

DCN 41.2) as well as in the supporting information and analyses in the record.

In addition, the "Authority" citation is revised to conform with current guidance from the Federal Register Office.

X. Good Cause for Making Today's Amendments Effective on December 22, 2003

Section 553(d) of the Administrative Procedure Act generally provides that a final rule may not be effective sooner than 30 days after it is published. Section 553(d)(3), however, provides that an agency may make a final rule effective in less than 30 days after publication for "good cause found and published with the rule." The purpose of this provision is to provide affected parties a reasonable time to prepare for the effective date of the rule or take such other action as needed. The legislative history of this provision indicates that it was not intended to unduly hamper agencies from making a rule effective immediately or at some time earlier than 30 days. The exercise of the "good cause" exception, however, requires legitimate grounds supported in law and fact. Legitimate grounds would include an "urgency of conditions coupled with demonstrated and unavoidable limitations of time." The primary consideration is the convenience or necessity of the people affected. See *Northern Arapahoe Tribe v. Hodel*, 808 F.2d 741, 752 (10th Cir. 1987) citing, *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977). EPA has determined that there is good cause for making today's amendments effective on December 22, 2003 for two reasons.

First, the changes would relieve direct and indirect dischargers from the legal obligation to comply with effluent limitations and pretreatment standards for certain pollutants that the Agency either erroneously determined should be regulated or incorrectly assessed the capability of the model technology to achieve the required removals. In these circumstances, immediate relief from the former limitations and standards is warranted.

Second, existing indirect dischargers are required to comply with the promulgated pretreatment standards by December 22, 2003. Delaying the effective date for 30 days could result in the contemplated changes not being effective before the required compliance date, possibly exposing some indirect dischargers to enforcement action for violation of standards that will be superseded. These circumstances constitute the requisite urgency of condition coupled with limitations of time to warrant good cause for making

today's rule effective on December 22, 2003.

XI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 [58 FR 51735, (October 4, 1993)], the Agency must determine whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 obligations 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.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It merely deletes the limitations for seven pollutants from certain provisions of the current rule and corrects a limitation for another pollutant that was incorrectly transcribed from the version signed by the EPA Administrator. Consequently, today's rule does not establish any new information collection burden on the regulated community.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the

existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to 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.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business with gross revenue under \$6 million (based on Small Business Administration size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The rule removes or revises the limitations and standards for seven pollutants from certain provisions of the current rule and corrects an error in another provision. These changes reduce the economic impacts of the regulation on those entities, including small entities, subject to the limitations and pretreatment standards. The estimated reduction in the analytical laboratory costs of compliance is about \$500,000 (DCN 47.6). The change to the BOD₅ limitation will result in no change in economic burden because this modification merely corrects the limitation to reflect the BOD₅ limitation