

may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this Pennsylvania I/M approval action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 27, 1999.

W. Michael McCabe,
Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

2. Section 52.2026 is amended by revising the introductory paragraph to read as follows:

§ 52.2026 Conditional approval.

The Commonwealth of Pennsylvania's March 27, 1996 submittal of its enhanced motor vehicle emissions inspection and maintenance (I/M) program; as amended on June 27, 1996, July 29, 1996, November 1, 1996, November 13, 1997, February 24, 1998, and August 21, 1998; is conditionally approved pending satisfaction of paragraph (a)(2) of this subsection.

* * * * *

(a) * * *

3. Section 52.2026 is further amended by removing and reserving paragraphs (b) (1), (5), (7), (8), (9), (10), and (14).

[FR Doc. 99-14357 Filed 6-7-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6355-5]

RIN 2060-AH47

National Emission Standards for Hazardous Air Pollutants Emissions: Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; extension of compliance.

SUMMARY: The EPA is taking direct final action to extend certain compliance dates contained in National Emissions Standards for Hazardous Air Pollutants Emissions: Group IV Polymers and Resins. The revisions concern extending the compliance dates specified in 40 CFR 63.1311(b) and (d)(6) for polyethylene terephthalate (PET) affected sources. We are approving these compliance extensions pursuant to Clean Air Act section 301(a)(1) to complete reconsideration of equipment leaks provisions and any necessary revision to the rule.

DATES: The direct final rule is effective on August 9, 1999, without further notice, unless the EPA receives adverse comment by July 8, 1999. If we receive such comment, we will publish a timely

withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-45 (see docket section below), Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below. Comments and data may also be submitted electronically by following the instructions provided in the **SUPPLEMENTARY INFORMATION** section. No Confidential Business Information (CBI) should be submitted through electronic mail.

Docket. The official record for this rulemaking has been established under docket number A-92-45 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments and data, which does not include any information claimed as CBI, is available for inspection between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in the **ADDRESSES** section. Alternatively, a docket index, as well as individual items contained within the docket, may be obtained by calling (202) 260-7548 or (202) 260-7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Barnett, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5605.

SUPPLEMENTARY INFORMATION:

Electronic Filing

Electronic comments and data can be sent directly to the EPA at: a-and-r-docket@epamail.epa.gov. Electronic comments and data must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on diskette in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-92-45. Electronic comments may be filed online at many Federal Depository Libraries.

Electronic Availability

This document is available in docket number A-92-45 or by request from the

EPA's Air and Radiation Docket and Information Center (see **ADDRESSES**), and is available for downloading from the Technology Transfer Network (TTN), the EPA's electronic bulletin board system. The TTN provides information and technology exchange in various areas of emissions control. The service is free, except for the cost of a telephone call. Dial (919) 541-5742 for up to a 14,000 baud per second modem. For further information, contact the TTN HELP line at (919) 541-5348, from 1:00 p.m. to 5:00 p.m., Monday through Friday, or access the TTN web site at: <http://www.epa.gov/ttn/oarpg>.

Regulated entities.

Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Facilities that produce PET.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities regulated by the NESHAP addressed in this direct final rule. If you have questions regarding the applicability of the NESHAP addressed in this direct final rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rule" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the extension of the compliance dates specified in 40 CFR 63.1311 (b) and (d)(6) for polyethylene terephthalate (PET) affected sources if adverse comments are filed. This rule will be effective on August 9, 1999, without further notice, unless we receive adverse comment by July 8, 1999. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The information presented in this preamble is organized as follows:

- I. Background and Rationale
- II. Authority for Extension of the Compliance Date and Reconsideration

- III. Impacts
- IV. Administrative Requirements

I. Background and Rationale

On September 12, 1996, the EPA promulgated 40 CFR part 63, subpart JJJ—Group IV Polymers and Resins NESHAP (61 FR 48208). 40 CFR 63.1331 establishes standards for equipment leaks based on the equipment leaks provisions from the Hazardous Organic NESHAP (HON), 40 CFR part 63, subpart H. The final rule required existing sources to comply with 40 CFR 63.1331 beginning March 12, 1997 (see 40 CFR 63.1311(d)).

Subsequent to the promulgation of the Group IV Polymers and Resins rule, the EPA promulgated changes to the equipment leak provisions of the HON. In addition, a petition was submitted to the EPA requesting reconsideration of the equipment leak provisions of the rule affecting PET facilities. As a result, the compliance date for 40 CFR 63.1331 for existing PET facilities has twice been extended and is currently September 12, 1999, which is three years after promulgation of the rule. After the last compliance extension, the effective date of the Group IV Polymers and Resins rule was changed to February 27, 1998 to comply with sections 801 and 802 of the Congressional Review Act.

The petition was submitted to the EPA by two PET manufacturers requesting reconsideration of the technical basis for estimates of emissions, emission reduction, and costs for equipment leaks emission control at PET affected sources. A second petition was subsequently filed by a third PET manufacturer requesting the same relief. The petitions summarize new information claimed by the petitioners to "confirm the petitioners' comments made during the public comment period questioning the validity of the EPA's predictions of the costs and cost effectiveness of the leak detection and repair program." This new information, which the EPA did not have prior to promulgation of the final rule, includes data related to emissions and costs. The EPA elected to act upon the petitioners' requests to reconsider the equipment leak provisions of the 1996 rule, as it applies to PET affected sources.

The EPA's reconsideration has created uncertainty with regard to compliance requirements for the PET equipment leak provisions. Furthermore, the EPA's reconsideration has led the Agency to publish in the "Proposed Rules" section of today's **Federal Register** publication a proposal to deny the petitions. The EPA will consider public comments on this proposed denial and publish a final

action on the petitions. Therefore, this period of uncertainty will continue until the EPA publishes a final decision on the petitions. For these reasons, the EPA is providing an extension of the compliance dates associated with the provisions of 40 CFR 63.1331, which regulate equipment leaks for PET affected sources, until such time as the EPA is able to take final action on the petitions for reconsideration. This extension applies to affected sources in the following regulated subcategories: (1) PET using a batch dimethyl terephthalate process; (2) PET using a continuous dimethyl terephthalate process; (3) PET using a batch terephthalic acid process; and (4) PET using a continuous terephthalic acid process. It does not affect any other provisions of the Polymers and Resins Group IV rule, or any other source categories or subcategories.

By this action the EPA is providing, pursuant to Clean Air Act section 301(a)(1), an extension of the compliance dates specified in 40 CFR 63.1311(b) and (d)(6), only as necessary to complete reconsideration and potential revision of the rule. The EPA intends to complete its reconsideration of the rule and, following the notice and comment procedures of Clean Air Act section 307(d), take appropriate action as expeditiously as possible. The EPA does not believe this extension will, as a practical matter, impact the overall effectiveness of the rule. The EPA will seek to ensure that the affected parties are not unduly prejudiced by the EPA's reconsideration. The compliance date will be extended until February 27, 2001 which is the latest compliance date permitted by section 112 of the Clean Air Act (in the absence of a one year extension).

II. Authority for Extension of the Compliance Date and Reconsideration

The extension of the compliance dates specified in 40 CFR 63.1311(b) and (d)(6) for PET affected sources is being undertaken pursuant to Clean Air Act section 301(a)(1). Reconsideration is being undertaken pursuant to Clean Air Act section 307(d)(7)(B). Reconsideration is appropriate if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for reconsideration of this rule arose after the public comment period. The emissions and cost data which serve as the bases for the summary of data provided by the petitioners became available after the close of the comment period on the rule. Therefore, the EPA is extending the

compliance dates specified in 40 CFR 63.1311(b) and (d)(6) for PET affected sources in order to allow time to reconsider the provisions of 40 CFR 63.1331 as these provisions pertain to PET affected sources.

III. Impacts

The extension of the compliance date for equipment leaks at PET affected sources will not affect the eventual annual estimated emissions reduction or the control cost for the rule.

IV. Administrative

A. Paperwork Reduction Act

For the Group IV Polymers and Resins NESHAP, the information collection requirements were submitted to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*. The OMB approved the information collection requirements and assigned OMB control number 2060-0351. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA has amended 40 CFR 9.1, to indicate the information collection requirements contained in the Group IV Polymers and Resins NESHAP.

This action has no impact on the information collection burden estimates made previously. Therefore, the ICR has not been revised.

B. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by OMB on the basis of the requirements of the Executive Order in addition to its normal review requirements. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule 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 entitlements, 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.

Today's action does not fall within any of the four categories described above. Instead, the direct final rule will provide an extension of the compliance dates specified in 40 CFR 63.1311(b) and (d)(6) for PET affected sources. The direct final rule does not add any additional control requirements. Therefore, this direct final rule was classified "non-significant" under Executive Order 12866 and was not required to be reviewed by OMB.

C. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant impact on a substantial number of small entities because the compliance extension would not impose any economic burden on any regulated 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 one 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 objects 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

potentially 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.

Today's direct final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. Instead, this rule provides additional time to comply with some requirements of the Group IV Polymers and Resins NESHAP. In any event, the EPA has determined that this rule does not contain a Federal mandate that may result in expenditure of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector, in any one year. Thus today's direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We also have determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule does not impose any enforceable duties on small governments, i.e., they own or operate no sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule.

E. 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), 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 the 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 aspects 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.

The EPA interprets E.O. 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 Order has the potential to influence the regulation. This final action is not subject to the Executive Order 13045 because it is not an economically significant regulatory action as defined in E.O. 12866, and it

is based on technology performance and not on health or safety risks.

F. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act of 1995 (NTTAA) requires federal agencies to evaluate existing technical standards when developing new regulations. To comply with the NTTAA, the EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that the use of VCS in this direct final rule is impractical. The compliance extension of the Group IV Polymers and Resins NESHAP is merely a procedural action that does not require sources to take substantive steps that lend themselves to VCS.

G. Executive Order 12875—Enhancing Intergovernmental Partnership

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide to the Office of Management and Budget a description of the extent of the EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's direct final rule does not create a mandate on State, local or tribal governments. The direct final rule does not impose any enforceable duties on these entities. Rather, the rule extends certain regulatory requirements. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. Executive Order 13084—Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's direct final rule does not significantly or uniquely affect the communities of Indian tribal governments. This direct final rule imposes no enforceable duties on these entities. Rather, the rule extends certain regulatory requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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**. A major rule cannot take effect until 60 days after it is published in the

Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule will be effective on August 9, 1999.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 28, 1999.

Carol M. Browner,
Administrator.

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

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

Subpart JJJ—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

2. Section 63.1311 is amended by revising paragraphs (b) and (d)(6) to read as follows:

§ 63.1311 Compliance schedule and relationship to existing applicable rules.

* * * * *

(b) New affected sources that commence construction or reconstruction after March 29, 1995 shall be in compliance with this subpart upon initial start-up or September 12, 1996, whichever is later, as provided in § 63.6(b), except that new affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is PET shall be in compliance with § 63.1331 upon initial start-up or February 27, 2001, whichever is later.

* * * * *

(d) * * *

(6) Notwithstanding paragraphs (d)(1) through (d)(4) of this section, existing affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is PET shall be in compliance with § 63.1331 no later than February 27, 2001.

* * * * *

[FR Doc. 99-14349 Filed 6-7-99; 8:45 am]

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