

A Notice announcing delegation will be published in the Federal Register in the near future. The Notice will state, among other things, the effective date, all reports pursuant to the above-mentioned Federal NSPS and NESHAP regulations by sources located in the State of Delaware should be submitted to the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware 19901. In addition to EPA Region III, any original reports which are received by EPA Region VI will be promptly transmitted to DNREC.

Since this delegation is effective immediately, there is no requirement that DNREC notify EPA of its acceptance. Unless EPA receives from DNREC written notice of objection ten (10) days of receipt of this letter, DNREC will be deemed to have accepted all of the terms of delegation.

Sincerely,
Edwin B. Enckson,
Regional

The Office of Management and Budget has exempted this delegation of authority from the provisions of section 3 of the Executive Order 12291.

Authority: 11(c) and 112(d), the Clean Air Act, 42 U.S.C. 7412(d).

Edwin B. Erickson,
Regional Administrator.

Title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 52 U.S.C. 7401, 7411, 7414, 7418, and 7601.

160." [Amended]

2. Section 60.4(b)(1) is amended by removing the parenthetical statement.

PART 61—[AMENDED]

3. The authority citation for part 61 continues to read as follows:

Authority: SecB. 101, 112, 114, 116, and 301 of the Clean Air Act, as amended [42 U.S.C. 7401, 7412, 7414, 7416, and 7601].

§ 61.04 [Amended]

4. Section 61.04(b)(1) is amended by removing the parenthetical statement.

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40 CFR Parts 123 and 403

[FRL 3652-21

Approval of California's Revisions to the State National Pollution Discharge Elimination System Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollution Discharge Elimination System (NPDES) Pretreatment Program, approval to Issue NPDES general permits and approval of revisions to the existing NPDES permit regulations of the State of California.

SUMMARY: On September 22, 1989, the Environmental Protection Agency, Region IX approved the State of California NPDES Pretreatment Program which authorizes the State of California to administer the National Pretreatment Program as it applies to municipalities and industries within the State. EPA, Region IX also approved authority of the State of California to issue NPDES general permits and approved revisions to the State's existing NPDES permit regulations.

EFFECTIVE DATE: September 22, 1989.

FURTHER INFORMATION: William H. Pierce, Chief, Permits Branch, Water Management Division, 215 Fremont Street, San Francisco, CA 94105

SUPPLEMENTARY INFORMATION: Section 402 of the Clean Water Act (CWA) (33 U.S.C. 1251 et seq.) requires EPA to administer the NPDES permit program under which the Agency may issue permits for the discharge of pollutants into waters of the United States in accordance with conditions required by the Act. Section 402(b) of the CWA provides for States to assume NPDES permitting responsibilities upon approval by EPA. States also may request authority to issue general permits for similar dischargers with the same effluent limitations. (See 40 CFR 122.28.) In addition, under section 54 of the 1977 amendments to the CWA, States requesting NPDES permitting authority, as well as States already approved to administer the NPDES permit program, must also request permitting authority over dischargers from federal facilities located within the State and authority to administer the federal pretreatment program governing the introduction of non-domestic pollutants into publicly owned treatment works (POTW). (Cf. CWA section 402(n) 33 U.S.C. 1342(n).) After EPA approves a State's request for NPDES permit and/or pretreatment authority, the State must thereafter submit any proposed program revisions to EPA for reapproval pursuant to 40 CFR 123.62(b).

On May 14, 1973, California became the first State to be approved by EPA to administer the NPDES permit program. On May 5, 1978, it also became the first

State to receive EPA approval to regulate discharges from federal facilities.

On June 8, 1989, California submitted an application to EPA for approval of revisions to its approved NPDES program in accordance with 40 CFR 123.62 and 403.10. This application included a request to add pretreatment and general permit authority to its approved program. It also included a request for EPA approval of revisions to the State's existing NPDES permit regulations. (California does not have, and has not requested, EPA approval to administer the NPDES and pretreatment programs on Indian lands.) Pursuant to 40 CFR 123.62(b) and 403.10(g), California submitted support of its application to an Attorney General's Statement of the Attorney General certifying that the State has adequate authority to administer the NPDES program being sought, a program description describing how the State intends to carry out its responsibilities, and a proposed EPA/California Memorandum of Agreement. These documents were revisions of the copies submitted to EPA when California sought approval of its existing NPDES permit program.

With respect to California's request for approval of revisions to the State's existing NPDES permit regulations, EPA has approved the State's request to implement the State permit program under State law, which, according to the California Attorney General, incorporates by reference all and future federal NPDES law and regulations. Specifically, the Attorney General has certified that the Porter-Cologne Water Quality Control Act (Porter-Cologne Act), which implements the California NPDES program, incorporates federal NPDES and pretreatment law and regulations prospectively, meaning that future amendments to federal law and regulations are automatically incorporated into State law without the need for amendment of State statutes and regulations. (In support of this authority for prospective incorporation by reference, the California Attorney General has cited the Porter-Cologne Act, Water Code sections 13160, 13170, 13177, 13385, 13386, and 13387.) The California Attorney General also has certified that regulations adopted by the California State Water Resources Control Board, the Statewide NPDES agency, prospectively

Incorporate EPA regulations applicable to the processing of NPDES applications and issuance of NPDES permits. (The cited State regulations in the Attorney General's Statement are 23 Cal. Code sections 2235.1(c), 2235.2, and 2235.4) Such prospective incorporation of federal law and regulations is, according to the California Attorney General, authorized under law and the State's Constitution.

As discussed above, California also has requested authority to issue NPDES general permits and administer the pretreatment program. With respect to general permit authority, EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate discharges of waste water which result from similar operations, are of the same type of wastes, require the same effluent limitations, require similar monitoring, and are more appropriately controlled under a general permit rather than by individual permits. EPA is approving California's request for general permit authority. Each general permit proposed by the State will be subject to EPA review and approval as provided by 40 CFR 123.44(a)(2). Public notice and opportunity to request a hearing also must be provided for each general permit.

EPA is also approving California's request for pretreatment authority. California has demonstrated that there is appropriate legal authority, procedures, available funding, and qualified personnel to implement the program as specified in 40 CFR 403.10. The State will implement its pretreatment program under the Porter-Cologne Act provisions which prospectively incorporate federal law and regulations. Under the CWA and EPA regulations at 40 CFR part 403, the primary objectives of the pretreatment program are to: (1) prevent the introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludge; (2) prevent the introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and (3) improve the feasibility of recycling and reclaiming municipal and industrial wastewater and sludge. Local pretreatment programs will be the primary vehicle for implementing, applying, and enforcing California's pretreatment requirements. Currently, 102 such programs have been approved by EPA. Where local programs have not yet been required or developed in California, the State must apply and enforce the pretreatment requirements

directly against industries that discharge to POTWs (e.g., 40 CFR 403.10(f)(2)(j)).

The Regional Administrator's decision to approve California's proposed program revisions, including its request for pretreatment and general permit authority, is based on a determination that the program meets the requirements of the Clean Water Act and 40 CFR parts 122, 123, 124, and 403. The public was notified in the July 20, 1989 Federal Register (54 FR 30405) of the submittal. public comment period and opportunity to request a public hearing, and EPA's proposal to approve all requested program revisions. In addition, notice was provided four major newspapers in the State on July 20, 1989 and notice was provided to all POTWs with approved pretreatment programs. No comments were received by EPA during the public comment period which ended September 5, 1989.

California's pretreatment program, as well as its revised NPDES permit program, is administered by the California State Water Resources Control Board and nine Regional Water Quality Control Boards.

Review Under Executive Order 12291 and the Regulatory Flexibility Act

The Office of Management and Budget has exempted this rule from the review requirements of Executive Order 12291 pursuant to section 6(b)(2) of that Order.

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Approval of California's NPDES program revisions, including the addition of pretreatment and general permit authority, does not alter the regulatory control over any municipal or industrial category. No new substantive requirements are established by this action. Therefore, since this notice does not have a significant impact on a substantial number of small entities, a Regulatory Flexibility Analysis is not necessary.

Dated: September 22, 1989,

John Wise,

Acting Regional Administrator for Region IX
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According to the California Attorney General, the requirements of the CWA and implementing regulations incorporated by reference by the Porter-Cologne Act, but are not limited to pretreatment standards and requirements for IUs of POTWs (for example 40 CFR 403.5, 403.8 and 403.12).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

(Docket No. LVM 89-01; Notice 1)

Passenger Automobile Average Fuel Economy Standards; Denial of Petitions for Exemption by Low Volume Petitioners

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for exemption from average fuel economy standards and for establishment of alternative standards.

SUMMARY: This consolidated notice responds to individual petitions filed by four low volume manufacturers, Bitter, Ferrari, Lotus, and Maserati, each requesting exemption from the generally applicable passenger automobile average fuel economy standards, and that lower alternative standards be established for each model year (MY) from which they seek exemption. This notice denies each petition as follows:

Bitter Automobile of America, Inc. (Bitter) petitioned to be exempted for MYs 1963 through 1987. This notice denies Bitter's request because the Bitter petition and its amendment were not timely filed for those years and good cause was not shown for the late filing.

Ferrari S.p.A. (Ferrari) petitioned to be exempted for MYs 1986 through 1988. A separate notice published on December 10, 1986 (51 FR 44492) proposed to grant Ferrari's petition for MY 1986, establishing an alternative standard of 16.0 miles per gallon (mpg) and for MY 1988, establishing an alternative standard of 18.6 mpg. For MY 1987 this notice denies Ferrari's request because Ferrari was not eligible for an exemption as a low volume manufacturer for that model year.

Lotus Cars Ltd. (Lotus) petitioned to be exempted for MYs 1963 through 1987. This notice denies Lotus' request because the Lotus petition was not timely filed for MYs 1983 through 1985 and good cause was not shown for the late filing. This notice also denies Lotus' request for MYs 1986 and 1987. The agency concludes that Lotus was not eligible for those years for exemption as a low volume manufacturer.

Officine Alfieri Maserati S.p.A. (Maserati) petitioned to be exempted for MYs 1982 through 1985. This notice denies Maserati's request for MYs 1982 through 1983 because the Maserati petition was not timely filed for those