ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7243–9]

RIN 2060–AH82

National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymers Production source category. These NESHAP require that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This rule reflects EPA's determination that the hazardous air pollutants (HAP) control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of maximum achievable control technology (MACT) and, thus, meets the requirements of section 112(d) of the Clean Air Act (CAA), except for equipment leaks at new sources, for the PVC and Copolymers Production source category. For equipment leaks, new sources must comply with the most current technology standards in the Generic MACT rule. By requiring compliance with the Vinyl Chloride NESHAP, the EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that likely would result in no additional HAP emissions reductions.

EFFECTIVE DATE: July 10, 2002.

ADDRESSES: Docket No. A–99–40 contains supporting information used in developing these MACT standards. All dockets are located at the U.S. EPA, Air and Radiation Docket and Information Center, Waterside Mall, Room M–1500, Ground Floor, 401 M Street SW, Washington, DC 20460, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. If no State or local representative is available, contact the EPA Regional Office staff listed in 40 CFR 63.13. For information concerning the analyses performed in developing the NESHAP, contact Warren Johnson, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5124, *johnson.warren@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. 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. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (*See* section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Public Comments

The NESHAP for this source category were proposed on December 8, 2000 (65 FR 76958). The comment letters received on the proposal are available in Docket No. A–99–40, along with a summary of the comment letters and EPA's responses to the comments. In response to the public comments, EPA adjusted the final NESHAP where appropriate.

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or final rules at *http://www.epa.gov/ttn/oarpg/t3pfpr.html.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities

Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of affected entities
Industry	325211	2821	Facilities that polymerize vinyl chloride monomer to produce polyvinyl chloride and/or copolymer products.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.211 of the rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 9, 2002. Only those objections to the NESHAP which were raised with reasonable specificity during the period for public comment may be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's final NESHAP may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

I. What Are the Environmental, Energy, and Economic Impacts?

The nationwide environmental and cost impacts for today's final rule are the same as for the proposed rule, which had no environmental, energy or economic impacts anticipated beyond the current requirements of 40 CFR part 61, subpart F, which are already in effect.

As a result of today's action, new sources in this source category must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for leak detection and repair (LDAR), which are the standards to which existing sources must comply. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more costly, and perhaps less costly, than 40 CFR part 61, subpart V. In addition, we do not anticipate the construction of any new sources within the next 5 years.

II. What Changes and Clarifications Did We Make Since Proposal?

A. Rule Applicability

In the final rule, we have added language to explicitly clarify that only facilities in vinyl chloride service are affected, and language that specifically excludes research and development (R&D) facilities from the applicability.

B. MACT Floor Determination

After considering comments and collecting additional information, we have concluded that the floor determination we made at proposal is the most appropriate basis for MACT for this source category.

In reiterating our floor determination, we took into consideration that some plants are capable of stripping the residual vinyl chloride monomer (RVCM) from their resins to a greater degree than others. We also took into account that some State permits require lower quarterly and annual average RVCM limits based upon the resins being produced. We attributed the RVCM stripping rates as a function of the resin design specifications and properties rather than the performance of stripping technology.

In order to respond to comments that we had not determined a stringent enough floor for RVCM, we collected additional information, specifically to try to consider other ways to determine the floor. Traditionally in MACT standards, control performance is measured as a fixed removal or destruction efficiency associated with the specific technology applied. The most stringent control performance often translates easily to a floor level of control when it exists at five or more facilities. We knew this was not the case with applying stripping technology to reduce RVCM, but wanted to better understand the correlation between the stripping efficiencies and the resins being produced to see if there was a way to come up with a daily RVCM limit based on actual performance rather than using the part 61 NESHAP as the basis for the floor.

We began by trying to base best stripper performance on the lowest RVCM daily average numbers, but found that the lowest numbers (generally less than 10 parts per million (ppm)) are specifically tied to the producers of primarily suspension pipe grade resins. Although these facilities also produce smaller quantities of other PVC resins, they are able to keep their low daily averages because their output is generally greater than 80 percent pipe grade resins. At the other end of the spectrum, facilities producing primarily copolymer resins or blending resins, while using identical stripping technology, would not physically be able to meet these RVCM numbers. We believe that most of the industry, particularly the smaller specialty resin manufacturing facilities, would be adversely affected commercially because they would not be able to produce all the products they do now if we were to set limits that were based solely on the achievable RVCM in pipe grade resins. In particular, some copolymer, specialty and blending resins could get eliminated from the market place.

We then considered segregating the facilities by resins type and identifying the best performers within each group of facilities. However, there is variation in the resin characteristics within each resin type, and just about all of the 28 facilities produce a wide array of resins which change to meet market demands for particular resin characteristics. More specifically, we considered segregating the sources based upon the resins each source produced. While each source seemed to specialize in the production of particular resin types, it was uncommon for any source to produce one type of resin exclusively during the course of any calendar quarter. While our focus was on the prominent RVCM differences between suspension and dispersion resins, some of the other resin types we considered in this segregation of sources included low fusion suspension resins, blending resins, micro suspension resins, emulsion resins, and copolymer resins. We found that, even after segregating the sources by primary resin type produced, the desired resin characteristics still have a greater influence on the RVCM than the stripper technology.

We also considered adding quarterly limits in addition to the daily RVCM limits of the part 61 NESHAP because the commenters suggested that sources were achieving quarterly limits more stringent than the daily limits in the part 61 NESHAP. In order to do this, we took into account those copolymer and blending resins most difficult to strip. The resulting quarterly averages were around 1,500 ppm for dispersion resins other than latex and around 250 ppm for all other resins. But, by requiring these as quarterly limits, we in essence would simply require that facilities continue to operate as they do now, under the part 61 NESHAP, and in adding a quarterly limit, we create another reporting and recordkeeping burden with no commensurate HAP emissions reductions. In addition, since we did not have information on every facility in the category, we also ran the risk of inadvertently eliminating the production of some resins by setting too restrictive a quarterly limit.

What we found in the additional information collected since proposal reinforced our conclusion that since wide variations can occur even in normal operations, the operators at these facilities must maintain a conservative operation, keeping the RVCM as low as possible without sheering the product resin by overly stripping in order to comply with the existing NESHAP. This is MACT for this source cateogry, and it is the performance level necessary to control RVCM to a maximum degree while also keeping enough flexibility in the rule to allow for the production of the wide range of resins being manufactured at these facilities.

The most recent data show that, even among facilities with the lowest RVCM

numbers, facilities still have episodes of nearly 400 ppm as a daily average at normal operations. The part 61 NESHAP have daily not to exceed limits for RVCM of 400 ppm (2,000 ppm for dispersion, non-latex resins). From this, we conclude that the part 61 NESHAP still best represent the MACT floor for this source category.

We also reconsidered other HAP besides vinyl chloride monomer (VCM) in the process, but have not found a floor for control that exists beyond the part 61 NESHAP. Currently, all HAP in this source category exist as feed stock to the polymerization process or solvents used for cleaning process equipment. Outside of the RVCM limits in the product and equipment leak definition, the driving factor in this source category for level of HAP control nationwide is the part 61 NESHAP limit on VCM. This limit requires that VCM emissions must be less than 10 ppm before equipment can be opened or the process can be vented to the atmosphere. The process equipment centers around a reactor where the VCM is polymerized. This reactor and associated equipment remain closed, unless there is a reason to open them, and unspent VCM feed stock is either recovered and returned to the process or incinerated following the batch process. Likewise, other HAP present in the reactor either remain in the product after stripping or get stripped out and are either sent back to the process or incinerated. The floor level of control currently applied is driven by the presence of VCM, so by using VCM as a surrogate for all HAP from the reactor, we are controlling at the existing MACT floor.

Arguably, there are outside activities which may introduce HAP mechanically to the PVC and copolymer resins following their manufacture in the reactor and before they leave the plant location. We consider these later material introductions or milling to be outside the source category description provided in the 1992 source category document to support the listing notice. The PVC and copolymer reactor process is a chemical manufacturing process in which the PVC and copolymer resins are created chemically from feed stocks. This is distinctly different than the mechanical mixing or milling of these resins with other materials, which sometimes follows PVC and copolymer manufacturing processes at a facility. We simply considered these follow-on operations to be outside the scope of PVC and copolymer manufacturing process equipment since they are separate mechanical operations that follow the chemical reaction, recovery and emissions control steps of the resin manufacturing process. This is also consistent with the part 61 NESHAP which makes this distinction by defining applicable process equipment as being in vinyl chloride service.

Regarding the standards for equipment leaks, however, we agree with commenters' observations that ''HON-like'' requirements are practiced by one newly constructed source. Those requirements represent the most technologically advanced LDAR for this category. And, while this does not pose a floor for existing sources, we believe this does reflect MACT for new sources. We believe that new sources should be constructed with the latest technology in mind, and that these requirements would pose no new burdens, since, while the ''HON-like'' requirements are more comprehensive, they are also more flexible in allowing monitoring to be relaxed where not warranted. For this reason, we also see the ''HON-like'' LDAR requirements as a fitting alternative for existing sources, if they elect to use them. Hence, we have added language to the final rule that requires new sources to comply with the LDAR requirements in 40 CFR part 63, subpart UU, National Emission Standards for Equipment Leaks—Control Level 2 Standards, and allows existing sources to use these requirements as an alternative to the requirements in 40 CFR part 61, subpart V, Nation Emission Standard for Equipment Leaks (Fugitive Emission Sources). New sources that meet, or existing sources opting to meet, all the requirements of 40 CFR part 63, subpart UU, to comply with MACT are henceforth not required to meet any of the requirements in 40 CFR part 61, subpart V, since both of these subparts address the same emissions types and complying with both sets of requirements would be redundant. For consistency, the compliance schedule set forth in 40 CFR part 61, subpart F, will continue to apply for new and existing sources as the referencing subpart, regardless of whether a source is meeting the requirements of 40 CFR part 61, subpart V, or part 63, subpart UU, to comply with MACT LDAR.

C. Clarifications

After considering comments on using a table to specify which of the general provisions apply, we decided to keep the general provisions paragraphs unchanged from what was proposed. As written, these paragraphs make up only a few lines of rule text. And, although a table might make this rule appear more consistent with other MACT rules, a table here could add complexity to what is now very simple text.

Commenters also expressed concerns over massive re-certification requirements or duplication of reports and records for sources already complying with the part 61 NESHAP that might be implied by the promulgation of the part 63 NESHAP unless otherwise clarified. Although we added no new language to the rule to clarify this, we want to clarify that the part 63 NESHAP do not require sources that are already in compliance with the part 61 NESHAP to re-certify their compliance status or create duplicate records or reports to demonstrate compliance with the part 63 NESHAP.

III. How Did We Respond to Significant Comments?

This section presents a summary of our responses to significant public comments received on the proposed rule. A comprehensive summary of public comments and responses can be found in the document entitled ''Public Comments and EPA Responses to the Proposed NESHAP for Polyvinyl Chloride and Copolymers Production'' (Docket No. A–99–40).

A. Rule Applicability

Comment: One commenter requested that we consider adding a provision to exclude facilities from the applicability that manufacture polyvinyl chloride and related copolymers for R&D purposes only.

Response: Although we believe that we sufficiently addressed this in 40 CFR 63.212(c) of the proposal by referencing the exclusion for R&D facilities in 40 CFR 61.60(b), we agree that a simpler exclusion in the final rule would be more clear and consistent with other MACT standards. So, we have added this exclusion language in the rule in the place of the former reference to 40 CFR 61.60(b).

Comment: Several commenters asked that we define the intended scope of the source definition, specifically as to whether the rule would affect activities and equipment that were not in vinyl chloride service as defined in 40 CFR 61.61(l). These commenters requested that we specifically state in the rule that the source includes all activities and equipment in vinyl chloride service, to be consistent with the part 61 NESHAP, if that is what we intended.

Response: Although we believe that we sufficiently addressed this by making a broad reference to the definitions in the part 61 NESHAP, we agree that a more specific phrase in the definition of source would be helpful. So, we have added language to the source definition in 40 CFR 63.212(b) to clarify that the affected activities and

equipment are those that are in vinyl chloride service.

B. MACT Floor Determination

Comment: Many comments we received endorsed the proposed MACT floor determination and resulting levels of stringency. However, two commenters challenged our floor approach and questioned whether we considered all available data. These two commenters specifically pointed to lower quarterly RVCM averages consistently achieved by some facilities, the use of ''HON-like'' LDAR at one newly constructed facility, and challenged our not identifying a best-performing five facilities in the category on which to base MACT.

Response: We actually had considered much of these data and the lower RVCM numbers at proposal, and for the same reasons we set out in the proposal, we believe that the proposed determination is sound. We did, however, gather additional information to further study the relationships between the RVCM numbers and stripper performance across the industry. In responding to comments, our general approach was to see if additional information could support a decision to either lower the existing daily RVCM limits, or enhance these limits with additional quarterly limits as a way to effectively reduce HAP emissions. We reviewed a sampling of compliance reports which sources had submitted to State authorities in Delaware, Louisiana and Texas between May 1998 and February 2001 which portrayed the general description of the resins being produced with both the daily and quarterly RVCM performance of each facility. We also studied further the effects of resin characteristics on stripping technology performance.

We found that the stripping of RVCM from the product is most tied to the characteristics of the product being manufactured, more specifically the size, porosity, hardness and stability of the product particles. Smaller, less porous, and harder or less stable particles are more difficult to strip than larger and more porous particles, making each grade of resin somewhat unique in stripping capabilities. This makes the stringency less dependent upon the stripping technology and more dependent on product and process knowledge. As we looked closer into the relative performance of stripping different resin grades, we found that the facilities were consistently stripping the respective resins to the best of their abilities. Specifically, we found that the manufacturers of primarily suspension pipe grade resins consistently had lower quarterly RVCM numbers, around 10 ppm or lower, because these resins are the easiest to strip, being comprised of larger size, more porous and stable particles. Conversely, the manufacturers of primarily copolymer and blend resins consistently had higher quarterly numbers, around 250 ppm and lower, since these resins do not strip out of the resin characteristics as easily. With this knowledge, we considered introducing quarterly average limits (in addition to the daily RVCM limits required by the existing NESHAP) based upon the type of resin being manufactured at a particular facility, but decided that this is not realistic for two reasons. First, even the facilities which primarily produce the suspension pipe grade occasionally produce other resins. And, since these RVCM limits would be averaged across the facility, setting these quarterly limits could directly impact their ability to produce certain grades of resin and still comply with the MACT standards. Second, based on what we found in the existing quarterly reports, we realized that to codify best stripping performance as a step function of each resin type's design characteristics would simply mirror the level of performance that the industry is already achieving under the part 61 NESHAP. In practice, this codification would require additional reporting and recordkeeping with no commensurate reduction in HAP emissions.

As for identifying the best-performing five facilities, the commenters related performance of the strippers directly to low quarterly RVCM numbers. If you only consider the data from one or two States, low RVCM numbers may appear to be a direct performance indicator due to a narrower representation of resin manufacturing. But, we considered the industry as a whole, on a national scale, taking into account resins that are not manufactured in all States and recognizing that the same technology was being applied across the category. Arguably, since performance is relative to resin characteristics, some of the better performers might actually be manufacturers of resins that are more difficult to strip, even though their RVCM daily averages are higher than others. From what we could determine from the data available, the manufacturers of those resins are applying the technology to the maximum degree for each of the respective resins that they produce in order to avoid compliance violations under the part 61 NESHAP. The resulting variability in RVCM numbers averaged daily is a function of the resin characteristics and not a reasonable measure of stripper performance, unless you are only making one type of resin. Each of the facilities we reviewed produces multiple types of resins, each with unique characteristics and all employ stripper technology.

In regard to the standards for LDAR, however, we agree with the commenters' observations that ''HON-like'' requirements are practiced by one newly constructed source, and that these requirements represent the most technologically advanced LDAR for this category. We believe this reflects MACT for new sources and believe that new sources should be constructed with the latest technology in mind. We also see the ''HON-like'' LDAR requirements as a fitting alternative for existing sources, if they elect to use it.

Comment: Two commenters contended that we overlooked the control of some HAP related to PVC and copolymers production in the proposal.

Response: Although we considered other HAP besides VCM at proposal, we gathered more information to see if there were HAP in the process that were better controlled than what the part 61 NESHAP required. This also raised a clarity question about what was included in the process, similar to the comments we received asking us to clarify whether or not we intended to only include activities and equipment in vinyl chloride service. For activities and equipment that are in vinyl chloride service, we reconsidered the HAP in the process. We concluded that there were no more stringent control requirements than those of the part 61 NESHAP. We considered HAP that are introduced by activities and equipment that were not in vinyl chloride service to be outside the scope of the PVC and copolymers source category, consistent with the way we have distinguished between process units in other MACT standards and consistent with the part 61 NESHAP.

C. Recordkeeping and Reporting

Comment: While commenters generally agreed with us that the compliance date for existing sources could become immediately effective upon publication, if having the same requirements as the part 61 NESHAP, several commenters expressed concern over whether publication of the part 63 rule would trigger new testing and re-certification requirements, and duplication of records and reports in absence of other guidance. Their comments also expressed concern over the need for additional lead time if such testing, re-certification and reports and records would be necessary for demonstrating compliance.

Response: It is not our intent to create new testing, re-certification, reports and recordkeeping burdens for sources that have already demonstrated sustained compliance with the part 61 NESHAP. Although we have not added specific language to the part 63 rule in this regard, we expect that any documentation necessary for demonstrating compliance with the part 61 NESHAP would be satisfactory for demonstrating compliance with the part 63 rule.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the NESHAP. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the NESHAP.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This rule 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

The final rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to the rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA 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 that EPA considered.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

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 final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 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 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's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this 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 the private sector in any 1 year. There are no cost burdens introduced by today's rule. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1966 (SBREFA), 5 U.S.C. 601 et seq.

The RFA 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 will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (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.

Pursuant to the provisions of 5 U.S.C. 605(b), we have determined that the final rule will not have a significant economic impact on a substantial number of small entities. We have determined, following discussions with State and industry representatives, that the scope of today's rule includes no small entities as defined above. After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 61, subpart F (Vinyl Chloride NESHAP) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0071. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 186.08), and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. You may also download a copy off the Internet at *http://www.epa.gov/icr.*

Today's NESHAP (*i.e.,* 40 CFR part 63, subpart J) require that PVC and copolymers production facilities continue to comply with 40 CFR part 61, subpart F. In addition, new sources must comply with 40 CFR part 63, subpart UU, instead of 40 CFR part 61, subpart V, for LDAR. Although more comprehensive, 40 CFR part 63, subpart UU, is also more flexible and for new sources would be no more burdensome, and perhaps less burdensome, than 40 CFR part 61, subpart V, which are the standards to which the existing sources must currently comply. Therefore, today's NESHAP add no additional information collection burden. Consequently, no ICR has been prepared for today's NESHAP.

H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (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) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Since this final rule does not include any new technical standards requirements, EPA is not adopting any voluntary consensus standards in this action.

Under § 63.7(f) of 40 CFR part 63 subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods in place of any existing EPA testing method requirements.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the SBREFA, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final 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 final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2) and, therefore, will be effective on July 10, 2002.

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

The rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

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

Dated: July 3, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of

the Code of the Federal Regulations 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. Part 63 is amended by adding subpart J to read as follows:

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

What This Subpart Covers

§ 63.210 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for polyvinyl chloride (PVC) and copolymers production.

§ 63.211 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a PVC plant, as defined in 40 CFR 61.61(c) of this chapter, that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) You are a major source of HAP emissions if you own or operate a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

§ 63.212 What parts of my facility does this subpart cover?

(a) This subpart applies to each new or existing affected source at PVC and copolymers production operations.

(b) The affected source subject to this subpart is the collection of all equipment and activities in vinyl chloride service necessary to produce PVC and copolymers. This subpart applies to the PVC and copolymers production operations that meet the applicability criteria at 40 CFR 61.60(a)(3) of this chapter.

(c) An affected source is a new affected source if you commenced construction or reconstruction of the affected source after July 10, 2002.

(d) An affected source is existing if it is not new.

(e) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act.

§ 63.213 When do I have to comply with this subpart?

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before July 10, 2002, then you must comply with the standards in this subpart no later than July 10, 2002.

(2) If you startup your affected source after July 10, 2002, then you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must be in compliance with the standards in this subpart by July 10, 2002.

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source as specified at § 63.212(d) must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source as specified at § 63.212(e) must be in compliance with this subpart upon becoming a major source.

Standards and Compliance Requirements

§ 63.214 What are the requirements I must comply with?

(a) You must meet all the requirements in 40 CFR part 61, subpart F of this chapter, as they pertain to processes that manufacture polymerized vinyl chloride, except as specified in paragraphs (a)(1) and (2) of this section. These requirements include the emission standards and compliance, testing, monitoring, notification, recordkeeping, and reporting requirements.

(1) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, a new source must comply with the provisions of 40 CFR part 63, subpart UU, instead of the provisions of 40 CFR part 61, subpart V.

(2) Where 40 CFR part 61, subpart F, references 40 CFR part 61, subpart V, an existing source must comply with either the provisions of 40 CFR part 63, subpart UU, or the provisions of 40 CFR part 61, subpart V.

(b) Sources that comply with all of the provisions of 40 CFR part 63, subpart UU, are not required to meet any of the provisions of 40 CFR part 61, subpart V.

Other Requirements and Information

§ 63.215 What General Provisions apply to me?

(a) All the provisions in 40 CFR part 61, subpart A of this chapter, apply to this subpart.

(b) The provisions in subpart A of this part also apply to this subpart as specified in (b)(1) through (3) of this section.

(1) The general applicability provisions in § 63.1(a)(1) through (8) and (13) through (14).

(2) The specific applicability provisions in § 63.1(b) through (e) except for the reference to § 63.10 for recordkeeping procedures.

(3) The construction and reconstruction provisions in § 63.5 except for the references to § 63.6 for compliance procedures and the references to § 63.9 for notification procedures.

§ 63.216 Who administers this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the primary authority to administer and enforce this subpart. You should contact your EPA Regional Office to find out if the authority to implement and enforce this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the Administrator of EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the non-opacity emissions standards in §§ 63.211, 63.212 and 63.214 under 40 CFR 61.12(d) of this chapter. Where these standards reference another subpart, the cited provisions will be

delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major alternatives to test methods under 40 CFR 61.13(h) of this chapter and as defined in § 63.90.

(4) Approval of major alternatives to monitoring under 40 CFR 61.14(g) of this chapter and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under 40 CFR 61.10 of this chapter and as defined in § 63.90.

§ 63.217 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act; 40 CFR 61.02 of this chapter, the NESHAP General Provisions; 40 CFR 61.61 of this chapter, the Vinyl Chloride NESHAP; and, § 63.2, in regard to terms used in §§ 63.1 and 63.5.

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