methylene chloride, and triethylamine. Assuming further wastewater treatment as necessary before discharge, under the plausible mismanagement scenario of treatment in open tanks for K157 or wastewater derived from the treatment of K156, the Agency views this level as protective of human health and the environment. In addition, EPA notes that the 40 CFR Part 268 land disposal restrictions would not apply to wastes managed in tanks except to the extent the wastes were also managed in landbased units such as surface impoundments. Because the wastewaters from the treatment of K156 are similar to K157 wastes in composition and management, the Agency foresees no significant risks from the exemption of K156 wastes derived from K156 in the same manner as K157 and is finalizing a concentration-based exemption to the listing description of both K157 wastewaters, and wastewaters derived from the treatment of K156 organic wastes.

In response to comment, the Agency is modifying the exemption proposed to allow that portion of the chemicals of concern which is "destroyed through treatment" to be considered in the mass balance determination of exemption status. Under § 261.3(a)(2)(iv), new exemptions to the definition of hazardous wastes are created for these wastewaters. These new exemptions read (changes to proposal in **bold**):

§ 261.3(a)(2)(iv) * * *; or

(F) One or more of the following wastes listed in § 261.32-wastewaters from the production of carbamates and carbamovl oximes (EPA Hazardous Waste No. K157) Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that can not be demonstrated to be reacted in the process, destroyed through treatment, or is recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight; or

(G) Wastewaters derived from the treatment of one or more of the following wastes listed in § 261.32—organic waste (including heavy ends still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156).—Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter.

Under these exemptions, wastes which are calculated to contain less

than a total concentration of 5 ppmwt for the sum of the four constituents of concern would not be hazardous wastes, and any sludges generated from further biological treatment would not be derived from hazardous wastes, assuming wastewaters are <5 ppmwt at the point of generation.

The Agency is not requiring that generators taking advantage of the K157 exemption actually monitor the concentration of the constituents of concern in untreated wastewater, but uses the same strategy used in other exemptions for wastewaters discharged into the headworks of a wastewater treatment system found at 40 CFR 261.3(a)(2)(4) (46 FR 56582, November 17, 1981). A generator must be able to demonstrate that the total amount of all constituents of concern that is discharged to the environment during the production week divided by the average weekly flow of the process unit discharge into the headworks of the final wastewater treatment step not exceed the standards.

This demonstration can be made through an audit of various records already maintained at most facilities, including invoices showing material purchases, lists including to whom and how much inventory was distributed and other, similar, operating records. A facility can exclude that portion of the constituents of concern not disposed to wastewaters. No portion of the material of concern which is volatilized may be excluded from the calculation. Under current regulations (40 CFR 262.11 and 268.7) generators are required to determine whether their wastes are hazardous. Facilities claiming the exemption would have to be able to demonstrate that they meet the exemption. Such information would be intended to verify compliance with this concentration standard. An EPA inspector would look to this information to verify the assessment made by the generator, and may employ direct analytical testing as further verification. If either measurement indicate a total concentration greater than 5 ppmwt for the sum of the concentrations of the four chemicals of concern, then the wastes is subject to regulation as K157 hazardous waste. In this manner, the Agency seeks to discourage and prevent air stripping or other technologies which would merely continue to volatilize these pollutants of concern.

Commenters argued and the Agency agrees that wastes derived from K156 are no longer hazardous wastes provided that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into

the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter. In the case of wastewaters derived from the treatment of K156 wastes, other wastes may be commingled for treatment. However, other hazardous wastes mixed with K156 or K157 wastes are not exempt. Records of incinerator feed rates and destruction efficiency can be used to support a facilities claim of exemption. A facility can demonstrate that it meets either of these exemptions only in part by direct effluent measurement at the headworks. In each case, the facility must also incorporate any emissions from the treatment system prior to the headworks in the overall determination of regulatory status.

The Agency is also expanding the proposed exemption of K157 wastewater treatment sludges to include sludges from the treatment of K156 wastes. The Agency is specifically exempting biological treatment sludges from the treatment of K156 and K157 wastes from the production of carbamates and carbamoyl oximes from the definition of hazardous waste. because it has characterized these sludges and found that they do not pose significant risks to human health or the environment in the advent of plausible mismanagement. Under § 263.3(c)(2)(ii), a new exemption to the definition of hazardous wastes is created for sludges from the biological treatment of these wastewaters. This new exemption would read (changes to proposal in bold):

§ 261.3(c)(2)(ii) * * *

(D) Biological treatment sludge from the treatment of one of the following wastes listed in § 261.32—organic waste (including heavy ends still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K157).

Without exemption, a large volume of previously disposed wastes and sludge currently collecting within the various treatment systems would require management as hazardous waste under the derived-from rule (40 CFR 261.3(c)(2)). However, in the case of the biological sludges from the treatment of carbamate and carbamoyl oxime wastewaters, the Agency could only identify risks resulting from the hazardous volatile air pollutants present in the wastewaters being treated. Neither these air pollutants nor other hazardous substances were found to be accumulating in the biological treatment