

debt service on the financing. This final rule followed a proposed rule published on July 18, 2007 (72 FR 39546), that included financing options under both the Capital Fund and the Operating Fund, and that provided a 60-day period for public comment. Ultimately, only the Capital Fund portion became a final rule.

During the period when HUD was responding to public comments and producing the final rule, the Department held discussions internally on the issue of whether this rule would have an annual effect on the economy of \$1 million or more, and therefore was an economically significant rule under Executive Order 12866 (Regulatory Planning and Review), and a major rule under the Congressional Review Act (5 U.S.C. 801 *et seq.* See, specifically, the 5 U.S.C. 804 definition of "major rule"). The Department concluded that this rule would not have an annual effect on the economy of \$1 million or more, and the Office of Management and Budget (OMB) agreed with HUD's final assessment while the rule was under OMB review in accordance with Executive Order 12866. The economic impact of this rule is addressed in Section IV (Findings and Certifications) of the preamble to the final rule at 75 FR 65206 through 65208.

Following HUD's final assessment that the rule was not economically significant, HUD failed to remove the "Congressional Review of Final Rules," paragraph from the preamble (see 75 FR 65208), which is used by HUD in the case of major, economically significant rules under the Congressional Review Act and the Executive Order. This paragraph and its heading should not have been included in this preamble. This document corrects this error. This correction does not substantively change the rule.

Accordingly, FR Doc. 2010-26404, Use of Public Housing Capital Funds for Financing Activities (FR-4843-F-02), published in the **Federal Register** on October 21, 2010 (75 FR 65198), is corrected as follows:

On page 65208, in the second column, the paragraph entitled "Congressional Review of Final Rules" is removed.

Dated: November 15, 2010.

**Aaron Santa Anna,**

*Assistant General Counsel for Regulations.*

[FR Doc. 2010-29134 Filed 11-17-10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2009-0922; FRL-8853-2]

RIN 2070-AB27

### Cobalt Lithium Manganese Nickel Oxide; Withdrawal of Significant New Use Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified as cobalt lithium manganese nickel oxide (CAS No. 182442-95-1), which was the subject of premanufacture notice (PMN) P-04-269. EPA published the SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on the rule. Therefore, the Agency is withdrawing the SNUR, as required under the expedited SNUR rulemaking process. Elsewhere in today's **Federal Register**, EPA is publishing (under separate notice and comment rulemaking procedures), a proposed SNUR for this substance.

**DATES:** This final rule is effective November 19, 2010.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-9232; e-mail address: [moss.kenneth@epa.gov](mailto:moss.kenneth@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this action apply to me?

A list of potentially affected entities is provided in the **Federal Register** of September 20, 2010 (75 FR 57169) (FRL-8839-7). If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

##### II. What rule is being withdrawn?

In the **Federal Register** of September 20, 2010 (75 FR 57169), EPA issued several direct final SNURs, including a

SNUR for the chemical substance that is the subject of this withdrawal. These direct final rules were issued pursuant to the procedures in 40 CFR part 721, subpart D. In accordance with 40 CFR 721.160(c)(3)(ii), EPA is withdrawing the rule issued for cobalt lithium manganese nickel oxide (PMN P-04-269; CAS No. 182442-95-1) at 40 CFR 721.10201 because the Agency received a notice of intent to submit adverse comments. Elsewhere in today's **Federal Register**, EPA is proposing a SNUR for this chemical substance via notice and comment rulemaking.

For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D, and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for the chemical substance being withdrawn was established at EPA-HQ-OPPT-2009-0922. That record includes information considered by the Agency in developing the rule and the notice of intent to submit adverse comments.

##### III. How do I access the docket?

To access the electronic docket, please go to <http://www.regulations.gov> and follow the online instructions to access docket ID no. EPA-HQ-OPPT-2009-0922. Additional information about the Docket Facility is provided under **ADDRESSES** in the **Federal Register** document of September 20, 2010 (75 FR 57169). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

##### IV. What statutory and executive order reviews apply to this action?

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this withdrawal will not have any adverse impacts, economic or otherwise. The statutory and executive order review requirements applicable to the direct final rule were discussed in the **Federal Register** document of September 20, 2010 (75 FR 57169). Those review requirements do not apply to this action because it is a withdrawal and does not contain any new or amended requirements.

##### V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects

##### 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

##### 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 10, 2010.

**Wendy C. Hamnett,**

*Director, Office of Pollution Prevention and Toxics.*

■ Therefore, 40 CFR parts 9 and 721 are amended as follows:

#### PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by removing under the undesignated center heading “Significant New Uses of Chemical Substances” § 721.10201.

#### PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

##### § 721.10201 [Removed]

■ 4. Remove § 721.10201.

[FR Doc. 2010–29147 Filed 11–17–10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 194

[EPA–HQ–OAR–2009–0330; FRL–9227–4]

#### Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant’s Compliance With the Disposal Regulations: Recertification Decision

**AGENCY:** Environmental Protection Agency.

**ACTION:** Recertification decision.

**SUMMARY:** With this document, the Environmental Protection Agency (EPA) recertifies that the U.S. Department of Energy’s (DOE) Waste Isolation Pilot Plant (WIPP) continues to comply with the “Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic (TRU) Radioactive Waste.” EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998, and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency’s first recertification decision was issued on March 29, 2006.

**DATES:** Effective November 18, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ray Lee or Jonathan Walsh, Radiation Protection Division, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: 202–343–9463 or 202–343–9238; fax number: 202–343–2305; e-mail address: [lee.raymond@epa.gov](mailto:lee.raymond@epa.gov) or [walsh.jonathan@epa.gov](mailto:walsh.jonathan@epa.gov). Copies of the Compliance Application Review Documents (CARDs) supporting today’s action and all other recertification-related documentation can be found in the Agency’s electronic docket found at <http://www.regulations.gov> (FDMS Docket ID No. EPA–HQ–OAR–2009–0330) or on its WIPP Web site (<http://www.epa.gov/radiation/wipp>).

**SUPPLEMENTARY INFORMATION:** EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998 (63 FR 27354), and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency’s first recertification decision was issued on March 29, 2006 (71 FR 18010–18021).

This action represents the Agency’s second periodic evaluation of WIPP’s

continued compliance with the disposal regulations and WIPP Compliance Criteria. The compliance criteria implement and interpret the disposal regulations specifically for WIPP. As directed by Congress in the WIPP Land Withdrawal Act (LWA), this “recertification” process will occur five years after the WIPP’s initial receipt of TRU waste (March 26, 1999), and every five years thereafter (*e.g.*, March 2004, March 2009) until the end of the decommissioning phase. For each recertification—including the one being announced with today’s action—DOE must submit documentation of the site’s continuing compliance with the disposal regulations to EPA for review. In accordance with the WIPP Compliance Criteria, documentation of continued compliance was made available in EPA’s dockets, and the public was provided at least a 30-day period in which to submit comments. In addition, all recertification decisions must be announced in the **Federal Register**. According to the WIPP LWA, Section 8(f), these periodic recertification determinations are not subject to rulemaking or judicial review.

This action is not a reconsideration of the decision to open WIPP. Rather, recertification is a process that evaluates changes at WIPP to determine if the facility continues to meet all the requirements of EPA’s disposal regulations. The recertification process ensures that WIPP’s continued compliance is demonstrated using the most accurate, up-to-date information available.

This recertification decision is based on a thorough review of information submitted by DOE, independent technical analyses, and public comments. The Agency has determined that DOE continues to meet all applicable requirements of the WIPP Compliance Criteria, and with this notice, recertifies the WIPP facility. This recertification decision does not otherwise amend or affect EPA’s radioactive waste disposal regulations or the WIPP Compliance Criteria.

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