

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Route 82 Bridge, mile 16.8, across the Connecticut River at East Haddam, Connecticut. This deviation from the regulations allows the bridge to open every two hours on the odd hour, from August 17, 2004, through October 15, 2004. The bridge shall open on signal at all times for commercial vessels after at least a two-hour advance notice is given. This deviation is necessary in order to facilitate necessary repairs at the bridge.

DATES: This deviation is effective from August 17, 2004, through October 15, 2004.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Route 82 Bridge, at mile 16.8, across the Connecticut River has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.205(c).

The owner of the bridge, Connecticut Department of Transportation, requested a temporary deviation from the drawbridge operating regulations to facilitate maintenance repairs at the bridge.

This deviation to the operating regulations allows the Route 82 Bridge to open every two hours on the odd hour, from August 17, 2004, through October 15, 2004. The bridge shall open on signal at all times for commercial vessels after at least a two-hour advance notice is given.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 24, 2004.
David P. Pekoske,
Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2004-0006, FRL-7808-4]

RIN 2060-AK32

National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On April 12, 2001, the EPA issued national emission standards for hazardous air pollutants for solvent extraction for vegetable oil production (Vegetable Oil Production NESHAP) under section 112 of the Clean Air Act (CAA). This action will amend the compliance requirements for vegetable oil production processes that exclusively use a qualifying low-hazardous air pollutants (HAP) extraction solvent. The amendments are being made to require only the necessary recordkeeping and reporting requirements for facilities using the low-HAP extraction solvent compliance option. We are making the amendments by direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no adverse comments.

DATES: The direct final rule is effective on November 1, 2004 without further notice, unless EPA receives adverse written comment by October 1, 2004 or if a public hearing is requested by September 13, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** indicating which provisions will become effective and

which provisions are being withdrawn due to adverse comment.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OAR-2004-0006. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, 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. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The 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 Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742. See the Proposed Rules section in this **Federal Register** for the proposed rule which contains more information.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Nizich, U.S. EPA, Waste and Chemical Processes Group (C439-03), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-3078, facsimile number (919) 541-3207, electronic mail address: nizich.greg@epa.gov. Questions regarding the applicability of this action to a particular entity should be directed to the appropriate EPA Regional Office representative.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* If your facility produces vegetable oil from corn germ, cottonseed, flax, peanuts, rapeseed (for example, canola), safflower, soybeans, or sunflower, it may be a "regulated entity." Categories and entities potentially regulated by this action include:

Category	SIC code	NAICS	Examples of regulated entities
Industry	2074	311223	Cottonseed oil mills.
	2075	311222	Soybean oil mills.
	2076	311223	Other vegetable oil mills, excluding soybeans and cottonseed mills.
	2079	311223	Other vegetable oil mills, excluding soybeans and cottonseed mills.
	2048	311119	Prepared feeds and feed ingredients for animals and fowls, excluding dogs and cats.
	2041	311211	Flour and other grain mill product mills.
	2046	311221	Wet corn milling.
Federal government			Not affected.
State/local/tribal government			Not affected.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR part 63, subpart GGGG. If you have any questions regarding the applicability of this action to a particular entity, consult the individual described in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Comments. We are publishing the direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. We consider the changes to be noncontroversial because the only effect is to eliminate recordkeeping and reporting that is unnecessary for determining compliance for facilities using a low-HAP extraction solvent in the production process. Compliance with the rule is assured merely by properly documenting use of the low-HAP extraction solvent. In the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to make the amendments to the Vegetable Oil Production NESHAP set forth in the direct final rule in the event that timely and significant adverse comments are received.

If we receive any relevant adverse comments on the amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in today's rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 1, 2004. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading this preamble to the direct final rule.

- I. Background
- II. Technical Amendment to the Solvent Extraction for Vegetable Oil Production NESHAP
 - A. How are compliance requirements being revised for low-HAP extraction solvent operations?
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

I. Background

On April 12, 2001, the **Federal Register** published EPA's National Emission Standards for Hazardous Air Pollutants for Solvent Extraction for Vegetable Oil Production (Vegetable Oil Production NESHAP), 40 CFR part 63, subpart GGGG (66 FR 19006). The NESHAP contains regulatory provisions for documenting certain parameters in the vegetable oil production process: oilseed use and solvent use, HAP content of the solvent, and determining compliance based on a ratio of actual versus allowable HAP loss for the applicable types of oilseeds. Today's direct final rule amendments eliminate the recordkeeping and reporting requirements that are unnecessary for determining compliance at vegetable oil production facilities that exclusively use a qualifying low-HAP extraction solvent.

II. Technical Amendment to the Vegetable Oil Production NESHAP

The Vegetable Oil Production NESHAP require that certain parameters be documented and that actual versus allowable HAP use be compared to determine compliance. Today's direct final amendment specifies, only for facilities that use a low-HAP extraction solvent, the recordkeeping and reporting requirements necessary to assure compliance with the NESHAP.

A. How Are Compliance Requirements Being Revised for Low-HAP Extraction Solvent Operations?

When we promulgated the Vegetable Oil Production NESHAP, the rule required compliance to be demonstrated by calculating a compliance ratio that was a comparison of the actual versus allowable amount of HAP loss from the production process. Determination of the compliance ratio required the facility owner or operator to document, on a monthly basis, the following parameters in the solvent extraction process: the quantity of each type of oilseed used, the quantity of solvent loss, and the volume fraction of each HAP exceeding 1 percent in the extraction solvent used. By inputting this information into the equations in the rule, the compliance ratio, and thus compliance, is determined. If the facility's compliance ratio is one or less, the facility is in compliance. During the approximately 3 year period since the NESHAP were promulgated, a solvent has been developed where none of the HAP constituents are present in an amount greater than 1 percent by volume. We refer to this solvent as "low-HAP extraction solvent." The extraction solvent available until recently, and the one the equations in the NESHAP are based on, was comprised of, on average, 64 percent HAP, primarily n-hexane. When facilities using a low-HAP extraction solvent determine their compliance ratio in accordance with the equations in the NESHAP, the result will always be zero. This is true because the volume fraction of each HAP comprising more than 1 percent in the extraction solvent used is zero. Since a facility with a compliance ratio below one is in compliance, any facility with a compliance ratio of zero will always be in compliance with the NESHAP. Neither quantity and/or type of oilseed processed, nor the amount of solvent loss, has any bearing on the compliance determination. Therefore, it is no longer necessary to measure these production-related parameters to determine compliance. The direct final

amendment adds language to 40 CFR 63.2840 specifying that, for facilities using the low-HAP extraction solvent in their processes, we are requiring only the necessary recordkeeping and reporting requirements to assure that the solvent used meets the low-HAP criteria.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards 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 entitlement, 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.

Pursuant to the terms of Executive Order 12866, it has been determined that the amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in subpart GGGG were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control No. 2060-0433. Today's action does not impose any new information collection requirements on industry or EPA. For that reason, we have not revised the ICR for the Vegetable Oil Production NESHAP.

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 Procedures 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. The EPA has determined that the amendments will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's technical amendments on small entities, small entities are defined as: (1) A small business that has fewer than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of 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 direct final rule amendments on small entities, the EPA has concluded that this action will not have a significant impact on a substantial number of small entities. The direct final rule amendments will not impose any new requirements on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was

not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potential affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the direct final rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year, nor does the rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to the direct final rule amendments.

E. Executive Order 13132: Federalism

Executive Order 13132, (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input 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."

The direct final amendments do not have federalism implications. The amendments only clarify a compliance option and eliminate unnecessary recordkeeping and reporting requirements for that option. This change does not modify existing or create new responsibilities among EPA Regional Offices, States, or local enforcement agencies. The technical amendments will not have new 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, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Government

Executive Order 13175 (65 FR 67249, November 9, 2000), 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.” The direct final rule amendments do not have tribal implications as specified in Executive Order 13175. They would 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 the direct final rule amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The direct final rule amendments are not subject to Executive Order 13045 because they do not establish an environmental standard intended to mitigate health or safety risks.

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

The direct final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 13211.

I. National Technology Transfer and Advancement Act

Because today’s action contains no new test methods, sampling procedures

or other technical standards, there is no need to consider the availability of voluntary consensus standards.

J. 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. The 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**. The direct final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 25, 2004.

Michael O. Leavitt,
Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart GGGG—[Amended]

■ 2. Section 63.2840 is amended by adding introductory text and adding paragraphs (e) and (f) to read as follows:

§ 63.2840 What emission requirements must I meet?

For each facility meeting the applicability criteria in § 63.2832, you must comply with either the requirements specified in paragraphs (a) through (d), or the requirements in paragraph (e) of this section.

(a)(1) * * *

(e) *Low-HAP solvent option.* For all vegetable oil production processes subject to this subpart, you must exclusively use solvent where the volume fraction of each HAP comprises 1 percent or less by volume of the solvent (low-HAP solvent) in each delivery, and you must meet the

requirements in paragraphs (e)(1) through (5) of this section. Your vegetable oil production process is not subject to the requirements in §§ 63.2850 through 63.2870 unless specifically referenced in paragraphs (e)(1) through (5) of this section.

(1) You shall determine the HAP content of your solvent in accordance with the specifications in § 63.2854(b)(1).

(2) You shall maintain documentation of the HAP content determination for each delivery of the solvent at the facility at all times.

(3) You must submit an initial notification for existing sources in accordance with § 63.2860(a).

(4) You must submit an initial notification for new and reconstructed sources in accordance with § 63.2860(b).

(5) You must submit an annual compliance certification in accordance with § 63.2861(a). The certification should only include the information required under § 63.2861(a)(1) and (2), and a certification indicating whether the source complied with all of the requirements in paragraph (e) of this section.

(f) You may change compliance options for your source if you submit a notice to the Administrator at least 60 days prior to changing compliance options. If your source changes from the low-HAP solvent option to the compliance ratio determination option, you must determine the compliance ratio for the most recent 12 operating months beginning with the first month after changing compliance options.

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[FR Doc. 04–19919 Filed 8–31–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–2003–0169; FRL–7352–3]

RIN 2070–AC93

Pesticide Worker Protection Standard; Glove Liners, and Chemical-Resistant Glove Requirements for Agricultural Pilots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the 1992 Pesticide Worker Protection Standard to permit optional use of separable glove liners beneath chemical-resistant gloves. This amendment also makes optional the provision that agricultural pilots