

(SBAP), an Ombudsman, and a Compliance Advisory Panel (CAP); establishing membership of the CAP; and addressing the responsibilities and duties of the SBAP, Ombudsman, and the CAP.

(B) TACB Order No. 92-22, as adopted by the TACB on November 6, 1992.

(C) Appendix C, "Schedule of Implementation", appended to the narrative SIP Revision entitled, "Revisions to the State Implementation Plan for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Texas Air Control Board; November 1992".

(ii) Additional material.

(A) Narrative SIP Revision entitled, "Revisions to the State Implementation Plan for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, Texas Air Control Board; November 1992".

(B) TACB certification letter dated November 10, 1992, and signed by William R. Campbell, Executive Director, TACB.

(C) Legal opinion letter dated October 15, 1992 from Kirk P. Watson, Chairman, TACB, to Mr. B.J. Wynne, III, Regional Administrator, EPA Region 6, regarding the composition of the Small Business Compliance Advisory Panel for Texas.

3. Section 52.2307 is added to read as follows:

§ 52.2307 Small business assistance program.

The Governor of Texas submitted on November 13, 1992 a plan revision to develop and implement a Small Business Stationary Source Technical and Environmental Compliance Assistance Program to meet the requirements of section 507 of the Clean Air Act by November 15, 1994. The plan commits to provide technical and compliance assistance to small businesses, hire an Ombudsman to serve as an independent advocate for small businesses, and establish a Compliance Advisory Panel to advise the program and report to the EPA on the program's effectiveness.

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40 CFR Part 52

[WI46-01-6590; FRL-5050-3]

Withdrawal of Approval of Implementation Plan Item; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency withdraws the conditional approval of the State of Wisconsin's committal State Implementation Plan (SIP) for oxides of nitrogen (NO_x) reasonably available control technology (RACT) issued on February 1, 1994. Approval of this committal allowed the State to delay submitting NO_x RACT rules until February 1, 1995. On May 6, 1994, the Court of Appeals for the District of Columbia Circuit (D.C. Circuit) rejected EPA's construction of the conditional approval provision to allow for committal SIPs. In light of this decision EPA issued notices of failure to submit NO_x RACT SIPs to all States that had merely submitted committal NO_x RACT SIPs. Therefore, both to comply with the Court's decision and in the interest of equity with other States, EPA believes it is necessary to make this withdrawal effective upon publication so that EPA may then immediately issue a finding of failure to submit to the State of Wisconsin.

DATES: This final rule will be effective August 19, 1994.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18)), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Copies of the SIP revision request and the EPA's analysis are available for inspection at the following address: (It is recommended that you telephone Douglas Aburano at (312) 353-6960 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Air Toxics and Radiation Branch (AT-18)), EPA, Region 5, Chicago, Illinois 60604, (312) 353-6960.

SUPPLEMENTARY INFORMATION

I. Background

On February 1, 1994, EPA issued a final conditional approval of a

committal SIP submitted by the State of Wisconsin. By this committal SIP, the State committed to adopt for the Milwaukee, Kewaunee, Manitowoc, and Sheboygan nonattainment areas reasonably available control technology (RACT) for stationary sources of oxides of nitrogen (NO_x) emissions. The committal SIP consisted of a commitment of the State to adopt such rules and a schedule for adoption. The State submitted this committal SIP pursuant to an interpretation of the EPA that such commitments could be considered for conditional approval under section 110(k)(4) of the Act. See Memorandum, dated July 22, 1992, from Michael H. Shapiro, Deputy Assistant Administrator for Air and Radiation, entitled "Guidelines for State Implementation Plans Due November 15, 1992" (hereafter "Shapiro Memorandum"); Nitrogen Oxide Supplement to the General Preamble, 57 FR 55620 (November 25, 1992).

On October 9, 1992, the Natural Resources Defense Council (NRDC) challenged EPA's committal SIP policy as set forth in the Shapiro Memorandum. *NRDC v. EPA*, No. 92-1535 (D.C. Cir.). Furthermore, on December 4, 1992, NRDC challenged EPA's committal SIP policy with respect to NO_x RACT submittals, as that policy was articulated in the NO_x Supplement to the General Preamble. *NRDC v. EPA*, No. 92-1630 (D.C. Cir.). NRDC sought to consolidate these cases, along with a third case challenging EPA's committal SIP policy for inspection and maintenance (I/M) SIP submittals. The Court denied NRDC's motions to consolidate the cases, but set all three cases for oral argument on the same date.

The three cases were argued before the Court of Appeals for the D.C. Circuit on March 3, 1994. On March 8, 1994, the Court issued an Order with respect to the I/M challenge, finding that EPA's committal SIP policy "is contrary to law." The Court issued an Amended Order on April 22, 1994, but did not change this fundamental decision in the Amended Order. On May 6, 1994 the Court issued its full opinion as to all three cases. In that opinion, the Court reiterated its rejection of EPA's construction of the conditional approval provision to allow for committal SIPs. See *NRDC v. EPA*, No. 1535, slip op. at 16 (D.C. Cir., May 6, 1994).

II. Action

Because the Court has clearly rejected EPA's use of the committal SIPs policy to extend statutory deadlines, EPA is withdrawing its conditional approval of Wisconsin's NO_x RACT committal SIP.

Furthermore, EPA is using the good cause exception of the Administrative Procedure Act to take such action without providing an opportunity for notice and comment because the Court has clearly articulated that such a conditional approval is contrary to law. 5 U.S.C. 553(b)(B). Notice and opportunity for comment are unnecessary because the Court directly addressed the use of conditional approval for NO_x RACT committal SIPs in its opinion and explicitly rejected such a use. Therefore, any comments would not be sufficient to rebut this legal interpretation of the Court, and EPA would be obligated to take final action withdrawing the conditional approval. Furthermore, because the Court has so clearly articulated that such action was contrary to law, it is not in the public interest to prolong the process by providing notice and an opportunity for comment.

In addition, EPA also believes that it is proper to invoke the good cause exception for making an action effective earlier than 30 days after publication in the Federal Register. See 5 U.S.C. 553(d)(3). Prompted by the Court's order, by July 8, 1994, EPA issued notices of failure to submit NO_x RACT SIPs to all States that had merely submitted committal NO_x RACT SIPs. Because EPA conditionally approved of Wisconsin's NO_x RACT committal SIP and such conditional approval was still effective on July 8, 1994, EPA did not issue such a finding to the State of Wisconsin. The State of Wisconsin, however, should not be put in a more favorable position than other States merely because EPA had not yet taken final action on the other States' committal SIPs. Therefore, both to comply with the Court's decision and in the interest of equity, EPA believes it is necessary to make this withdrawal effective upon publication so that EPA may then immediately issue a finding of failure to submit to the State of Wisconsin.

III. Summary and Conclusion

EPA is taking final action to withdraw the conditional approval of Wisconsin's NO_x RACT committal SIP. This action will be effective immediately upon publication of this action in the Federal Register.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision

to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA.*, 427 U.S. 246, 256-66 (1976).

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 1994. 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: July 25, 1994.

Robert Springer,

Acting Regional Administrator.

40 CFR part 52 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 YY—Wisconsin

2. Subpart YY is amended by removing section 52.2569.

3. Section 52.2585 is amended by removing and reserving paragraph (c).

[FR Doc. 94-19845 Filed 8-18-94; 8:45 am]

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40 CFR Parts 52 and 81

[NH4-1-6411; A-1-FRL-5007-4]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Approval of PM₁₀ State Implementation Plan (SIP) Revisions and Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. These revisions were submitted in response to EPA's promulgation of new ambient air quality standards. The intended effect of this action is to approve revised National Ambient Air quality Standards (NAAQS) for particulate matter based on PM₁₀ and other associated regulatory changes. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This Final rule will become effective October 18, 1994, unless notice is received on or before September 19, 1994, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Linda M. Murphy, Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203.

Copies of the documents relevant to this action are available for public inspection during normal business

hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air Docket 6102 U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302-2033.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, (617) 565-3229.

SUPPLEMENTARY INFORMATION: On July 13, 1989, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of changes to New Hampshire's Air Quality Rules. New Hampshire also requests redesignation of two municipalities from nonattainment for total suspended particulate (TSP) to unclassifiable.

Background

On July 1, 1987 (52 FR 24634) EPA promulgated revised National Ambient Air Quality Standards (NAAQS) for particulate matter which was based upon the measurement of particles having a mean aerodynamic diameter of 10 microns or less (PM_{10}). The revised standards replace TSP with PM_{10} as the standard for ambient air quality. States were required to make revisions to their SIPs to reflect this change. EPA classified certain areas of the United States as Group I or Group II for PM_{10} (52 FR 29383). Areas not so classified are Group III areas. The State of New Hampshire is a Group III area. In the case of a Group III area, EPA expects the State's current air pollution control requirements are sufficient to attain and maintain the PM_{10} standards. In such cases, the State need only submit revisions to its current SIP which adopt the new PM_{10} standard and make other minor adjustments.

New Hampshire Submittal

On July 13, 1989, New Hampshire submitted formal SIP revisions. These SIP revisions change two sections of New Hampshire's air quality rules. Env-A 303 of the New Hampshire Code of Administrative Rules refers to ambient air quality standards. New Hampshire's submittal adopts the NAAQS for PM_{10} as the criteria pollutant for particulate matter for primary and secondary air quality standards and deletes the now obsolete TSP NAAQS. New Hampshire also revised Env-A 1001, Open-Air Burning, to remove a reference to TSP. New Hampshire's submittal also requests that the cities of Berlin and Manchester be redesignated from

nonattainment to unclassifiable for TSP. This change is consistent with and encouraged by the final rulemaking of July 1, 1987 (52 FR 24682), because it eliminates the need for TSP to be monitored in addition to PM_{10} . Both areas are expected to meet applicable PM_{10} standards.

Review of the New Hampshire Submittal

EPA reviewed the New Hampshire Submittal to determine if it meets the requirements of the Clean Air Act, EPA regulations, and applicable policies. The submittal meets the requirements found in the July 1, 1987, Federal Register (52 FR 24672), and EPA policy contained in the *PM₁₀ SIP Development Guideline* (EPA-450/2-86-001), dated June 1987, with a supplement dated July 1988.

The State of New Hampshire held a public hearing on the proposed changes on March 16, 1989. There were no public comments. On April 21, 1989, the amendments to rule Env-A 303, were approved by the Joint Legislative Committee on Administrative Rules at a public hearing, and received final adoption by the Air Resources Division, Department of Environmental Services. On May 24, 1989, the amendment to rule Env-A 1001 received the same approval. New Hampshire's submittal clearly defines PM_{10} and sets primary and secondary National Ambient Air Quality Standards (NAAQS) for PM_{10} defined in accordance with appendix K of 40 CFR part 50.

Legal authority to enforce these rules is contained in New Hampshire Law RSA 125-C:4. The State does not plan to delegate authority to any local agencies.

New Hampshire's submittal calls for a network of ten (10) PM_{10} monitoring sites. This network replaces the TSP network.

Changes in New Hampshire's Rules

New Hampshire's SIP revisions amend two rules: Env-A 303 and Env-A 1001. Env-A 303, specifically section Env-A 303.01, defines primary and secondary ambient air standards. New Hampshire's revisions define primary and secondary standards for particulate matter, consisting of PM_{10} , measured at an annual arithmetic mean of 50 $\mu g/m^3$, and a maximum average 24 hour concentration of 150 $\mu g/m^3$, which may be exceeded on a number of days equal or less than an average of one per year as determined in accordance with Appendix K of 40 CFR Part 50. Env-A 1001 specifies when open-air burning will be permitted or prohibited. The only change proposed would replace the phrase "Total Suspended Particles

(TSP)", with the word "particulates". The revised rule forbids open burning in areas designated nonattainment for particulates.

Redesignation of TSP Nonattainment Areas

EPA's final rulemaking of July 1, 1987 (52 FR 24682) promulgating the PM_{10} standard encourages states to request the redesignation of TSP nonattainment areas as unclassifiable for TSP at the time they submit their PM_{10} SIP revisions. This is permissible because TSP is no longer the indicator for the particulate matter NAAQS. An area designation (i.e., unclassifiable) must be maintained until the PM_{10} increment takes effect because section 163 PSD increments depend on the existence of section 107 designations. New Hampshire has requested the redesignation of Berlin and Manchester from nonattainment to unclassifiable for TSP. The entire State of New Hampshire was originally classified as Group III (52 FR 29383); therefore it is permissible to redesignate these areas as unclassifiable for TSP.

Clean Air Act Amendments of 1990

The Agency has reviewed this SIP Revision for conformance with the provisions of the Clean Air Act Amendments of 1990. EPA has determined that this action conforms with those requirements irrespective of the fact that the State Submittal preceded the date of enactment. Group III PM_{10} areas which did not show a violation of the NAAQS for PM_{10} are now designated as unclassifiable for PM_{10} under section 107(d)(4)(B)(iii).

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent documents. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on October 18, 1994.

Final Action

EPA is approving revisions to Env-A 303.01 and Env-A 1001 as New Hampshire's Group III PM_{10} SIP; and

EPA is approving the State's request to redesignate Berlin and Manchester from nonattainment to unclassifiable for TSP.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities.

Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirement of section 3 of Executive Order 12291 for a period of two years. The US EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory

flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds.

Union Electric Co. v. U.S. EPA, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Agency has reviewed this request for revision of the federally-approved State implementation plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. Although New Hampshire submitted this request prior to November 15, 1990, the Agency has determined that this action conforms with those requirements. The revisions strengthen the requirements in the New Hampshire SIP and conform to all of EPA's current regulations.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 18, 1994. 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).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental

relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: June 10, 1994.

Patricia L. Meaney,
Acting Regional Administrator, Region I.

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 EE—New Hampshire

2. Section 52.1520 is amended by adding paragraph (c)(40) to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

(40) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on July 6, 1989.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated July 6, 1989 submitting revisions to the New Hampshire State Implementation Plan.

(B) Revisions to New Hampshire's Rule Env-A 303.01 entitled "Particulate Matter," effective April 21, 1989.

(C) Revisions to New Hampshire's Rule Env-A 1001.02 entitled "permissible Open Burning," effective May 26, 1989.

3. In § 52.1525 the table is amended by adding new entries to existing state citations for "particulate matter" and "open air burning" to read as follows:

§ 52.1525 EPA-Approved New Hampshire State regulations.

* * * * *

TABLE 52.1525.—EPA-APPROVED RULES AND REGULATIONS¹—NEW HAMPSHIRE

Title/subject	State citation chapter ²	Date adopted State	Date approved EPA	Federal Register citation	52.1520	Comments
Particulate matter	Env-A 303	4/21/89	August 19, 1994.	[FR citation from published date].	(c)(40)	303.01 303.015
Open-Air Burning	Env-A 1001	5/19/89	August 19, 1994.	FR citation from published date].	(c)(40)	1001.02

¹ These regulations are applicable statewide unless otherwise noted in the Comments section.

² When the New Hampshire Department of Environmental Services was established in 1987, the citation chapter title for the air regulations changed from CH Air to Enr-A.

Subpart C—New Hampshire

Authority: 42 U.S.C. 7401-7671q.

2. Section 81.330 is amended by revising the attainment status designation table for TSP to read as follows:

PART 81—[AMENDED]

1. The authority for part 81 continues to read as follows:

§ 81.330 New Hampshire.

New Hampshire-TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standard
Metro Keene				X
Metro Manchester			X	
Remainder of New Hampshire's Portion of So. N.H.M.V. AQCR 121.				X
Central NH Interstate AQCR 149.				X
Metro Berlin			X	
Remainder of New Hampshire's portion of Androscoggin Valley Interstate AQCR 107.				X

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40 CFR Part 749

[OPPTS-61018A; FRL-4867-3]

RIN 2070-AC57

Prohibition of Hexavalent Chromium-Based Water Treatment Chemicals in Comfort Cooling Towers; Amendment To Limit the Scope of the Export Notification Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 40 CFR part 749, subpart D, which prohibits, under section 6 of the Toxic Substances Control Act (TSCA), the use of hexavalent chromium-based water treatment chemicals in comfort cooling towers and the distribution of such chemicals in commerce for use in comfort cooling towers. Today's action amends 40 CFR 749.68 to clarify that only hexavalent chromium chemicals that can be used for water treatment are the subjects of this regulation, not other hexavalent chromium chemicals. This amendment limits the scope of export notifications currently required for hexavalent chromium chemicals under TSCA section 12(b), the TSCA Export Notification Rule (40 CFR part 707), and § 749.68. No changes to the prohibitions or labeling requirements of the hexavalent chromium rule are intended by this amendment. As amended,

§ 749.68 does not trigger the section 12(b) export notification requirements for exports of hexavalent chromium products such as certain paints, dyes, pigments, coatings, electroplating and conversion coating products, and other products containing hexavalent chromium that cannot be used to treat water.

DATES: This rule shall become effective on September 19, 1994. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern daylight time (or standard time) on September 2, 1994.

FOR FURTHER INFORMATION CONTACT: Geraldine Gardner, Office of Enforcement and Compliance Assurance (2245), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202-260-8858.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 30, 1993 (58 FR 63148), EPA proposed an amendment to 40 CFR part 749, subpart D, which prohibits the use of hexavalent chromium (Cr⁺⁶)-based water treatment chemicals in comfort cooling towers (CCTs) and the distribution of such chemicals in commerce for use in CCTs. The regulatory text of today's amendment is identical to the regulatory text of the proposed amendment. Comments received on the proposed amendment are addressed in Unit V of this preamble. Today's amendment modifies 40 CFR 749.68 to clarify that only Cr⁺⁶ chemicals that can be used for water treatment are the subjects of the regulation, not other Cr⁺⁶ chemicals. This change limits the scope

of TSCA section 12(b) export notifications currently required for Cr⁺⁶ chemicals.

I. Authority

This amendment is being promulgated pursuant to TSCA sections 6 (15 U.S.C. 2605) and 12(b) (15 U.S.C. 2611(b)). Section 6 of TSCA authorizes EPA to impose regulatory controls if EPA finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture presents or will present an unreasonable risk of injury to human health or the environment. Under this authority, EPA issued a final rule in the Federal Register of January 3, 1990 (55 FR 222), that prohibits the use of Cr⁺⁶-based water treatment chemicals in CCTs and the distribution in commerce of Cr⁺⁶-based water treatment chemicals for use in CCTs (40 part CFR 749, subpart D). The rule also requires persons who distribute in commerce Cr⁺⁶-based water treatment chemicals to label the containers of the chemicals.

Section 12(b) of TSCA requires that any person who exports or intends to export to a foreign country a chemical substance or mixture for which: (1) The submission of data is required under TSCA section 4 (15 U.S.C. 2603) or 5(b) (15 U.S.C. 2604(b)); (2) an order has been issued under section 5; (3) a rule has been proposed or promulgated under section 5 or 6 (15 U.S.C. 2605); or (4) relief has been granted under section 5 or 7 (15 U.S.C. 2606) to notify the Administrator of EPA of such exportation or intent to export. Upon receipt of such notification, section