This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Part 180

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

Dated: March 26, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

§ 180.125 [Removed]

2. By removing § 180.125 *Calcium cyanide; tolerances for residues*.

§ 180.141 [Removed]

3. By removing § 180.141 *Biphenyl; tolerances for residues*.

§ 180.201 [Removed]

4. By removing § 180.201 *Chlorosulfamic acid; tolerances for residues*.

5. By revising § 180.216 *Chloroxuron; tolerances for residues*, to read as follows:

§ 180.216 Chloroxuron; tolerances for residues.

A time-limited tolerance, with an expiration date of March 1, 1999, is established for negligible residues of the herbicide chloroxuron (3-[p-(p-chlorophenoxy)phenyl]-1,1-di-methylurea) and its metabolites containing the p-(p-chlorophenoxy)aniline moiety calculated as chlorxuron in or on the raw agricultural commodities: soybeans and soybean forage, carrots, celery, onions, (dry bulb), and strawberries.

6. By revising § 180.266 *Chloramben; tolerances for residues*, to read as follows:

§ 180.266 Chloramben; tolerances for residues.

A time-limited tolerance, with an expiration date of March 1, 1999, is established for negligible residues of the herbicide chloramben (3-amino-2,5-dichlorobenzoic acid) in or on the raw agricultural commodities: dried beans; lima beans; snap beans; bean vines; cantaloupes; corn, field, forage, corn, fodder; corn, field, grain; cucumbers; peanuts; peanut forage; pigeon peas, pidgeon pea forage, peppers, pumpkins, soybeans, soybean forage, summer squash; winter squash; sunflower seed, sweet potatoes and tomatoes.

§ 180.282 [Removed]

7. By removing § 180.282 *2-Chloro-N,N-diallylacetamide; tolerances for residues*.

§ 180.283 [Removed]

8. By removing § 180.283 *2,3,6-Trichlorophenylacetic acid; tolerances for residues*.

§ 180.321 [Removed]

9. By removing § 180.321 *sec-Butylamine; tolerances for residues*.

§ 180.398 [Removed]

10. By removing § 180.398 *Chlorthiophos; tolerances for residues*.

11. By revising § 180.402 *Diethatyl-ethyl*, to read as follows:

§ 180.402 Diethatyl-ethyl; tolerances for residues.

A time-limited tolerance, with an expiration date of March 1, 1999, is established for negligible residues of the herbicide diethatyl-ethyl and its metabolites determinable as the *N*-acetyl *N*-(2,6-diethylphenyl) glycine derivative in or on the raw agricultural commodities: red beet roots, red beet tops, spinach, sugar beet roots and sugar beet tops.

[FR Doc. 96–8146 Filed 4–2–96; 8:45 am]

BILLING CODE 6560–50–F

---

40 CFR Part 261

[FRL–5448–4]

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

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by United Technologies Automotive (UTA), Detroit, Michigan, to exclude (or ''delist''), conditionally, on a one-time, upfront basis, a certain solid waste generated by UTA's chemical stabilization treatment of lagoon sludge at the Highway 61 Industrial Site in Memphis, Tennessee, from the lists of hazardous wastes in §§ 261.31 and 261.32. Based on careful analyses of the waste-specific information provided by the petitioner, the Agency has concluded that UTA's petitioned waste will not adversely affect human health and the environment. This action responds to UTA's petition to delist this waste on a ''generator-specific'' basis from the hazardous waste lists. If the proposed decision is finalized, the petitioned waste will not be subject to regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

The Agency is also proposing to use two methods to evaluate the potential impact of the petitioned waste on human health and the environment: (1) A fate and transport model (the EPA Composite Model for Landfills, ''EPACML'' model) , based on the waste-specific information provided by the petitioner; and (2) the generic delisting levels in § 261.3(c)(2)(ii)(C)(1) for nonwastewater residues generated from treatment of the listed hazardous waste F006, by high temperature metal recovery (HTMR). Specifically, EPA proposes to use the EPACML model to calculate the concentration of each hazardous constituent that may be present in an extract of the petitioned waste obtained by means of the Toxicity Characteristic Leaching Procedure (TCLP), which will not have an adverse impact on groundwater if the petitioned waste is delisted and then disposed in a Subtitle D landfill. EPA will compare the concentration for each hazardous constituent calculated by the EPACML model to the generic delisting level for that constituent in § 261.3(c)(2)(ii)(C)(1). EPA proposes to use the lower of these two concentrations as the delisting level for each hazardous constituent in the waste.

DATES: EPA is requesting public comments on this proposed decision and on the applicability of the fate and transport model and the generic delisting levels used to evaluate the petition. Comments will be accepted until May 20, 1996. Comments postmarked after the close of the comment period will be stamped ''late.''

Any person may request a hearing on this proposed decision by filing a request with Richard D. Green, Acting Director of the Waste Management Division, EPA, Region 4, whose address appears below, by April 18, 1996. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Send three copies of your comments to Jeaneanne M. Gettle, Acting Chief, RCRA Compliance Section, U.S. Environmental Protection

Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365. Identify your comments at the top with this regulatory docket number: R4–96–UTEP

Requests for a hearing should be addressed to Richard D. Green, Acting Director, Waste Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365.

The RCRA regulatory docket for this proposed rule is located at the EPA Library, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, Georgia 30365, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays.

The public may copy material from any regulatory docket at no cost for the first 100 pages, and at a cost of $0.15 per page for additional copies.

Copies of the petition are available during normal business hours at the following addresses for inspection and copying: Tennessee Department of Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; and U.S. EPA Region 4, Library, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–4216.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 412–9810. For technical information concerning this notice, contact Judy Sophianopoulos, RCRA Compliance Section, (Mail Code 4WD–RCRA), U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–3555, x6408, or call, toll free, (800) 241–1754, and leave a message, with your name and phone number, for Ms. Sophianopoulos to return your call. You may also contact Jerry Ingram, Tennessee Department of Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535, (615) 532–0850.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in §§ 261.31 and 261.32. These wastes are listed as hazardous because they exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show, first, that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a) and the background documents for the listed wastes. Second, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See § 260.22(a), 42 U.S.C. § 6921(f), and the background documents for the listed wastes. Although wastes which are ''delisted'' (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their wastes continue to be nonhazardous based on the hazardous waste characteristics (i.e., characteristics which may be promulgated subsequent to a delisting decision.)

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See §§ 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived-from'' rules and remanded them to the Agency on procedural grounds. *Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 *FR* 7628, Mar. 3, 1992). The Agency plans to address issues related to waste mixtures and residues in a future rulemaking.

On October 10, 1995, the Administrator delegated to the Regional Administrators the authority to evaluate and approve or deny petitions submitted in accordance with §§ 260.20 and 260.22, by generators within their Regions [National Delegation of Authority 8–19], in States not yet authorized to administer a delisting program in lieu of the Federal program. On March 11, 1996, the Regional Administrator of EPA, Region 4, redelegated delisting authority to the Director of the Waste Management Division [Regional Delegation of Authority 8–19].

B. Approach Used To Evaluate This Petition

This petition requests a delisting for a hazardous waste listed as F006. In making the initial delisting determination, the Agency evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11 (a)(2) and (a)(3). Based on this review, the Agency agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. (If the Agency had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. See §§ 260.22 (a) and (d). The Agency considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, the Agency used such information to identify plausible exposure routes (i.e., groundwater, surface water, air) for hazardous constituents present in the petitioned waste. The Agency determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for UTA's petitioned waste, and that the major exposure route of concern would be

ingestion of contaminated groundwater. Therefore, the Agency is proposing to use a particular fate and transport model (the ''EPACML'' model) to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of UTA's petitioned waste on human health and the environment.

Specifically, the Agency used the maximum estimated waste volume and the maximum reported leachate concentrations as inputs to estimate the constituent concentrations in the groundwater at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the health-based levels used in delisting decision-making for the hazardous constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model.

For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide site-specific data, such as the nearest drinking water well, permeability of the aquifer, and dispersivities. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, the generator may well choose to either send the delisted waste off site immediately, or eventually reach the capacity of the on-site facility and subsequently send the waste off site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of groundwater monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that, because UTA is seeking a delisting for treated lagoon wastes which will be generated during a removal action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and may be managed ultimately either on site or off site, groundwater monitoring data collected from the areas where the petitioned waste is contained prior to treatment, are necessary to determine whether hazardous constituents have already migrated to the underlying groundwater. Groundwater monitoring data collected from UTA's monitoring wells will help characterize the potential impact (if any) of the disposal of UTA's waste on human health and the environment.

UTA petitioned the Agency for an upfront, conditional, one-time exclusion based on analytical data on samples from a treatability study and on samples of untreated waste. Similar to other facilities seeking upfront exclusions, this upfront exclusion would be contingent upon UTA conducting analytical testing of representative samples of the petitioned waste as soon as the treatment system is brought on-line. This testing would be necessary to demonstrate that the treated waste is a nonhazardous waste (*i.e.*, meets the Agency's verification testing conditions).

From the evaluation of UTA's delisting petition, a list of constituents was developed for the verification testing conditions. Proposed maximum allowable leachable concentrations for these constituents, and a total concentration for one, were derived as described in Section II.D. and Section II.E. of this preamble.

The Agency encourages the use of upfront delisting petitions because they have the advantage of allowing the applicant to know what treatment levels for constituents will be sufficient to render specific wastes nonhazardous, before investing in new or modified waste treatment systems. Therefore, upfront delistngs will allow new facilities to receive exclusions prior to generating wastes, which, without upfront exclusions would unnecessarily have been considered hazardous. Upfront delistings for existing facilities can be processed concurrently during construction or permitting activities; therefore, new or modified treatment systems should be capable of producing wastes that are considered nonhazardous sooner than would otherwise be possible. At the same time, conditional testing requirements to verify that the delisting levels are achieved by the fully operational treatment systems will ensure that only nonhazardous wastes are removed from Subtitle C control.

In the past, the Agency has granted numerous conditional delistings, including conditional delistings for waste treatment facilities located at multiple sites (see 51 FR 41323, November 14, 1986, and 51 FR 41494, November 17, 1986), as well as an upfront delisting that allows an additional treatment unit to be added at the same site (see 56 FR 32993, July 18, 1991), and an upfront delisting that allows new treatment units at different sites to be added, provided the verification testing conditions are satisfied (see 60 FR 31107, June 13, 1995).

The Agency provides notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed. Late comments will be considered to the extent possible.

II. Disposition of Delisting Petition United Technologies Automotive, Detroit, Michigan

A. Petition for Exclusion

United Technologies Automotive (UTA), located in Detroit, Michigan, is seeking a delisting for treated lagoon waste which will be generated during a removal action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The removal action is required by the Unilateral Administrative Order (''the UAO'') issued to UTA by EPA, on January 26, 1995. The waste to be treated was generated prior to 1980 in seven lagoons formerly used to manage electroplating wastewater at the Highway 61 Industrial Site in Memphis, Tennessee (''the Site''). Notwithstanding the fact that the waste was generated prior to 1980, the waste so generated meets the listing definition of EPA Hazardous Waste No. F006—''Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum

plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum''—when it is actively managed by excavation and treatment after the effective date of the listing of F006. (Original listing of F006 by Interim Final Rule in 45 FR 33112–33133, May 19, 1980; Modified in 45 FR 74384–74892, Nov. 12, 1980; and clarified by Interpretative Rule in 51 FR 43350–43351, Dec. 2, 1986). See 51 FR 40577, Nov. 7, 1986; 53 FR 31147–31148, Aug. 17, 1988; 53 FR 51444 and 51445, Dec. 21, 1988; 55 FR 22678, June 1, 1990; and *Chemical Waste Management* v. *EPA*, 869 F.2d at 1535–37 (D.C. Cir. 1989), for Agency position on active management. UTA proposes to treat the sludge by chemical stabilization, and to delist the treatment residue, which is also classified as F006 by application of § 261.3(c)(2)(i), the derived-from rule. By application of the ''contained-in policy,'' any lagoon soil excavated and treated with the sludge must also be managed as F006. See memorandum, dated February 17, 1995, from Devereaux Barnes to Norm Niedergang, and Region 4 Guidance Number TSC–92–02, dated August 1992.

UTA petitioned the Administrator, in October 1995, to exclude, on a one-time, upfront basis, the treatment residue generated from chemical stabilization of sludges removed from six of the seven lagoons located at the Site. Sludges from Lagoon 7 will not be removed and treated, because constituent concentrations were found, by total analysis of these samples, to be below the cleanup levels required by the UAO. On November 21, 1995, in accordance with the delegation of delisting authority by the Administrator to the Regional Administrators, UTA submitted to EPA, Region 4, the petition to delist F006 generated by chemical stabilization of sludges from the six lagoons at the Site.

The hazardous constituents of concern for which F006 was listed are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Chemically stabilized sludge and soil from the six lagoons at the Site is the waste which is the subject of this petition. UTA petitioned the Agency to exclude its waste because it does not believe that the waste meets the criteria of the listing.

UTA claims that its chemically stabilized sludge/soil is not hazardous because the constituents of concern, although present in the waste, are present in either insignificant concentrations or, if present at significant levels, are essentially in immobile forms. UTA also believes that this waste is not hazardous for any other reason (i.e., there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 USC 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of UTA's petition.

B. Background

On November 21, 1995, UTA petitioned EPA, Region 4, to exclude the chemically stabilized sludge and soil from Lagoons 1–6 at the Highway 61 Industrial Site in Memphis, Tennessee (''the Site''), and subsequently provided additional information, in response to a request by EPA. After evaluating the petition and the additional information, the Agency proposes to approve UTA's petition to exclude the subject waste, because the Agency believes that the petitioned waste is eligible for an exclusion based on the current evaluation criteria. Therefore, the Agency hereby proposes to grant UTA's petition. The Agency's evaluation of UTA's petitioned waste, which consists of the chemically stabilized sludge and soil from Lagoons 1–6 at the Site, is the subject of today's proposal.

In support of its petition, UTA submitted: (1) detailed descriptions of the waste and history of its management; (2) detailed descriptions of all previously known and current activities at the Site; (3) results from total constituent analyses for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver, (the eight Toxicity Characteristic (TC) metals listed in § 261.24); the priority pollutant metals, including nickel, (a hazardous constituent for which F006 is listed), antimony,and thallium; and cyanide; (4) results for the eight Toxicity Characteristic (TC) metals from the Toxicity Characteristic Leaching Procedure (TCLP; Method 1311 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW–846 [Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), and IIB (January 1995)]; methods in this publication are referred to in today's proposed rule as ''SW–846,'' followed by the appropriate method number); (5) results from the Multiple Extraction Procedure (MEP; SW–846 Method 1320) for cadmium and chromium; (6) results from the analysis for total petroleum hydrocarbons (TPH, Method 418.1 in ''Methods for Chemical Analysis of Water and Wastes,'' EPA Publication EPA–600/4–79–020; (7) results from characteristics testing for ignitability, corrosivity, and reactivity; (8) results from total constituent analyses for 33 volatile organic compounds and 64 semivolatile organic constituents, including the TC organic constituents; and (9) groundwater monitoring data collected from wells monitoring the on-site lagoons.

UTA's petition states that electroplating operations at the Site were conducted between the early 1960s and 1973, and no electroplating wastewater sludge was generated after 1973. Lagoons 1–7 contained electroplating wastewaters and were allegedly used for oxidation purposes. UTA reported that the sludge generated in the lagoons has a moisture content of approximately 56%.

A CERCLA Unilateral Administrative Order issued on January 26, 1995 (''the UAO''), required that sludge from lagoons at the Site be excavated, stabilized, and disposed of, as part of an emergency removal action. UTA estimates that the total volume of the chemically stabilized sludge and soil from Lagoons 1–6 at the Site will be 11,500 cubic yards. (Site Lagoon 7 met the cleanup standards of the UAO, and did not require removal.)

The UAO required UTA to develop a Removal Action Work Plan Sampling Protocol. EPA approved the Removal Action Work Plan, including the Sampling Protocol, on March 30, 1995. UTA's sampling and analysis methods were conducted in accordance with the approved Removal Action Work Plan.

UTA's sampling demonstration included data on 225 samples of untreated waste from Lagoons 1–7, collected in April 1995, and 4 samples of treated waste from Lagoons 1–6, collected in September 1995.

UTA conducted sampling and analysis of the seven Site lagoons, ranging in size from approximately ¼–1 acre, in accordance with the Sampling Protocol of the Removal Action Work Plan required by the UAO. Each lagoon was divided into a minimum of 4 quadrants; grab samples of sludge or soil in each quadrant to be analyzed for all constituents except volatile organic compounds (VOCs), were composited. VOC analysis was performed on a minimum of two grab samples per lagoon. A total of 225 samples were collected and analyzed. The sampling and analysis were performed in order to obtain representative samples of each

lagoon and determine whether the following Site soil removal cleanup levels required by the UAO were met; areas not meeting these levels were subject to the removal action:

TABLE 1.—SITE CLEANUP LEVELS

Parameter	Clean-up level, parts per million (ppm)
Total Petroleum Hydrocarbons (TPH)	100
Cadmium (total)	60
Chromium (total)	400
Chromium VI	205
Lead	500

With the exception of total petroleum hydrocarbons (TPH), all contaminants in treated and untreated waste were analyzed using SW–846 methods. All composite samples of untreated wastes were analyzed for TPH, using Method 418.1, in ''Methods for Chemical Analysis of Water and Wastes,'' EPA Publication EPA–600/4–79–020).

All composite samples of untreated wastes were analyzed for 64 semivolatile organic compounds (SVOCs), otherwise known as base-neutral or acid extractables (BNAs, SW–846 extraction Method 3550, SW–846 analysis Method 8270); and the eight RCRA TC metals, arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver (SW–846 Method 6010 for all except mercury; SW–846 Method 7471 for mercury). One composite sample of untreated waste from each lagoon, except Lagoon 1 and Lagoon 3, was analyzed for metals on the Target Analyte List (TAL) (SW–846 Method 6010), which includes aluminum, antimony, beryllium, calcium, cobalt, copper, iron, magnesium, manganese, nickel, potassium, sodium, thallium, vanadium, and zinc, in addition to the RCRA TC metals. These metals are also referred to as ''priority pollutant metals,'' regulated under the Clean Water Act and the Safe Drinking Water Act. Toxic TAL metals antimony, beryllium, and thallium, and RCRA TC metals mercury, selenium, and silver were not detected in the untreated waste samples above the quantitation limits of 10.0, 1.0, 1.0, 0.09, 1.0 and 1.0 mg/kg, respectively. The concentrations of all metals which were detected in the untreated waste, except for cadmium and chromium, were low enough that the UAO did not set cleanup levels for them. Concentrations of metals which were detected in untreated wastes are presented in Table 2. SVOCs were undetected in most of the untreated waste samples at quantitation limits ranging from 0.33–0.83 mg/kg. Table 2 shows the SVOCs that were detected in untreated waste samples; their concentrations were low enough that the UAO did not require cleanup levels for them. At least two grab samples of untreated waste from each lagoon were analyzed for 33 VOCs by SW–846 Method 8240; these VOCs were not detected in most of the samples of untreated waste at quantitation limits ranging from 0.005–0.010 mg/kg. The VOCs detected in untreated waste are shown in Table 2. The concentrations detected in the untreated waste were low enough that the UAO did not establish cleanup levels for VOCs.

All of the analyses summarized in the preceding paragraph are methods for total analysis of the samples; that is, the samples were subjected to the appropriate SW–846 method without prior extraction by means of the Toxicity Characteristic Leaching Procedure (TCLP). The analytical result obtained in a total analysis is the concentration of contaminant on a weight/weight basis, in units of milligrams of contaminant per kilogram of sample (mg/kg). The result of a TCLP analysis is the concentration of contaminant on a weight/volume basis in an extract of the sample obtained by means of the TCLP, in units of milligrams of contaminant per liter of TCLP extract.

The RCRA TC metals cadmium and total chromium were analyzed in all composite samples of untreated waste using SW–846 Method 6010, with a reported quantitation limit (total analysis on unextracted sample) of 1.0 mg/kg for each. Results are presented in Table 2. A total analysis for hexavalent chromium was conducted on all samples (both composite and grab) of untreated waste (SW–846 Method 7197), and was not detected in any of the samples, at a quantitation limit of 10.0 mg/kg. Therefore, UTA concluded that the total chromium concentrations in the untreated lagoon samples were due to trivalent chromium. Based on the analytical results for the untreated waste samples, UTA identified cadmium, trivalent chromium, and TPH as the only constituents of concern in the Site lagoons, because these were the only constituents found with concentrations above the cleanup levels required by the UAO. TCLP extracts of two samples of untreated waste from Lagoon 6 were prepared and analyzed, because constituent concentrations by total analysis (analysis of the unextracted samples) exceeded the cleanup levels required by the UAO, to a greater extent than any of the other samples. TCLP results for untreated waste samples from Lagoon 6, as well as total analysis results for untreated waste samples from all lagoons, are presented in Table 2.

TABLE 2.—CONCENTRATIONS IN UNTREATED SAMPLES FROM SITE LAGOONS 1 THROUGH 7

Constituent	Maximum concentration [1] in lagoons 1–7: (total analysis in mg/kg; TCLP in mg/l)						
	Lagoon 1	Lagoon 2	Lagoon 3	Lagoon 4	Lagoon 5	Lagoon 6	Lagoon 7
Arsenic (total)	3.1	4.5	4.5	4.1	4.7	3.0	4.6
Barium (total)	144	79.3	91.6	89.5	71.2	370	71.5
Cadmium (total)	1010	345	383	239	141	1590	11.2
Cadmium (TCLP)	NA	NA	NA	NA	NA	26.0	.....
Chromium (total)	1320	219	578	345	292	943	13.1
Chromium (TCLP)	NA	NA	NA	NA	NA	<0.50	.....
Lead (total)	19.5	10.10	25.9	9.0	9.5	26.2	17.9
Nickel (total)	.....	12	.....	10.2	8.7	7.0	13.1
TPH (total)	440	217	278	100	58.7	272	52.7
Acetone (total)	0.492	—	0.482	0.219	3.07	4.54	0.556
Bis(2-ethylhexyl) phthalate (total)	0.47	—	1.37	1.40	—	0.77	—
Chlorobenzene (total)	0.015	—	0.078	—	—	—	—
Di-n-butylphthalate (total)	—	—	—	0.63	—	—	—

TABLE 2.—CONCENTRATIONS IN UNTREATED SAMPLES FROM SITE LAGOONS 1 THROUGH 7—Continued

Constituent	Maximum concentration [1] in lagoons 1–7: (total analysis in mg/kg; TCLP in mg/l)						
	Lagoon 1	Lagoon 2	Lagoon 3	Lagoon 4	Lagoon 5	Lagoon 6	Lagoon 7
1,2-dichloroethene (total)	0.020	0.060	0.020	—	0.007	—	—
Vinyl chloride (total)	0.015	0.055	—	—	—	—	—

[1] The concentration level for each constituent in each lagoon in Table 2 is the maximum found for that lagoon; the values for each lagoon are not necessarily from the same sample. Frequently, a sample with a maximum concentration level for one constituent did not contain maximum levels for all constituents.

< denotes undetected at the practical quantitation limit, the number to the right of the symbol <. NA means not analyzed.

—Denotes analyzed but not detected.

UTA reported that one sample of untreated waste from each lagoon was tested for the hazardous characteristics of corrosivity, ignitability, and reactivity for cyanide and sulfide, and that none of the samples exhibited these hazardous characteristics.

UTA conducted a treatability study on samples of lagoon sludge in order to determine the optimum conditions for chemical stabilization. UTA found that the most effective chemical stabilization recipe to achieve maximum immobilization of cadmium and chromium and maxium compressive strength in the petitioned waste was 20% lime kiln dust (LKD) and 5% portland cement (PC). Treatability study samples #32 and #36 were composite sludge samples from Lagoons 1 through 6, and were chemically stabilized with two different recipes. Sample #32 was stabilized with 20% LKD only, and sample #36 was stabilized with 20% LKD and 5% PC. Samples #6–32 and #6–36 were composite samples from Lagoon 6, the most contaminated lagoon. Sample #6–32 was chemically stabilized with 20% LKD only, and sample #6–36 was chemically stabilized with 20% LKD and 5% PC. UTA reported that, prior to treatment, samples #32, #36, #6–32, #6–36 were subjected to total analysis for cadmium and chromium (SW–846 Method 6010). After treatment, SW–846 Method 6010 was performed on TCLP extracts of treated samples to determine concentrations of cadmium and chromium in the extracts. Total analysis for 33 VOCs was performed on treated samples (not on TCLP extracts), using SW–846 Method 8240. VOCs were not detected in any of the samples of treated waste at quantitation limits ranging from 0.005–0.010 mg/kg. Analytical results for treatability study samples are shown in Table 3. UTA informed EPA during a meeting on December 13, 1995, that these analytical results are for chemically stabilized, but not fully cured, waste samples. Samples from Lagoon 7 were not included in the treatability study, because constituent concentrations were found, by total analysis of these samples, to be below the cleanup levels required by the UAO. Therefore, the UAO does not require removal of Lagoon 7 sludge and soil.

UTA believes that the treatability study of chemical stabilization of the lagoon waste indicated that cadmium and chromium concentrations in the TCLP extracts were reduced to levels which would meet delisting criteria, and that TPH constituents were removed in the offgas from the chemical stabilization process.

If UTA's delisting petition is approved, UTA proposes to dispose of the delisted waste either (a) onsite in accordance with a Closure/Post-Closure Plan approved by the State of Tennessee or (b) in an off-site Subtitle D landfill. Therefore, UTA subjected treatability study samples #32 and #36, after treatment, to the Multiple Extraction Procedure (MEP). The MEP (SW–846 Method 1320) is a test developed by the Agency to assist in predicting the long-term leachability of stabilized wastes. The MEP consists of a TCLP extraction of a sample followed by nine sequential extractions of the same sample, using a synthetic acid rain extraction fluid (prepared by adding a 60/40 weight mixture of sulfuric acid and nitric acid to distilled deionized water until the pH is 3.0 ± 0.2). The sample which is subjected to the nine sequential extractions consists of the solid phase remaining after, and separated from, the initial TCLP extract. The Agency designed the MEP to simulate multiple washings of percolating rainfall in the field, and estimates that these extractions simulate approximately 1,000 years of rainfall. (See 47 *FR* 52687, Nov. 22, 1982.) MEP results for samples #32 and #36 are presented in Table 3. In response to a request by EPA for additional information, UTA reported a quantitation limit of 0.01 mg/l for cadmium and chromium in the MEP test on samples #32 and #36. Samples #32, #36, #6–32, and #6–36 were also tested by the synthetic precipitation leaching procedure (SPLP, SW–846 Method 1312), which consists of a single extraction by the same synthetic acid rain solution used in the MEP. Total analysis, TCLP, SPLP, and MEP results for stabilized, but not fully cured, treatability study samples are presented in Table 3.

TABLE 3.—ANALYTICAL RESULTS (PPM) FOR TREATED SAMPLES OF SITE LAGOON SLUDGE

[Chemically Stabilized, But Not Fully Cured]

Sample [1]	Totals (untreated)		TCLP (treated)		SPLP (treated)		Multiple extraction procedure (treated)			
	Cadmium (Cd)	Chromium (Cr)	Cd	Cr	Cr	Cr	Maximum conc./extract number		Concentration in final extract	
							Cd	Cr	Cd	Cr
36	543	449	<0.10	<0.50	<0.01	0.07	0.56/6	0.07/1	0.03	0.02
6–36	777	289	<0.10	<0.50	.....	.....	.....	.....	.....	.....
32	543	449	<0.10	<0.50	<0.01	0.04	0.80/6	0.06/7	0.05	0.03

TABLE 3.—ANALYTICAL RESULTS (PPM) FOR TREATED SAMPLES OF SITE LAGOON SLUDGE—Continued

[Chemically Stabilized, But Not Fully Cured]

Sample [1]	Totals (untreated)		TCLP (treated)		SPLP (treated)		Multiple extraction procedure (treated)			
	Cadmium (Cd)	Chromium (Cr)	Cd	Cr	Cr	Cr	Maximum conc./extract number		Concentration in final extract	
							Cd	Cr	Cd	Cr
6–32	777	289	<0.10	<0.50	.....	.....	.....	.....	.....	.....

[1] Sample 36 (composite of Lagoons 1–6) was stabilized with 20% lime kiln dust (LKD) and 5% portland cement (PC); Sample 6–36 (composite from Lagoon 6) was stabilized with 20% LKD and 5% PC; Sample 32 (composite of Lagoons 1–6) was stabilized with 20% LKD only; Sample 6–32 (composite from Lagoon 6) was stabilized with 20% LKD only.

< Denotes that the constituent was not detected above the practical quantitation limit, the number to the right of the symbol <.

UTA included Site groundwater monitoring data in its delisting petition, because disposal option (a) above involves onsite disposal of the treated waste. These data are shown in Table 4, and were obtained by sampling 5 groundwater monitoring wells which had been installed to assess the impact of untreated lagoon waste on Site groundwater. The wells were installed upgradient, cross-gradient, and downgradient to the Site lagoons in accordance with the Removal Action Work Plan required by the UAO. The wells were sampled and analyzed for cadmium and chromium in July 1995.

Table 4.—GROUNDWATER RESULT SUMMARY (PPM) UNTREATED LAGOON WASTE

Constituent	MW–1	MW–2	MW–3	MW–4	MW–5	State of Tennessee MCL	Federal MCL
Cadmium	<0.005	<0.005	<0.005	<0.005	<0.005	0.01	0.005
Chromium	0.010	<0.010	0.011	<0.010	<0.010	0.05	0.10

< Denotes that the constituent was not detected above the practical quantitation limit, the number to the right of the symbol <.

Monitoring wells are numbered consecutively MW–1—MW–5.

MCL is the maximum contaminant level allowable in drinking water, as established by the Safe Drinking Water Act; MCLs for the State of Tennessee are the levels adopted by State law.

UTA believes that the groundwater results summarized in Table 4 indicate that land disposal of chemically stabilized waste from Site Lagoons 1–6 will not have an adverse impact on groundwater quality, because UTA believes that the data in Table 4 demonstrate that the untreated lagoon waste has not adversely affected groundwater quality.

In addition to the data in Table 4, the groundwater monitoring information submitted by UTA also included: (1) Well location information; and (2) water level contour maps.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has maintained a spot-check sampling and analysis program to verify the representative nature of data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting an exclusion.

The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts UTA's estimate of 11,500 cubic yards.

D. Agency Evaluation

The Agency considered the appropriateness of alternative waste management scenarios for UTA's chemically stabilized sludge and soil and decided, based on the information provided in the petition, that disposal in a Subtitle D landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated groundwater. The Agency, therefore, evaluated UTA's petitioned waste using the EPA's Composite Model for Landfills (EPACML), as modified for delisting evaluations, which predicts the potential for groundwater contamination from wastes that are landfilled. For metal constituents in 40 CFR 261.3(c)(2)(ii)(C)(1), EPA also evaluated UTA's petitioned waste by comparing generic delisting levels in § 261.3(c)(2)(ii)(C)(1) with EPACML levels. See 60 *FR* 31108–31115, June 13, 1995, a Final Rule in which EPA evaluated a petition and approved an exclusion based on comparing these generic delisting levels with EPACML levels, and selecting the generic delisting levels if they were lower than the levels generated from the EPACML model. The EPACML model is more sophisticated than the Vertical Horizontal Spread (VHS) model used previously by the Agency for evaluating delisting petitions. See 56 *FR* 32993, July 18, 1991; and 56 *FR* 67197, Dec. 30, 1991 for a detailed description of the EPACML model, the disposal assumptions, the modifications made for delisting, and the benefits of replacing the VHS model with the EPACML model for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in groundwater at a compliance point (i.e., a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from groundwater recharge for a specific volume of waste.

The Agency requests public comments on its use of the EPACML model and generic delisting levels in § 261.3(c)(2)(ii)(C)(1) as applied to the evaluation of UTA's waste. EPA will

consider all comments on the validity of the EPACML model and generic delisting levels in § 261.3(c)(2)(ii)(C)(1) and the appropriateness for their use here to evaluate the potential for groundwater contamination if UTA's petitioned waste is disposed of in any Subtitle D landfill.

For the evaluation of UTA's petitioned waste, the Agency used the EPACML model to evaluate the mobility of hazardous inorganic constituents detected in the extract of samples of UTA's petitioned waste. The Agency's evaluation, using UTA's estimated one-time waste volume of 11,500 cubic yards and the EPACML modified for delisting yielded a dilution/attenuation factor (DAF) of 100. See Table 5, which is a list of DAFs calculated by the EPACML model, modified for delisting, for landfills receiving different annual volumes of waste. The DAFs in Table 5 include a scaling factor of 20, because the average life of a subtitle D landfill is 20 years and the typical delisting petition is for continuously generated waste which is sent to a landfill at a certain annual rate. That annual rate, the volume of waste in cubic yards per year, can be converted to a landfill size for input into the EPACML model to generate a DAF, with the assumption that the annual rate supplied by the delisting petitioner is multiplied by 20 prior to the conversion. The Agency has completed these calculations for a range of annual waste volumes and they are summarized in Table 5. The Agency need not use the scaling factor of 20 for a petitioned one-time exclusion. Therefore, instead of a DAF of 34 obtained from Table 5 for 11,500 cubic yards, the Agency could eliminate the scaling factor of 20 by dividing 11,500 cubic yards by 20, thereby obtaining a waste volume of 575 and the maximum possible DAF of 100 in Table 5. See 55 *FR* 11826, March 29, 1990; 56 *FR* 32993, July 18, 1991; and 56 *FR* 67197, Dec. 30, 1991 for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. See also 60 *FR* 62801, Dec. 7, 1995, for a previous delisting proposal in which the Agency obtained a DAF of 48, instead of 14.8, from a table containing the same landfill DAFs and waste volumes as Table 5, for a one-time exclusion of a volume of waste equal to 110,000 cubic yards. (See docket for this rule for further details on the use of the EPACML model in evaluating UTA's waste.)

TABLE 5.—DILUTION/ATTENUATION FACTORS (DAFS) FOR LANDFILLS CALCULATED BY THE EPACML MODEL, MODIFIED FOR DELISTING

Waste volume in cubic yards per year [1]	DAF (95th percentile) [2]
1,000	[3] 100
1,250	96
1,500	90
1,750	84
2,000	79
2,500	74
3,000	68
4,000	57
5,000	54
6,000	48
7,000	45
8,000	43
9,000	40
10,000	36
12,500	33
15,000	29
20,000	27
25,000	24
30,000	23
40,000	20
50,000	19
60,000	17
80,000	17
90,000	16
100,000	15
150,000	14
200,000	13
250,000	12
300,000	12

[1] The waste volume includes a scaling factor of 20; see 56 *FR* 32993, July 18, 1991; and 56 *FR* 67197, Dec. 30, 1991, and text of today's proposed rule, for a discussion of the use of the scaling factor.

[2] The DAFs calculated by the EPACML are a probability distribution based on a range of values for each model input parameter; the input parameters include such variables as landfill size, climatic data, and hydrogeologic data. The 95th percentile DAF represents a value in which one can have 95% confidence that a contaminant's concentration will be reduced by a factor equal to the DAF, as the contaminant moves from the bottom of the landfill through the subsurface environment to a receptor well. For example, if the 95th percentile DAF is 10, and the leachate concentration of cadmium at the bottom of the landfill is 0.05 mg/l, one can be 95% confident that the receptor well concentration of cadmium will not exceed 0.005 mg/l. See 55 *FR* 11826, March 29, 1990; 56 *FR* 32993, July 18, 1991; and 56 *FR* 67197, December 30, 1991.

[3] DAF cutoff is 100, corresponding to the Toxicity Characteristic Rule (55 *FR* 11826, March 29, 1990).

The Agency calculated delisting levels for UTA's chemically stabilized F006, based on the EPACML Model, as shown in Table 6.

TABLE 6.—EPACML-BASED DELISTING LEVELS FOR CADMIUM AND CHROMIUM IN LANDFILL WASTE (TCLP, MG/L)

Constituent	Waste volume (cubic yards, one-time exclusion)		MCL (mg/l)	Allowable TCLP [1] leachate concentration (mg/l) for waste, with scaling factor of 20 and DAF of 34=34×MCL	Allowable TCLP [1] leachate concentration (mg/l) for waste, without scaling factor and DAF of 100=100×MCL
	Volume; DAF with scaling factor=20	Volume; DAF without scaling factor=20			
Cadmium	11,500; 34	575; 100	0.005	0.17	0.5
Chromium	11,500; 34	575; 100	0.10	3.4	10

[1] As of September 25, 1990 the Agency adopted the TCLP as a replacement for and improvement upon the Extraction Procedure (EP) leachate test in its hazardous waste regulatory program. Thus, the Agency now requires that petitioners provide TCLP data rather than EP data in support of their petitions. The Agency believes that the maximum leachable concentrations of samples analyzed using the TCLP will be more representative of the potential mobility of constituents from UTA's petitioned waste than if EP extracts of samples were analyzed.

These calculated delisting levels are the concentrations in the TCLP extracts of the waste that the EPACML model predicts will not result in contaminant levels above MCLs in groundwater at receptor wells. The confidence level of this prediction is 95%, which is also the level required for evaluating groundwater monitoring data subject to 40 CFR part 264. See 56 *FR* 32998, July 18, 1981. The Agency uses maximum contaminant levels, when they are available, as the health-based levels for groundwater. See the ''Docket Report on Health-based Levels and Solubilities Used in the Evaluation of Delisting Petitions, Submitted Under 40 CFR § 260.20 and § 260.22,'' December 1994, located in the RCRA public docket, for the Agency's methods of calculating health-based levels for evaluating delisting petitions from MCLs, and when MCLs are not available.

The Agency did not evaluate the mobility of constituents that were undetected in UTA's petitioned waste because the non-detectable values were obtained using the appropriate SW–846 analytical test methods and adequate detection limits (see Tables 2 and 3). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts for RCRA delistings if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the Agency believes it is reasonable to assume that the constituent is not present and therefore does not present a threat to either human health or the environment.

The Agency did not calculate EPACML-based delisting levels in the petitioned waste for arsenic, barium, VOCs, and SVOCs because levels of these constituents in the untreated waste were below the health-based levels used in delisting decision-making, and VOCs were undetected in the petitioned (treated) waste. See Tables 2, 3, and 7.

TABLE 7.—MAXIMUM CONCENTRATIONS IN UNTREATED SAMPLES FROM SITE LAGOONS

Constituent	Maximum concentration [1] in site lagoons (total analysis, mg/kg)	Maximum [2] concentration in TCLP leachate, (mg/l), calculated from total concentration	TCLP leachate concentration divided by DAF of 100 [3] (mg/l)	Health-based level [4] (mg/l)
Arsenic	4.7	0.8	0.008	0.05
Barium	370	60	0.6	2
Lead	26.2	4	0.04	0.015
Nickel	13.1	2	0.02	0.1
Bis(2-ethylhexyl)phthalate	1.40	0.2	0.002	0.006
Di-n-butylphthalate	0.63	0.1	0.001	4

[1] The concentration level for each constituent in Table 7 is the maximum concentration found for that constituent in Site lagoons.

[2] The maximum possible concentration in a TCLP leachate of untreated waste, assuming all the constituent is leachable, and assuming the dilution factor of 20 for the TCLP on 100% solids has been reduced to 6 by a moisture content of 70% in the untreated waste.

[3] The DAF of 100 was obtained from Table 5 for a one-time waste volume of 11,500 cubic yards of stabilized waste, by eliminating the scaling factor of 20. See 55 *FR* 11826, March 29, 1990; 56 *FR* 32993, July 18, 1991; and 56 *FR* 67197, Dec. 30, 1991 for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. See also 60 *FR* 62801, Dec. 7, 1995, for delisting proposal for a one-time exclusion and a DAF obtained by eliminating the scaling factor of 20.

[4] See the ''Docket Report on Health-based Levels and Solubilities Used in the Evaluation of Delisting Petitions, Submitted Under 40 CFR § 260.20 and § 260.22,'' December 1994, located in the RCRA public docket, for the Agency's methods of calculating health-based levels for evaluating delisting petitions from MCLs, and when MCLs are not available.

Lead is the only constituent which exceeds the health-based level, based on the assumptions made in the calculations for Table 7. Since this was found for the maximum lead level in untreated waste, the Agency believes that lead in the petitioned waste, which will be treated and cured, will not adversely affect either human health or the environment.

UTA submitted analytical results for tests of reactive cyanide and reactive sulfide in the untreated lagoon waste; the concentrations of reactive cyanide and reactive sulfide were well below the

Agency's interim standards of 250 mg/kg and 500 mg/kg, respectively. See ''Interim Agency Thresholds for Toxic Gas Generation,'' July 12, 1985, internal Agency Memorandum in the RCRA public docket, and SW–846 Chapter 7, Section 7.3.3.2. Therefore, reactive cyanide and sulfide levels in UTA's petitioned waste would not cause this waste to be considered a hazardous waste for Subtitle C purposes and are not of concern.

Although lead, nickel, and cyanide concentrations in untreated waste indicate they may not pose a significant threat, the Agency proposes to select as delisting levels for the petitioned waste the generic delisting levels for cadmium, chromium, lead, nickel, and cyanide in 40 CFR 261.3(c)(2)(ii)(C)(1). These levels are lower than the EPACML-based levels; both generic and EPACML-based levels are presented in Table 8.

TABLE 8.—GENERIC DELISTING LEVELS AND EPACML-BASED DELISTING LEVELS

Constituent	Generic delisting level from § 261.3 (TCLP, mg/l, except for cyanide)	EPACML-based delisting level DAF = 100 (TCLP, mg/l) (level = DAF × MCL = 100 × MCL)
Cadmium	0.050	0.50
Chromium	0.33	10
Lead	0.15	1.5
Nickel	1.0	10
Cyanide (total) (mg/kg) [1]	1.8	20

[1] The cyanide (total, not amenable) concentration must not exceed 1.8 mg/kg, by total analysis, not analysis of leachate. Cyanide concentrations must be measured by the method specified in 40 CFR 268.40, Note 7.

UTA reported that tests on the untreated lagoon waste demonstrated that it did not exhibit the characteristics of ignitability or corrosivity. Therefore, the petitioned waste would not be considered a hazardous waste for Subtitle C purposes because of these characteristics.

The Agency concluded after reviewing UTA's data on the Multiple Extraction Procedure (MEP, Tables 3 and 10) that the long-term leachability of the petitioned waste is unlikely to have an adverse impact on either human health or the environment. The data for treated, but not fully cured waste, in Table 3, indicate that a relatively small percent of the available cadmium and chromium would leach from this waste, after disposal in a subtitle D landfill, over a period of 1000 years. Furthermore, the data in Table 3 indicate that a period of more than 100 years would be required for the leachate to contain a concentration of cadmium greater than the EPACML-based delisting level for a DAF of 100, in Table 6. EPACML-based-delisting levels, with a DAF of 100 or 34, for chromium are not exceeded in any of the MEP extracts. The MEP pH data in Table 10 indicate that the pH of the treated, but not fully cured waste would remain alkaline for a period of more than 100 years.

Sample calculations which the Agency used to evaluate the MEP data are presented in Table 9.

TABLE 9.—LONG-TERM LEACHABILITY CALCULATIONS FROM MEP DATA FOR STABILIZED, BUT NOT FULLY CURED WASTE

Total chromium (Cr) in MEP extracts (mg) [1]		Total cadmium (Cd) in MEP extracts (mg)		Total Cr available (mg) [2]; % leached after final extract (1000-year estimate) [3]		Total Cd available (mg); % leached after final extract (1000-year estimate)		EPACML-based delisting level, DAF 100; § 261.3 generic delisting level (mg/1, in TCLP leachate)
Sample #32	Sample #36	Sample #32	Sample #36	Sample #32	Sample #36	Sample #32	Sample #36	
0.64	0.74	3.01	2.49	28.9; 2.2% ..	44.9; 1.6% ..	77.7; 3.9% ..	54.3; 4.6% ..	Cr: 10; 0.33. Cd: 0.5; 0.05.

Concentrations of Cd in 6th and 7th extracts of treated Sample #32 (0.80, 0.52) and 6th extract of Sample #36 (0.56) are greater than generic delisting level and EPACML-based DAF of 100 × MCL.

Concentrations of Cd in 8th extract of treated Sample #32 (0.11) and 7th extract of treated Sample #36 (0.46) are greater than generic delisting level, but less than EPACML-based DAF of 100 × MCL.

[1] Milligrams of Cr in all MEP extracts of treated Sample #32, assuming a 100-gram sample is sequentially extracted with 2 liters of extraction fluid/extract = 2 l (.04 + .04 + .04 + .03 + .02 + .03 + .06 + .03 + .03) = 2 (.32) = .64 mg. See Table 3; the SPLP result is used for the concentration in the first of 9 MEP extractions. The same assumptions were used to calculate the values for Cd in Sample #32 and Sample #36 and Cr in Sample #36.

[2] Total concentration Cr in untreated Sample #32 = 289 mg/kg = 28.9 mg/100 g. See Table 3, and with the assumption of a 100-gram sample.

[3] % leached after the last extract, estimated to simulate 1000 years of acid rain (See 47 *FR* 52687, November 22, 1982): (.64 x 100)/28.9 = 2.2%

Similar calculations were made for Cd in treated Sample #32 and for Cr and Cd in treated Sample #36:

Milligrams Cd MEP extracts of treated Sample #32 = 2 l (.005 + .005 + .005 + .005 + .005 + .80 + .52 + .11 + .05) = 2 x 1.505 = 3.01 mg; Total Cd in untreated Sample #32 = 777 mg/kg = 77.7 mg/100 g; % leached in 1000 years = (3.01 x 100)/77.7 = 3.9%.

Milligrams of Cr treated Sample #36 = 2 l x (.07 + .07 + .03 + .03 + .02 + .04 + .05 + .04 + .02) = 2 (.37) = .74 mg; Total Cr in Sample #36 = 449 mg/kg = 44.9 mg/100 g; % leached in 1000 years = (100 x .74)/44.9 = 1.6%.

Milligrams of Cd in treated Sample #36 = 2 l x (.005 + .01 + .005 + .005 + .03 + .56 + .46 + .14 + .03) = 2 x 1.245 = 2.49 mg; Total Cd in Sample #36 = 543 mg/kg = 54.3 mg/100 g; % leached in 1000 years = (100 x 2.49)/54.3 = 4.6%.

TABLE 10.—pH DATA FROM MEP EXTRACTIONS

Sample No.	pH of each MEP extract at beginning and end of extraction (top value is beginning; bottom value is end)								
	Ext. #1	Ext. #2	Ext. #3	Ext. #4	Ext. #5	Ext. #6	Ext. #7	Ext. #8	Ext. #9
32	12.0	11.6	11.3	10.7	10.0	7.90	6.40	4.50	3.00

TABLE 10.—pH DATA FROM MEP EXTRACTIONS—Continued

Sample No.	pH of each MEP extract at beginning and end of extraction (top value is beginning; bottom value is end)								
	Ext. #1	Ext. #2	Ext. #3	Ext. #4	Ext. #5	Ext. #6	Ext. #7	Ext. #8	Ext. #9
36	11.6 11.8 11.6	11.3 11.6 11.4	10.7 11.4 10.8	10.0 10.8 10.6	7.90 10.6 7.2	6.40 7.2 6.4	4.50 6.4 4.0	3.00 4.0 3.4	3.00 3.4 3.0

The Agency concluded after reviewing UTA's waste management and waste history information that no other hazardous constituents, other than those tested for, are likely to be present in UTA's petitioned waste. In addition, on the basis of test results and information provided by UTA, pursuant to § 260.22, the Agency concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See §§ 261.21, 261.22, and 261.23, respectively.

During its evaluation of UTA's petition, the Agency also considered the potential impact of the petitioned waste via nongroundwater routes. With regard to airborne dispersal of waste, the Agency evaluated the potential hazards resulting from airborne exposure to waste contaminants from the petitioned waste using an air dispersion model for releases from a landfill. The results of this evaluation indicated that there is no substantial present or potential hazard to human health from airborne exposure to constituents from UTA's petitioned waste. (A description of the Agency's assessment of the potential impact of airborne dispersal of UTA's waste is presented in the RCRA public docket for today's proposed rule.)

The Agency also considered the potential impact of the petitioned waste via a surface water route. The Agency believes that containment structures at municipal solid waste landfills can effectively control surface water runoff, as the recently promulgated Subtitle D regulations (see 56 *FR* 50978, October 9, 1991) prohibit pollutant discharges into surface waters.

Furthermore, if the waste were to remain on-site, the disposal landfill containing the petitioned waste would be closed in accordance with a closure/post-closure plan approved by the State of Tennessee. Therefore, any significant future releases of contaminants from the petitioned waste at its current location via a surface water route are highly unlikely.

While some contamination of surface water is possible through runoff from a waste disposal area (i.e., storm water), the Agency believes that the dissolved concentrations of any hazardous constituents in the runoff will tend to be lower than the extraction procedure test results reported in today's notice because of the aggressive acidic medium used for extraction in the TCLP.

The Agency also believes that, in general, leachate derived from the waste will not directly enter a surface water body without first traveling through the saturated subsurface where dilution of hazardous constituents may occur.

In addition, any transported contaminants would be further diluted in the receiving water body. Significant releases to surface water due to erosion of undissolved particulates in runoff are also unlikely, due to the controls noted above. Nevertheless, the Agency evaluated the potential hazards resulting from possible releases from Site Lagoon 6, which may become an onsite landfill. The results of these evaluations indicate that UTA's waste would not present a threat to human health or the environment. (See the docket to today's rule for a description of this analysis).

E. Conclusion

The Agency believes that UTA has demonstrated that the petitioned waste is not hazardous for Subtitle C purposes. The Agency believes that the sampling procedures used by UTA were adequate, and that the samples collected from the lagoons are representative of the waste contained in the lagoons, and that the treatability study samples are representative of the petitioned waste, to be generated later.

The Agency, therefore, is proposing that UTA's petitioned waste be delisted as non-hazardous and thus not subject to regulation under RCRA Subtitle C. The Agency proposes to grant a conditional, upfront, one-time exclusion to United Technology Automotive's Detroit, Michigan, facility for the chemically stabilized sludge and soil described in its petition as EPA Hazardous Waste No. F006 and to be generated while conducting a CERCLA removal of untreated sludge and soil from Lagoons 1–6 at the Highway 61 Industrial Site in Memphis, Tennessee (''the Site'').

The Agency's decision to exclude this waste is based on descriptions of waste management and waste history, results from the analysis of samples of a treatability study on the chemical stabilization process which will generate the petitioned waste, results from the analysis of samples of the untreated waste from which the petitioned waste will be generated, and groundwater monitoring data available for untreated waste contained in Site lagoons. The Agency's decision is also contingent upon verification testing conditions. If the proposed rule becomes effective, the exclusion will be valid only if the petitioner demonstrates that the petitioned waste meets the verification testing conditions and delisting levels in the amended Table 1 of Appendix IX of 40 CFR Part 261. If the Agency approves that demonstration, the petitioned waste would not be subject to regulation under 40 CFR Parts 262 through 268 and the permitting standards of 40 CFR Part 270. Although management of the waste covered by this petition would, upon final promulgation, be relieved from Subtitle C jurisdiction, the waste would remain a solid waste under RCRA. As such, the waste must be handled in accordance with all applicable Federal and State solid waste management regulations.

III. Limited Effect of Federal Exclusion

This proposed rule, if promulgated, would be issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally issued exclusion from taking effect in the States. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal and State programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws. Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this proposed

exclusion, if promulgated, would not apply in those authorized States. If the petitioned waste will be transported to any State with delisting authorization, UTA must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

IV. Effective Date

This rule, if made final, will become effective immediately upon final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, pursuant to 5 USC 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The effect of this proposed rule would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as nonhazardous. Therefore, this proposed rule would not be a significant regulatory action under the Executive Order, and no assessment of costs and benefits is necessary. The Office of Management and Budget (OMB) has also exempted this proposed rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule, if promulgated, will not have an adverse economic impact on any small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub.L. 96–511, 44 U.S.C 3501 et seq.) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 261

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

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

Dated: March 20, 1996

James S. Kutzman,

Acting Director, Waste Management Division.

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

PART 261–IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. In Table 1 of Appendix IX, part 261 add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* *	*	* * * *
United Technologies Automotive	Detroit, Michigan	Chemically stabilized wastewater treatment sludge and soil (CSWWTSS) (EPA Hazardous Waste No. F006) that United Technologies Automotive (UTA) will generate during CERCLA removal of untreated sludge and soil (EPA Hazardous Waste No. F006) from six lagoons at the Highway 61 Industrial Site in Memphis, Tennessee. This is an upfront, one-time exclusion for approximately 11,500 cubic yards of waste that will be disposed of in a Subtitle D landfill or an on-site landfill approved by the State of Tennessee after [insert date of final rule.] UTA must demonstrate that the following conditions are met for the exclusion to be valid: (1) *Verification Testing Requirements:* Sample collection and analyses, including quality control procedures must be performed according to SW–846 methodologies. (A) *Initial Verification Testing:* UTA must collect and analyze a representative sample of every batch, for eight sequential batches of CSWWTSS generated during full-scale operation. A batch is the CSWWTSS generated during one run of the stabilization process. UTA must analyze for the constituents listed in Condition (3). A minimum of four composite samples must be collected as representative of each batch. UTA must report operational and analytical test data, including quality control information, no later than 60 days after the generation of the first batch of CSWWTSS. (B) *Subsequent Verification Testing:* If the initial verification testing in Condition (1)(A) is successful, i.e., delisting levels of condition (3) are met for all of the eight initial batches, UTA must test a minimum of 5% of the remaining batches of CSWWTSS. UTA must collect and analyze at least one composite sample representative of that 5%. The composite must be made up of representative samples collected from each batch included in the 5%. UTA may, at its discretion, analyze composite samples gathered more frequently to demonstrate that smaller batches of waste are non-hazardous. (2) *Waste Holding and Handling:* UTA must store as hazardous all CSWWTSS generated until verification testing as specified in Condition (1)(A) and (1)(B), as appropriate, is completed and valid analyses demonstrate that Condition (3) is satisfied. If the levels of constituents measured in the samples of CSWWTSS do not exceed the levels set forth in Condition (3), then the CSWWTSS is non-hazardous and may be managed in accordance with all applicable solid waste regulations. If constituent levels in a sample exceed any of the delisting levels set forth in Condition (3), the batch of CSWWTSS generated during the time period corresponding to this sample must be retreated until it meets the delisting levels set forth in Condition (3), or managed and disposed of in accordance with Subtitle C of RCRA. (3) *Delisting Levels:* All leachable concentrations for these metals must not exceed the following levels (ppm): Cadmium—0.05; chromium—0.33; lead—0.15; and nickel—1.0. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR 261.24. The cyanide (total, not amenable) concentration must not exceed 1.8 mg/kg, by total analysis, not analysis of leachate. Cyanide concentrations must be measured by the method specified in 40 CFR 268.40, Note 7. (4) *Changes in Operating Conditions:* UTA must notify the Agency in writing when significant changes in the stabilization process are necessary (e.g., use of new stabilization reagents). Condition (1)(A) must be repeated for significant changes in operating conditions. (5) *Data Submittals:* UTA must notify EPA when the full-scale chemical stabilization process is scheduled to start operating. Data obtained in accordance with Conditions (1)(A) must be submitted to Jeaneanne M. Gettle, Acting Chief, RCRA Compliance Section, Mail Code: 4WD-RCRA, U.S. EPA, Region 4, 345 Courtland Street, N.E., Atlanta, Georgia. 30365. This notification is due no later than 60 days after the first batch of CSWWTSS is generated. Records of operating conditions and analytical data from Condition (1) must be compiled, summarized, and maintained by UTA for a minimum of five years, and must be furnished upon request by EPA or the State of Tennessee, and made available for inspection. Failure to submit the required data within the specified time period or maintain the required records for the specified time will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained or accompanying this document is true, accurate and complete.

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

Facility	Address	Waste description
		As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's void exclusion.
* * * * * * *		

[FR Doc. 96–8140 Filed 4–2–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC26

National Flood Insurance Program; Assistance to Private Sector Property Insurers

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Proposed Rule.

SUMMARY: This proposed rule would amend the National Flood Insurance Program (NFIP) regulations establishing the Financial Assistance/Subsidy Arrangement that may be entered into by and between the Administrator and private sector insurers under the Write Your Own (WYO) program. The proposed amendments would: (1) Simplify the Arrangement by streamlining the format; (2) reflect recent policy changes regarding loss adjustment and financial operation of the private insurers in the WYO program; and (3) delete references to obsolete operating manuals and handbooks. The proposed amendments would also improve the flexibility of the Arrangement and would provide information to permit WYO participants to discharge their responsibilities for underwriting, claims adjustment, and financial control procedures established by the Federal Insurance Administration (FIA).

DATES: All comments received on or before May 20, 1996 will be considered before final action is taken on the proposed rule.

ADDRESSES: Please submit any written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536.

FOR FURTHER INFORMATION CONTACT: Edward T. Pasterick, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3443.

SUPPLEMENTARY INFORMATION: The WYO program has operated for thirteen years. The program's operating documents reflect program experience as well as the FIA's ongoing dialogue with private insurers that have participated in the WYO program, insurance company executives, FEMA's Office of Financial Management, and FEMA's Office of Inspector General. Under the WYO Program, insurers signatory to the Financial Assistance/Subsidy Arrangement may issue in their own names the Standard Flood Insurance Policy, the form and substance of which is approved by the Administrator. Insurers are responsible for all aspects of service, including policy issuance to new policyholders and to their policyholders insured under other lines of property insurance; endorsement and renewals of policies; and the adjustment of claims brought under the policies. The insurers pay losses and loss adjustment expenses, as well as the commissions of agents, out of written premiums. In return for discharging these responsibilities under the Arrangement, insurers retain a set portion of the written premium. The amount of retained written premium by an insurer is based in part on the insurer's performance in achieving marketing goals during the Arrangement year.

The proposed changes to the regulations are intended therefore to simplify the terms and conditions of the WYO Arrangement itself in order to make it easier for private insurers to participate in the WYO program and thereby serve an underlying Congressional intent to carry out the NFIP ''to the maximum extent practicable by the private insurance industry,'' as called for in the Declaration of Purpose for the National Flood Insurance Act of 1968, Pub. L. 90–448, 42 U.S.C. 4001.

The proposed changes would offer a more flexible framework than now for private insurers participating in the WYO program to operate while maintaining the operational and financial controls and standards necessary to preserve program integrity and accountability—both for the Government and for the participating private insurers. For example, the adjuster's fee schedule needs to be revised to reflect program changes prompted by the National Flood Insurance Reform Act (NFIRA) of 1994. Those revisions could be made, more appropriately, in a parallel effort and published in operating manuals rather than encumbering the Arrangement. Operating processes relating to the single adjuster program may be better handled differently from the Arrangement. Also, references to many documents should be deleted so that the Arrangement is not encumbered with details about publications that may be scheduled for revision during the course of the Arrangement year. Consistent with the proposed changes to the WYO Financial Control Plan, Appendix B to 44 CFR Part 62 published in the Federal Register on February 1, 1996, 61 FR 3635–3644, this proposed rule would discontinue the self-audit requirement for private insurers participating in the WYO program.

In sum, the proposed changes to the regulations would produce a WYO Arrangement that would clearly specify the responsibilities and duties of the Government and the private insurers participating in the WYO program without burdening the Arrangement with unnecessary detail or references that may become obsolete before the Arrangement year expires.

National Environmental Policy Act. This proposed rule would be