

Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 1985, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the Comptroller General

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 rule 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 of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 8, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I 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. In § 180.430, in paragraph (a) by alphabetically adding the following commodities to the table to read as follows:

§ 180.430 Fenoxaprop-ethyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Barley, grain	0.05
Barley, straw	0.1
* * *	* * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264 and 265

[FRL-6001-8]

Removal of Direct Final Rule for XL Project at OSi Specialties, Inc., Sistersville, WV

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of direct final rule amendments.

SUMMARY: On March 6, 1998, EPA published a direct final rule entitled "Project XL Site-Specific Rulemaking for OSi Specialties, Inc., Sistersville, West Virginia" at 63 FR 11124-11147. That **Federal Register** notice provided that the direct final rule would be withdrawn if relevant adverse comments were received by March 27. Because EPA received such comments, EPA is now removing the amendments made by the direct final rule.

EFFECTIVE DATE: April 22, 1998.

ADDRESSES: *Docket.* A docket containing documents relevant to this action is available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603-9230. Refer to RCRA docket number F-98-MCCP-FFFFF.

A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 3, 841 Chestnut Street, Philadelphia, PA 19107-4431, during normal business hours. Persons wishing to view the duplicate docket at the Philadelphia location are encouraged to contact Mr. Tad Radzinski in advance, by telephoning (215) 566-2394.

FOR FURTHER INFORMATION CONTACT:

Mr. Tad Radzinski, U.S. Environmental Protection Agency, Region 3 (3WC11), Waste Chemical Management Division, 841 Chestnut Street, Philadelphia, PA 19107-4431, (215) 566-2394.

SUPPLEMENTARY INFORMATION:

A companion proposal to the direct final rule was published in the March 6, 1998 **Federal Register** (63 FR 11200-11202). EPA will address the comments received in response to that proposal but will not institute a second comment period.

However, persons who still wish to comment on the companion proposal may do so by attending the hearing announced in the proposed rule section of today's **Federal Register**. In a subsequent final rule EPA will address the comments received on the proposed rule.

The Congressional Review Act, 5 U.S.C. Section 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 the Comptroller General of the United States. Section 804, however, exempts from Section 801 the following types of rules: rules of particular applicability; rules relating to Agency management or personnel; and rules of Agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-Agency parties, 5 U.S.C. Section 804(3). EPA is not required to submit a rule report regarding today's action under Section 801 because this is rule of particular applicability.

Because the rule now being withdrawn is currently effective, EPA also finds that good cause exists under section 3010(b)(3) of RCRA (42 U.S.C. 6903(b)(3)) to publish this removal of the site-specific regulation with an immediate effective date, rather than having it take effect in 30 days. See 5 U.S.C. 553(d)(3). Today's removal of the direct final rule affects only one facility, and is limited in its scope to a removal of a temporary conditional deferral of a relatively narrow set of RCRA regulations. As such, the deferral was

designed to provide greater flexibility only to the OSi Specialties, Inc., Sistersville Plant, and did not impose or remove additional regulatory requirements on other regulated entities.

List of Subjects in 40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Control device, Hazardous waste, Monitoring, Reporting and recordkeeping requirements, Surface impoundment, Treatment storage and disposal facility, Waste determination.

Dated: April 16, 1998.

Carol M. Browner,
Administrator.

Accordingly, 40 CFR Chapter I is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

§ 264.1080 [Amended]

2. Section 264.1080 is amended by removing paragraphs (f) and (g).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

§ 265.1080 [Amended]

4. Section 265.1080 is amended by removing paragraphs (f) and (g).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS-400082D; FRL-5785-5]

Deletion of Certain Chemicals; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today amending its regulations to delete several chemicals and chemical categories from the list of chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). This action is being taken to comply with a January 12, 1998 order from the United States District Court for the District of Columbia. Because this action is being taken to conform the regulations to the court's order, notice and comment are not required, and this rule is effective immediately.

EFFECTIVE DATE: This rule is effective April 22, 1998.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Petitions Coordinator, 202-260-3882 or e-mail: bushman.daniel@epamail.epa.gov. For specific information regarding this document or for further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877, or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 30, 1994 (59 FR 61432) (FRL-4922-2), EPA issued a final rule entitled "Addition of Certain Chemicals; Toxic Chemical Release Reporting; Community Right-to-Know" under section 313(d) of EPCRA, 42 U.S.C. 11023(d). That rule added 286 chemicals and chemical categories (hereinafter collectively "chemicals") to the list of toxic chemicals subject to reporting under section 313 of EPCRA, 42 U.S.C. 11023, and section 6607 of the PPA, 42 U.S.C. 13106(a).

The Chemical Manufacturers Association (CMA) and several other plaintiffs filed suits challenging various aspects of the rule in the United States District Court for the District of Columbia. During the pendency of those cases, EPA and CMA entered into an agreement whereby EPA consented to

the remand and vacatur of dimethyldichlorosilane, methyltrichlorosilane, and trimethylchlorosilane (hereinafter collectively "chlorosilanes") which had been added by the rule. An order to that effect was issued by the District Court. Subsequently, the court granted summary judgment in favor of EPA on all remaining issues raised in the cases. See *National Oilseed Processors Ass'n, et al. v. Browner*, 924 F. Supp. 1193 (D.D.C. 1996).

On appeal, the Court of Appeals for the District of Columbia Circuit upheld the lower court's decision on all issues except EPA's listing of 2,6-dimethylphenol (DMP) and 2-bromo-2-nitropropane-1,3-diol (Bronopol). See *Troy Corp., et al. v. Browner*, 120 F.3d 277 (D.C. Cir. 1997). As to those chemicals, by order dated December 16, 1997 the court remanded the District Court's decision with instructions to remand EPA's action to the Agency for further proceedings consistent with the Court of Appeals' ruling. On CMA's motion, the District Court then issued a January 12, 1998 order (*Chemical Manufacturers Association v. Browner, et al.*, No. 1:95CV01673) vacating the listing of DMP and Bronopol, and directing EPA to publish a notice removing chlorosilanes, DMP, and Bronopol from the EPCRA section 313 list of reportable toxic chemicals.

Accordingly, EPA is issuing this final rule revising the EPCRA section 313 list of reportable chemicals in 40 CFR 372.65 to delete chlorosilanes, DMP, and Bronopol. Under 5 U.S.C. 553(b)(3)(A), the notice-and-comment requirements of the Federal Administrative Procedure Act (5 U.S.C. 551-706) do not apply where the Agency "for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Because the District Court's orders vacate the listing of chlorosilanes, DMP, and Bronopol thus rendering those listings without effect, and because this action is being taken merely to comply with the court's direction and to amend the regulations so that they reflect the present legal status of those chemicals, EPA hereby finds that notice and comment on this action are unnecessary.

This action is effective immediately upon publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), 30-day advance notice of a rule is not required where the Agency provides otherwise for good cause. EPA finds that good cause for an immediate effective date exists in this case, because as explained above this rule merely amends the EPCRA section 313 list of