

261.4(b)(4) at R315-2-4(b)(4) where it lists “fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily for the combustion of coal or other fossil fuels, * * *” as solid wastes which are not hazardous wastes. Since neither the federal nor state rules consider these wastes as hazardous wastes, Utah’s exclusion in its Statutes of these wastes from the definition of solid waste is not within the scope of this action.

C. What Decisions Have We Made in This Rule?

Based on EPA’s response to public comments, the Agency has determined that approval of Utah’s RCRA program revisions should proceed. EPA has made a final determination that Utah’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah Final authorization to operate its hazardous waste program with the changes described in its application for program revisions. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA adopts under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such HSWA requirements and prohibitions in Utah, including issuing HSWA permits, until the State is granted authorization to do so. For further background on the scope and effect of today’s action to approve Utah’s RCRA program revisions, please refer to the preambles of EPA’s April 10, 2003 Proposed and Immediate Final Rules at 68 FR 17577 and 68 FR 17556, respectively.

D. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes

pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under

the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective June 11, 2003.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 2, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[FRL-7510-6]

RIN 2040-AD85

Partial Withdrawal of Direct Final Rule; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule and revisions.

SUMMARY: Because EPA received adverse comment, we are withdrawing certain portions of the direct final rule for the Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category. The direct final rule published on March 13, 2003 (68 FR 12265) made three amendments to the final regulations published on September 21, 1998 (63 FR 50424) and non-substantive editorial and format changes. We stated in the direct final rule that if we received adverse comment by May 12, 2003, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comment on the direct final rule. We will address that comment in a subsequent final action based on the parallel proposal also published on March 13, 2003 (68 FR 12276). As stated in the parallel proposal, we will not institute a second comment period on this action.

DATES: As of June 11, 2003, EPA withdraws amendments to §§ 439.17 (a) and (b), 439.27(a) and (b), 439.37(a) and (b), and 439.47(a) and (b) published at 68 FR 12265, on March 13, 2003. Revisions to the introductory text and paragraph (a) of §§ 439.17 and 439.37 are effective on June 11, 2003. The remaining provisions published on March 13, 2003 will be effective on June 11, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Hund, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, 1200 Pennsylvania Ave., NW., Washington, DC, 20460; telephone: 202-566-1027; e-mail: hund.frank@epa.gov.

SUPPLEMENTARY INFORMATION: EPA published a direct final rule (68 FR 12265) and parallel proposed rule (68 FR 12276) on March 13, 2003, to make minor amendments to the final rule establishing effluent guidelines and standards for the Pharmaceutical Manufacturing Point Source Category (40 CFR part 439) published on September 21, 1998. In this direct final rule, EPA clarified the date on which a discharger subject to the New Source Performance Standards (NSPS) and the Pretreatment Standards for New Sources (PSNS) would be subject to effluent limitations and pretreatment standards established in the 1998 regulation. In addition, EPA re-established a minimum concentration for the monthly average BOD₅ limitation that EPA inadvertently omitted from the Best Practicable Control Technology (BPT) requirements in two subcategories of the 1998 regulation and corrected an error

in EPA's pass-through analysis from the 1998 rule by deleting methyl Cellosolve (2-methoxyethanol) from the pretreatment standards in two subcategories and from Appendix A, Table 2, "Surrogate Parameters for Indirect Dischargers." Finally, the Agency made other non-substantive editorial and format changes such as removing redundancies, and adding definitions.

The partial withdrawal of the direct final rule involves withdrawing language in (a) and (b) from §§ 439.17, 439.27, 439.37, and 439.47 of the direct final rule regarding the compliance schedule for new source dischargers who commenced operations after November 21, 1988 and prior to November 20, 1998. Today's action also revises the introductory text and paragraph (a) in §§ 439.17 and 439.37 to be consistent with the remaining amendments of the direct final rule. EPA has received comment concerning the applicability of the 10-year protection period provided in section 306(d) of the Clean Water Act for new source facilities. EPA will address those comments in a subsequent final action based on the parallel proposal. The provisions for which we did not receive adverse comment will become effective on June 11, 2003, as provided in the preamble to the direct final rule.

List of Subjects in 40 CFR Part 439

Environmental protection, Drugs, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: June 5, 2003.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water.

■ For reasons set out in the preamble, part 439, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

■ 1. The authority citation for part 439 continues to read as follows:

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

■ 2. Section 439.17 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 439.17 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart must achieve the same standards as specified in § 439.16.

(a) Sources that discharge to a POTW with nitrification capability (defined at

§ 439.2(i)) are not required to achieve the pretreatment standard for ammonia (as N).

* * * * *

■ 3. Section 439.37 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 439.37 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart must achieve the same standards as specified in § 439.36.

(a) Sources that discharge to a POTW with nitrification capability (defined at § 439.2(i)) are not required to achieve the pretreatment standard for ammonia (as N).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPPT-2002-0061; FRL-7306-7]

Preliminary Assessment Information Reporting; Addition of Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule addresses the request of the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) in its 48th Report, as modified in its 50th and 51st ITC Reports, by adding benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)- to the TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) rule. It also addresses the request of the ITC in its 50th Report by adding stannane, dimethylbis[(1-oxoneodecyl)oxyl]-; benzene, 1,3,5-tribromo-2-(2-propenyloxy)-; and 1-triazene, 1,3-diphenyl- to the PAIR rule. Finally, it addresses the request of the ITC in its 51st Report by adding 43 vanadium compounds to the PAIR rule. This PAIR rule will require manufacturers (including importers) of these 47 Chemical Abstract Service (CAS)-numbered chemicals added to the ITC's TSCA section 4(e) *Priority Testing List* to submit certain production, importation, use, and exposure-related information to EPA.

DATES: This final rule is effective on July 11, 2003.

Any person who believes that TSCA section 8(a) reporting required by this