

years of marketing exclusivity beginning January 10, 2006.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Revise paragraph (d)(2) in § 522.1450 to read as follows:

§ 522.1450 Moxidectin solution.

* * * * *

(d) * * *

(2) *Indications for use.* For treatment and control of gastrointestinal roundworms: *Ostertagia ostertagi* (adults, fourth-stage larvae, and inhibited larvae), *Haemonchus placei* (adults), *Trichostrongylus axei* (adults and fourth-stage larvae), *Trichostrongylus colubriformis* (adults and fourth-stage larvae), *Cooperia oncophora* (adults), *Cooperia pectinata* (adults), *Cooperia punctata* (adults and fourth-stage larvae), *Cooperia spatulata* (adults), *Cooperia surnabada* (adults and fourth-stage larvae), *Nematodirus helvetianus* (adults), *Oesophagostomum radiatum* (adults and fourth-stage larvae), *Trichuris* spp. (adults); lungworms: *Dictyocaulus viviparus* (adults and fourth-stage larvae); grubs: *Hypoderma bovis* and *Hypoderma lineatum*; mites: *Psoroptes ovis* (*Psoroptes communis* var. *bovis*); lice: *Linognathus vituli* and *Solenopotes capillatus*; for protection of cattle from reinfection with *D. viviparus* and *O. radiatum* for 42 days after treatment, with *H. placei* for 35 days after treatment, and with *O. ostertagi* and *T. axei* for 14 days after treatment.

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Dated: February 3, 2006.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 06-1264 Filed 2-10-06; 8:45 am]

BILLING CODE 4160-01-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[OECA-2005-0082; FRL-8031-4]

RIN 2070-AJ24

Revision to Toxic Substances Compliance Monitoring Grants (TSCA Section 28) Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This is an amendment to the grant regulations. EPA is amending regulations based on a determination that it is not practicable to award Toxic Substances Control Act (TSCA) compliance monitoring grant funds to States through a competitive process. Instead, EPA will award these grants to States on an allotment basis. Section 28 of TSCA authorizes EPA to award grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks to health or the environment associated with chemical substances or mixtures within the States with respect to which EPA is unable or not likely to take action for their prevention or elimination.

DATES: This final rule is effective February 13, 2006.

ADDRESSES: Materials related to this rulemaking are contained in EPA Grants Docket OECA 2005-0082. The EPA Docket is located at the Office of Environmental Information Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, 20460. The Air Docket is open from 8:30 a.m. until 4:30 p.m., Monday through Friday. Materials related to previous EPA actions on the essential use program are contained in EPA Docket No. OECA-2005-0082.

FOR FURTHER INFORMATION CONTACT: Phyllis Flaherty, Chief, National Compliance Monitoring Policy Branch (NCMPB), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-2405; fax number: (202) 564-0050; e-mail address: flaherty.phyllis@epa.gov.

SUPPLEMENTARY INFORMATION: Section 28 of TSCA authorizes EPA to award grants

to States for the establishment and operation of programs to prevent or eliminate unreasonable risks to health or the environment associated with chemical substances or mixtures within the States with respect to which EPA is unable or not likely to take action for their prevention or elimination.

This action is necessary to reflect how EPA manages the TSCA compliance monitoring programs for PCB and asbestos compliance monitoring activities through grants to States. EPA manages these grants as continuing environmental programs with awards allocated to participating States annually on a non-competitive basis. For the grants awarded in FY2002, FY2003, FY2004, and FY2005, the EPA Grants Administration Division granted a deviation to allow EPA to award these grants without competition to avoid disruption of ongoing State compliance monitoring programs. As described more fully below, it is not practicable to award these funds competitively. If funds were competed, some States may receive reduced or zero funding which could adversely impact ongoing State compliance monitoring programs and cause layoffs of State personnel. This amendment will eliminate the need for additional deviations by removing the requirement to award these grant funds competitively.

EPA has in the past competitively awarded sector based/multimedia grants which funded discrete projects under the TSCA section 28 grant authority. When 40 CFR 35.312 was promulgated in 2001, the intent was that these project specific funds would be competed and that, as described above, the grants for PCBs and asbestos would continue to be funded as continuing programs and not be competed. EPA no longer awards its sector based/multimedia grants for discrete compliance monitoring projects exclusively under TSCA but awards these as multimedia capacity building and cooperative agreement grants under various statutes including TSCA section 10. EPA continues to compete these grants, as appropriate, which fund discrete projects rather than continuing environmental programs.

Under EPA's grants competition policy, EPA awards grants competitively "to the maximum extent practicable." EPA has determined that it is not practicable to award the TSCA PCB and asbestos compliance monitoring grants to States under 40 CFR 35.312 "through a competitive process" for the following reasons:

1. If the funds were competed, States may receive zero or reduced funding. Such funding reductions could result in layoffs or turnover of qualified and

experienced State inspectors who are responsible for operating State PCB and asbestos compliance monitoring programs. This would not be in the public interest since States with compliance monitoring programs depend on EPA grant funds to retain the skilled personnel needed for effective program implementation. Moreover, in States that scale back programs due to funding reductions, any turnover of experienced inspectors would require EPA to divert its limited grant dollars from high priority compliance monitoring activities to training new inspectors.

2. States with existing TSCA asbestos and PCB compliance monitoring programs depend on EPA grant funding to run these programs and State activities under the grants comprise a significant portion of EPA's national program for ensuring compliance with the TSCA asbestos and PCB requirements. Under a competition, these States may receive zero or reduced funding, which could cause them to discontinue their programs or cut back on inspections, potentially leading to an increased rate of non-compliance with PCB and asbestos regulations. Non-compliance with the regulations would pose a public health risk associated with the improper handling of PCB and asbestos materials.

3. Regions need to be able to work closely with States to ensure that their compliance monitoring programs meet current EPA standards and policies to ensure a cooperative and effective inspection program. Building and maintaining on-going State capacity is an important outcome of this grant program. This is particularly true for States seeking to become waiver States for purposes of the Asbestos Hazard Emergency Response Act (AHERA), which means they run the program entirely including the enforcement component. The need for such intensive interaction both before and during the application process makes it impracticable to compete these grants.

This grant regulatory change is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute and can be taken by EPA as a final action. Accordingly, the text of § 35.312 will read as follows: "EPA will allot and award Toxic Substances Control Act compliance monitoring grant funds to States in accordance with national program guidance." In addition, EPA is renaming the title of this section "Basis for allotment" from "Competitive process".

Statutory and Executive Order Reviews: Under Executive Order 12866

(58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments. This action does not have tribal implications, as specified in Executive Order 13175 (63 FR 67249, November 9, 2000). This action will not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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. This action does not involve technical standards; 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. This action 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., generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this final grant action contains legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit this action in its report to Congress under the Act prior to publication of the 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 35

Environmental protection, Administrative practices and procedures, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: January 31, 2006.

Stephen L. Johnson,
Administrator.

■ EPA amends 40 CFR part 35 as follows:

PART 35—[AMENDED]

■ 1. The authority citation for part 35, subpart A continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 300f et seq.; 42 U.S.C. 6901 et seq.; 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 42 U.S.C. 13101 et seq.; Pub. L. 104-134, 110 Stat. 1321, 1321-299 (1996); Pub. L. 105-65, 111 Stat. 1344, 1373 (1997).

■ 2. Section 35.312 is revised to read as follows:

§ 35.312 Basis for allotment.

EPA will allot and award Toxic Substances Control Act Compliance Monitoring grant funds to States based on national program guidance.

[FR Doc. 06-1309 Filed 2-10-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2002-0088, FRL-8008-2]

RIN 2060-AM90

National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for new and existing refractory products manufacturing facilities, which were promulgated on April 16, 2003, under section 112(d) of the Clean Air Act (CAA). The amendments clarify the testing and monitoring requirements and startup and shutdown requirements for batch processes, make certain technical corrections, and add recent changes to be consistent with the NESHAP General Provisions.

DATES: The direct final rule is effective on April 14, 2006 without further notice, unless adverse comments are received by March 15, 2006 or by March 30, 2006 if a public hearing is requested. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** indicating which amendments will become effective and which amendments are being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR-2002-0088, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment