first sentence of Hanford's waste description found in Table 2 of 40 CFR 261 Appendix IX to reflect that. The commenter believed that the additional language would provide the maximum operational flexibility to DOE in their mixed waste disposal planning and would not require regulatory changes to 40 CFR 261 if and when DOE disposes of non-F001–F005 wastes in Hanford's landfills. The commenter also wanted this comment withdrawn if it would result in the delay of the final delisting.

Response: The Agency proposed to exclude the liquid wastes covered by DOE's petition, which consist of F001 through F005 wastes and F039 wastes derived from F001 through F005. The commenter believes it would be useful to expand the scope of this delisting because the ETF is capable of treating a wider variety of wastes. The Agency acknowledges, as noted in the proposal, that the treatment data show the ETF to be extremely effective for all classes of inorganic species, and the data also demonstrate that organic constituents can be effectively treated by the UV/OX process (see 60 FR 6060). However, obtaining a request to expand this delisting decision to cover other waste codes and evaluating specific data and information accompanying that request, which would be likely to require an opportunity for public notice and comment, would result in delays in the promulgation of this delisting. Therefore, consistent with the commenter's request not to delay this delisting, today's final exclusion has not been expanded to include non-F001 through F005 wastes.

C. Final Agency Decision

For the reasons stated in the proposal and in this final rule, the Agency is granting a final exclusion to DOE–RL, located in Richland, Washington for the liquid wastes, described in its petition as EPA Hazardous Waste No. F001, F002, F003, F004, F005, and F039 derived from F001 through F005.

This exclusion only applies to the treatment processes and waste volume (a maximum of 19 million gallons generated annually) covered by the original demonstration. The facility would need to petition for a new or amended exclusion if there is a change in composition of the treated waste such that the levels of hazardous constituents increase significantly (e.g., from changes to the waste streams or treatment processes). (Note, however, that changes in operating conditions are allowed as described in Condition (4).) Until a new or amended exclusion is granted, the facility must treat as hazardous all such wastes as well as effluents generated in

excess of 19 million gallons per year. As to the wastes covered by today's exclusion, continued evaluation for levels of hazardous constituents will be achieved by the verification testing specified in Condition (1).

Although management of the wastes covered by this petition is relieved from Subtitle C jurisdiction by this final exclusion, the generator of a 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.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being 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 State. Because a petitioner's waste may be regulated under both Federal and State programs, petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

IV. Effective Date

This rule is effective June 13, 1995. 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, rather than increases, 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 of 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 rule should be effective immediately upon publication. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedures 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. This rule to grant an exclusion is not significant, since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as nonhazardous. There is no additional economic impact due to today's rule. Therefore, this rule is not 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 that the rule will not have any impact on any small entities.

This amendment will not have any adverse economic impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and it is 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 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 (Pub. L. 96–511, 44 USC § 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a written statement to accompany any rules that have "Federal mandates" that may result in the expenditure by the private sector of \$100 million or more in any one year.