

facilities and are found at 40 CFR part 429. Effluent limitations for a number of the subcategories covered in 40 CFR part 429 prohibit discharge of process wastewater pollutants into navigable waters of the United States. Industry has requested that we propose to amend the effluent guidelines in 40 CFR part 429, specifically the definition of process wastewaters at § 429.11(c), which affects all subparts requiring no discharge of process wastewater pollutants, to allow discharge of certain wastewaters, specifically wastewaters associated with APCD operation and maintenance, by excluding them from the applicability of these subparts. Industry has asserted that effluent limitations for these wastewaters could be developed by permit writers on a case-by-case basis based upon best professional judgment. Industry comments are in Docket number A-98-44.

At this time, we are not proposing to amend the effluent guidelines because many PCWP facilities are disposing of these wastewaters in compliance with the existing regulations, for example, by recycling them in the process or discharging them to a publicly owned treatment works. We lack comprehensive information to support the industry's suggestion that simultaneous compliance with the proposed rule and the existing effluent guidelines would not be possible.

In order to consider industry's request, we would need to obtain additional and more-detailed information than currently available that: (1) Quantifies the volumes and pollutants present in the wastewaters generated by APCD used to comply with the proposed rule so that comparisons can be made with wastewaters regulated by the existing effluent guidelines, and (2) documents the industry's wastewater treatment and disposal practices to support the assertions that any additional APCD wastewaters that may not have been considered in the original rulemaking for part 429 are not or could not be disposed of in a manner compliant with the existing effluent guidelines. We are requesting comment and additional detailed information and supporting data from interested parties on whether 40 CFR part 429, subparts B, C, D, F, K, L, M, and O, should be amended by revising the applicability of any or all of these subparts requiring no discharge of process wastewater pollutants (*i.e.*, by changing the definition of process wastewater at § 429.11(c)), such that the effluent guidelines would not apply to wastewater produced by operation or maintenance of APCD that are used to comply with the proposed rule. Any

new information and data will be considered and, if appropriate, could serve as the basis for amending the definition of process wastewater found at 40 CFR § 429.11(c) at the time the final PCWP MACT rule is promulgated. (The EPA would consider employing a direct final rule to promulgate any such amendment if we receive convincing supporting information as described above and do not receive significant adverse comment on this issue in response to today's proposed rule. If we do receive adverse comments, we would need to propose the amendment prior to promulgation.) If appropriate and promulgated, this amendment, or a similar amendment designed to achieve the same result, would allow for the discharge of such APCD wastewater that may result from compliance with the PCWP MACT rule. We are considering an amendment to 40 CFR § 429.11(c), to read as follows (amending language in *italics*): The term "process wastewater" specifically excludes non-contact cooling water, material storage yard runoff (either raw material or processed wood storage), *boiler blowdown, and wastewater from air pollution control devices installed to comply with the proposed national emissions standards for hazardous air pollutants (NESHAP) for plywood and composite wood products (PCWP) facilities (40 CFR § 63.22).* For the dry process hardboard, veneer, finishing, particleboard, and sawmills and planing mills subcategories, fire control water is excluded from the definition.

The actual discharge allowances would be determined initially on a case-by-case basis by NPDES permitting authorities using their best professional judgment (*See* 40 CFR § 125.3). (In this regard, the industry has suggested that discharge limitations could be expressed in the form of allowances for the discharges attributable to the proposed PCWP MACT rule.) If we promulgate an amendment to part 429 of the type described above at the time we promulgate the final PCWP MACT rule, we will consider, through the CWA section 304(m) planning process, whether it is appropriate to revise part 429 at a later time in order to establish category- or subcategory-specific effluent limitations and standards for such APCD wastewater discharges.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to

review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this proposed rule is a "significant regulatory action" because the annual costs of complying with the rule as proposed are expected to exceed \$100 million. Consequently, this action was submitted to OMB for review under Executive Order 12866. Any written comments from OMB and written EPA responses are available in the docket (see **ADDRESSES** section of this preamble).

We did not estimate health and welfare benefits associated with changes in emissions of HAP, CO, VOC, PM, NO_x and SO₂ for this proposed rule.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with