—State or Local emissions monitoring permits or documents (e.g., stack emissions, fugitive emissions, groundwater monitoring, wastewater discharges, etc.,) highlighted to indicate which constituents are required to be monitored as potential emissions from units in which that waste is managed or will be managed;
—Responses to government and/or trade group data collection efforts (e.g., biennial reports, TSD surveys) that require submission of waste-specific constituent information;
—Published literature (e.g., journals, presentations, chemical and engineering reference documents, health and safety handbooks, material safety data sheets, etc.,) highlighted to indicate constituents that are formed or potentially formed from side reactions, degradation, or reactivity of the products, reactants, or solvents used in the manufacturing process generating that waste;
—Plant-specific process flow diagrams or process descriptions highlighted to indicate constituents that are formed or potentially formed from side reactions, degradation, or reactivity of the products, reactants, or solvents used in the manufacturing process generating that waste;
—Product specifications or constituent-specific labeling requirements under federal regulations, state regulations, or non-governmental standards (i.e, per product-grade) that identify constituents that are expected to be present in the products from which the waste was generated, highlighted to indicate those constituents identified as part of these specifications or standards (excluding chemical additives or preservatives that are placed in the products subsequent to the generation of the waste for which exit is claimed);
—Waste profile data sheets, such as those submitted to commercial waste handlers, highlighted to show the constituents that were found or expected to be present in that waste; and/or
—A certified, third party engineering analysis of the process generating that waste that provides qualitative verification of the theories behind the anticipated absence of certain chemical classes or groups of Appendix X of 40 CFR 261 constituents such as pesticides, pharmaceutical, halogenated solvents, carbamate, organo-sulfur compounds, known gases, cyanides, etc.;
—Any other available quantitative or qualitative constituent information specific to that waste

Relevant information includes not only those document sections that indicate which constituents are present, but also cover pages that indicate the source of the document segments and signature pages to verify authenticity of government-approved documents (where appropriate). For the verification purposes, page numbers should also be clearly identified for each document. EPA is also soliciting information on additional readily available documentation that could be added to this list that would not impose an unreasonable records burden on both the generator and enforcement officials (for example, the Agency believes that requiring highlighted copies of copious amounts of monitoring data would be redundant and would significantly impede enforcement review). EPA believes that requiring copies of only relevant portions of these documents, highlighted to indicate the chemicals present, should minimize the burden associated with this documentation requirement significantly.

Regardless of which constituents a facility tests, the facility is responsible for ensuring that each constituent in the waste meets its applicable exit level.

The Agency believes that the tailored initial test described above will ensure accurate waste characterizations of the waste streams while focusing testing requirements to those constituents that are of concern. A facility could determine whether a constituent would be present. A facility would *not* be authorized to determine that the constituents in the waste meet the exemption levels based on knowledge of the waste or material. This approach both reduces unnecessary testing costs and allows for more frequent monitoring of those constituents that are of concern.

The Agency is soliciting comment on whether this proposed approach to an initial test is appropriate.

The Agency asks for comment on taking the opposite approach: requiring each claimant to test only for those constituents that the claimant determines ''could be present'' for that waste. This would be a systematic way for facilities to focus the list of hazardous constituents to those that are mostly to be present in the waste. EPA requests comment on requiring at a minimum testing of the following categories of constituents:
—Constituents set out in appendix VII to part 261 as the basis for listing the wastestream for which exemption is sought;
—Constituents listed in the table to 40 CFR 268.40 as regulated hazardous constituents for LDR treatment of the waste stream ;
—Constituents detected in any previous analysis of the same wastestream conducted by or on behalf of the claimant;
—Constituents introduced into the process which generates the wastestream; and
—Constituents which the claimant knows or has reason to believe are byproducts or side reactions to the process that generates the wastestream.

The Agency asks for comment on the completeness of the proposed mandatory testing criteria. In addition, the Agency requests comment on whether testing should be required for those constituents that do not meet any of the criteria of ''could be present.'' The Agency also requests comment on whether documentation should be required to demonstrate that those constituents that were not tested did not meet any of the ''could be present'' criteria.

EPA requests comment on another approach to determining which constituents need to be analyzed by a claimant. The approach would be that the claimant needs to provide data on all additional constituents listed in appendix X of 40 CFR part 261 of today's rulemaking for which a method used by the generator to detect other constituents which the claimant is required to test can easily determine concentrations. Thus, for example, if a waste was listed for a constituent for which GC/MS is an appropriate method used by the claimant, the claimant would also be required to ask the laboratory to provide information on all other constituents listed in appendix X of 40 CFR part 261 of today's proposed rulemaking for which the GC/MS is also an appropriate method.

EPA did not use this in its primary proposal because the Agency realized that implementation of this concept become more complex than it appears. For example, even when using GC/MS, there may be sample preparation techniques, dilutions, and similar issues that determine which constituents can be measured in the appropriate concentration ranges using the method.

However, there is something intuitively reasonable and attractive in asking claimant to gather and provide information that is easily obtainable and would provide additional confidence and certainty. EPA solicits comments on this idea and ways to implement it.

The Agency requests comment on whether there is some other way to focus the scope of testing requirements or if the only way to ensure accurate waste characterizations would be to require testing for all 386 constituents.