

2011, proposed order are now due on July 5, 2011.

#### IV. Regulatory Assessment Requirements

As indicated in the proposed order, this action is an adjudication and not a rule. The regulatory assessment requirements imposed on rulemaking do not, therefore, apply to this action.

#### V. 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, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

#### List of Subjects in 40 CFR Part 180

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

Dated: March 30, 2011.

**William R. Diamond,**

*Acting Director, Office of Pesticide Programs.*

[FR Doc. 2011-8183 Filed 4-5-11; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 268

[EPA-HQ-RCRA-2010-0851; FRL-9290-5]

#### Land Disposal Restrictions: Nevada and California; Site Specific Treatment Variances for Hazardous Selenium Bearing Waste

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to issue both a site-specific treatment variance to U.S. Ecology Nevada (USEN) located in Beatty, Nevada and withdraw an existing site-specific treatment variance issued to Chemical Waste Management, Inc. (CWM) located in Kettleman Hills, California. This proposal pertains to the treatment of a hazardous waste generated by the Owens-Brockway Glass Container Company in Vernon, California that is unable to meet the concentration-based treatment standard for selenium established under the Land Disposal Restrictions program. The site-specific treatment variance proposed to be issued to USEN would provide an alternative treatment standard of 59 mg/L for selenium as measured by the Toxicity Characteristic Leaching Procedure. EPA has determined that the

treatment performed by USEN provides the best demonstrated treatment available for this waste by reducing the amount of selenium potentially released to the environment, while minimizing the total volume of hazardous waste land disposed. In the "Rules and Regulations" section of this **Federal Register**, EPA has also published a direct final rule granting a site-specific treatment variance to USEN, and withdrawing the site-specific treatment variance previously granted to CWM for this same waste without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule and the direct final rule will become effective as provided in that action.

**DATES:** Written comments must be received by May 6, 2011. Comments postmarked after the close of the comment period will be stamped "late" and may or may not be considered by the Agency.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2010-0851, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov) and [miller.jesse@epa.gov](mailto:miller.jesse@epa.gov). Attention Docket ID No. EPA-HQ-RCRA-2010-0851.

- *Fax:* 202-566-9744. Attention Docket ID No. EPA-HQ-RCRA-2010-0851.

- *Mail:* RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-RCRA-2010-0851. Please include a total of 2 copies.

- *Hand Delivery:* Please deliver 2 copies to EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-RCRA-2010-0851. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The

<http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ-Docket Center, Docket ID No. EPA-HQ-RCRA-2010-0851, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** For more information on this rulemaking, contact Jesse Miller, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery (MC 5304 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308-1180; fax (703) 308-0522; or [miller.jesse@epa.gov](mailto:miller.jesse@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Why is EPA issuing this proposed rule?

This action proposes to issue both a site-specific treatment variance to U.S. Ecology Nevada (USEN) located in Beatty, Nevada and withdraw an existing site-specific treatment variance issued to Chemical Waste Management, Inc. (CWM) located in Kettleman Hills, California. This proposal pertains to the treatment of a hazardous waste generated by the Owens-Brockway Glass Container Company in Vernon, California that is unable to meet the concentration-based treatment standard for selenium established under the Land Disposal Restrictions program. The site-specific treatment variance proposed to be issued to USEN would provide an alternative treatment standard of 59 mg/L for selenium as measured by the Toxicity Characteristic Leaching Procedure. EPA has determined that the treatment performed by USEN provides the best demonstrated treatment available for this waste by reducing the amount of selenium potentially released to the environment, while minimizing the total volume of hazardous waste land disposed.

In the Rules and Regulations section of this **Federal Register**, we have also published a direct final rule granting a site-specific treatment variance to USEN and withdrawing the site-specific treatment variance previously granted to CWM for this same waste. We are issuing a direct final rule for this action because we view this as noncontroversial and anticipate no adverse comment. We have explained our reasons for this in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule and the direct final rule will become effective as provided in that action. If we do receive adverse comment, we will publish a timely notice in the **Federal Register** withdrawing the direct final rule and it will not take effect. We will address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

## II. Does this action apply to me?

This proposal applies only to U. S. Ecology Nevada located in Beatty, Nevada and Chemical Waste Management located in Kettleman Hills, California.

## III. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

### *Direct Final Rule Location of Regulatory Text for This Proposal*

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in the Rules and Regulations section of today's **Federal Register**.

### *Statutory and Executive Order Reviews*

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

This site-specific treatment variance, as proposed, does not create any new requirements. Rather, it proposes an alternative treatment standard for a specific waste that applies to only one facility, USEN and proposes to withdraw an existing site-specific treatment variance for the same waste at CWM in Kettleman Hills, California. Therefore, we hereby certify that this action, as proposed would not add any new regulatory requirements to small entities. This proposal rule, therefore, does not require a regulatory flexibility analysis.

### **List of Subjects in 40 CFR Part 268**

Environmental Protection, Hazardous Waste, Variances.

Dated: March 31, 2011.

### **Mathy Stanislaus,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 2011-8180 Filed 4-5-11; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 271**

[EPA-R06-RCRA-2010-0307; FRL-9290-9]

### **Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The State of Oklahoma has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final