

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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to 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 this rule in the **Federal Register**. This rule is not a

"major rule" as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 25, 2006.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

### PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960 the table is amended by adding the following entry, alphabetically, under "polymers" to read as follows:

#### § 180.960 Polymers; exemptions from the requirement of a tolerance.

Polymer	CAS No.
* * * Soybean oil, ethoxylated; the poly(oxyethylene) content averages 10 moles or greater. * * *	* * * 61791-23-9 * * *

[FR Doc. 06-8384 Filed 9-28-06; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 712 and 716

[EPA-HQ-OPPT-2005-0014 and EPA-HQ-OPPT-2005-0055; FRL-8096-5]

RIN 2070-AB08 and 2070-AB11

### Withdrawal of Certain Chemical Substances from Preliminary Assessment Information Reporting and Health and Safety Data Reporting Rules

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

**ACTION:** Final rule.

**SUMMARY:** This final rule, issued pursuant to sections 8(a) and 8(d) of the Toxic Substances Control Act (TSCA), withdraws certain chemical substances from the category of voluntary High Production Volume (HPV) Challenge Program orphan (unsponsored) chemical substances that would be

subject to reporting requirements under TSCA section 8(a) and 8(d). On August 16, 2006, EPA published two final rules both effective September 15, 2006, with certain exceptions: A Preliminary Assessment Information Reporting (PAIR) rule under TSCA section 8(a) (40 CFR part 712), which requires manufacturers (including importers) of chemical substances in the category of voluntary HPV Challenge Program orphan (unsponsored) chemical substances on the Interagency Testing Committee's (ITC) TSCA section 4(e) *Priority Testing List* to submit a one-time report on general production/importation volume, end use, and exposure-related information to EPA, and a Health and Safety Data Reporting rule under TSCA section 8(d) (40 CFR part 716), which requires manufacturers (including importers) of chemical substances in this category of HPV Challenge Program orphan (unsponsored) chemical substances to submit certain unpublished health and safety data to EPA. On September 15, 2006, EPA published a final rule that delayed the effective date of the rules published August 16, 2006, until September 29, 2006. The chemical substances listed in this final rule are being withdrawn from 40 CFR parts 712 and 716 for good cause as specified in 40 CFR 712.30(c) and 40 CFR 716.105(c) and, consequently, these listed chemical substances will not be subject to the reporting requirements imposed by the TSCA section 8(a) and 8(d) rules published on August 16, 2006.

**DATES:** This final rule is effective September 29, 2006.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) numbers EPA-HQ-OPPT-2005-0014 and EPA-HQ-OPPT-2005-0055. All documents in the dockets are listed on the regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. The EPA Docket Center (EPA/DC) suffered structural damage due to flooding in June 2006. Although the EPA/DC is continuing operations, there will be temporary changes to the EPA/DC during the clean-up. The EPA/DC Public Reading Room, which was temporarily closed due to flooding, has been relocated in the EPA Headquarters Library, Infoterra Room (Room Number 3334) in EPA West, located at 1301

Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. EPA visitors are required to show photographic identification and sign the EPA visitor log. Visitors to the EPA/DC Public Reading Room will be provided with an EPA/DC badge that must be visible at all times while in the EPA Building and returned to the guard upon departure. In addition, security personnel will escort visitors to and from the new EPA/DC Public Reading Room location. Up-to-date information about the EPA/DC is on the EPA website at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: Joe Nash, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8886; fax number: (202) 564-4765; e-mail address: [ccd.citb@epa.gov](mailto:ccd.citb@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (defined by statute to include import) any of the chemical substances listed in this rule. Entities potentially affected by this action may include, but are not limited to:

- Chemical manufacturers (including importers), (NAICS codes 325, 32411), e.g., persons who manufacture (defined by statute to include import) one or more of the subject chemical substances.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of

this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. Frequently updated electronic versions of 40 CFR parts 712 and 716 are available through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

##### II. Background

###### A. What Action is the Agency Taking?

EPA is withdrawing certain chemical substances that would be subject to the reporting requirements under TSCA section 8(a) and 8(d). On August 16, 2006, EPA published a final PAIR rule under TSCA section 8(a) (40 CFR part 712), which requires manufacturers (including importers) of chemical substances in the category of voluntary HPV Challenge Program orphan (un-sponsored) chemical substances on the ITC's TSCA section 4(e) *Priority Testing List* to submit a one-time report on general production/importation volume, end use, and exposure-related information to EPA (71 FR 47122) (FRL-7764-9). Also on August 16, 2006, EPA published a final Health and Safety Data Reporting rule under TSCA section 8(d) (40 CFR part 716), which requires manufacturers (including importers) of chemical substances in this category of voluntary HPV Challenge Program orphan (un-sponsored) chemical substances to submit certain unpublished health and safety data to EPA (71 FR 47130) (FRL-7764-7). On September 15, 2006, EPA published a final rule that revised the effective date of the two rules published on August 16, 2006 (71 FR 54434) (FRL-8094-8). The effect of this withdrawal is that the listed chemical substances will not be subject to the reporting requirements imposed by the final TSCA section 8(a) and 8(d) rules published on August 16, 2006, and the rule published on September 15, 2006, that changed the effective date for these two rules.

###### B. What is the Agency's Authority for Taking This Action?

EPA promulgated the PAIR rule under TSCA section 8(a) (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. EPA uses this model TSCA section 8(a)

rule to quickly gather current information on chemical substances. This model TSCA section 8(a) rule establishes standard reporting requirements for certain manufacturers (including importers) of the chemical substances listed in the rule at 40 CFR 712.30. This model rule provides for the addition of TSCA section 4(e) ITC-recommended/designated *Priority Testing List* chemical substances to the list of chemical substances subject to reporting under 40 CFR part 712. EPA amends, unless otherwise instructed by the ITC, the model TSCA section 8(a) rule by adding the ITC-recommended (or designated) chemical substances. The final rule published by EPA on August 16, 2006, amended the model TSCA section 8(a) rule by adding the ITC category of certain voluntary HPV Challenge Program orphan (un-sponsored) chemical substances (Ref. 1).

Under 40 CFR part 712.30(c), the Agency may withdraw, for good cause, a listed substance, mixture, or category from the rule's reporting requirements prior to the effective date of the rule. Any information submitted showing why a substance, mixture, or category should be removed from the rule must be received by EPA within 14 days after the date of publication of the rule. If a substance, mixture, or category is removed, a **Federal Register** document announcing this decision will be published no later than the effective date of the amendment. This **Federal Register** document announces EPA's decision to withdraw certain chemical substances from 40 CFR part 712 that were added by the Agency on August 16, 2006 (Ref. 1).

EPA promulgated the model Health and Safety Data Reporting rule under TSCA section 8(d) (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. EPA uses this TSCA section 8(d) model rule to quickly gather current information on chemical substances. The TSCA section 8(d) model rule requires past, current, and prospective manufacturers, importers, and (if specified by EPA in a particular notice or rule under TSCA section 8(d)) processors of listed chemical substances to submit to EPA copies and lists of unpublished health and safety studies on the listed chemical substances that they manufacture, import, or (if specified by EPA in a particular notice or rule under TSCA section 8(d)) process. This model rule provides for the addition of TSCA section 4(e) ITC-recommended/designated *Priority Testing List* chemical substances to the list of chemical substances subject to reporting under 40 CFR part 716. EPA

amends, unless otherwise instructed by the ITC, the model TSCA section 8(d) rule by adding the ITC-recommended (or designated) chemical substances. The final rule published by EPA on August 16, 2006, amended the model TSCA section 8(d) rule by adding the ITC category of certain voluntary HPV Challenge Program orphan (un-sponsored) chemical substances (Ref. 2).

Under 40 CFR 716.105(c), the Agency may withdraw, for good cause, a listed substance, mixture, or category from the rule's reporting requirements prior to the effective date of the rule. Any information submitted showing why a chemical substance, mixture, or category of chemical substances should be withdrawn from the amendment must be received by EPA within 14 days after the date of publication of the rule. If a chemical substance, mixture, or category of chemical substances is withdrawn, a **Federal Register** document announcing this decision will be published no later than the effective date of the amendment. This **Federal Register** document announces EPA's decision to withdraw certain chemical substances from 40 CFR part 716 that were added by the Agency on August 16, 2006 (Ref. 2).

These withdrawal actions do not preclude potential future listing under the TSCA section 8(a) PAIR rule or the TSCA section 8(d) Health and Safety Data Reporting rule should the information be reasonably required.

### C. Why is this Action Being Issued as a Final Rule?

EPA is publishing this action as a final rule without prior notice and an opportunity for comment pursuant to the procedures set forth in 40 CFR 712.30(c) and 716.105(c). EPA finds that there is good cause under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) to make these amendments without prior notice and comment. EPA believes notice and an opportunity for comment on this action are unnecessary.

TSCA directs the ITC to add chemical substances to the *Priority Testing List* for which EPA should give priority consideration. Pursuant to 40 CFR 716.105(b) and (c), once the ITC adds a chemical substance to the *Priority Testing List*, EPA in turn is obliged to add that chemical substance to the list of chemical substances subject to the Health and Safety Data Reporting rule reporting requirements, unless requested not to do so by the ITC. EPA also has the discretion, under 40 CFR 716.105(c), to withdraw a listed substance, mixture, or category from the

list of subject chemical substances based on information submitted to EPA that shows why a chemical substance should be removed from the rule. EPA promulgated this procedure in 1985 after having solicited public comment on the need for and mechanics of this procedure. (See the **Federal Register** of August 28, 1985 (50 FR 34809)). Because that document established the procedure for adding and withdrawing ITC chemical substances to the Health and Safety Data Reporting rule, it is unnecessary to request comment on the procedure in this action. EPA believes this action does not raise any relevant issues for comment. EPA is not changing the Health and Safety Data Reporting rule reporting requirements or the process set forth in 40 CFR 716.105(b) and (c). This action is also consistent with the EPA policy articulated in the August 16, 2006 rule that sponsorship of a chemical substance under the voluntary HPV Challenge Program is generally good cause for withdrawing a chemical substance from the Health and Safety Data Reporting rule.

Similarly, pursuant to 40 CFR 712.30(c), once the ITC adds a chemical substance to the *Priority Testing List*, EPA in turn is obliged to add that chemical substance to the list of chemical substances subject to PAIR reporting requirements, unless requested not to do so by the ITC. EPA also has the discretion, under 40 CFR 716.30(c), to withdraw a listed substance, mixture, or category from the list of subject chemical substances based on information submitted to EPA that shows why a chemical substance should be removed from the rule. EPA promulgated this procedure in 1985 after having solicited public comment on the need for and mechanics of this procedure. (See the **Federal Register** of August 28, 1985 (50 FR 34805)). Because that rulemaking established the procedure for adding and withdrawing ITC chemical substances to the PAIR rule, it is unnecessary to request comment on the procedure in this action. EPA believes this action does not raise any relevant issues for comment. EPA is not changing the PAIR rule reporting requirements or the process set forth in 40 CFR 712.30(c). This action is also consistent with the EPA policy articulated in the August 16, 2006 rule that sponsorship of a chemical substance under the voluntary HPV Challenge Program is generally good cause for withdrawing a chemical substance from the PAIR rule.

### III. Final Rule

#### A. Why are These Chemical Substances Being Withdrawn?

Pursuant to TSCA section 8(a), EPA published a PAIR final rule on August 16, 2006 (Ref. 1), which requires manufacturers (including importers) of chemical substances in the category (as defined by the 55<sup>th</sup>, 56<sup>th</sup>, and 58<sup>th</sup> ITC Reports (Refs. 3, 4, and 5)) of voluntary HPV Challenge Program orphan (un-sponsored) chemical substances on the ITC's TSCA section 4(e) *Priority Testing List* to submit a report to EPA on general production/importation volume, end use, and exposure-related information to EPA.

Also on August 16, 2006, EPA published, pursuant to TSCA section 8(d), a Health and Safety Data Reporting final rule (Ref. 2), which requires manufacturers (including importers) of chemical substances in the category (as defined by the 55<sup>th</sup>, 56<sup>th</sup>, and 58<sup>th</sup> ITC Reports (Refs. 3, 4, and 5)) of voluntary HPV Challenge Program orphan (un-sponsored) chemical substances on the ITC's TSCA section 4(e) *Priority Testing List* to submit certain unpublished health and safety data to EPA.

As stated in these two rules that added the voluntary HPV Challenge Program orphan (un-sponsored) chemical substances category to 40 CFR parts 712 and 716 (Refs. 1 and 2), EPA has established a policy regarding acceptance of new commitments to sponsor chemical substances under the voluntary HPV Challenge Program (Ref. 6). Under this policy, EPA stated that it would accept new commitments to sponsor chemical substances under the voluntary HPV Challenge Program for any of the voluntary HPV Challenge Program orphan (un-sponsored) chemical substances listed in the regulatory texts of the TSCA section 8(a) PAIR rule (Ref. 1) and the TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2) provided that these new commitments to the voluntary HPV Challenge Program were received by EPA within 14 days after the date of publication of these two rules in the **Federal Register**. EPA generally believes that a timely commitment to sponsor chemical substances under the voluntary HPV Challenge Program establishes good cause for withdrawing a chemical substance from the TSCA section 8(a) PAIR rule (Ref. 1) and TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2). EPA also stated in the August 16, 2006 rules that it would remove chemical substances from the TSCA section 8(a) PAIR rule (Ref. 1) and the TSCA section 8(d)

Health and Safety Data Reporting rule (Ref. 2), in accordance with the procedures described in 40 CFR 712.30(c) and 40 CFR 716.105(c), if withdrawal requests submitted to EPA in conjunction with these new commitments to the voluntary HPV Challenge Program were received on or before 14 days after date of publication of the two rules in the **Federal Register**.

For 22 of the chemical substances listed in this document, EPA received commitments to the voluntary HPV Challenge Program prior to or within 14 days after the date of publication of the TSCA section 8(a) PAIR rule (Ref. 1) and the TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2) in the **Federal Register**. These commitments to the voluntary HPV Challenge Program are accepted and, based on EPA's commitment policy (Ref. 6), EPA is removing these chemical substances from the TSCA section 8(a) PAIR rule (Ref. 1) and from the TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2).

In addition, EPA is removing four chemical substances from the TSCA section 8(a) PAIR rule (Ref. 1) and from the TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2) because of commitments made to sponsor chemical substances under the OECD HPV Screening Information Data Set (SIDS) Program and/or the ICCA HPV Initiative. The OECD SIDS program and

the ICCA HPV Initiative are complementary programs to the HPV Challenge, and EPA believes its policy regarding commitments to sponsor chemical substances under the HPV Challenge should also generally apply to the OECD SIDS program and ICCA HPV Initiative. Thus, EPA believes that a commitment to sponsor chemical substances under the OECD SIDS Program or the ICCA HPV Initiative generally establishes good cause for withdrawing a chemical substance from the TSCA section 8(a) PAIR rule (Ref. 1) and TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2).

EPA is also removing seven chemical substances from the TSCA section 8(a) PAIR rule (Ref. 1) and from the TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2) because EPA has received written requests for removal of these chemical substances from the voluntary HPV Challenge Program on the basis that the chemical substances are "no longer" HPV. EPA has determined that the substantiation provided in these written requests, which was based on reporting under EPA's Inventory Update Rule (IUR), is consistent with EPA's guidance for removing chemical substances that are no longer HPV (Ref. 9) and, consequently, EPA believes that this determination establishes good cause for withdrawing these chemical substances

from the TSCA section 8(a) PAIR rule (Ref. 1) and TSCA section 8(d) Health and Safety Data Reporting rule (Ref. 2). Because this determination was based on data obtained under the IUR, EPA does not believe comment is necessary on whether these chemical substances meet the volume threshold for HPV status.

EPA has also determined that good cause does not exist to remove several other chemical substances that were the subject of withdrawal requests. The rationales for these determinations are in the docket for this action.

The net result of these removals is that 210 chemical substances remain subject to the reporting requirements imposed by the TSCA section 8(a) and 8(d) rules published on August 16, 2006.

#### *B. What Chemical Substances are Being Withdrawn and the Rationale for Withdrawal?*

Under EPA's authority, 15 U.S.C. 2607(a), the chemical substances in the table in this unit are being removed from the table in 40 CFR 712.30(e) of the TSCA section 8(a) PAIR rule published in the **Federal Register** of August 16, 2006 (Ref. 1), and the table in 40 CFR 716.120(d) of the TSCA section 8(d) Health and Safety Data Reporting rule published in the **Federal Register** of August 16, 2006 (Ref. 2).

CAS No.	Substance	Rationale for withdrawal	CFR citation	Reference
74-97-5	Methane, bromochloro-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 10
75-46-7	Methane, trifluoro-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 11
77-86-1	1,3-Propanediol, 2-amino-2-(hydroxymethyl)-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 12
99-51-4	Benzene, 1,2-dimethyl-4-nitro-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 13
100-64-1	Cyclohexanone, oxime	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 14
107-45-9	2-Pentanamine, 2,4,4-trimethyl-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 15
579-66-8	Benzenamine, 2,6-diethyl-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 10
693-07-2	Ethane, 1-chloro-2-(ethylthio)-	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 16 and 17
1115-20-4	Propanoic acid, 3-hydroxy-2,2-dimethyl-, 3-hydroxy-2,2-dimethylpropyl ester	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 13
1459-93-4	1,3-Benzenedicarboxylic acid, dimethyl ester	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 18
1558-33-4	Silane, dichloro(chloromethyl)methyl-	OECD HPV SIDS Program Sponsorship <sup>c</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 19

CAS No.	Substance	Rationale for withdrawal	CFR citation	Reference
2611-00-9	3-Cyclohexene-1-carboxylic acid, 3-cyclohexen-1-ylmethyl ester	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 30
3088-31-1	Ethanol, 2-[2-(dodecyloxy)ethoxy]-, hydrogen sulfate, sodium salt	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 20
3710-84-7	Ethanamine, N-ethyl-N-hydroxy-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 21
6863-58-7	Butane, 2,2-oxybis-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 22
6865-35-6	Octadecanoic acid, barium salt	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 23
7320-37-8	Oxirane, tetradecyl-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 24
14666-94-5	9-Octadecenoic acid (9Z)-, cobalt salt	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 22
20469-71-0	Hydrazinecarbodithioic acid, compd. with hydrazine (1:1)	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 16 and 17
28777-98-2	2,5-Furandione, dihydro-3-(octadecenyl)-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 10
32072-96-1	2,5-Furandione, 3-(hexadecenyl)dihydro-	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 10
33509-43-2	1,2,4-Triazin-5(2H)-one, 4-amino-6-(1,1-dimethylethyl)-3,4-dihydro-3-thioxo-	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 16 and 17
61789-32-0	Fatty acids, coco, 2-sulfoethyl esters, sodium salts	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 25 and 33
65996-80-7	Ammonia liquor (coal)	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 26 and 32
65996-81-8	Fuel gases, coke-oven	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 34
66071-94-1	Corn, steep liquor	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 13
68476-80-2	Fats and glyceridic oils, vegetable, deodorizer distillates	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 35
68478-20-6	Residues (petroleum), steam-cracked petroleum distillates cyclopentadiene conc., C4-cyclopentadiene-free	No longer HPV <sup>b</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 27
68514-41-0	Ketones, C12-branched	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 22
68603-84-9	Carboxylic acids, C5-9	ICCA HPV Initiative Sponsorship <sup>d</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 29 and 31
68937-70-2	Carboxylic acids, C6-18 and C8-15-di-	ICCA HPV Initiative Sponsorship <sup>d</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 29 and 31
68937-72-4	Carboxylic acids, di-, C4-11	ICCA HPV Initiative Sponsorship <sup>d</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Refs. 29 and 31
72162-28-8	2-Propanone, reaction products with phenol	HPV Challenge Program Sponsorship <sup>a</sup>	40 CFR 712.30(e) 40 CFR 716.120(d)	Ref. 28

<sup>a</sup>HPV Challenge Program Sponsorship—EPA has accepted a new commitment letter to sponsor this chemical substance under the voluntary HPV Challenge Program.

<sup>b</sup>No longer HPV—Recent updates to the TSCA Inventory Update Rule (IUR) reporting for the 1998 and 2002 reporting cycles indicate that this chemical substance was produced/imported in the United States at aggregate volumes less than 1 million pounds per year or the chemical substance is exempt from IUR reporting under 40 CFR 710.50(c) and 40 CFR 720.30(g).

<sup>c</sup>OECD SIDS Program Sponsorship—The chemical substance has been sponsored under the Organization for Economic Cooperation and Developments (OECD) HPV Screening Information Data Set (SIDS) Program.

<sup>d</sup>ICCA HPV Initiative Sponsorship—The chemical substance has been sponsored under the International Council of Chemical Associations (ICCA) HPV Initiative.

### C. Economic Analysis

In the economic analysis conducted for the final TSCA section 8(a) PAIR rule, the Agency estimated the total reporting cost to industry to be \$644,000 for all 243 chemical substances, or approximately \$2,650 per chemical substance (Ref. 7). The Agency is estimated to incur an additional \$248,000 or \$1,021 per chemical substance to provide public support for the TSCA section 8(a) PAIR rule and to process the data (Ref. 7). The total cost of the 8(a) rule, per chemical substance, is estimated to be approximately \$3,671. This final rule will withdraw 33 chemical substances from the TSCA section 8(a) PAIR rule. Therefore, costs are estimated to be reduced by \$121,143 (33 chemical substances x \$3,671 per chemical substance).

Furthermore, this final rule will also remove 33 chemical substances from the TSCA section 8(d) Health and Safety Data Reporting rule. The economic analysis conducted for the TSCA section 8(d) Health and Safety Data Reporting rule estimates that the total cost to industry is \$110,000 and to the Agency is \$79,000, or \$453 and \$325 per chemical substance, respectively, for a total of \$778 per chemical substance (Ref. 8). Because this final rule will withdraw 33 chemical substances from the TSCA section 8(d) Health and Safety Data Reporting rule, the costs of the TSCA section 8(d) Health and Safety Data Reporting rule are estimated to be reduced by \$25,674 (33 chemical substances x \$778).

Therefore, the withdrawal of 33 chemical substances from the TSCA section 8(a) and TSCA section 8(d) rules is estimated to result in a total reduction in costs of \$146,817.

### IV. References

The dockets for this rule are the dockets established for the TSCA section 8(a) PAIR rule (docket ID number EPA-HQ-OPPT-2005-0014) (Ref. 1) and the TSCA section 8(d) Health and Safety Data Reporting rule (docket ID number EPA-HQ-OPPT-2005-0055) (Ref. 2). These dockets are available for review as specified in **ADDRESSES**. The following is a listing of the materials referenced in this document that have been placed in the dockets:

1. EPA. 2006. Preliminary Assessment Information Reporting; Addition of Certain Chemicals. **Federal Register** (71 FR 47122, August 16, 2006) (FRL-7764-9). Available on-line at: <http://www.epa.gov/fedrgstr>.
2. EPA. 2006. Health and Safety Data Reporting; Addition of Certain

Chemicals. **Federal Register** (71 FR 47130, August 16, 2006) (FRL-7764-7). Available on-line at: <http://www.epa.gov/fedrgstr>.

3. ITC. 2005. Fifty-Fifth Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency. **Federal Register** (70 FR 7364, February 11, 2005) (FRL-7692-1). Available on-line at: <http://www.epa.gov/fedrgstr>

4. ITC. 2005. Fifty-Sixth Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency. **Federal Register** (70 FR 61519, October 24, 11, 2005) (FRL-7739-9). Available on-line at: <http://www.epa.gov/fedrgstr>.

5. ITC. 2005. Fifty-Eighth Report of the TSCA Interagency Testing Committee to the Administrator of the Environmental Protection Agency. **Federal Register** (71 FR 39188, July 11, 2006) (FRL-8073-7). Available on-line at: <http://www.epa.gov/fedrgstr>.

6. EPA. 2006. Policy Regarding Acceptance of New Commitments to the High Production Volume (HPV) Challenge Program. Available on-line at: <http://www.epa.gov/chemrtk/hvpolicy.htm>.

7. EPA. 2006. Economic Analysis of the Addition of Chemicals from the 55<sup>th</sup>, 56<sup>th</sup>, and 58<sup>th</sup> ITC Reports to the TSCA 8(a) PAIR Rule. July 10, 2006.

8. EPA. 2006. Economic Analysis of the Addition of Chemicals from the 55<sup>th</sup>, 56<sup>th</sup>, and 58<sup>th</sup> ITC Reports to the TSCA 8(d) Health and Safety Data Reporting Rule. July 10, 2006.

9. EPA. 1999. Procedures for removing chemicals that are no longer HPV and are not likely to become HPV again from the HPV Challenge Program chemical list. Available on-line at: <http://www.epa.gov/chemrtk/pubs/general/nolohpv8.htm>.

10. Albemarle Corporation. Commitment letter to the HPV Challenge Program for CAS Nos. 74-97-5, 579-66-8, 28777-98-2, and 32072-96-1 submitted to the EPA Docket Center. December 28, 2005.

11. DuPont. Commitment letter to the HPV Challenge Program for CAS No. 75-46-7 submitted to the EPA Docket Center. December 9, 2005.

12. The Dow Chemical Company. Commitment letter to the HPV Challenge Program for CAS No. 77-86-1 submitted to the EPA Docket Center. August 29, 2006.

13. Corn Refiners Association. Commitment letter to the HPV Challenge Program for CAS No. 66071-94-1 submitted to the EPA Docket Center. August 29, 2006.

14. DSM Chemicals North America, Inc. Commitment letter to the HPV

Challenge Program for CAS No. 100-64-1 submitted to the the EPA Docket Center. June 28, 2005.

15. Rohm and Haas Company. Commitment letter to the HPV Challenge Program for CAS No. 107-45-9 submitted to the EPA Docket Center. December 16, 2005.

16. Bayer CropScience. Amended IUR Report 2002—HPV Challenge Program for CAS Nos. 693-07-2, 20469-71-0, and 33509-43-2 submitted to the EPA Docket Center. November 22, 2005.

17. Bayer CropScience. Amended IUR Report 2002—HPV Challenge Program for CAS Nos. 693-07-2, 20469-71-0, and 33509-43-2 submitted to the EPA Docket Center. December 15, 2005.

18. Vertellus. Commitment letter to the HPV Challenge Program for CAS No. 3088-31-1 submitted to the EPA Docket Center. August 29, 2006.

19. OECD SIDS Program Sponsorship for CAS No. 1558-33-4. <http://cs3-hq.oecd.org/scripts/hpv/>.

20. Stepan. Commitment letter to the HPV Challenge Program for CAS No. 3088-31-1 submitted to the EPA Docket Center. March 24, 2006.

21. Arkema, Inc. Commitment Letter to the HPV Challenge Program for CAS No. 3710-84-7 submitted to the EPA Docket Center. August 11, 2005.

22. ExxonMobil Chemical Company. Commitment letter to the HPV Challenge Program for CAS Nos. 6863-58-7, 14666-94-5, and 68514-41-0 submitted to the EPA Docket Center. June 27, 2005.

23. Chemtura Corporation. Commitment letter to the HPV Challenge Program for CAS No. 6865-35-6 submitted to the EPA Docket Center. December 21, 2005.

24. Arkema Inc. Commitment letter to the HPV Challenge Program for CAS No. 7320-37-8 submitted to the EPA Docket Center. October 21, 2005.

25. Sodium Ethyl Sulfonates Coalition. Letter requesting withdrawal of CAS No. 61789-32-0 from the PAIR rule. Submitted to the EPA Docket Center. August 29, 2006.

26. EPA. Response to a letter dated December 15, 2005, from the American Coke and Coal Chemicals Institute requesting removal of CAS No. 65996-80-7 from the HPV Challenge Program chemical list. January 17, 2006.

27. Velsicol Chemical Corporation. Letter requesting removal of CAS No. 68476-80-2 from the HPV Challenge Program chemical list. Submitted to the EPA Docket Center. August 25, 2006.

28. General Electric Company. Commitment letter to the HPV Challenge Program for CAS No. 72162-28-8 submitted to the EPA Docket Center. August 28, 2006.

29. The Soap and Detergent Association. Commitment letter to the ICCA HPV Initiative for CAS Nos. 68603-84-9, 68937-70-2, and 68937-72-4 submitted to the EPA Docket Center. August 30, 2006.

30. The Dow Chemical Company. Letter confirming commitment to the HPV Challenge Program for CAS No. 2611-00-9 submitted to the EPA Docket Center. August 29, 2006.

31. Cognis Corporation. Commitment letter to the ICCA HPV Initiative for CAS Nos. 68603-84-9, 68937-70-2, and 68937-72-4 submitted to the EPA Docket Center. August 23, 2006.

32. American Coke and Coal Chemicals Institute. Withdrawal request for ammonia liquor (coal), CAS No. 65996-80-7. Submitted to EPA Docket Center. August 30, 2006.

33. Sodium Ethyl Sulfonates Coalition. Letter requesting withdrawal of CAS No. 61789-32-0 from the TSCA 8(d) Health and Safety Data Reporting rule. Submitted to the EPA Docket Center. August 29, 2006.

34. American Coke and Coal Chemicals Institute. Withdrawal request for fuel gases, coke-oven, CAS No. 65996-81-8. Submitted to EPA Docket Center. August 30, 2006.

35. Pillsbury, Winthrop, Shaw, Pittman. Withdrawal request for fats and glycidic oils, vegetable, deodorizer distillates, CAS No. 68476-80-2. Submitted to EPA Docket Center. August 30, 2006.

## V. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted actions under TSCA sections 8(a) and (d) related to the PAIR and Health and Safety Data Reporting rules from the requirements of Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). In addition, this rule does not impose any new requirements and will result in a burden and cost reduction; therefore it is not subject to OMB review under the Executive order.

### B. Paperwork Reduction Act

The information collection requirements contained in TSCA sections 8(a) PAIR and 8(d) Health and Safety Data Reporting rules have already been approved by OMB under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, and OMB control numbers 2070-0054 (EPA ICR No. 0586) and 2070-0004 (EPA ICR No. 0575). The collection activities in

this rule are captured by the existing approval and do not require additional review and/or approval by OMB.

### C. Regulatory Flexibility Act

Because this rule eliminates reporting requirements, the Agency certifies pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, that this revocation of certain requirements under TSCA sections 8(a) and 8(d) will not have a significant adverse economic impact on a substantial number of small entities.

### D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. In addition, EPA has determined that this rule will not significantly or uniquely affect small governments. Accordingly, the rule is not subject to the requirements of UMRA sections 202, 203, 204, or 205.

### E. Executive Order 13132: Federalism

This rule has no Federalism implications, because it will not have substantial direct effects on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

### F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This rule has no tribal implications because it will not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, nor on the distribution of power and responsibilities between the Federal Government and Indian tribes as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (59 FR 22951, November 6, 2000).

### G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), does not apply to this rule because this is not an economically significant regulatory

action as defined under Executive Order 12866, and it does not concern an environmental health or safety risk that may have a disproportionate effect on children.

### H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, entitled *Actions that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

### I. National Technology Transfer and Advancement Act

Because this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

### J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not involve special considerations of environmental justice-related issues pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

## VI. 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, which includes a copy of the rule, to each House of the Congress and to 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 in 40 CFR Parts 712 and 716

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

Dated: September 25, 2006.

**Charles M. Auer,**

*Director, Office of Pollution Prevention and Toxics.*

■ Therefore, 40 CFR chapter I as amended in the **Federal Register** of August 16, 2006 at 71 FR 47122 and 71 FR 47130 is further amended by the following withdrawals:

**PART 712—[AMENDED]**

■ 1. The authority citation for part 712 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

**§ 712.30 [Amended]**

■ 2. In § 712.30, the table in paragraph (e) is amended by removing the chemical substances listed in the table below:

CAS No.	Substance
74-97-5	Methane, bromochloro-
75-46-7	Methane, trifluoro-
77-86-1	1,3-Propanediol, 2-amino-2-(hydroxymethyl)-
99-51-4	Benzene, 1,2-dimethyl-4-nitro-
100-64-1	Cyclohexanone, oxime
107-45-9	2-Pentanamine, 2,4,4-trimethyl-
579-66-8	Benzenamine, 2,6-diethyl-
693-07-2	Ethane, 1-chloro-2-(ethylthio)-
1115-20-4	Propanoic acid, 3-hydroxy-2,2-dimethyl-, 3-hydroxy-2,2-dimethylpropyl ester
1459-93-4	1,3-Benzenedicarboxylic acid, dimethyl ester
1558-33-4	Silane, dichloro(chloromethyl)methyl-
2611-00-9	3-Cyclohexene-1-carboxylic acid, 3-cyclohexen-1-ylmethyl ester
3088-31-1	Ethanol, 2-[2-(dodecyloxy)ethoxy]-, hydrogen sulfate, sodium salt
3710-84-7	Ethanamine, N-ethyl-N-hydroxy-
6863-58-7	Butane, 2,2-oxybis-
6865-35-6	Octadecanoic acid, barium salt

CAS No.	Substance
7320-37-8	Oxirane, tetradecyl-
14666-94-5	9-Octadecenoic acid (9Z)-, cobalt salt
20469-71-0	Hydrazinecarbodithioic acid, compd. with hydrazine (1:1)
28777-98-2	2,5-Furandione, dihydro-3-(octadecenyl)-
32072-96-1	2,5-Furandione, 3-(hexadecenyl)dihydro-
33509-43-2	1,2,4-Triazin-5(2H)-one, 4-amino-6-(1,1-dimethylethyl)-3,4-dihydro-3-thioxo-
61789-32-0	Fatty acids, coco, 2-sulfoethyl esters, sodium salts
65996-80-7	Ammonia liquor (coal)
65996-81-8	Fuel gases, coke-oven
66071-94-1	Corn, steep liquor
68476-80-2	Fats and glyceridic oils, vegetable, deodorizer distillates
68478-20-6	Residues (petroleum), steam-cracked petroleum distillates cyclopentadiene conc., C4-cyclopentadiene-free
68514-41-0	Ketones, C12-branched
68603-84-9	Carboxylic acids, C5-9
68937-70-2	Carboxylic acids, C6-18 and C8-15-di-
68937-72-4	Carboxylic acids, di-, C4-11
72162-28-8	2-Propanone, reaction products with phenol

**PART 716—[AMENDED]**

■ 3. The authority citation for part 716 continues to read as follows:

**Authority:** 15 U.S.C. 2607(d).

**§ 716.120 [Amended]**

■ 4. In § 716.120, the table in paragraph (d) is amended by removing the chemical substances listed in the table below:

CAS No.	Substance
74-97-5	Methane, bromochloro-
75-46-7	Methane, trifluoro-

CAS No.	Substance
77-86-1	1,3-Propanediol, 2-amino-2-(hydroxymethyl)-
99-51-4	Benzene, 1,2-dimethyl-4-nitro-
100-64-1	Cyclohexanone, oxime
107-45-9	2-Pentanamine, 2,4,4-trimethyl-
579-66-8	Benzenamine, 2,6-diethyl-
693-07-2	Ethane, 1-chloro-2-(ethylthio)-
1115-20-4	Propanoic acid, 3-hydroxy-2,2-dimethyl-, 3-hydroxy-2,2-dimethylpropyl ester
1459-93-4	1,3-Benzenedicarboxylic acid, dimethyl ester
1558-33-4	Silane, dichloro(chloromethyl)methyl-
2611-00-9	3-Cyclohexene-1-carboxylic acid, 3-cyclohexen-1-ylmethyl ester
3088-31-1	Ethanol, 2-[2-(dodecyloxy)ethoxy]-, hydrogen sulfate, sodium salt
3710-84-7	Ethanamine, N-ethyl-N-hydroxy-
6863-58-7	Butane, 2,2-oxybis-
6865-35-6	Octadecanoic acid, barium salt
7320-37-8	Oxirane, tetradecyl-
14666-94-5	9-Octadecenoic acid (9Z)-, cobalt salt
20469-71-0	Hydrazinecarbodithioic acid, compd. with hydrazine (1:1)
28777-98-2	2,5-Furandione, dihydro-3-(octadecenyl)-
32072-96-1	2,5-Furandione, 3-(hexadecenyl)dihydro-
33509-43-2	1,2,4-Triazin-5(2H)-one, 4-amino-6-(1,1-dimethylethyl)-3,4-dihydro-3-thioxo-
61789-32-0	Fatty acids, coco, 2-sulfoethyl esters, sodium salts
65996-80-7	Ammonia liquor (coal)



CAS No.	Substance
65996-81-8	Fuel gases, coke-oven
66071-94-1	Corn, steep liquor
68476-80-2	Fats and glyceridic oils, vegetable, deodorizer distillates
68478-20-6	Residues (petroleum), steam-cracked petroleum distillates cyclopentadiene conc., C4-cyclopentadiene-free
68514-41-0	Ketones, C12-branched
68603-84-9	Carboxylic acids, C5-9
68937-70-2	Carboxylic acids, C6-18 and C8-15-di-
68937-72-4	Carboxylic acids, di-, C4-11
72162-28-8	2-Propanone, reaction products with phenol

[FR Doc. E6-15959 Filed 9-28-06; 8:45 am]

BILLING CODE 6560-50-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 412, 414, and 424

[CMS-1540-CN]

RIN 0938-AO16

#### Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2007; Certain Provisions Concerning Competitive Acquisition for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); Accreditation of DMEPOS Suppliers; Correction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Correction.

**SUMMARY:** This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 18, 2006, titled "Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2007; Certain Provisions Concerning Competitive Acquisition for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); Accreditation of DMEPOS Suppliers" (71 FR 48354).

**DATES: Effective Dates:** The regulatory changes to part 412 of 42 CFR are effective October 1, 2006. The regulatory changes to part 414 of 42 CFR, other than § 414.406(e), are effective August 31, 2006. The effective date for § 414.406(e) is October 1, 2006. The regulatory changes to part 424 of 42 CFR are effective October 2, 2006. The updated IRF prospective payment rates are effective October 1, 2006, for discharges occurring on or after October 1, 2006, and on or before September 30, 2007 (that is, during FY 2007).

**FOR FURTHER INFORMATION CONTACT:** Zinnia Ng, (410) 786-4587.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 06-6694 of August 18, 2006 (71 FR 48354), there were several technical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction notice are effective as if they had been included in the document published on August 18, 2006.

##### II. Summary of Errors

The first of the technical errors identified and corrected in the Correction of Errors section below occurred in the "Effective Dates" paragraph of the final rule (71 FR 48354). We inadvertently neglected to identify the effective date for 42 Code of Federal Regulations (CFR) 414.406(e). We will identify the effective date for § 414.406(e) as October 1, 2006.

In addition, two typographical errors occurred that resulted in duplicate descriptions of the Addendum that appears on page 48412 of the final rule, as well as a misspelled word that appears in a footnote on page 48434. We will delete the duplicate description of the Addendum and correct the spelling of the misspelled word.

A typesetting error also occurred on page 48415 in the final rule. The wage index value for Canton-Massillon, Ohio (CBSA 15940) displays an incorrect wage index value of 0.8735. We will replace the incorrect wage index value with the correct wage index value of 0.8935, as published in the Inpatient Rehabilitation Facility Prospective Payment System (IRF PPS) proposed rule (71 FR 28106, 28145, May 15, 2006).

##### III. Correction of Errors

In FR Doc. 06-6694 of August 18, 2006 (71 FR 48354), make the following corrections:

1. On page 48354, in the first column, the paragraph entitled "*Effective Dates*" is deleted and replaced with, "*Effective Dates*: The regulatory changes to part

412 of 42 CFR are effective October 1, 2006. The regulatory changes to part 414 of 42 CFR, other than § 414.406(e), are effective August 31, 2006. The effective date for § 414.406(e) is October 1, 2006. The regulatory changes to part 424 of 42 CFR are effective October 2, 2006. The updated IRF prospective payment rates are effective October 1, 2006, for discharges occurring on or after October 1, 2006, and on or before September 30, 2007 (that is, during FY 2007)."

2. On page 48412, portions of the first and second columns will be deleted. The text to be deleted begins in the first column with the word "Addendum" through the end of the second full paragraph in the second column.

3. On page 48415, the Canton-Massillon, OH (CBSA 15940) wage index value of "0.8735" is corrected to read "0.8935".

4. On page 48434, in the third column, second footnote, line 2, "shrot" is corrected to read "short".

##### IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, for good cause found by the agency, if the agency incorporates a statement of the finding and its reasons in the rule issued.

The policies and payment methodology expressed in the FY 2007 final rule (71 FR 48354) have previously been subjected to notice and comment procedures. This correction notice merely provides technical corrections to the FY 2007 final rule that was promulgated through notice and comment rulemaking, and does not make substantive changes to the policies or payment methodology that were expressed in the final rule. For example, this notice corrects typographical and typesetting errors. In addition, we inadvertently neglected to identify the effective date for 42 CFR 414.406(e). Therefore, we find it unnecessary to undertake further notice and comment