

## Regulatory Certifications

### *Administrative Procedure Act*

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. The Drug Enforcement Administration finds good cause to exempt this rulemaking from public notice and comment as such notice and comment would be unnecessary and impracticable. This final rule merely corrects the inadvertent removal of 21 CFR 1310.04(g) from the Code of Federal Regulations. Further, DEA finds good cause to make this rulemaking effective immediately upon publication, as delaying its effective date could cause confusion within the regulated industry regarding thresholds for the List I chemicals ephedrine, red phosphorus, white phosphorus and hypophosphorous acid (and its salts).

### *Congressional Review Act*

The Drug Enforcement Administration has determined that this action is a rule relating to agency procedure and practice that does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104-121)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

### *Regulatory Flexibility Act*

The Deputy Assistant Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This final rule merely corrects the inadvertent removal of a paragraph in title 21, Code of Federal Regulations, part 1310.

### *Executive Order 12866*

The Deputy Assistant Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 section 1(b). DEA has determined that this is not a significant regulatory action. Therefore, this action has not been reviewed by the Office of Management and Budget.

### *Executive Order 12988*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

### *Executive Order 13132*

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

### **List of Subjects in 21 CFR Part 1310**

Drug traffic control, List I and II chemicals, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1310 is amended as follows:

### **PART 1310—[AMENDED]**

1. The authority citation for part 1310 continues to read as follows:

**Authority:** 21 U.S.C. 802, 830, 871(b).

2. Section 1310.04 is amended by:

- a. Removing paragraph (f)(1)(i)(C), and redesignating existing paragraphs (f)(1)(i)(D) through (f)(1)(i)(W) as (f)(1)(i)(C) through (f)(1)(i)(V);
- b. Revising paragraph (f)(1)(ii) introductory text; and
- c. Adding paragraph (g).

### **§ 1310.04 Maintenance of records.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(ii) Notwithstanding the thresholds established in paragraphs (f)(1)(i) and (g) of this section, the following thresholds will apply for the following List I chemicals that are contained in drug products that are regulated pursuant to § 1300.02(b)(28)(i)(D) of this chapter (thresholds for retail distributors and distributors required to report under § 1310.03(c) of this part are for a single transaction; the cumulative threshold provision does not apply. All other distributions are subject to the cumulative threshold provision.):

\* \* \* \* \*

(g) For listed chemicals for which no thresholds have been established, the size of the transaction is not a factor in determining whether the transaction meets the definition of a regulated transaction as set forth in § 1300.02(b)(28) of this chapter. All such transactions, regardless of size, are subject to recordkeeping and reporting requirements as set forth in this part and notification provisions as set forth in part 1313 of this chapter.

(1) Listed chemicals for which no thresholds have been established:

- (i) Ephedrine, its salts, optical isomers and salts of optical isomers
- (ii) Red phosphorus
- (iii) White phosphorus (Other names: Yellow Phosphorus)
- (iv) Hypophosphorous acid and its salts

(2) [Reserved]

Dated: February 26, 2003.

**Laura M. Nagel,**

*Deputy Assistant Administrator, Office of Diversion Control.*

[FR Doc. 03-5528 Filed 3-10-03; 8:45 am]

**BILLING CODE 4410-09-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 62**

**[IN147-1a; FRL-7464-6]**

### **Approval and Promulgation of State Implementation Plans; Indiana**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the removal of the State rule controlling fluoride emission limitations from existing primary aluminum plants as a revision to the plan for control of fluoride emissions from existing primary aluminum plants (plan), as requested by the State of Indiana on