(iii) The quantity of each controlled substance, in kilograms, that was destroyed or recycled during the control period; and

(iv) The quantity of each controlled substance, in kilograms, held in inventory as of the last day of the control period, that was acquired with essential use allowances in all control periods (*i.e.* quantity on hand at the end of the year); and

(v) The quantity of each controlled substance, in kilograms, in a stockpile that is owned by the company or is being held on behalf of the company under contract, and was produced or imported through the use of production allowances and consumption allowances prior to the phaseout (*i.e.* class I ODSs produced before their phaseout dates); and

(vi) For essential use allowances for metered-dose inhalers only, the allowance holder must report the total number of marketable units of each specific metered-dose inhaler product manufactured in the control period.

* * * * *

[FR Doc. 02–32386 Filed 12–30–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7432–8]

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) is granting a petition submitted by Tokusen USA, Inc. (Tokusen) to exclude from hazardous waste control (or delist) a certain solid waste. This final rule responds to the petition submitted by Tokusen to delist F006 dewatered sludge generated from the on-site Wastewater Treatment Plant (WWTP) from its electroplating operations.

After careful analysis and use of the Delisting Risk Assessment Software, the EPA has concluded the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to 670 cubic yards annually of dewatered WWTP sludge resulting from its electroplating operations. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills.

EFFECTIVE DATE: December 31, 2002.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th floor from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–02–ARDEL–TOKUSEN.'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact Catherine E. Carter, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202 at (214) 665–6792. For technical information concerning this notice, contact Larry K. Landry, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665–8134.

SUPPLEMENTARY INFORMATION:

The information in this section is organized as follows:

I. Overview Information

A. What Action Is EPA Finalizing?

After evaluating the petition, EPA proposed, on July 12, 2002 to exclude the Tokusen waste from the lists of hazardous waste under §§ 261.31 and 261.32 (*see* 65 *FR* 75897). The EPA is finalizing:

(1) The decision to grant Tokusen's petition to have its wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste, subject to certain continued verification and monitoring conditions; and

(2) the decision to use the Delisting Risk Assessment Software to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency used this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

B. Why Is EPA Approving This Delisting?

Tokusen's petition requests a delisting for an F006 listed hazardous waste. Tokusen does not believe the petitioned waste meets the criteria for which EPA listed it as a hazardous waste. Tokusen also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). *See* section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the final delisting determination, EPA also evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (a)(3). Based on this review, the EPA agrees with the petitioner that the waste is nonhazardous with respect to the original listing criteria. If the EPA 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. The EPA 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. The EPA considered whether the waste is: (1) Acutely toxic; (2) the concentration of the constituents in the waste; (3) their tendency to migrate and to bioaccumulate; (4) their persistence in the environment once released from the waste; (5) plausible and specific types of management of the petitioned waste; (6) the quantities of waste generated; and (7) waste variability. The EPA believes the petitioned waste does not meet these criteria or the listing criteria. EPA's final decision to delist waste from Tokusen's facility is based on the information submitted by

Tokusen in its petition, including descriptions of the dewatered WWTP sludge and analytical data from the Conway, Arkansas facility.

C. What Are the Limits of This Exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of 40 CFR part 261 and the conditions contained herein are satisfied.

D. How Will Tokusen Manage the Waste if It Is Delisted?

Tokusen currently sends the petitioned waste (dewatered WWTP sludge) to Envirite Corporation, a hazardous landfill in Harvey, Illinois. If the delisting exclusion is finalized, Tokusen will dispose of the sludge in a permitted solid waste landfill. At this time, Tokusen is planning to dispose of the delisted sludge at Waste Management Industrial Landfill in Little Rock, Arkansas.

E. When Is the Final Delisting Exclusion Effective?

This rule is effective December 31, 2002. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA, 42 USCA 6930(b)(1), allow rules to become effective in less than six months after the rule is published when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous waste. This reduction in existing requirements also provides a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 USCA 553(d).

F. How Does This Final Rule Affect States?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received EPA authorization to make their own delisting decisions.

We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA, 42 USCA 6929. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the State regulatory authority to establish the status of their waste under the State law. Delisting petitions approved by the EPA Administrator under 40 CFR 260.22 are effective in the State of Arkansas only after the final rule has been published in the **Federal Register** and the rule has been adopted and approved by the Arkansas Pollution Control and Ecology Commission in Regulation No. 23.

EPA has also authorized some States (for example, Louisiana, Georgia, Illinois) to administer a RCRA delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Tokusen transports the petitioned waste to or manages the waste in any State with delisting authorization, Tokusen must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude, or delist, from the RCRA list of hazardous waste, waste the generator believes should not be considered hazardous under RCRA.

B. What Regulations Allow Facilities to Delist a Waste?

Under 40 CFR §§ 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste regulation 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. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste from a particular generating facility from the hazardous waste lists.

C. What Information Must the Generator Supply?

Petitioners must provide sufficient information to the EPA to allow the EPA 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/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.

III. EPA's Evaluation of the Waste Information and Data

A. What Waste Did Tokusen Petition EPA To Delist?

On October 24, 2001, Tokusen petitioned the EPA to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, a waste by-product (stabilized sludge from the wastewater treatment plant in Conway, Arkansas) which falls under the classification of listed waste because of the ''derived-from'' rule in RCRA, 40 CFR 261.3. Specifically, in its petition, Tokusen, located in Conway, Arkansas, requested that EPA grant an exclusion for 670 cubic yards annually of dewatered WWTP sludge generated from electroplating operations. The resulting waste is listed, in accordance with § 261.3(c)(2)(i) (*i.e.*, the ''derived-from'' rule). The waste code of the constituents of concern is EPA Hazardous Waste No. F006. The constituents of concern for F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

B. How Much Waste Did Tokusen Propose To Delist?

Specifically, in its petition, Tokusen requested that EPA grant a conditional exclusion for 670 cubic yards annually of dewatered WWTP sludge.

C. How Did Tokusen Sample and Analyze the Waste Data in This Petition?

To support its petition, Tokusen submitted:

(1) Historical information on past waste generation and management practices;

(2) Results of the total constituent list for 40 CFR part 264, appendix IX volatiles, semivolatiles, metals, pesticides, herbicides, and PCBs;

(3) Results of the constituent list for appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals;

(4) Analytical constituents of concern for F006;

(5) Results from total oil and grease analyses;

(6) Multiple pH testing for the petitioned waste.

IV. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

The EPA received public comments on August 6, 2002, from a business student with Florida International University.

The student raised concerns that EPA had reached a quick decision to remove the waste from the hazardous list based on data submitted by the company. Also, the student felt more concrete evidence was needed to delist the waste. She stated that no evidence was given as to any test that proves or disproves hazardous content.

Response: F006 is a listed hazardous waste but the regulations in § 260.22 give individual facilities like Tokusen the ability to petition for ''delisting.'' The procedures outlined in §§ 260.20 and 260.22 provide EPA with the framework to consider these decisions. EPA believes that Tokusen has provided all the data requested in §§ 260.20 and 260.22 and meets the requirement for excluding the waste at this particular facility.

Tokusen provided analytical data for 5 representative samples of the sludge it has petitioned for delisting. This data has undergone review for quality control and quality assurance and EPA believes that the hazardous constituents detected through the Toxicity Characteristics Leaching Procedures (TCLP) as well as the Total analyses indicated the waste constituent concentrations do not pose a threat to human health and environment based on the risk assessment determined using the Delisting Risk Assessment Software (DRAS). We believed the potential effects determined from the DRAS model that if this waste were released into the environment, it is within the acceptable [protectiveness] risk range of 10^{-5} to 10^{-6}. Also EPA has required the company to submit samples quarterly for the first year and samples annually each subsequent year while the company is in business to demonstrate that the waste does not exceed the constituent levels listed in Table 1.

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The final rule to grant an exclusion is not significant, since its effect, if promulgated, 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 generated at a specific facility from EPA's lists of hazardous waste, thereby enabling this facility to manage its waste as nonhazardous. There is no additional impact therefore, due to this final rule. Therefore, this proposal would not be a significant regulation and no cost/benefit assessment is required. 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 which 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 the rule will not have any impact on small entities.

This rule if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this 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 recordkeeping 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 (Public Law 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 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. The EPA finds that this final delisting decision is deregulatory in nature and does not impose any enforceable duty upon State, local, or tribal governments or the private sector. In addition, the final delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will become effective on the date of publication in the **Federal Register**.

X. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with

representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' This rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer and Advancement Act

Under section 12(d) if the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

Lists 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: December 20, 2002.

Stephen A. Gilrein,

Acting Director, Multimedia Planning and Permitting Division (6PD).

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, part 261 add the following waste stream in alphabetical order by facility to read as follows:

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

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Tokusen USA, Inc.,	Conway, AR	Dewatered wastewater treatment plant (WWTP) sludge (EPA Hazardous Waste Nos. F006) generated at a maximum annual rate of 670 cubic yards per calendar year after December 31, 2002 and disposed of in a Subtitle D landfill. For the exclusion to be valid, Tokusen must implement a testing program that meets the following Paragraphs: (1) *Delisting Levels:* All leachable concentrations for those constituents listed below in (i) and (ii) must not exceed the following levels (mg/l). The petitioner must use an acceptable leaching method, for example SW–846, Method 1311 to measure constituents in the waste leachate. Dewatered WWTP sludge (i) Inorganic Constituents Antimony–0.360; Arsenic–0.0654; Barium–51.1; Chromium–5.0; Cobalt–15.7; Copper–7,350; Lead–5.0; Nickel–19.7; Selenium–1.0; Silver–2.68; Vanadium–14.8; Zinc–196. (ii) Organic Constituents 1,4 Dichlorobenzene–3.03; hexachlorobutadiene–0.21. (2) *Waste Holding and Handling:* Tokusen must store the dewatered WWTP sludge as described in its RCRA permit, or continue to dispose of as hazardous all dewatered WWTP sludge generated, until they have completed verification testing described in Paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied.

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

Facility	Address	Waste description
		(B) Levels of constituents measured in the samples of the dewatered WWTP sludge that do not exceed the levels set forth in Paragraph (1) are non-hazardous. Tokusen can manage and dispose the non-hazardous dewatered WWTP sludge according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), Tokusen must retreat the batches of waste used to generate the representative sample (according to SW–846 methodologies) until it meets the levels. Tokusen must repeat the analyses of the treated waste. (D) If the facility has not treated the waste, Tokusen must manage and dispose the waste generated under Subtitle C of RCRA. (3) *Verification Testing Requirements:* Tokusen must perform sample collection and analyses, including quality control procedures, according to SW–846 methodologies. If EPA judges the process to be effective under the operating conditions used during the initial verification testing, Tokusen may replace the testing required in Paragraph (3)(A) with the testing required in Paragraph (3)(B). Tokusen must continue to test as specified in Paragraph (3)(A) until and unless notified by EPA in writing that testing in Paragraph (3)(A) may be replaced by Paragraph (3)(B). (A) *Initial Verification Testing:* After EPA grants the final exclusion, Tokusen must do the following: (i) Collect and analyze composites of the dewatered WWTP sludge. (ii) Make two composites of representative grab samples (according to SW–846 methodologies) collected. (iii) Analyze the waste, before disposal, for all of the constituents listed in Paragraph 1. (iv) Sixty (60) days after this exclusion becomes final, report to EPA the operational and analytical test data, including quality control information. (B) *Subsequent Verification Testing:* Following written notification by EPA, Tokusen may substitute the testing conditions in (3)(B) for (3)(A). Tokusen must continue to monitor operating conditions, and analyze representative samples (according to SW–846 methodologies) each quarter of operation during the first year of waste generation. The samples must represent the waste generated during the quarter. (C) *Termination of Organic Testing:* (i) Tokusen must continue testing as required under Paragraph (3)(B) for organic constituents in Paragraph (1)(A)(ii), until the analytical results submitted under Paragraph (3)(B) show a minimum of two consecutive samples below the delisting levels in Paragraph (1)(A)(i), Tokusen may then request that EPA stop quarterly organic testing. After EPA notifies Tokusen in writing, the company may end quarterly organic testing. (ii) Following cancellation of the quarterly testing, Tokusen must continue to test a representative composite sample (according to SW–846 methodologies) for all constituents listed in Paragraph (1) annually (by twelve months after final exclusion). (4) *Changes in Operating Conditions:* If Tokusen significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify EPA in writing; they may no longer handle the waste generated from the new process as nonhazardous until the waste meets the delisting levels set in Paragraph (1) and they have received written approval to do so from EPA. (5) *Data Submittals:* Tokusen must submit the information described below. If Tokusen fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. Tokusen must: (A) Submit the data obtained through Paragraph 3 to the Region 6 Delisting Program, EPA, 1445 Ross Avenue, Dallas, Texas 75202–2733, Mail Code, (6PD–O) within the time specified. (B) Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. (C) Furnish these records and data when EPA or the State of Arkansas request them for inspection. (D) A company official having supervisory responsibility should send along with all data 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 in 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. If 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 reliance on the void exclusion. (6) *Reopener*

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

Facility	Address	Waste description
		(A) If, anytime after disposal of the delisted waste, Tokusen possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at a level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) If the annual testing of the waste does not meet the delisting requirements in Paragraph 1, Tokusen must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (C) If Tokusen fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Regional Administrator or his delegate determines that the reported information does require Agency action, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or his delegate's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Regional Administrator or his delegate will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise. (7) *Notification Requirements:* Tokusen must do following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision: (A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if they ship the delisted waste into a different disposal facility.
*	*	* * * * * *

[FR Doc. 02–32899 Filed 12–30–02; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7799]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Edward Pasterick, Division Director, Risk Communication Division, Federal Insurance and Mitigation Administration, 500 C Street, SW.; Room 435, Washington, DC 20472, (202) 646–3098.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of