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U. S. ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-]
RIN 2060-AC19

National Emission Standards for Hazardous Air Pollutants
for Source Categories: Organic Hazardous Air Pollutants
from the Synthetic Organic Chemical Manufacturing
Industry and Other Processes Subject to the Negotiated
Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 10, 1995, the EPA amended certain
portions of the "National Emission Standards for
Hazardous Air Pollutants for Source Categories: Organic
Hazardous Air Pollutants from the Synthetic Organic
Chemical Manufacturing Industry and Other Processes
Subject to the Negotiated Regulation for Equipment
Leaks." This rule is commonly known as the Hazardous
Organic NESHAP or the HON. In that action, the EPA
revised the rule to provide a deferral of HON
requirements for source owners or operators who wish to
make an area source certification and to establish
minimum documentation requirements. This action revises
the date for submittal of those area source
certifications and clarifies the wording of the

documentation requirements. This action is being taken because the EPA has learned that sufficient time was not provided to prepare the certifications and that some confusion exists regarding the required documentation.

This action also extends the April 22, 1996 deadline for submittal of implementation plans for emission points not included in an emissions average to December 31, 1996. The deadline for submitting these plans is being extended because the EPA anticipates making further revisions to the rule in the near future that could affect the contents of the implementation plan. In light of this, the EPA thinks it is appropriate to delay this report until there is greater certainty regarding the compliance requirements.

DATES: The direct final rule will be effective [Insert date 50 days after date of publication in FEDERAL REGISTER], unless significant, adverse comments are received by [Insert date 30 days after date of publication in FEDERAL REGISTER]. If significant, adverse comments are timely received on any portion of the direct final rule, that portion of the direct final rule will be withdrawn.

ADDRESSES: Comments should be submitted (in duplicate,

if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-90-20, Room M-1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Dr. Janet S. Meyer, 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) 541-5254.

SUPPLEMENTARY INFORMATION:

If significant adverse comments are timely received on any portion of this direct final rule, that portion of the direct final rule will be withdrawn and all such comments will be addressed in a subsequent final rule based on the proposed rule contained in the Proposed Rules Section of this FEDERAL REGISTER that is identical to this direct final rule. If no significant adverse comments are timely received on this direct final rule, then the direct final rule will become effective 50 days from today's FEDERAL REGISTER notice and no further action is contemplated on the parallel proposal published today.

I. BACKGROUND AND SUMMARY OF CHANGES TO RULE

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the EPA promulgated in the FEDERAL REGISTER National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI), and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR Part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. Since the April 22, 1994 notice, there have been several amendments to clarify various aspects of the rule. Readers should see the following FEDERAL REGISTER notices for more information: September 20, 1994 (59 FR 48175); October 24, 1994 (59 FR 53359); October 28, 1994 (59 FR 54131); January 27, 1995 (60 FR 5321); April 10, 1995 (60 FR 18020); April 10, 1995 (60 FR 18026); and December 12, 1995 (60 FR 63624).

A. Area Source Certification

On April 10, 1995, new paragraphs were added to §63.100 (b) and §63.103 (f) of subpart F and §63.190 (b)

of subpart I to provide procedures to certify and document that a source is operating below the thresholds for a major source. Those provisions specified that the certifications were to be submitted no later than May 10, 1995. This date was 30 days after the date of publication of the notice and consistent with the proposed requirement. Since the amendment was issued, the EPA has learned that there are a number of potential area source facilities whose owners learned of this amendment for the first time after May 10, 1995. The EPA believes that, in view of these circumstances, it is appropriate to provide additional time for submittal of the certifications. Therefore, this document revises the date for submittal of those certifications until [insert date 75 days from date of publication in the FEDERAL REGISTER].

The EPA has also learned that there are questions regarding the requirements for documentation that actual emissions are below the major source threshold. To address this confusion, the first sentence in §63.100 (b)(4)(i)(B) is being revised to clarify that emissions are to be estimated for maximum expected operating conditions for the facility. This revision is necessary

to make the rule consistent with the EPA's intent to allow sources with actual annual emissions less than major source thresholds the additional time necessary to obtain federally enforceable limits (59 FR 53393 and 60 FR 18021). The same revision is also being made to §63.190(b)(7)(i)(B) of subpart I.

B. Date for Submission of Implementation Plan

The EPA is extending the April 22, 1996 deadline for submittal of implementation plans for emission points not included in an emissions average to December 31, 1996. The deadline for submitting these plans is being extended because there are uncertainties regarding the applicability of the rule to certain sources and there are uncertainties regarding the requirements of certain provisions. These uncertainties are caused by the existence of pending litigation on the final rule, the need to review and respond to several recent changes to the final rule, and the possibility of further changes being made to the final rule in the near future.

Since the April 22, 1994 notice, there have been several amendments to clarify various aspects of the rule. The most recent of these notices was published on December 12, 1995. On April 10, 1995 (60 FR 18071), the

EPA proposed to remove three compounds from the list of chemical production processes regulated by the rule. The EPA anticipates issuing a final notice to complete that rulemaking in the near future. Additionally, the EPA anticipates that it is likely to propose at least one more set of additional changes to the rule in the near future. Since these changes may affect compliance planning for some sources, it is appropriate to delay this report until there is greater certainty regarding the compliance requirements.

II. ADMINISTRATIVE

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document

(OMB control number 1414.02) may be obtained from Sandy Farmer, Information Policy Branch (PM-223Y); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260-2740.

Today's changes to the NESHAP should have no impact on the information collection burden estimates made

previously. The change to the area source certification merely revises the date for submission of the certification and clarifies the documentation requirements. The change to the implementation plan requirements merely extends the date for submission of plans from existing sources. These changes do not impose new requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866 Review

Under Executive Order (E.O.) 12866, the EPA must determine whether the proposed regulatory action is "not significant" and therefore, subject to the Office of

Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to 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 in 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.

The HON rule promulgated on April 22, 1994 was considered "significant" under Executive Order 12866 and a regulatory impact analysis (RIA) was prepared. The amendments issued today clarify the rule and do not add

any additional control requirements. Therefore, this regulatory action is considered not significant.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of

the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

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

Dated

Carol M. Browner
Administrator

For the reasons set out in the preamble, Title 40, Chapter I, Part 63 subparts F, G, and I, of the Code of Federal Regulations are amended as follows:

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

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

Subpart F -- National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry

2. Section 63.100 is amended by revising paragraph (b)(4) introductory language and by revising the first sentence in paragraph (b)(4)(i)(B) to read as follows:

§63.100 Applicability and designation of source.

* * * * *

(b) * * *

(4) The owner or operator of a chemical manufacturing processing unit is exempt from all requirements of subparts F, G, and H until not later than April 22, 1997 if the owner or operator certifies, in a notification to the appropriate EPA Regional Office, not later than [insert date 75 days from date of publication in the FEDERAL REGISTER] that the plant site at which the

chemical manufacturing processing unit is located emits, and will continue to emit, during any 12-month period, less than 10 tons per year of any individual hazardous air pollutants (HAP), and less than 25 tons per year of any combination of HAP.

(i) * * *

(B) The owner or operator shall calculate the amount of annual HAP emissions released from each emission point at the plant site, using acceptable measurement or estimating techniques for maximum expected operating conditions at the plant site. * * *

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Subpart G -- National Emission Standards for Organic Hazardous Air Pollutants from Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.

3. Section 63.151 is amended by revising paragraph (c)(1)(ii) to read as follows:

§63.151 Initial notification and implementation plan.

* * * * *

(c) * * *

(1) * * *

(ii) Each owner or operator of an existing source

subject to this subpart who elects to comply with §63.112 of this subpart by complying with the provisions of §§63.113 to 63.148 of this subpart, rather than emissions averaging, for any emission points, and who has not submitted an operating permit application accompanied by the information specified in §63.152 (e) by December 31,1996, shall develop an Implementation Plan. For an existing source, the Implementation Plan for those emission points that are not to be included in an emissions average shall be submitted to the Administrator no later than December 31,1996.

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Subpart I -- National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.

4. Section 63.190 is amended by revising paragraph (b)(7) introductory language and by revising the first sentence in paragraph (b)(7)(i)(B) to read as follows:

§63.190 Applicability and designation of source.

* * * * *

(b) * * *

(7) The owner or operator of a plant site at which

a process specified in paragraphs (b)(1) through (b)(6) of this section is located is exempt from all requirements of subpart I until not later than April 22, 1997 if the owner or operator certifies, in a notification to the appropriate EPA Regional Office, not later than [insert date 75 days from date of publication in the FEDERAL REGISTER] that the plant site at which the process is located emits, and will continue to emit, during any 12-month period, less than 10 tons per year of any individual HAP, and less than 25 tons per year of any combination of HAP.

(i) * * *

(B) The owner or operator shall calculate the amount of annual HAP emissions released from each emission point at the plant site, using acceptable measurement or estimating techniques for maximum expected operating conditions at the plant site. * * *

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