Whole Effluent Toxicity: Guidelines Establishing Test Procedures for the Analysis of Pollutants

Final Rule

[Federal Register: October 16, 1995 (Volume 60, Number 199)]

40 CFR Part 136

SUMMARY: This final rule amends the ``Guidelines Establishing Test Procedures for the Analysis of Pollutants," 40 CFR part 136, to add whole effluent toxicity (WET) testing methods to the list of Agency approved methods in Tables IA and II, under the Clean Water Act. This action amends 40 CFR 136.3 (Tables 1A and II) by adding methods for measuring the acute and short-term chronic toxicity of effluents and receiving waters.

This rulemaking was initiated at the request of the States. The overall benefit of today's rulemaking is that it will reduce costs and eliminate the confusion caused by the multiple versions of any one test method currently in use. For example, currently, an industry with facilities in six different states may be required to conduct six different versions of the same test method. EPA estimates that standardizing these approved methods could save the regulated community up to 2012f the current test method costs, which range from $160.00-$2240.00, depending upon the test method. This rulemaking will also reduce the current resource burden in the States because they will no longer need to justify the inclusion of WET monitoring or WET limits in National Pollution Discharge Elimination System (NPDES) permits on a case-by-case basis.

This rule incorporates three technical documents, by reference, thereby dramatically reducing the number of pages included in today's Federal Register. A listing of these documents and where they can be viewed or obtained can be found in section VIII of the preamble.

Methods for measuring mutagenicity (changes in genes or chromosomes)or for monitoring viruses in wastewaters and sludges that were included in the December 1989 proposal are not included in this final rule. When better scientific methods for measuring mutagenicity and viruses become available, the Agency will evaluate them for possible inclusion in 40 CFR part 136. Finally, the methods for marine chronic toxicity in today's rule do not apply to discharges into marine waters of the Pacific Ocean. Methods addressing such discharges will be proposed at a later date.

EFFECTIVE DATE: This final rule becomes effective November 15, 1995. The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Office of Federal Register on November 15, 1995.

In accordance with 40 CFR 23.2, this rule shall be considered issued for the purposes of judicial review October 26, 1995, at 1 p.m. eastern daylight time. Under section 509(b)(1) of the Clean Water Act, judicial review of these amendments can be obtained only by filing a petition for review in the United States Court of Appeals within 120 days after they are considered issued for the purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements of these

amendments may not be challenged later in civil or criminal proceedings to enforce these requirements.

ADDRESSES: The public record and all supporting materials pertinent to the development of this final rule, including response to comments received on the December 1989 proposal, are available for inspection at the Water Docket located at the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. For access to the Docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. A listing, of where to view or obtain copies of the three manuals incorporated by reference in today's rulemaking, can be found in section VIII of the preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Margarete A. Heber, Health and Ecological Criteria Division, Office of Science and Technology, (Mail Code 4304) U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460 or call (202) 260-0658; or Ms. Teresa Norberg-King, Environmental Research Laboratory, U.S. Environmental Protection Agency, 6201 Congdon Boulevard, Duluth, MN 55804.