this action must be filed in the United States Court of Appeals for the appropriate circuit by by September 16, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: May 22, 1996.

Jane S. Moore,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(114) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * * (114) On November 20, 1995, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted a Reasonably Available Control Technology Standards (RACT) determination for VOC emissions from the Intel Corporation facility in Portland, Oregon.

(i) Incorporation by reference.

(A) The letter dated November 20, 1995, from the Director of ODEQ submitting a SIP revision for a RACT determination contained in Intel's Oregon Title V Operating Permit for VOC emissions, consisting of permit # 34–2681 expiration date 10–31–99, page 11 of 32 pages, effective date September 24, 1993 (State-effective date of the Oregon Title V Program).

[FR Doc. 96–18201 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[PP 5F4486/R2249; FRL–5381–1]

RIN 2070–AB78

Dihydroazadirachtin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement for a tolerance for residues of the biochemical pesticide dihydroazadirachtin in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant in accordance with good agricultural practices. This exemption was requested by AgriDyne Technologies, Inc.

EFFECTIVE DATE: This regulation becomes effective July 18, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 5F4486/R2249], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202 . Fees accompanying objections shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

An electronic copy of objections and hearing requests filed with the Hearing Clerk may be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov

Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [PP 5F4486/R2249] . No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Paul Zubkoff, Registration Action Leader (RAL), Biopesticides and Pollution Prevention Division (7501W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 5-W54, CS #1, 2800 Crystal Drive, Arlington, VA 22202. 703–308–8694; e-mail: zubkoff.paul@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 1, 1996 (61 FR 3696), EPA issued a notice (FRL–4994–3) that AgriDyne Technologies, Inc., 2401 South Foothill Drive, Salt Lake City, UT (represented by E.R. Butts International, Inc. of 26 Sherman Court, P.O. Box 764, Fairfield, CT 06430) had submitted pesticide petition (PP) 5F4486 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FF DCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the of the biochemical pesticide dihydroazadirachtin in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant in accordance with good agricultural practices.

There were no adverse comments, or requests for referral to an advisory committee received in response to this notice of filing.

22,23-Dihydroazadirachtin and its related metabolites are extracts of the seed kernels of the neem tree, *Azadirachtin indica*, are chemically similar to azadirachtin, the naturally-occurring neem plant extract, but differ by a single double bond, and are biologically equivalent to azadirachtin in its functionality when tested as a growth regulator against the Mexican bean beetle, *Epilachna varivestis*. Additionally, azadirachtin is exempted from the requirement of a tolerance when used as a pesticide at 20 grams or less per acre on all raw agricultural commodities (40 CFR 180.1119).

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance include: an acute oral toxicity study in rats, an acute dermal study in rabbits, an acute inhalation study in rats, a primary eye irritation study in rabbits, a primary dermal irritation study in rabbits, a dermal sensitization test (Buehler) in guinea pigs, a battery of genotoxicity

studies, an immunotoxicity study with azadirachtin in mice, a 90-day oral feeding study with azadirachtin in rats, and a developmental toxicity study with azadirachtin in rabbits.

The results of these studies indicated that dihydroazadirachtin has an acute oral LD_{50} greater than 5,000 mg/kg body weight in rats for both the technical grade active ingredient and an end-use product (DAZA 4.5 WDG), an acute dermal LD_{50} greater than 2,000 mg/kg body weight in rabbits, an acute inhalation LD_{50} greater than 2.9 mg/L in rats, minimally irritating to the eye based on the primary eye irritation study, a non- to slight dermal irritant based on the primary dermal irritation study for the technical and end-use product, respectively, and a non-dermal sensitizer (Buehler sensitization test) in guinea pigs. In a mutagenicity study (Ames assay) the test substance, dihydroazadirachtin, was not mutagenic with or without activation. In a separate Ames assay and in other genotoxicity studies designed to detect structural chromosomal aberrations (i.e., *in vivo* unscheduled DNA synthesis and chromosome aberation/CHO cell culture), azadirachtin, the naturally-occurring unmodified counterpart, was not found to be mutagenic. Based on these results and due to the known composition of dihydroazadirachtin and its reduced metabolites, further tests to address structural chromosomal aberrations and forward mutations were waived. Results from an immunotoxicity assay, a 90–day oral feeding study, and a developmental toxicity assay evaluating azadirachtin indicated no significant effects.

The toxicology data provided are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from the use of dihydroazadirachtin. This rule establishes an exemption from the requirement of a tolerance; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for dihydroazadirachtin.

Dihydroazadirachtin is considered useful for the purposes for which the exemption from tolerance is sought. Based on the information and data considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under the docket number [PP 5F4486/R2249] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) of the APA as amended.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines ''significant'' as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was

published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 8, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346A and 371.

2. Section 180.1169 is added to subpart C to read as follows:

§ 180.1169 Dihydroazadirachtin; exemption from the requirement of a tolerance.

The biochemical pesticide dihydroazadirachtin is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied as an insect growth regulator and/or antifeedant at 20 gm or less per acre with the maximum number of seven applications per growing season on all raw agricultural commodities.

[FR Doc. 96–18159 Filed 7–17–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 261

[FRL–5536–5]

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 or Agency) today is granting a petition submitted by United Technologies Automotive, Inc. (UTA), Dearborn, Michigan, to exclude (or ''delist''), conditionally, on a one-time, upfront basis, a certain solid waste generated by UTA's chemical stabilization treatment of lagoon sludge at the Highway 61 Industrial Site in Memphis, Tennessee, from the lists of hazardous wastes in §§ 261.31 and 261.32. Based on careful analyses of the waste-specific information provided by the petitioner, the Agency has concluded that UTA's petitioned waste will not adversely affect human health and the environment. This action responds to UTA's petition to delist this waste on a ''generator-specific'' basis from the hazardous waste lists. In accordance with the conditions specified in this final rule, the petitioned waste is excluded from the requirements of hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

The Agency also proposed to use two methods to evaluate the potential impact of the petitioned waste on human health and the environment: A fate and transport model (the EPA Composite Model for Landfills, ''EPACML'' model), based on the waste-specific information provided by the petitioner; and the generic delisting levels in § 261.3(c)(2)(ii)(C)(*1*) for nonwastewater residues generated from treatment of the listed hazardous waste F006, by high temperature metal recovery (HTMR). Specifically, EPA proposed to use the EPACML model to calculate the concentration of each hazardous constituent that may be present in an extract of the petitioned waste obtained by means of the Toxicity Characteristic Leaching Procedure (TCLP), which will not have an adverse impact on groundwater if the petitioned waste is delisted and then disposed in a Subtitle D landfill. EPA compared the concentration for each hazardous constituent calculated by the EPACML model to the generic delisting level for that constituent in § 261.3(c)(2)(ii)(C)(*1*), and proposed to use the lower of these two concentrations as the delisting level for each hazardous constituent in the waste. In response to comments received on the proposed rule, the delisting levels in this final rule are based on the EPACML model, rather than the generic levels in § 261.3(c)(2)(ii)(C)(*1*).

EFFECTIVE DATE: July 18, 1996.

ADDRESSES: The RCRA regulatory docket for this final rule is located at the EPA Library, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, Georgia 30365, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays.

The reference number for this docket is R4–96–UTEF. 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 copying at the Tennessee Department of Environment and Conservation, please see below.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 412–9810. For technical information concerning this notice, contact Judy Sophianopoulos, RCRA Compliance Section, (Mail Code 4WD–RCRA), U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE, Atlanta, Georgia 30365, (404) 347–3555, x6408, or call, toll free, (800) 241–1754, and leave a message, with your name and phone number, for Ms. Sophianopoulos to return your call. You may also contact Jerry Ingram, Tennessee Department of Environment and Conservation (TDEC), 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535, (615) 532–0850. If you wish to copy documents at TDEC, please contact Mr. Ingram for copying procedures and costs.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control 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; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow the Agency 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 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.

On October 10, 1995, the Administrator delegated to the Regional Administrators the authority to evaluate and approve or deny petitions submitted in accordance with §§ 260.20 and 260.22, by generators within their Regions [National Delegation of Authority 8–19], in States not yet authorized to administer a delisting program in lieu of the Federal program. On March 11, 1996, the Regional Administrator of EPA, Region 4, redelegated delisting authority to the Director of the Waste Management