published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: July 8, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is 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.

2. Section 180.1169 is added to subpart C to read as follows:

§ 180.1169 Dihydroazadirachtin; exemption from the requirement of a tolerance.

The biochemical pesticide dihydroazadirachtin is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant at 20 gm or less per acre with the maximum number of seven applications per growing season on all raw agricultural commodities.

[FR Doc. 96–18159 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 261

[FRL–5536–5]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a petition submitted by United Technologies Automotive, Inc. (UTA), Dearborn, 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. In accordance with the conditions specified in this final rule, the petitioned waste is excluded from the requirements of hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

The Agency also proposed to use two methods to evaluate the potential impact of the petitioned waste on human health and the environment: A fate and transport model (the EPA Composite Model for Landfills, ''EPACML'' model), based on the waste-specific information provided by the petitioner; and 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 proposed 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 compared 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*), and proposed to use the lower of these two concentrations as the delisting level for each hazardous constituent in the waste. In response to comments received on the proposed rule, the delisting levels in this final rule are based on the EPACML model, rather than the generic levels in § 261.3(c)(2)(ii)(C)(*1*).

EFFECTIVE DATE: July 18, 1996.

ADDRESSES: The RCRA regulatory docket for this final 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 reference number for this docket is R4–96–UTEF. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at a cost of $0.15 per page for additional copies. For copying at the Tennessee Department of Environment and Conservation, please see below.

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 (TDEC), 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535, (615) 532–0850. If you wish to copy documents at TDEC, please contact Mr. Ingram for copying procedures and costs.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow the Agency to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste.

In addition, the Administrator must determine, where he has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

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. History of This Rulemaking

United Technologies Automotive, Inc. (UTA), Dearborn, Michigan, petitioned the Agency 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. After evaluating the petition, EPA proposed, on April 3, 1996, to exclude UTA's waste from the lists of hazardous waste under §§ 261.31 and 261.32 (see 61 FR 14696–14709, April 3, 1996).

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

II. Disposition of Delisting Petition United Technologies Automotive, Inc., Dearborn, Michigan

A. Proposed Exclusion

United Technologies Automotive, Inc. (UTA), located in Dearborn, Michigan, petitioned the Agency to exclude, conditionally, on a one-time, upfront basis, the 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''). 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. 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 proposed 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. See 57 FR 7628, Mar. 3, 1992. 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 its waste, generated by treatment of sludges from Site Lagoons 1 through 6. 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).

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 the proposed rule and in today's final 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.

After reviewing the petition, the Agency proposed to grant the exclusion to UTA, on April 3, 1996. See 61 *FR* 14696–14709, April 3, 1996, for details.

Today's final rule granting this petition for delisting is the result of the Agency's evaluation of UTA's petition and response to public comments.

B. Response to Public Comments

Comments: The Agency received public comments from two interested parties (UTA (1) and Horsehead Resource Development Company, Inc. (HRD) (2)) on the April 3, 1996 proposal. The docket reference numbers for these comments are R4–UTEP–18 and R4–UTEP–19, respectively, and the comments are available for viewing at

the EPA Library, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. The comments are also included in the docket for this final rule, reference number R4–96–UTEF, available at the EPA, Region 4, Library.

Commenter (1), UTA: Specific comments included the following, where page numbers in parentheses are page numbers of the proposed rule (61 *FR* 14696–14709, April 3, 1996):

(a) UTA is located in Dearborn, Michigan (page 14696);

(b) Samples #36 and #6–36 were stabilized with 10% lime kiln dust and 5% portland cement (page 14701);

(c) A revised estimate of the treated waste volume is 20,500 cubic yards, which the commenter states should not affect the dilution attenuation factor (DAF) of 100, in the proposed rule (pages 14699, 14702, 14703, and 14708); and

(d) If the delisting petition is approved, UTA proposes to dispose of the delisted waste at Browning-Ferris Industries' (BFI's) Subtitle D facility in South Shelby County, Tennessee (page 14701).

The commenter stated the following objections to the Agency's delisting levels and the method for determining them:

(e) The generic levels in 40 CFR 261.3(c)(2)(ii)(C)(*1*) were deemed inappropriate by UTA, because they are technology-based; UTA considers the risk-based levels obtained by the EPACML model to be more appropriate (pages 14696, 14705, 14708); and

(f) UTA disagrees with the appropriateness of EPA's statement that it is generally unable to predict or control how a delisted waste is managed, in that UTA's waste is subject to a CERCLA Administrative Order; UTA also believes that the Agency should consider the site-specific conditions of BFI's Subtitle D landfill in Shelby County, Tennessee (page 14698).

The majority of the remaining comments dealt with a comparison between the proposed delisting levels and levels proposed in the Hazardous Waste Identification Rule (HWIR) (see 60 *FR* 66334, December 21, 1995). UTA believes that the HWIR levels are more appropriate for its petitioned waste than the proposed delisting levels.

Response to Commenter (1), UTA: The changes recommended in specific comments (a), (b), (c), and (d) have been made, and added to the final rule and the docket for the final rule. In the April 3, 1996 proposal, the Agency determined that disposal in any Subtitle D landfill is the most reasonable, worst-case disposal scenario for UTA's petitioned waste, that the major exposure route of concern for any hazardous constituents would be ingestion of contaminated groundwater, and that the EPACML fate and transport model, modified for delisting, yielded a DAF of 100 for a one-time disposal of 11,500 cubic yards. EPA agrees with UTA that the revised estimated volume of 20,500 cubic yards yields a DAF closer to 100 than to 96. However, in order to account for possible variations associated with volume estimates, the Agency has selected a slightly lower, thus more stringent, DAF of 96 for UTA's revised estimated volume of 20,500 cubic yards, which corresponds to a one-time waste volume of 25,000 cubic yards. In keeping with past delisting decisions for chemically stabilized waste where the constituents of concern are immobilized (see, for example, 61 *FR* 18088–18091, April 24, 1996 and 60 FR 31107–31115, June 13, 1995), the Agency used concentrations in waste leachate as delisting levels for this final rule, rather than total concentrations, such as proposed in the HWIR.

With regard to the objection raised in subparagraph (f) above, EPA's position continues to be that site-specific conditions at landfills are not appropriate for consideration in delisting petitions. Commenter (1), UTA, did not submit site-specific conditions. EPA notes that both the CERCLA Administrative Order and Section II.E. of the proposed rule (61 FR 14706, April 3, 1996) state that UTA's petitioned waste is subject to all applicable Federal and State solid waste management regulations.

After careful consideration, EPA agrees that the objection raised by UTA in subparagraph (e) above is reasonable, in that the generic levels of § 261.3(c)(2)(ii)(C)(*1*), in 60 FR 31107–31115, June 13, 1995, were selected for the delisting of a large-volume, continually generated, multi-site waste, rather than for a one-time delisting of a relatively small volume of waste. For this reason, and because the petitioned waste is subject to a CERCLA Administrative Order, the Agency is finalizing the exclusion language in 40 CFR part 261, Appendix IX, Table 1 to delist 20,500 cubic yards of the petitioned waste, UTA's revised estimated volume as stated in its comments, with the delisting levels revised as shown in Table 1 below. The levels were calculated by multiplying the appropriate health-based level for each constituent, which is the maximum contaminant level (MCL), as established by the Safe Drinking Water Act, by an EPACML DAF of 96.

TABLE 1.—REVISED DELISTING LEVELS FOR TREATED WASTE GENERATED BY UTA AT HIGHWAY 61 INDUSTRIAL SITE, MEMPHIS, TENNESSEE

Constituent	Maximum contaminant level (MCL) (mg/l)	Delisting level final rule [= (DAF of 96) x MCL] (mg/l in TCLP [1] Leachate)	Delisting level proposed rule (mg/l in TCLP [1] leachate [2])
Cadmium	0.005	0.48	0.05.
Chromium	0.1	9.6	0.33.
Lead	[3] 0.015	1.4	0.15.
Nickel	[4] 0.1	9.6	1.0.
Cyanide	0.2	19.2	1.8 mg/kg [2].

[1] TCLP stands for the Toxicity Characteristic Leaching Procedure, 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).

[2] The cyanide delisting level in the proposed rule is in units of mg/kg, by total analysis of unextracted waste.

[3] This value is an action level, as defined in 40 CFR 141.2, rather than a MCL.

[4] This value is from *Draft Docket Report on Health-Based Levels and Solubilities used in the Evaluation of Delisting Petitions, Submitted Under 40 CFR § 260.20 and § 260.22*, dated July 1994, rather than a MCL. This document is in the docket for the proposed rule, and is one of the documents with reference number R4–96–UTEP–8.

Commenter (2), HRD: The commenter did not object to the proposed decision to delist UTA's waste, since the constituent levels in the waste were low enough that HRD did not feel that any statutory mandates were violated.

The commenter summarized two principal statutory requirements that HRD feels must be accounted for in order for any delisting decision to be valid:

(a) The Pollution Prevention Act of 1990 established a hierarchy of waste management methods, in order of decreasing preference, as (1) Source reduction, (2) recycling, (3) treatment, and (4) land disposal; the commenter emphasized that recycling, such as high temperature metal recovery, is favored over waste treatment methods, such as stabilization; the commenter also stated that the low levels of metals in the petitioned waste were not amenable to recycling; and

(b) The Land Disposal Restrictions (LDR) of the Resource Conservation and Recovery Act (RCRA) include stringent treatment standards which must be met prior to land disposal of hazardous wastes; the commenter felt that LDR treatment standards should be one of the ''factors (including additional constituents) other than those for which the waste was listed'' that could cause the waste to be a hazardous waste or to be retained as a hazardous waste (see 40 CFR 260.22(d)(2)); again the commenter did not feel that the constituent levels in the petitioned waste were high enough to exceed LDR treatment standards.

Response to Commenter (2), HRD: EPA agrees with the commenter that the statutory information summarized above presents very important considerations. The Agency also agrees that the decision to delist the waste which is the subject of this final rule is not in conflict with either of these statutes.

It is also EPA's position that if Agency evaluation of a delisting petition reveals that the petitioned waste meets all the appropriate criteria in *Petitions to Delist Hazardous Wastes—A Guidance Manual, Second Edition*, EPA Publication No. EPA/530–R–93–007, March 1993 (see docket to the proposed rule, reference number R4–96–UTEP–8), the conditions specified in 40 CFR 260.22(d)(2) have been met, and the waste need not be subject to RCRA Subtitle C. That is to say, the delisting levels established by the Agency are protective of human health and the environment, and a waste that meets these levels does not have factors that ''could cause the waste to be a hazardous waste.'' LDR treatment standards are based on what is achievable by the best demonstrated available technology (BDAT). Because the standards are not risk-based, the concentration levels which are LDR treatment standards are often below those that would be necessary to protect human health and the environment.

The Agency responded, in an earlier rulemaking, to an earlier, similar comment by HRD concerning the effect that delisting stabilized wastes might have on the recycling of wastes to recover metals (see 60 FR 31109, June 13, 1995). EPA's position continues to be that no policies are undermined nor regulations violated by the delisting of a waste which meets all applicable criteria for delisting. Specifically, the existence of an alternate treatment and/or recycling technology is not a factor that ''could cause the waste to be a hazardous waste.''

Final Agency Decision

For the reasons stated in both the proposal and this final rule, the Agency believes that UTA's petitioned waste should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to United Technologies Automotive, Inc., Dearborn, Michigan, to exclude (or ''delist''), conditionally, on a one-time, upfront basis, its petitioned waste, which consists of the treated waste generated by UTA's chemical stabilization treatment of lagoon sludge at the Highway 61 Industrial Site in Memphis, Tennessee, and described in the petition as F006. This one-time exclusion applies to 20,500 cubic yards of waste covered by UTA's delisting petition, and is conditioned upon verification testing which demonstrates that the waste meets the delisting levels summarized in Table 1 above, and specified in 40 CFR Part 261, Appendix IX, Table I, as amended in this final rule.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction by this final exclusion, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation (see 40 CFR part 260, Appendix I). The petitioned waste in this final rule is also subject to a CERCLA Administrative Order, and UTA has stated its intention (reference number R4–UTEP–18) to dispose of the delisted waste in BFI's Subtitle D Landfill in Shelby County, Tennessee.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is 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 (RCRA) and State (non-RCRA) 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 exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in 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 is effective on July 18, 1996. 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 reduces 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 U.S.C. 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 rule is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. The reduction is achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. This rule does not represent 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 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 will not have an adverse economic impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and will be limited to one facility. Accordingly, I hereby certify that this regulation 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 final 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''), Pub. L. 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 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, today's delisting decision 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

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: June 25, 1996.

James S. Kutzman,

Associate Director, Office of RCRA & Fed. Facilities.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

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

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
United Technologies Automotive, Inc.	Dearborn, 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 20,500 cubic yards of waste that will be disposed of in a Subtitle D landfill after [insert date of final rule.] UTA must demonstrate that the following conditions are met for the exclusion to be valid:

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

Facility	Address	Waste description
		(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 constituents must not exceed the following levels (ppm): Cadmium—0.48; chromium—9.6; cyanide—19.2; lead—1.4; and nickel—9.6. Metal concentrations in the waste leachate must be measured by the method specified in 40 CFR 261.24. Total cyanide concentration in the leachate must be measured by Method 9010 or Method 9012 of SW–846. (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. 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.
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[FR Doc. 96–18044 Filed 7–17–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960129019–6019–01; I.D. 071296A]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the total allowable catch of Atka mackerel in this area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), July 13, 1996, until 2400 hrs, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at Subpart H of 50 CFR part 600 and 50 CFR part 679.

The total allowable catch of Atka mackerel for the Central Aleutian District was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) for the BSAI and subsequent reserve apportionment (61 FR 16085, April 11, 1996) as 33,600 metric tons (mt). See § 679.20(c)(3)(iii). As of June 8, 1996, 1,800 mt remain. The directed fishery for Atka mackerel in the Central Aleutian District was closed on April 14, 1996, (61 FR 16883, April 18, 1996; see also § 679.20(d)(iii)) and reopened on July 1, 1996 (61 FR 33046, June 26, 1996).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 679.20(d)(1), that the Atka mackerel total allowable catch in the Central Aleutian District subarea soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 33,000 mt after determining that 600 mt will be taken as incidental catch in directed fishing for other species in the Central Aleutian District. Consequently NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e).

Classification

This action is taken under § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 12, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–18150 Filed 7–12–96; 4:28 pm]
BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 071296C]

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish Species Group in the Eastern Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of the shortraker/rougheye rockfish species group in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the shortraker/rougheye rockfish species group total allowable catch (TAC) in the Eastern Regulatory Area of the GOA has been reached.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), July 14, 1996, until 2400 hrs, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at Subpart H 50 CFR part 600 and 50 CFR part 679.

The TAC for the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4304, February 5, 1996), as 530 metric tons. (See § 679.20(c)(3)(ii).)

The Director, Alaska Region, NMFS, has determined, in accordance with § 679.20(d)(2), that the TAC for the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of the shortraker/rougheye rockfish species group in the Eastern Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action is taken under 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 12, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–18188 Filed 7–15–96; 2:33 pm]
BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 071296B]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the West Yakutat District

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the West Yakutat District of the Gulf of Alaska (GOA). NMFS is requiring that catches of sablefish by vessels using trawl gear in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of the sablefish total allowable catch (TAC) assigned to trawl