

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6321-7]

RIN 2060-AH71

National Emission Standards for Hazardous Air Pollutants for Source Categories: Amendment for Hazardous Air Pollutants Emissions From Magnetic Tape Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to amend National Emission Standards for Hazardous Air Pollutants (NESHAP) From Magnetic Tape Manufacturing Operations, codified as subpart EE to 40 CFR part 63. The existing standards allow facility owners or operators to leave a limited number of solvent storage tanks uncontrolled if they control coating operations at a level greater than the standards otherwise require. EPA is publishing this proposed amendment to provide another compliance option for facility owners and operators. If facility owners or operators increase the control of hazardous air pollutant (HAP) emissions from coating operations beyond what the standards otherwise require, this final amendment gives them the choice of leaving a limited number of solvent storage tanks and/or a limited number of pieces of mix preparation equipment uncontrolled. EPA believes this proposed amendment will not decrease the stringency of the existing standards.

We don't consider this amendment controversial and expect no negative comments, so we're also publishing it as a direct final rule in the Final Rules section of this **Federal Register** publication. We'll consider any negative comments about today's direct final rule to also be negative comments about this proposal. We'll take no further action unless, within the time allowed (see **DATES**, below), we receive negative comments about the proposal or final rule, or we receive a request for a public hearing on the proposal. If we take no further action, the amendment will become effective on the date in the **DATES** section of the associated direct final rule.

DATES: *Comments.* The EPA will accept comments regarding the proposed amendment on or before May 10, 1999. Additionally, a public hearing regarding the proposed amendment will be held if anyone requesting to speak at a public

hearing contacts the EPA by April 19, 1999. If a hearing is requested, the hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC, on April 30, 1999 beginning at 10:00 a.m.. For more information about submittal of comments and requesting a public hearing, see the **SUPPLEMENTARY INFORMATION** section in this preamble.

ADDRESSES: *Comments.* Interested parties having comments on this action may submit these comments in writing (original and two copies, if possible) to Docket No. A-91-31 at the following address: Air and Radiation Docket and Information Center (6102), US Environmental Protection Agency, 401 M Street, S.W., Room 1500, Washington, D.C. 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed in the following paragraph of this preamble.

FOR FURTHER INFORMATION CONTACT: Michele Aston, U.S. Environmental Protection Agency, Policy, Planning, and Standards Group, Emission Standards Division, Mail Drop 13, Research Triangle Park, NC 27711; electronic mail address aston.michele@epamail.epa.gov; telephone number (919) 541-2363; facsimile number (919) 541-0942.

SUPPLEMENTARY INFORMATION: Regulated entities. Entities potentially regulated by this action include any facility that is engaged in the surface coating of magnetic tape. This includes, but is not limited to, the following magnetic tape products: audio and video recording tape, computer tape, the magnetic stripes of media involved in credit cards and toll tickets, bank transfer ribbons, instrumentation tape, and dictation tape. Regulated categories and entities are shown in Table 1.

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Entity category	Description
Industrial	Any facility that is engaged in the surface coating of magnetic tape (SIC 3695 & 2675)
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. This table lists the types of entities that the EPA is now aware could potentially be regulated by

this action. Other types of entities not listed in the table could also be regulated.

Internet. The text of this **Federal Register** document is also available on the EPA's web site on the Internet under recently signed rules at the following address: <http://www.epa.gov/ttn/oarpg/rules.html>. The EPA's Office of Air and Radiation (OAR) homepage on the Internet also contains a wide range of information on the air toxics program and many other air pollution programs and issues. The OAR's homepage address is: <http://www.epa.gov/oar/>.

Electronic Access and Filing Addresses. The official record for this rulemaking, as well as the public version, has been established for this rulemaking under Docket No. A-91-31 (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address listed in the **ADDRESSES** section at the beginning of this preamble document.

Interested parties having comments on this action may submit these comments electronically to the EPA's Air and Radiation Docket and Information Center at: "A-and-R-Docket@epamail.epa.gov." Electronic comments 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 disks in WordPerfect in 6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A-91-31). No CBI should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

Public Hearing. If EPA receives a request to make an oral presentation at a hearing concerning this proposal by April 19, 1999, the public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC on April 30, 1999 beginning at 10 a.m. Persons interested in making an oral presentation or inquiring as to whether a hearing is to be held should contact Michele Aston, (see **FOR FURTHER INFORMATION CONTACT** section of this preamble document.)

Docket. Docket A-91-31 contains the supporting information for the original NESHAP and this action. This **Federal Register** document and other materials related to this proposed rule are

available for review in the docket. The docket is available for public inspection and copying at the EPA's docket office located at the above address in Room M-1500, Waterside Mall (ground floor). The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Air Docket Office at (202) 260-7548. A reasonable fee may be charged for copying docket materials.

Outline. The information in this preamble is organized as follows:

- I. Authority
- II. Background
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- IV. Administrative Requirements
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 - F. Docket
 - G. Executive Order 12875: Enhancing the Intergovernmental Partnership
 - H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
 - I. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
 - J. National Technology Transfer and Advancement Act

I. Authority

The statutory authority for this action is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, and 7601).

II. Background

On December 15, 1994, we published in the **Federal Register** the final rule containing national standards for reducing HAP in facilities that manufacture magnetic tape (see 59 FR 64580). Since then, a regulated facility has asked us to consider alternative compliance options for a narrow aspect of the regulation.

This proposed amendment is very similar to the existing provision at 40 CFR 63.703(c)(4) but adds an optional approach for compliance. The new approach requires the same enhanced control efficiency for coating operations as existing provisions. We expect this proposed amendment to protect the environment as well as the rule issued in 1994 while offering the regulated community more flexibility for compliance.

III. Proposed Amendment

We're proposing to amend the emission standards for magnetic tape manufacturing so facilities will have another compliance option if they choose to control their coating

operations to an overall HAP reduction efficiency greater than 95%. Under the existing standards, facility owners or operators may choose to control HAP emissions for all coating operations by an overall efficiency of at least 97%, 98%, or 99%, instead of controlling 10, 15, or 20 HAP solvent storage tanks, respectively. This amendment would allow them to control their coating operations to those higher efficiencies in exchange for leaving uncontrolled a limited number of pieces of mix preparation equipment, combined with a limited number of HAP solvent storage tanks.

For further information on this proposed amendment and our rationale, see the associated direct final rule published in the Final Rules section of today's **Federal Register**. We incorporate all such information in this proposal by reference.

IV. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make verbal presentations regarding this regulation in accordance with 42 U.S.C. 7004(b)(1); 40 CFR part 25. Persons wishing to make a verbal presentation on this proposed rule amendment must contact Michele Aston of the U.S. EPA, at the address given in the **ADDRESSES** section of this document, no later than April 19, 1999. If a public hearing is held, written statements may be submitted at the hearing, and EPA will also include in the record any rebuttal or supplementary information submitted in written form within 30 days following the date of the hearing. Any written statements not submitted at the hearing should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing, and written statements provided at or following the hearing will be available for inspection and copying during normal business hours at the EPA address for docket inspection given in the **ADDRESSES** section of this preamble.

B. Executive Order 12866: "Significant Regulatory Action Determination"

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency 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 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 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 entitlement, grants, user fees, or loan programs of 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.

Because the annualized cost of the proposed rule amendment would be significantly less than \$100 million and would not meet any of the other criteria specified in the Executive Order, it has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited scope of this amendment, the EPA considers 30 days to be sufficient in providing a meaningful public comment period for this regulatory action.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The EPA determined that this amendment to the Magnetic Tape Manufacturing Operations does not have a significant impact on a substantial number of small entities. EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This amendment does not include or create any information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in

compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, et seq.

E. 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, 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 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 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 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.

As noted above, this proposed amendment is of very narrow scope, and provides a compliance alternative very similar to one already available in the promulgated regulation. The EPA has determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this action 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 one year. Thus, today's action is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Docket

The docket is an organized and complete file of the administrative record upon which any final rule is based. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. All written comments on this proposal submitted in a timely manner will be included in the docket. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See CAA section 307(d)(7)(A).)

G. Executive Order 12875: Enhancing the 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 EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires 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 action does not create a mandate on State, local or tribal governments. The amendments to the rule do not impose any new or additional enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

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

Executive Order 13045 applies to any rule that the EPA determines (1) economically significant as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has 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.

This amendment to the National Emissions Standards for Magnetic Tape Manufacturing Operations is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

I. 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 EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separate 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 amendments do not significantly or uniquely affect the communities of Indian tribal government. The amendments to the rule do not impose any new or additional enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

J. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTA), Public Law 104-113 (March 7, 1996), the EPA is required to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) which are adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by the EPA, the NTTA requires the Agency to provide Congress, through OMB, an explanation of the reasons for not using such standards. This amendment does not put forth any technical standards; therefore, consideration of voluntary consensus standards was not required.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Coating operation, Hazardous air pollutant, Magnetic tape manufacturing, Mix preparation equipment, Storage tank.

Dated: April 1, 1999.

Carol M. Browner,
Administrator.

Chapter I, Part 63 of the Code of Federal Regulations are 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 EE—National Emission Standards for Magnetic Tape Manufacturing Operations

2. Section 63.703 is amended by revising paragraph (c)(4)(i), (ii) and (iii) to read as follows:

§ 63.703 Standards.

* * * * *

(c) * * *

(4) In lieu of controlling HAP emissions from each solvent storage tank and piece of mix preparation equipment to the level required by paragraph (c)(1) of this section, an owner or operator of an affected source may elect to comply with one of the options set forth in paragraph (c)(4)(i), (ii), or (iii) of this section.

(i) Control HAP emissions from all coating operations by an overall HAP control efficiency of at least 97 percent in lieu of either:

(A) Controlling up to 10 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(B) Controlling 1 piece of mix preparation equipment that does not exceed 1,200 gallons in capacity and up to 8 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(C) Controlling up to 2 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 6 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(D) Controlling up to 3 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 4 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(E) Controlling up to 4 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 2 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(F) Controlling up to 5 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity.

(ii) Control HAP emissions from all coating operations by an overall HAP control efficiency of at least 98 percent in lieu of either:

(A) Controlling up to 15 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(B) Controlling 1 piece of mix preparation equipment that does not exceed 1,200 gallons in capacity and up to 13 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(C) Controlling up to 2 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 11 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(D) Controlling up to 3 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 9 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(E) Controlling up to 4 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 7 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(F) Controlling up to 5 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 5 HAP solvent storage tanks

that do not exceed 20,000 gallons each in capacity; or

(G) Controlling up to 6 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 3 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(H) Controlling up to 7 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 1 HAP solvent storage tank that does not exceed 20,000 gallons in capacity.

(iii) Control HAP emissions from all coating operations by an overall HAP control efficiency of at least 99 percent in lieu of either:

(A) Controlling up to 20 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(B) Controlling 1 piece of mix preparation equipment that does not exceed 1,200 gallons in capacity and up to 18 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(C) Controlling up to 2 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 16 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(D) Controlling up to 3 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 14 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(E) Controlling up to 4 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 12 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(F) Controlling up to 5 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 10 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(G) Controlling up to 6 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 8 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(H) Controlling up to 7 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 6 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(I) Controlling up to 8 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 4 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(J) Controlling up to 9 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity and up to 2 HAP solvent storage tanks that do not exceed 20,000 gallons each in capacity; or

(K) Controlling up to 10 pieces of mix preparation equipment that do not exceed 1,200 gallons each in capacity.

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[FR Doc. 99-8780 Filed 4-8-99; 8:45 am]

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