

increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

### C. 2005 Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires nonattainment areas to submit a comprehensive, accurate and current inventory of actual emissions. As part of Michigan's redesignation request for the Allegan County area, the State submitted a 2005 emissions inventory. This inventory is discussed above in section VI.A.3.b. and summarized in Table 2. EPA is proposing to approve this 2005 inventory as meeting the section 172(c)(3) emissions inventory requirement.

### VII. What actions is EPA taking?

EPA is proposing to determine that the Allegan County, Michigan area has attained the 1997 8-hour ozone NAAQS. EPA is proposing to approve the redesignation of the Allegan County area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. After evaluating the redesignation request submitted by Michigan, EPA believes that the request meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. The final approval of this redesignation request would change the official designation for the Allegan County area from nonattainment to attainment for the 1997 8-hour ozone standard. EPA is also proposing to approve the maintenance plan SIP revision for the Allegan County area. EPA's proposed approval of the maintenance plan is based on the State's demonstration that the plan meets the requirements of section 175A of the CAA, as described more fully above. EPA is proposing to approve MDNRE's 2005 emissions inventory for the Allegan County area as meeting the requirements of section 172(c)(3) of the CAA. Finally, EPA finds adequate and is proposing to approve the State's 2021 MVEBs for the Allegan County area.

### VIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those

imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely do not impose additional requirements beyond those imposed by State law and the Clean Air Act. For that reason, these actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and

does not impose any new regulatory requirements on Tribes, impact any existing sources of air pollution on Tribal lands, nor impair the maintenance of ozone national ambient air quality standards in Tribal lands. However, because there are Tribal lands located in Allegan County, we provided the affected Tribe with the opportunity to consult with EPA on the redesignation. The affected Tribe raised no concerns with the proposed rule.

### List of Subjects

#### 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

#### 40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: July 8, 2010.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2010-17680 Filed 7-19-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2008-0080; FRL-9176-6]

RIN 2060-AQ26

### Amendments to National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Prepared Feeds Manufacturing

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing three amendments to the regulatory text in the prepared feeds manufacturing area source rule. First, this action would correct the date for new sources to submit a Notification of Compliance Status (NOCS) form. Second, this action would correct information that needs to be included in the Notification of Compliance Report for those small facilities that are not required to install cyclones on their pelleting operations. Third, this action would add language to the regulatory text requiring submittal of the annual compliance certification report that was inadvertently left out of the final rule. These corrections and clarifications would not change the

standards established by the rule. These corrections and clarifications also would not result in the imposition of any costs beyond those included in the final rule.

**DATES:** Written comments must be received on or before September 3, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0080, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>: Follow the instructions for submitting comments.

- *Agency Web site:* <http://www.epa.gov/oar/docket.html>. Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web site.

- *E-mail:* [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2008-0080 in the subject line of the message.

- *Fax:* Send comments to (202) 566-9744, Attention Docket ID No. EPA-HQ-OAR-2008-0080.

- *Mail:* Area Source NESHAP for Prepared Feeds Manufacturing Docket, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0080. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured

and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2008-0080. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available (e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 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 Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Jan King, Regulatory Development and Policy Analysis Group, Office of Air Quality Planning and Standards (C404-05), Environmental Protection Agency, Research Triangle Park, NC 27711. Telephone number: (919) 541-5665; fax number: (919) 541-0242; e-mail address: [king.jan@epa.gov](mailto:king.jan@epa.gov).

**SUPPLEMENTARY INFORMATION:** The information presented in this preamble is organized as follows:

- I. Why is EPA issuing this proposed rule?
- II. Does this action apply to me?
- III. Where can I get a copy of this document?
- IV. What amendments are we making to the rule?
- V. 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 and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

## I. Why is EPA issuing this proposed rule?

This document proposes to take action on three amendments to the regulatory text in the prepared feeds manufacturing area source rule. We have published a direct final rule amending the regulatory text in the prepared feeds manufacturing area source rule in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment by September 3, 2010, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the amendments in the direct final rule or certain amendments in the direct final rule and those amendments will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

In the "Rules and Regulations" section of this **Federal Register**, we are amending the regulatory text in the prepared feeds manufacturing area source rule as a direct final rule without a prior proposal. If we receive no adverse comment on that direct final rule, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the amendments in the direct final rule or certain amendments in the direct final rule and those amendments will not take effect. The regulatory text for this proposal is identical to that for the direct final rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information proved in the **ADDRESSES** section of this document.

## II. Does this action apply to me?

**Regulated Entities.** Categories and entities potentially regulated by the proposed rule include:

| Category entities                      | NAICS code <sup>1</sup> | Examples of regulated entities                              |
|--|-------------------------|---|
| Other Animal Foods Manufacturing ..... | 311119                  | Animal feeds, prepared (except dog and cat), manufacturing. |

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.11619, subpart DDDDDDD (NESHAP for Area Sources: Prepared Feeds Manufacturing). If you have any questions regarding the applicability of this action to a particular entity, consult either the State delegated authority or the EPA regional representative, as listed in 40 CFR 63.13 of subpart A (General Provisions).

**III. Where can I get a copy of this document?**

*Electronic Access.* In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN’s policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

**IV. What amendments are we making to this rule?**

On January 5, 2010 (75 FR 522), the EPA promulgated the national emission standards for hazardous air pollutants (NESHAP) for area source prepared feeds manufacturing facilities as subpart DDDDDDD in 40 CFR part 63. Today’s action proposes the following corrections and clarifications:

1. The date for new sources to submit the Notification of Compliance Form is corrected from “within 120 days of startup, or by May 4, 2012, whichever is later,” to within 120 days of startup or October 18, 2010, whichever is later.

2. Small facilities that are not subject to the requirement to install and operate a cyclone to control emissions from pelleting operations must submit documentation of their initial average daily feed production level in their Notification of Compliance Status report. The final rule used the incorrect term “initial daily pelleting production level.” This is being corrected to indicate that documentation of the “initial average daily feed production level” be submitted.

3. The requirement to submit the annual compliance certification report under certain circumstances is added. This requirement was in the proposed rule but inadvertently deleted in the final rule.

These changes provide corrections and clarifications that are referenced in the final rule published on January 5, 2010. Today’s action notifies interested parties of the proposed amendments.

**V. Statutory and Executive Order Reviews**

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

This proposed action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the Executive Order.

*B. Paperwork Reduction Act*

This action does not impose any new information collection burden. The proposed amendments result in no changes to the information collection requirements of the existing standards of performance and will have little or no impact on the information collection estimate of projected cost and hour burden made and approved by the Office of Management and Budget (OMB) during the development of the existing standards of performance. Therefore, the information collection requests have not been amended. However, OMB has previously approved the information collection requirements contained in the existing regulations (subpart DDDDDDD, 40 CFR part 63) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0635 (ICR 2354.02). The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would 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.

For the purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations found at 13 CFR 121.201; (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 this proposed rule on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. This action does not impose any additional costs over those in the final rule published on January 5, 2010 (75 FR 522). We continue to be interested in the potential impacts of this proposed amendment on small entities and welcome comments on issues related to such impacts.

*D. Unfunded Mandates Reform Act*

This proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or to the private sector in any one year. This proposed rule is not expected to impact State, local, or Tribal governments. Thus, this rule would not be subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA).

This proposed rule would also not be subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

*E. Executive Order 13132: Federalism*

This proposed rule does not have federalism implications. It will not 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, as specified in Executive Order 13132. This proposed rule does not impose any requirements on State and local governments. Thus,

Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

This proposed action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule imposes no requirements on Tribal governments; thus, Executive Order 13175 does not apply to this proposed action. EPA specifically solicits additional comment on this proposed action from Tribal officials.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is based solely on technology performance.

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

This proposed rule is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards.

These proposed rule amendments do not involve technical standards as defined in the NTTAA. Therefore, this proposed rule is not subject to NTTAA.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule would not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population.

**List of Subjects for 40 CFR Part 63**

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

Dated: July 14, 2010.

**Lisa P. Jackson,**  
Administrator.

[FR Doc. 2010–17710 Filed 7–19–10; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS–R6–ES–2010–0047]  
[MO 92210–0–0008]

**Endangered and Threatened Wildlife and Plants; 90–Day Finding on a Petition to List *Pinus albicaulis* (Whitebark Pine) as Endangered or Threatened with Critical Habitat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to list *Pinus albicaulis* (whitebark pine) as endangered or threatened under the Endangered Species Act of 1973, as amended and to designate critical habitat. Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing *P. albicaulis* may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing *P. albicaulis* is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12–month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before September 20, 2010. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

After September 20, 2010, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the box that reads “Enter Keyword or ID,” enter the docket number for this finding, which is FWS–R6–ES–2010–0047. Check the box that reads “Open for Comment/ Submission,” and then click the Search button. You should then see an icon that reads “Submit a Comment.” Please ensure that you have found the correct rulemaking before submitting your comment.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R6–ES–2010–0047; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us