. In the proposal, the storage conditions the Agency offered as an option included more specific requirements for how the waste must be stored prior to disposal. However, as noted above, generators appear to be managing the waste appropriately at this time, so a simpler direction prohibiting on land placement prior to disposal is sufficient.

The Agency believes that placement outside on the land in an uncontrolled manner creates a potential for release of toxic constituents from the waste. Also, the Agency's risk analysis indicated that the F019 waste at issue may present risks above the 10^{-5} risk level (or an HQ of one) if disposed in an unlined land-based unit. The prohibition on land placement prior to disposal ensures that the waste is properly handled to avoid placement in an uncontrolled land area (which is analogous to an unlined landfill). Therefore, the Agency is adding language to the conditions of the exemption in § 261.31(a) that specifies that the generator cannot place the waste outside on the land prior to shipment for disposal at a landfill. The Agency is also deleting the language in § 261.31(b)(ii) from the proposed regulation, because the language is not needed; the conditions for the exemption are fully specified in the listing description in § 261.31(a). EPA has made minor changes to the regulation to make the exemption language consistent with the removal of the proposed language in § 261.31(b)(ii) and the renumbering of the recordkeeping requirements, originally proposed as § 261.31(b)(iii), as § 261.31(b)(ii) in the final rule.

Generators that do not meet the conditions (i.e., no outside placement on the land and disposal of the waste in a landfill unit that meets certain liner design criteria) would be subject to enforcement action. In such cases, the wastewater treatment sludges may be considered to be F019 listed hazardous waste from the point of their generation, and EPA could choose to bring an enforcement action under RCRA section 3008(a) for violations of hazardous waste regulatory requirements occurring from the time the wastewater treatment sludges are generated. Furthermore, if any releases of the waste occurred that threaten human health or the environment, the releases could potentially be addressed through enforcement orders, such as orders under RCRA sections 3013 and 7003. States could choose to take an enforcement action for violations of state hazardous waste requirements under state authorities.

Based on the information available, the Agency believes that the condition of no land placement allows the motor vehicle manufacturers to dispose of this waste as nonhazardous, while continuing their current waste management practices. Storage in roll-off boxes and similar containers, as well as storage inside buildings, would clearly fulfill the condition of no outside land placement. Therefore, the Agency believes that the condition will not impose any additional burden on the generators.

C. Recordkeeping Requirements

As noted in the proposal, generators claiming the exemption must be able to demonstrate that the conditions of the exemption are being met and bear the burden of proof to demonstrate compliance (analogous to other exemptions, see 40 CFR 261.2(f)). Therefore, it is important that generators retain sufficient records to document the disposal site for the exempt waste. The proposed rule included regulatory text (§ 261.31(b)(4)(iii)) that specified the records necessary for a generator claiming the exemption. EPA requested comment on whether the proposed recordkeeping requirements should also be made conditions of the exemption, rather than established as a separate regulatory provision. If the recordkeeping provisions were made conditions of the exemption, then failure to comply may result in enforcement actions for violating RCRA standards for storing hazardous waste.

Most commenters stated that the recordkeeping requirement should be a separate regulatory requirement, and not a condition of the exemption itself. They noted that the full Subtitle C requirements should only apply when the waste is not sent to an appropriate landfill, and not when the generator may have failed to comply with ancillary recordkeeping requirements. One of these commenters assumed that, in addition to the need to document the waste volume generated and disposed off site, the information would also include the identity of the landfill where the sludge was disposed. Another commenter encouraged the Agency to make the recordkeeping requirements a condition of the exemption to reinforce the concept that the exemption is conditioned on proper management.

The Agency believes that a recordkeeping requirement, rather than a condition, will be sufficient motivation to ensure that the waste is properly disposed. The Agency believes that full Subtitle C requirements should not apply if the generator complied with the disposal conditions, i.e., the waste was sent to an appropriate landfill, but the generator simply lacked adequate records. This avoids cases where the lack of recordkeeping leads to the waste being hazardous, regardless of the actual disposal site. Failure to comply with recordkeeping requirements could result in enforcement action by EPA under section 3008 of RCRA (or by an authorized state under similar state authorities), which authorizes the imposition of substantial civil penalties. Also, as noted by one commenter, the generator should be able to demonstrate that their waste was properly disposed of just as they would for any other solid waste.

However, the Agency recognizes the need for adequate records for enforcement authorities to confirm that the exempt waste was properly disposed. The proposed recordkeeping requirements in § 261.31(b)(4)(iii) would require generators to maintain documentation sufficient to prove that the waste meets the disposal condition, including the volume of waste generated and disposed off site. The Agency agrees with the one commenter's assumption that this information would include the identity of the landfill(s) where the

sludge was disposed. The Agency has decided to more specifically describe the type of information needed in order to clarify the requirement. The recordkeeping requirement in the final rule will include: The volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and location of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. The Agency believes that these requirements will ensure that there is sufficient information available to document the quantity of waste generated and identify the landfill that received the waste, without the need to establish the recordkeeping requirements as conditions to the exemption. The Agency expects that generators will typically retain records for shipments of solid waste to off-site landfills that will contain the information included in the recordkeeping requirement.

D. Scope and Applicability of the Exemption

The proposed rule exempts waste from one industrial sector (automobile manufacturers) that uses a specific aluminum conversion process (zinc phosphating). Several commenters urged EPA to expand the exemption to include other generators in other industries. Commenters argued that other sectors related to automobile manufacturing (categories under NAICS code 336 such as travel trailer manufacturers and parts manufacturers) and other industrial sectors (aerospace industry) use the same conversion coating processes. One commenter also suggested that the amendment to the listing be expanded to include auto manufacturing processes beyond the zinc phosphating process. This commenter suggested that the exemption be expanded to include processes ''where neither hexavalent chromium nor cyanide is used in the chemical conversion coating process.'' The commenter believes that this language would better reflect EPA's intent in the original F019 listing.

The Agency is not expanding the scope of the exemption in the final rule to include other manufacturing categories. As described in the proposal, the Agency has a wealth of data from the automobile manufacturing/assembly facilities derived from the delisting petitions for 13 motor vehicle manufacturing facilities. These data include material safety data sheets and the analytical data compiled from the analyses of the F019 sludge samples from these facilities. The sludge samples were analyzed for approximately 240 chemicals, which yielded a large data base for the proposed rule (e.g., for a key constituent nickel, 106 samples were analyzed for nickel content and 193 were analyzed for leachable nickel). In comparison, the commenters did not provide any documentation to support their contention that the phosphating process used by the other generators cited is the same as that found at motor vehicle manufacturing facilities. Furthermore, commenters did not provide any analytical data to show that the associated wastestreams are the same or ''virtually identical.'' Therefore, the Agency has no basis to consider expanding the exemption.

Finally, the Agency clearly noted in the preamble to the proposed rule that it was not reopening any other aspect of the F019 listing: ''EPA is not reopening any aspect of the F019 listing other than those specifically identified in this proposal, and will not respond to any comments that address issues beyond the specific proposals outlined in this notice.'' See 72 FR 2223. Therefore, the Agency did not entertain any more general revisions to the F019 listing to exclude waste from processes where neither hexavalent chromium nor cyanide is used. In addition, the Agency has no data to indicate that hexavalent chromium and cyanide are the only constituents of concern in various conversion coating processes. In fact, although the F019 waste from the automotive manufacturers did not contain significant levels of hexavalent chromium or cyanide, the Agency found that the levels of nickel and arsenic are of some concern.

E. Applicability to Recycled Waste

In the proposed rule, the Agency stated that it was not aware of any recycling or reclamation of F019 sludges, and believed that current market conditions do not support such recycling for the purpose of recovering the metal content of the waste. The Agency requested comment on whether its understanding was accurate, and whether recycling of F019 waste is economically feasible. The comments the Agency received on this question confirmed that F019 wastes from automotive manufacturing are not currently recycled for metal recovery. However, commenters noted that, if the waste was not a listed hazardous waste, potential avenues of recycling, reclamation or other beneficial use of the sludge could develop in the marketplace, such as use as an admixture for concrete. Commenters urged the Agency to modify the exemption to include wastes that are recycled in some fashion.

The Agency has no documented information to indicate a market exists for recovering the metals in F019 waste from motor vehicle manufacturers. Some commenters appear to believe that the amended listing would allow beneficial uses of the sludge to develop. However, the Agency notes that the exemption requires the sludge to be disposed in a landfill that meets the specified liner conditions, and the requirement that the generator not place the waste on the land prior to disposal. Therefore, using the sludge as an admixture for concrete would not meet this condition, and the use of F019 sludge in this way may subject the materials to regulation as ''use constituting disposal'' (see 40 CFR 266.20).

The exemption being promulgated by the Agency in this final rule does not eliminate the possibility of legitimate reuse of the sludge, whether or not the sludge carries the F019 listing code. However, the Agency did not attempt to evaluate the legitimacy of potential recycling uses of the F019 sludge, and the final rule does not address such uses. The Agency is evaluating revisions to the definition of solid waste that may relate to the legitimate reclamation of various wastes. See the proposed rules published March 26, 2007 (72 FR 14172) and October 28, 2005 (68 FR 61588). However, these proposed actions are currently limited to reclamation activities and would not apply to recycling of materials that are used to produce products that are applied to or placed on the land.

F. Interrelationship Between the Exemption and Delistings

In the proposal, the Agency discussed the interrelationship between the proposed exemption and F019 listings (which is complicated by the overlay of state authorizations). The Agency indicated that if the revisions to the F019 listing are adopted by authorized state programs, then the existing delistings would not be needed to exclude the waste from the listing, provided the waste is not placed on the land prior to shipment to a landfill, and the landfill unit meets the specified liner requirements. That is, the subject sludge would never become an F019 waste if the exemption conditions are met, so a delisting is not needed. The Agency suggested that a facility with a delisting ''may wish to seek to have its delisting withdrawn'' to avoid confusion over implementation of the exemption. One commenter requested that the Agency confirm that facilities

with delistings are not required to withdraw them, and that these delistings would remain in effect until they are withdrawn under the applicable administrative procedures. The commenter was concerned that there may be circumstances under which facilities may wish to continue to manage their wastes pursuant to their delistings.

As the Agency stated in the proposal, a facility has the option of continuing to manage its waste as nonhazardous if it complies with the applicable delisting conditions, rather than the conditions set out in the exemption. The Agency agrees with the commenter that a facility with a delisting (which is codified in Appendix IX to part 261) is not required to withdraw it. This delisting would remain in effect unless it is withdrawn through the applicable administrative procedures (e.g., § 260.20 would apply for a Federal delisting). However, the generators in this situation are encouraged to explore the need for existing delistings with state authorities, given the broad coverage of the exemption, and the applicability of state regulations. See the discussion below in Section VI. State Authorization for additional information on the authorization process.

G. Waste Analysis

One commenter noted that EPA did not conduct leaching tests of the F019 wastes at multiple pH values, as suggested in the guidance manual for delisting petitions. The commenter stated that EPA did not explain why multiple pH testing was not conducted for the proposed F019 listing modification, when such multiple pH testing was required for the approval of delisting petitions for wastes that have been stabilized with chemical reagents. The commenter pointed out that the exempted F019 waste may be disposed of in a variety of different landfills with varying pH environments.

In response, the Agency notes that the exemption for these F019 wastes is not being promulgated as a delisting; rather it is an amendment to the listing, thus the delisting guidance is not directly germane. Furthermore, the document cited by the commenter is only guidance suggested for delisting petitions. In fact, testing at multiple pHs was not deemed necessary for the numerous delistings issued for specific F019 wastes generated by vehicle manufacturers. In any case, the amendment to the F019 listing is based on a wealth of data generated for 13 delistings (see the proposed rule at 72 FR 2226 for the 13 facilities). These data included extensive leaching data obtained using the Toxicity Characteristic Leaching Procedure (TCLP), which the Agency evaluated using the maximum detected levels in our risk analysis. For example, the data set included 163 TCLP results for nickel, from which the maximum value was used.

The Agency has used the Toxicity Characteristic Leaching Procedure (TCLP) extensively to evaluate the leaching mobility for waste constituents. The TCLP is the method specified for evaluating wastes for the hazardous waste Toxicity Characteristic (§ 261.24). In addition, the Agency has used the TCLP extensively in evaluating wastes for listing as a hazardous waste.[8] The TCLP test procedure is documented in EPA's compendium of analytical and sampling methods that have been evaluated and approved for use in complying with the RCRA regulations.[9] The Agency has used other extraction methods in some listing determinations. For example, the Agency has used another extraction method, the *Synthetic Precipitation Leaching Procedure* (SPLP, SW–846 method 1312) in cases where disposal in MSWLFs was unlikely and disposal in on-site industrial landfills was the most probable scenario (see the Inorganic Chemical Manufacturing listing, September 14, 2000; 65 FR 55684). However, in the case of the F019 amendment, there is no indication that the segment of the vehicle manufacturing industry at issue will dispose of the exempt waste in on-site landfills. To the contrary, industry commenters stated that it was extremely unlikely that they would construct landfills on site for disposal of this waste.[10] In addition, the SPLP is a relatively dilute acid solution and is generally considered less aggressive than the TCLP for metal extraction (e.g., see the data for lead debris, 63 FR 70189, December 18, 1998), although this depends on the form of the chemicals in the waste and the waste matrix.

Use of leaching tests other than the TCLP have been considered by the Agency for special wastes, such as stabilized waste that may have relatively high pH and wastes containing high levels of specific chemicals (e.g., mercuric sulfide, see the listing for Chlorinated Aliphatics Production wastes cited above). In the case of the F019 waste at issue, numerous samples of the waste were evaluated by testing their pH; the data show that the median pH of the samples tested was 7.78, or close to neutrality (see summary data in the docket). Due to the lack of any special characteristics of the F019 waste, the Agency does not believe the waste requires any special leaching testing. Therefore, while the TCLP test may be more representative of a MSWLF environment, EPA believes that the testing for the F019 exemption is sufficient, considering the nature of the waste (wastewater treatment sludge), the large number and variety of waste samples that were analyzed in support of the delisting petitions, and the plausible disposal in a MSWLF.

However, the Agency recognizes the possible limitations of the TCLP test data. Extending the exemption to industrial landfills (i.e., landfills that do not accept municipal waste) adds some additional uncertainty to the analysis, due to the potential for somewhat different leaching environments. Moreover, the regulatory programs in place for nonhazardous industrial waste vary from state to state.[11] Therefore, the authorized states that adopt this exemption have the option to consider the need for any further limitations on the specific landfill conditions they may deem appropriate, depending on their existing regulatory program for industrial solid waste.

H. Other Issues

One commenter suggested that the Agency revise the regulatory language to clarify that waste meeting the exemption conditions is still subject to regulation as a hazardous waste if the waste exhibits any of the hazardous waste characteristics specified in Subpart C of 40 CFR part 261 (§§ 261.20 through 261.24). Commenters also encouraged the Agency to clarify that the exempt waste is not subject to

[8] For example, see the determinations for Petroleum Refining wastes at 63 FR 42110, August 6, 1998, and Chlorinated Aliphatics Production wastes at 65 FR 67068, November 8, 2000.

[9] See EPA publication SW–846, entitled *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods.*

[10] Disposal in an off-site industrial landfill, while possible, appears less likely than disposal in a municipal solid waste landfill if only because of the relatively low number of off-site industrial landfills compared to the large number of municipal landfills. As of 2005, EPA estimates that about 1,654 municipal landfills were operating (*http://www.epa.gov/epaoswer/non-hw/muncpl/facts.htm*) vs. perhaps 10 to 20 off-site commercial industrial landfills (*see Cost and Economic Impact Analysis of the CESQG Rulemaking, USEPA, June1996 available at http://www.epa.gov/epaoswer/hazwaste/sqg/cost/ria.pdf*). Furthermore, the Agency expects that off-site modern commercial industrial landfills are likely to have liner systems with composite liners in any case.

[11] See the report by Association of State and Territorial Solid Waste Management Officials (ASTSWMO), ''Non-Municipal, Subtitle D Waste Survey,'' March 1996, and the EPA report, ''State Requirements for Industrial Non-Hazardous Waste Management Facilities,'' October 1995.

regulation as a hazardous waste at the point of generation.

The Agency agrees with both of the commenters' suggestions and the Agency is modifying the listing description in the final rule to reflect these changes. The preamble to the proposed rule made it clear that the exempt waste would still be subject to the hazardous waste characteristics (see 72 FR 2229). In addition, the Agency's intent was to have the exemption apply from the point of generation, as evidenced by the preamble to the proposed rule that states: ''Wastes that meet this condition would be exempted from the listing from their point of generation, and would not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal (including the land disposal restrictions)'' (see 72 FR 2221). Therefore, the final rule will specify that the wastes ''will not be subject to this listing at the point of generation,'' if the wastes are managed according to the conditions of the exemption.

VI. State Authorization

Under section 3006 of RCRA, EPA may authorize a qualified state to administer and enforce a hazardous waste program within the state in lieu of the federal program, and to issue and enforce permits in the state. Following authorization, the state requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally-enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized states also have independent authority to bring enforcement actions under state law.

A state may receive authorization by following the approval process described in 40 CFR part 271. Part 271 of 40 CFR also describes the overall standards and requirements for authorization. After a state receives initial authorization, new Federal regulatory requirements promulgated under the authority in the RCRA statute do not apply in that state until the state adopts and receives authorization for equivalent state requirements. The state must adopt such requirements to maintain authorization. In contrast, under RCRA section 3006(g), (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to the 1984 Hazardous and Solid Waste Amendments (HSWA) take effect in authorized states at the same time that they take effect in unauthorized states. Although authorized states still are required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized states, including the issuance of new permits implementing those requirements, until EPA authorizes the state to do so. Authorized states are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements.

RCRA section 3009 allows the states to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized states are not required to adopt Federal regulations, either HSWA or non-HSWA, that are considered less stringent.

This rule is promulgated pursuant to non-HSWA authority. The changes in this rule are less stringent than the current Federal requirements. Therefore, states will not be required to adopt and seek authorization for these changes. EPA will implement the changes to the exemptions only in those states which are not authorized for the RCRA program. Nevertheless, EPA believes that this rule has considerable merit, and the Agency thus strongly encourages states to amend their programs and become Federally-authorized to implement these rules.

VII. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Designation and List of Hazardous Substances and Reportable Quantities

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) defines the term ''hazardous substance'' to include RCRA listed and characteristic hazardous wastes. When EPA adds a hazardous waste under RCRA, the Agency also will add the waste to its list of CERCLA hazardous substances. EPA also establishes a reportable quantity, or RQ, for each CERCLA hazardous substance. EPA provides a list of the CERCLA hazardous substances along with their RQs in Table 302.4 at 40 CFR 302.4. If a person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount that equals or exceeds its RQ, then that person must report that release to the National Response Center (NRC) pursuant to CERCLA section 103. That person also may have to notify state and local authorities.[12]

[12] See section 304(a) of the Emergency Planning and Community Right to Know Act (EPCRA) and 40 CFR 355.40.

Since this rule is amending the scope of the EPA Hazardous Waste No. F019 under 40 CFR 261.31 listing to exclude wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process, and if the wastes are disposed in a landfill meeting certain liner design criteria, the Table 302.4 at 40 CFR 302.4 is also amended to adopt the same definition and scope.

VIII. Relationship to Other Rules—Clean Water Act

This action's final regulatory changes will not: (1) Increase the amount of discharged wastewater pollutants at the industry or facility levels; or (2) interfere with the ability of industrial generators and recyclers of electroplating residuals to comply with the Clean Water Act requirements (e.g., Metal Finishing Effluent Guidelines, 40 CFR Part 433).

IX. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of this regulatory action. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, although the annual effect of this rule is expected to be less than $100 million, the Agency has determined that this rule is a significant regulatory action because this rule contains novel policy issues. As such, this action was submitted to OMB for

review. Changes made in response to OMB suggestions or recommendations are documented in the docket to this rule.

The following is a summary of EPA's ''Regulatory Impact Analysis'' (RIA), which is also available from the docket for this action. The scope of this F019 rule is limited to the (1) automobile manufacturing industry (NAICS 336111) and (2) the light truck/utility vehicle manufacturing industry (NAICS 336112). The Agency defined this scope in relation to 19 recent (since 1997) delisting final determinations for these two motor vehicle manufacturing industries in EPA Regions 4, 5, 6 and 7.[13] Under the current F019 listing description, motor vehicle manufacturers become F019 sludge generators if they use aluminum parts on vehicle bodies which undergo the chemical conversion (zinc phosphating) process. Motor vehicle manufacturers began in the early 1970's, to substitute lighter weight aluminum parts for heavier steel parts to achieve national vehicle fleet fuel efficiency and vehicle pollutant emission reduction objectives. As promulgated, the elimination of RCRA Subtitle C hazardous waste regulatory requirements for waste transport, waste treatment/disposal, and waste reporting/recordkeeping in this rule, is expected to provide $0.5 to $1.3 million per year in regulatory cost savings to 7 facilities in these two industries which generate about 2,500 tons per year of F019 sludge, but are not yet delisted. Although this final action considered alternative RCRA Subtitle D non-hazardous waste landfill liner specifications (i.e., liner design criteria) as possible conditions for exemption of F019 sludge from RCRA Subtitle C regulation, the RIA does not distinguish landfill liner types in this cost savings estimate. Secondary impacts of the proposed rule may also include potential future RCRA regulatory cost avoidance for up to 42 other facilities in these two industries that are not currently generating F019 sludge, but which may begin applying aluminum parts in vehicle assembly. Furthermore, by reducing regulatory costs, EPA anticipates that this rule may also induce other motor vehicle manufacturing facilities in the United States to begin using aluminum in manufacturing of vehicles sooner than they might otherwise do, thereby possibly accelerating future achievement of fuel efficiency objectives. The RIA presents a simplistic scenario of this possibility for the purposes of illustrating potential future vehicle fuel savings and the associated benefits.

[13] The **Federal Register** (FR) citations for the 19 F019 delisting determinations are: GM in Lake Orion, Michigan (62 FR 55344, October 24, 1997); GM in Lansing, Michigan (65 FR 31096, May 16, 2000); BMWMC in Greer, South Carolina (66 FR 21877, May 2, 2001); Nissan in Smyrna, Tennessee (67 FR 42187, June 21, 2002); GM in Pontiac, Michigan, GM in Hamtramck, Michigan, GM in Flint, Michigan, GM Grand River in Lansing, Michigan, Ford in Wixom, Michigan, Ford in Wayne, Michigan (68 FR 44652, July 30, 2003); DaimlerChrylser Jefferson North in Detroit, Michigan (69 FR 8828, February 26, 2004); GM in Lordstown, Ohio (69 FR 60557, October 12, 2004); Ford in Dearborn, Michigan (70 FR 21153, April 25, 2005); GM in Janesville, Wisconsin (70 FR 71002, November 25, 2005); and GM Saturn in Spring Hill, Tennessee (70 FR 76168, December 23, 2005); GM Ft. Wayne Assembly in Ft. Wayne, Indiana (29 Indiana Register 3350, July 1, 2006); GM Arlington Truck Assembly Plant in Arlington, Texas (72 FR 43, January 3, 2007); AutoAlliance International Inc (Ford/Mazda joint venture) in Flat Rock, Michigan (72 FR 17027, April 6, 2007); and Ford Motor Company Kansas City Assembly Plant in Claycomo, Missouri (72 FR 31185, June 6, 2007).

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them. An Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 1189.21 and a copy may be obtained by going to *http://www.regulations.gov* and entering docket ID EPA–HQ–RCRA–2006–0984.

EPA under 40 CFR 261.31(b)(4)(iii), adds a recordkeeping requirement for generators. The rule will require generators wanting to demonstrate compliance with the provisions of this rule to maintain on site for a minimum of three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design criteria set out in the listing description. An enforcement action by the Agency can extend the record retention period (§ 268.7(a)(8)) beyond the three years.

EPA estimates that the total annual respondent burden for the new paperwork requirements in the rule is approximately 35 hours per year and the annual respondent cost for the new paperwork requirements in the rule is approximately $2,600. However, in addition to the new paperwork requirements in the rule, the Agency also estimated the burden and cost that generators could expect as a result of complying with the existing RCRA hazardous waste information collection requirements for the exempted materials (e.g., preparation of hazardous waste manifests, biennial reporting). Taking both the new rule and existing RCRA requirements into account, EPA expects the rule will result in a net reduction in national annual paperwork burden to the 7 initially affected NAICS 336111 and 336112 facilities of approximately 440 hours and $32,400. As summarized in the Economics Background Document and in the prior sub-section of this notice, EPA expects this net cost savings to be further supplemented by annual cost savings to these same facilities from reduced waste management costs, by the expected shift of sludge management from RCRA Subtitle C hazardous waste management, to RCRA Subtitle D nonhazardous waste management. The net cost to EPA of administering the rule is expected to be negligible, since facilities are not required under this rule to submit any information to the Agency for review and approval. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust existing systems to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities potentially subject to this action, ''small entity'' is defined as: (1) The for-profit small business size standards set by the Small Business Administration (SBA), in reference to the two six-digit NAICS code industries affected by this action: (1) NAICS 336111 automobile manufacturing SBA standard of less than 1,000 employees, and (2) NAICS 336112 light truck and utility vehicle manufacturing SBA standard of less than 1,000 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule.

According to the most recent U.S. Census Bureau ''Economics Census'' data for these two NAICS codes—for data year 2002 published in December 2004 and May 2005, respectively—there were 176 NAICS 336111 establishments operated in 2002 by 161 companies, of which 154 establishments (88%) had less than 1,000 employees (*http://www.census.gov/prod/ec02/ec0231i336111t.pdf*), and there were 97 NAICS 336112 establishments operated in 2002 by 69 companies, of which 62 establishments (64%) had less than 1,000 employees (*http://www.census.gov/prod/ec02/ec0231i336112t.pdf*). These census statistics reveal that both industries consist of large fractions of small establishments according to the SBA definitions, but the census data do not reveal the fraction of companies which are small (which is the more relevant measure). However, it may be inferred that there are large fractions of small companies in both industries, because of the high degree of parity between establishment counts and companies counts of 0.96 for NAICS 336111 (i.e., 154:to:161), and of 0.71 for NAICS 336112 (i.e., 69:to:97). This action does not directly affect small governmental jurisdictions (i.e., a government of a city, county, town, school district or special district with a population of less than 50,000), or small organizations (i.e., any not-for-profit enterprise which is independently owned and operated and is not dominant in its field).

Because this action is designed to lower the cost of waste management for these industries, this rule will not result in an adverse economic impact effect on affected entities. For more information regarding the economic impact of this rule, please refer to the ''Regulatory Impact Analysis'' available from the EPA Docket. EPA therefore concludes that this rule will relieve regulatory burden for all size entities, including small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials to have meaningful and timely input in the development of regulatory rules, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in expenditures of $100 million or more for state, local, or tribal governments, in the aggregate, or the private sector in any one year. This is because this rule imposes no enforceable duty on any state, local, or tribal governments. EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

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. This rule directly affects primarily generators of hazardous waste sludges in the NAICS 3361 motor vehicle manufacturing industry group. There are no state and local government bodies that incur direct compliance costs by this rulemaking. State and local government implementation expenditures are expected to be less than $500,000 in any one year. Thus, the requirements of Section 6 of the Executive Order do not apply to this final rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicited comment on the proposed rule from state and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose substantial direct compliance costs on them. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) Is ''economically significant'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 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.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This final rule reduces regulatory burden as explained in our ''Economics Background Document,'' and may possibly induce fuel efficiency and energy savings in the national motor vehicle fleet. It thus should not adversely affect energy supply, distribution or use.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, ''Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population'' (February 11, 1994), is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. Our goal is to ensure that all citizens live in clean and sustainable communities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

The Agency's risk assessment did not identify risks from the management of the zinc phosphating sludge generated by the motor vehicle manufacturing industry, provided that the waste is disposed in a landfill that is subject to or meets the landfill design criteria set out in this rule. Therefore, EPA believes that any populations in proximity to the landfills used by these facilities should not be adversely affected by common waste management practices for the wastewater treatment sludge.

K. Congressional Review Act

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. EPA will submit a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective July 7, 2008.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous materials, Recycling, Waste treatment and disposal.

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: May 29, 2008.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code

of Federal Regulations 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, 6924(y), and 6938.

■ 2. Section 261.31 is amended as follows:

■ a. In the table in paragraph (a) by revising the entry for F019.

■ b. By adding paragraph (b)(4).

§ 261.31 Hazardous wastes from non-specific sources.

(a) * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
*	* * * * * * *	
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in paragraph (b)(4)(i) of this section and (b)(4)(ii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.	(T)

* * * * *

(b) * * *

(4) For the purposes of the F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.

(i) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.

(ii) Generators must maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include: the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on site for no less than three years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the Regional Administrator or the state regulatory authority.

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

■ 3. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

■ 4. In § 302.4, Table 302.4 is amended by revising the entry for F019 in the table to read as follows:

§ 302.4 Designation of hazardous substances.

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[Note: All comments/notes are located at the end of this table]

Hazardous substance	CASRN	Statutory code†	RCRA waste No.	Final RQ pounds (Kg)
* * * * * * *				
F019 ..... Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in § 258.40, § 264.301 or § 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in § 261.31(b)(4)(i) and § 261.31(b)(4)(ii) describes the recordkeeping requirements for motor vehicle manufacturing facilities.	.....	4	F019	10 (4.54)
* * * * * * *				

† Indicates the statutory source defined by 1, 2, 3, and 4, as described in the note preceding Table 302.4.

* * * * *

[FR Doc. E8–12483 Filed 6–3–08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 070717341–8549–02]

RIN 0648–AV41

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea bass Fisheries; Fishing Year 2008

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: On May 23, 2008, NMFS published a final rule implementing the recreational management measures for the 2008 summer flounder, scup, and black sea bass fisheries. The final rule contains several errors throughout the preamble. This document corrects those errors.

DATES: Effective June 23, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION: The final rule for the 2008 recreational management measures for summer flounder, scup, and black sea bass was published in the **Federal Register** on May 23, 2008 (73 FR 29990). There were several errors throughout the preamble text.

Corrections

In final rule FR Doc. E8–11601, on page 29991 of the May 23, 2008, issue of the **Federal Register**, make the following corrections:

1. On page 29991, in column 3, under the Black Sea Bass Management Measures caption, the first sentence is corrected to read as follows:

''Table 3 contains the coastwide Federal measures for black sea bass in effect for 2007 and codified.''

2. On page 29992, in column 1, under the Comments and Responses caption, the second sentence is corrected to read as follows:

''One individual submitted comments regarding several species such as mackerel, red hake, and marlin which are outside the scope of this rulemaking.''

3. On page 29992, in column 1, under the Comment 1 caption, the first sentence is corrected to read as follows:

''Some of the comments received allege that state-by-state conservation equivalency violates National Standard 2 of the Magnuson-Stevens Act, which requires conservation and management actions to be based upon the best available scientific information.''

4. On page 29992, in column 2, in the 27th line, the sentence is corrected to read as follows:

''In addition, NMFS encouraged states to take a more conservative approach to both improve conservation equivalency's performance and to offset uncertainty in the assessment of potential measures effectiveness.''

5. On page 29992, in column 3, the first full paragraph should read:

''The use of MRFSS data was challenged, along with other aspects of the agency's actions, in 2006 in the case *United Boatmen, et al.,* v. *Gutierrez*[3], the Secretary of Commerce (Secretary). The plaintiffs alleged that MRFSS was a gravely flawed tool and unsuitable for use in setting the summer flounder TAL. NMFS responded that MRFSS, while admittedly having limitations, has been upheld under National Standard 2 as the best available scientific information. The defendants' brief cited three separate cases wherein MRFSS had been upheld as the best available scientific information relative to National Standard 2. In this case, the judge found in favor of the Secretary on all points, adding further support to the adequacy of MRFSS data for use in fisheries management as the best available science.''

6. On page 29993, in column 3, the last full paragraph is corrected to read as follows:

''For these reasons, NMFS believes that implementing conservation equivalency, as recommended by the Council and Commission for 2008, does not violate National Standard 4 or National Standard 2 of the Magnuson-Stevens Act.''

7. On page 29994, in column 1, in the first full paragraph, the forth sentence is corrected to read as follows:

''National Standard 6 directs FMPs to have a suitable buffer, in favor of conservation, to deal with uncertainty, which may also be stated as a conservative approach.''

8. On page 29995, in column 2, in the 13th line the sentence is corrected to read as follows:

''As such, it is a more conservative approach than applied in previous years, and presents a higher likelihood that the 2008 recreational harvest limit will not be exceeded on either a state-by-state basis or coastwide, and that the subsequent mortality objectives will be met for the 2008 fishing year.''

9. On page 29996, in column 1, in the first full paragraph, the first sentence is corrected to read as follows:

''NMFS acknowledges that state-by-state conservation equivalency has not performed ideally, since the summer flounder recreational harvest limit has been exceeded in 5 of the 7 years where it has been utilized.''

10. On page 29997, in column 1, the first full paragraph is corrected to read as follows:

''A summary of the comments received and NMFS' responses thereto is contained in the preamble of this rule. None of those comments addressed specific information contained in the IRFA economic analysis. One comment received stated that NMFS had not conducted an economic analysis for the 2008 recreational management measures and some commenters generally indicated that the management measures implemented by this rule may have an economic impact. See response to Comment 7 in the Comment and Responses section for more information. No changes have been made from the proposed rule as a result of the comments received by NMFS.''

11. On page 29998, in column 2,in the 13th line from the bottom, the sentence is corrected to read as follows:

''Conservation equivalency is generally expected to mitigate the economic impact in states with lower required percent reductions for 2008 compared to the coastwide reduction of 33.2 percent.''

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 29, 2008.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 08–1317 Filed 5–30–08; 2:51 pm]

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