the VOC RACT requirements for GKN Sinter Metals, Inc. (Cameron County), Springs Window Fashions Division, Inc. (Lycoming County), Cabinet Industries Inc. (Montour County), Centennial Printing Corp., Strick Corporation (Montour County), and Handy and Harmon Tubing Co. (Montgomery County).

[FR Doc. 99–9462 Filed 4–15–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6326–4]

RIN 2060–A128

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 20, 1994, the Agency promulgated a rule in the **Federal Register** governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a Title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled, but failed, to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the Title V permitting authority 18 months after the EPA's missed promulgation date. This action amends the Regulations Governing Equivalent Emission Limitations by Permit rule. This amendment delays the section 112(j) permit application deadline for 7-year source categories listed in the regulatory schedule until December 15, 1999. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies.

DATES: This final rule amendment will be effective on May 17, 1999 without further notice, unless EPA receives adverse comments on this rulemaking by April 26, 1999 or a request for a hearing concerning the accompanying proposed rule is received by EPA by April 23, 1999. If EPA receives timely adverse comment or a timely hearing request, EPA will publish a withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect and will proceed to promulgate a final rule based on the proposed rule.

ADDRESSES: *Comments.* Interested parties may submit comments on this rulemaking in writing (original and two copies, if possible) to Docket No. A–93–32 to 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 each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**). Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION.** Public comments on this rulemaking will be accepted until April 26, 1999.

Docket. All information used in the development of this final action is contained in the preamble below. However, Docket No. A–93–32, containing the supporting information for the original Regulations Governing Equivalent Emission Limitations by Permit rule is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday at the Air and Radiation Docket and Information Center (6102), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 260–7548, fax (202) 260–4000. A reasonable fee may be charged for copying.

Radiation Docket and Information Center (see **ADDRESSES**).

These documents can also be accessed through the EPA web site at: http://www.epa.gov/ttn/oarpg. For further information and general questions regarding the Technology Transfer Network (TTNWEB), call Mr. Hersch Rorex (919) 541–5637 or Mr. Phil Dickerson (919) 541–4814.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman or Mr. David Markwordt, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2452 (Szykman) or (919) 541–0837 (Markwordt).

SUPPLEMENTARY INFORMATION: EPA is publishing this rule amendment without prior proposal because we consider this to be a noncontroversial amendment; and we do not expect to receive any adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal for this amendment, in the event we receive adverse comment or a hearing request and this direct final rule is subsequently withdrawn. This final rule amendment will be effective on May 17, 1999 without further notice, unless we receive adverse comment on this rulemaking by April 26, 1999 or a request for a hearing concerning the accompanying proposed rule is received by EPA by April 23, 1999. If EPA receives timely adverse comment or a timely hearing request, we will publish a withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. In that event, we will address all public comments in a subsequent final rule, based on the proposed rule amendment published in the ''Proposed Rules'' section of this **Federal Register** document. The EPA will not provide further opportunity for public comment on this action. Any parties interested in commenting on this amendment must do so at this time.

Electronic comments and data may be submitted by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Submit comments 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 Word Perfect 5.1 or 6.1 or ACSII file format. Identify all comments and data in electronic form by the docket numbers A–93–22. No Confidential Business Information (CBI) should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

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

I. What Are Section 112(j) Permit Application Deadlines?

Section 112(e) of the Clean Air Act (the Act) requires the Agency to publish a schedule for promulgating regulations establishing hazardous air pollutants (HAP) emission standards for all source categories listed pursuant to section 112 of the Act. The Act further directs that this regulatory schedule require the promulgation of emission standards for at least 40 source categories by 1992, for at least 25 percent of the listed categories by 1994, for at least 50 percent of the listed categories by 1997, and all remaining categories by the year 2000. These are commonly referred to as the 2-year, 4-year, 7-year, and the 10-year maximum achievable control technology (MACT) standards, respectively. This regulatory schedule was published by EPA on December 3, 1993 (58 FR 64931).

If EPA should fail to promulgate a MACT standard for a listed source category by the statutory deadline established pursuant to section 112(e)of the Act, section 112(j) of the Act requires owners or operators of major sources within that source category to apply for a case-by-case emission standard via a Title V permit. This permit will require compliance with an emission limitation equivalent to that which the major source would have been subject to had EPA promulgated a timely MACT standard for that source category.

On May 20, 1994, EPA issued a final rule for implementing section 112(j) (59 FR 26429). This rule requires major source owners or operators to submit a permit application by the date 18 months after a missed date on the regulatory schedule. In accordance with this regulation, the deadline for submittal of permit applications for 7-year rules not promulgated in accordance with the source category schedule is currently May 15, 1999.

II. Why Does EPA Want To Delay the Section 112(j) Permit Application Deadline?

To date, EPA has promulgated several 7-year MACT standards and intends to promulgate MACT standards for all of the remaining 7-year source categories according to the following schedule, which has been incorporated in a proposed consent decree filed with the U.S. District Court for the District of Columbia:

Promulgation required by May 15, 1999:

1. Hydrogen fluoride production;
2. Primary lead smelting;
3. Ferroalloys production;
4. Steel pickling—HCl process;
5. Oil and natural gas production;
6. Butadiene-furfural cotrimer (R–11) production;
7. 4-chloro-2-methyl phenoxyacetic acid production;
8. 2,4-D salts and esters production;
9. 4,6-dinitro-o-cresol production;
10. Captafol production;
11. Captan production;
12. Chloroneb production;
13. Chlorothalonil production;
14. Dacthal (tm) production;
15. Sodium pentachlorophenate production;
16. Tordon (tm) acid production;
17. Acrylic fibers/modacrylic fibers production;
18. Acetal resins production;
19. Mineral wool production;
20. Portland cement manufacturing;
21. Wool fiberglass manufacturing;
22. Polycarbonates production;
23. Polyether polyols production;
24. Phosphate fertilizer production; and
25. Phosphoric acid manufacturing.

Promulgation required by October 15, 1999: publicly owned treatment works

Promulgation required by December 15, 1999:

1. amino resins production;
2. phenolic resins production; and
3. secondary aluminum production.

Promulgation required by December 15, 2000: pulp and paper (combustion)

In the case of those 7-year emission standards where promulgation will be required by May 15, 1999, owners or operators of major sources subject to these standards would currently be compelled to submit a permit application on the same date, even though such an application could serve no purpose whatsoever in the event that EPA promulgates the standard according to the court-ordered schedule. Since potential applicants cannot know for certain that EPA will adhere to this schedule, they would have to run the risk of potential non-compliance or begin preparation of these applications immediately. This situation will clearly result in an unnecessary burden for both the owners or operators and the Title V permitting agencies.

There are a small number of 7-year emission standards where the proposed consent decree does not require promulgation of the standard until a date which is after May 15, 1999. Since the standards in question are not expected to be promulgated by the current application deadline of May 15, 1999, it could be argued that potential applicants are already on notice that a section 112(j) permit application will be required. However, EPA believes it is inappropriate to extend the application deadline for some potential applicants and not for others. Moreover, since every 7-year emission standard except for one is expected to be promulgated by December 15, 1999, it is doubtful whether any permit application for a major source subject to these standards submitted on May 15, 1999 would or could be acted upon by the permitting authority prior to the promulgation of the standard in question.

For all of the above reasons, EPA has concluded that it is both necessary and appropriate to extend the section 112(j) permit application deadline for major sources subject to 7-year emission standards until December 15, 1999.

III. Under What Legal Authority Can EPA Delay The Existing Deadline Dates?

The EPA believes that ample authority for this rule revision exists under the de minimis doctrine. That doctrine allows EPA to promulgate a rule that avoids a statutory requirement if (1) following that requirement would yield an environmental benefit of trivial or no value, and (2) the statutory scheme is not so rigid as to preclude this result. *Alabama Power Co.* v. *Costle*, 636 F.2d 323, 360–61 (D.C. Cir 1979). The EPA believes both tests are met here.

Regarding the first point, it should be intuitively apparent that requiring sources to complete applications for a case-by-case determination is pointless when it is very likely that EPA will promulgate the MACT standard within a timeframe that renders the entire case-by-case exercise moot. This is precisely the case with regard to almost all of the pending 7-year MACT standards, which will be subject to court-ordered deadlines requiring issuance on or shortly after the date applications are currently due. Regarding the second test, the language of section 112(j)(2), requiring that applications be submitted on a date ''beginning'' 18 months after a deadline has been missed, and the clear intent of the statute that case-by-case determinations should be made where they will serve as a substitute for the pending MACT standard, together suggest a level of flexibility in the statutory scheme sufficient to allow resort to the *de minimis* rationale.

The EPA is amending the definition of ''section 112(j) deadline'' in § 63.51 of the final rule to delay the section 112(j) permit application deadline for all 7-year source categories until December 15, 1999. The EPA believes that this new application deadline will allow sufficient time to promulgate all but one of the remaining 7-year emission standards before applications are due

and is consistent with the intent of section 112(j).

IV. What Are The Requirements To Review This Action In Court?

Under section 307(b)(1) of the Act, judicial review of this final rule is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 15, 1999. Any such judicial review is limited to only those objections which are raised with reasonable specificity in timely comments. Under section 307(b)(2) of the Act, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

V. Administrative Requirements

A. Docket

The docket for this regulatory action is A–93–32, the same docket as the original final rule, and a copy of today's amendment to the final rule will be included in the docket. The principle purposes of the docket are: (1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the Act). The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, the location of which is given in the **ADDRESSES** section of this document.

B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document will be prepared by EPA (ICR No. 1648.02) and a copy will be available from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

Section 112(j) of the Clean Air Act as amended in 1990 (CAAA) requires a source to submit a permit application if EPA fails to promulgate a MACT standard for a category of subcategory of major sources on schedule. The permit application is used by the permitting to issue permits containing maximum achievable control technology (MACT) emission limitation on a case-by-case (source-by-source) basis, equivalent to what would have been promulgated by EPA. The requirement to submit the permit application is not voluntary. Section 112(j) of the CAAA contains the need and authority for this information collection. [42 U.S.C. 7401 (*et. seq.*) as amended by Pub. L. 101–549]. Any information submitted to a permitting authority with a claim of confidentiality is to be safeguarded according to policies in 40 CFR Chapter 1, Part 2, Subpart B—Confidentiality of Business Information.

The total estimated burden, which includes all activities associated with the respondents or government agencies, is $1,323,000 and 46,339 hours. This collection of information has an estimated reporting burden of 171 hours per respondent and 140 hours per permitting agency. The permit application is a one time occurrence along with the issuance of the permit by the permitting agency. This estimated cost per respondent is $4,600 and $4,300 per permitting agency.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

C. Under E.O. 12866: The Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act of 1996

Because the regulatory revisions that are the subject of today's document would delay an existing requirement, this action is not a ''significant'' regulatory action within the meaning of Executive Order 12866, and does not impose any Federal mandate on State, local and tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. Further, the EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this action under the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act of 1996. The regulatory change proposed here is expected to reduce regulatory burdens on small businesses, and will not have a significant impact on a substantial number of small entities.

D. National Technology Transfer and Advancement Act

Under section 12 of the National Technology Transfer and Advancement Act of 1995, the EPA must consider the use of ''voluntary consensus standards,'' if available and applicable, when implementing policies and programs, unless it would be ''inconsistent with applicable law or otherwise impractical.'' The intent of the National Technology Transfer and Advancement Act is to reduce the costs to the private and public sectors by requiring federal agencies to draw upon any existing, suitable technical standards used in commerce or industry.

A ''voluntary consensus standard'' is a technical standard developed or adopted by a legitimate standards-developing organization. The Act defines ''technical standards'' as ''performance-based or design-specific technical specifications and related management systems practices.'' A legitimate standards-developing organization must produce standards by consensus and observe principles of due process, openness, and balance of interests. Examples of organizations that are regarded as legitimate standards-developing organizations include the American Society for Testing and Materials (ASTM), International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), American Petroleum Institute (API), National Fire Protection Association (NFPA) and Society of Automotive Engineers (SAE).

Since today's action does not involve the establishment or modification of technical standards, the requirements of the National Technology Transfer and Advancement Act do not apply.

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) OMB determines is ''economically significant'' as defined under Executive Order 12866, and (2) EPA determines 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 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.

These regulatory revisions are not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, 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 separately identified section of the preamble to the rule, a description of the extent of 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 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. These rule revisions impose no enforceable duties on these entities. Rather, these rule revisions reduce burdens associated with certain regulatory requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, 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 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 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 rule changes do not create a mandate on State, local or tribal governments. The rule changes do not impose any enforceable duties on these entities. Rather, the rule changes reduce burden for certain regulatory requirements. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

H. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: April 12, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 63 is amended as follows:

PART 63—[AMENDED]

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

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

2. In § 63.51, the definition of *''Section 112(j) deadline''* is revised to read as follows:

§ 63.51 Definitions.

* * * * *

Section 112(j) deadline means the date 18 months after the date by which a relevant standard is scheduled to be promulgated under this part, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the Section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the Section 112(j) deadline is December 15, 1999.

* * * * *

[FR Doc. 99–9571 Filed 4–15–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 98–D019]

Defense Federal Acquisition Regulation Supplement; Restructuring Savings Repricing Clause

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to specify that contracting officers should consider using a repricing clause in noncompetitive fixed-price contracts that are negotiated during the period between the time a business combination is announced and