rinses in a manufacturing process, or multiple rinses from parallel manufacturing lines all making the same product. In these circumstances, all the rinse water could contain the same hazardous constituents in roughly the same concentrations. Variations in hazardous constituent concentrations would reflect normal process variability, so that mass loadings of hazardous constituents to the environment over time would not alter if the rinses are aggregated and disposed. EPA seeks comment on whether or not such collection of like streams from like units should be considered impermissible dilution, since some in the regulated community might view it as counterintuitive in many cases to even consider these similar process outputs to be separate.

4. Streams From a Single Process

Industrial facilities frequently collect residual streams from a process in a common unit such as a sump. In many cases, these streams are similar in composition because they all come from a common unit process. Consequently, although some of the residual streams could exhibit a characteristic before common collection, long-term average mass loadings of hazardous constituents per unit of production may not vary significantly, even though the waste concentrations may vary within a normal range over time.

Moreover, where residues are generated within a unit process, it might be possible to view these streams as still within the "normal part of the process that results in the waste", S. Rep. No. 284, 98th Cong. 2d sess. at 17, and consequently that any routine combination of these streams from the common process would not be impermissible dilution. Id. Of course, there is the possibility of abuse in any approach that allows combination of residues. Characteristic wastestreams not normally generated as part of the unit process could be re-piped in order to dilute the characteristic and avoid treatment of underlying hazardous constituents. This would remain impermissible dilution under any of the approaches EPA is considering

This approach differs from the "point of aggregation" approach EPA rejected as part of the California List rule in that it limits the mixing of waste streams to wastes generated within a single unit process. In the initial "point of accumulation" approach, wastes from various sources could be mixed in a sump, as long as the sump was the first point of accumulation. This option limits the mixing to single manufacturing steps (unit operations).

5. "Battery Limits"

The CMA has suggested an expanded version of the option discussed above. Instead of limiting aggregation to that normally occurring within a single unit process, they would view an entire battery of processes (associated with making a single product or related group of products) as a single manufacturing step. CMA would use the logic of the approach described in the previous section to allow all residues generated from that sequence of processes to be combined before a determination is made as to whether wastes are prohibited. Under CMA's approach, determinations as to whether characteristic wastes are prohibited could be made at this point where all of the aqueous waste streams from a unique industrial process are aggregated (referred to by CMA as "battery limits"), or at a point that a stream exits the manufacturing process unit where it is generated ("point of rejection").

Such aggregation could, in CMA's view, be considered to be "part of the normal process that results in the waste" (S. Rep. No. 284, 98th Cong. 1st sess. 17) so that the aggregation within the industrial process battery limits need not be considered to be impermissible dilution. CMA believes that this approach could ease monitoring burdens, simplify point of generation determinations, facilitate legitimate wastewater treatment and avoid accounting for characteristic properties and underlying hazardous constituents in intermittent streams such as streams from batch processes, or from characteristic streams resulting from one-time spills or other process emergencies. 8

6. Solicitation of Comment

The Agency solicits comment on the composition of internal residual streams within discrete processes when one or more of the streams exhibits a characteristic in order to determine how frequently such streams are similar with respect to identity and concentration of hazardous constituents. EPA also solicits comments on how difficult it is to identify the physical boundaries of a unit process, and what safeguards could be developed to assure that characteristic streams not normally part of a unit process are not diluted by re-

piping and combination with unrelated streams.

The Agency seeks comment on potential difficulties with all three options, but mostly the third option. Namely, the various limits do not seem to be graphically self-defining, and, hence, could be difficult to implement. The Agency is also concerned about the possibility of impermissible dilution of non-de minimis characteristic wastewater streams whenever large numbers and volumes of wastewaters are brought together and characteristics are eliminated without hazardous constituents being removed or destroyed.

7. Situations Where Existing Point of Generation Determinations May Remain Appropriate

a. Listed Wastes. In considering the above approaches, as well as others, it could be argued that any modification to the point of LDR determination should apply only to characteristic wastes and F001-F005 (spent solvents) listed wastes. In evaluating wastes from other sources for listing (including other "F" series wastes), EPA has carefully evaluated the various waste streams and has defined the point of generation as part of the listing description. Therefore, it may be inappropriate to modify that description with a more generic point of prohibition rule. EPA solicit comment on this issue.

b. Prohibited Wastes Whose Treatment Standard is a Method of Treatment. Section 261.3(b) states that characteristic wastes whose treatment standard is a specified method of treatment may not be diluted to remove the characteristic in lieu of performing the specified method of treatment. Principal examples of such wastes are high TOC ignitable wastes, characteristic pesticide wastes, and certain characteristic mercury wastes. 55 FR at 22657. EPA indicated that these wastes are not typically amenable to adequate treatment by means other than the designated treatment methods,9 so that aggregation to remove the characteristic is impermissible dilution unless treatment by the required method follows. Id.

EPA's initial view is that these wastestreams should remain prohibited at the current point of generation. The Agency has made a considered decision that these wastes require a particular type of treatment, and the wastestreams themselves are clearly delineated. 55 FR at 22657. In addition, the treatment

^{*}However, spills of commercial chemical products exhibiting a characteristic, an example mentioned by CMA, are already not considered to be prohibited provided amounts spilled are de minimis, as defined at 268.1(e)(4) (59 FR 47982, September 19, 1994). See generally, CMA's submission to EPA of October 5, 1994, part of the record for this proposed rule.

⁹ De minimis losses of the discarded commercial chemical product form of these wastes are not considered to be prohibited. 40 CFR 268.1(e)(4).