

(b) New affected sources that commence construction or reconstruction after March 29, 1995 shall be in compliance with this subpart upon initial start-up or February 27, 1998, whichever is later, as provided in § 63.6(b), except that new affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is poly(ethylene terephthalate) (PET) shall be in compliance with § 63.1331 upon initial start-up or February 27, 2001, whichever is later.

[**Note:** The compliance date for new affected sources with an initial start-up date on or after March 9, 1999 is stayed indefinitely. The EPA will publish a document in the **Federal Register** establishing a new compliance date for new affected sources with an initial start-up date on or after March 9, 1999.]

(c) Existing affected sources shall be in compliance with this subpart (except for § 63.1331 for which compliance is covered by paragraph (d) of this section) no later than September 12, 1999, as provided in § 63.6(c), unless an extension has been granted as specified in paragraph (e) of this section, except that the compliance date for the provisions contained in § 63.1329 is extended from September 12, 1999 to February 27, 2001, for existing affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is PET using a continuous terephthalic acid high viscosity multiple end finisher process.

[**Note:** The compliance date of September 12, 1999 for existing affected sources, except for emission points addressed under § 63.1331, which are covered by paragraph (d) of this section, is stayed indefinitely. The EPA will publish a document in the **Federal Register** establishing a new compliance date for existing affected sources.]

* * * * *

[FR Doc. 99-16635 Filed 6-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6369-6]

RIN 2060-AD06

Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final rule.

SUMMARY: On December 27, 1996, the Agency published a rule in the **Federal**

Register implementing certain provisions in section 112(g) of the Clean Air Act (Act). After the effective date of that rule, all owners or operators of major sources of hazardous air pollutants (HAP) that are constructed or reconstructed are required to install maximum achievable control technology (MACT) (unless specifically exempted), provided they are located in a State with an approved title V permit program. When no applicable Federal emission limitation has been promulgated under section 112(d) of the Act, the Act requires the permitting authority (generally a State or local agency responsible for the program) to determine a MACT emission limitation on a case-by-case basis. If the permitting authority has not yet established procedures for requiring MACT on constructed or reconstructed major sources by the required date, the rule provides that the EPA Regional Administrator will determine MACT emission limitations on a case-by-case basis for a period of up to one year. This action amends the rule governing constructed or reconstructed major sources—by providing a longer time period (up to 30 months) during which the EPA Regional Administrator may determine MACT emission limitations on a case-by-case basis—if the permitting authority has not yet established procedures for requiring MACT on constructed or reconstructed major sources. This action is needed in order to ensure that major sources can obtain MACT determinations required for construction or reconstruction in those jurisdictions where permitting authorities require extra time to establish procedures to implement the section 112(g) rule.

EFFECTIVE DATE: This final rule amendment will be effective on July 30, 1999 without further notice, unless EPA receives adverse comments on this rulemaking by July 12, 1999 or a request for a hearing concerning the accompanying proposed rule is received by EPA by July 7, 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-91-64 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 July 12, 1999.

Docket. All information used in the development of this final action is contained in the preamble below. However, Docket No. A-91-64, containing the supporting information for the original Regulations Governing Constructed or Reconstructed Major Sources 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.

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: Ms. Kathy Kaufman, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-0102.

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 July 30, 1999 without further notice, unless we receive adverse comment on this rulemaking by July 12, 1999 or a request for a hearing concerning the accompanying proposed rule is received by EPA by July 7, 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-91-64. 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 the relative responsibilities of permitting authorities and EPA Regional Offices under the current Section 112(g) rule?
- II. Why does EPA want to amend these relative responsibilities in some cases?
- III. What are the requirements to review this action in Court?
- IV. Administrative Requirements
 - A. Docket
 - B. Paper Reduction Act
 - C. E.O. 12866: The Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act, and the Small Business Regulatory Enforcement Fairness Act of 1996
 - D. National Technology Transfer and Advancement Act
 - E. E.O. 13045: Protection of Children from Environmental Health and Safety Risks
 - F. E.O. 13084: Consultation and Coordination with Indian Tribal Governments
 - G. E.O. 12875: Enhancing the Intergovernmental Partnership
 - H. Submission to Congress and the Comptroller General

I. What are the Relative Responsibilities of Permitting Authorities and EPA Regional Offices Under the Current Section 112(g) Rule?

Section 112(g) is effective in a State or local jurisdiction on the date specified by the permitting authority, at the time it adopts a program to implement section 112(g), or June 29, 1998, whichever is earlier. Thus, permitting authorities had until June 29, 1998 to initiate implementing programs. To place its implementing program into effect, the chief executive officer of the

State or local jurisdiction must have certified to the EPA that its program meets all the requirements set forth in this rule, and published a notice stating that the program has been adopted and specifying its effective date. The program need not have been officially reviewed or approved by the EPA.

After June 29, 1998, if a State or local permitting authority had not yet initiated a program to implement the section 112(g) rule, there have been two options for obtaining a MACT approval: either (1) the permitting authority would make section 112(g) determinations according to procedures specified in § 63.43 of this rule, and issue a Notice of MACT Approval that would become final and legally enforceable after the EPA had concurred in writing with the permitting authority's determination; or (2) the EPA Regional Administrator would issue section 112(g) determinations for up to 1 year—i.e. until June 29, 1999.

II. Why Does EPA Want to Amend These Relative Responsibilities in Some Cases?

If the permitting authority had not yet initiated an implementing program by June 29, 1999, the section 112(g) rule did not provide an explicit mechanism by which construction permits could be issued. It was assumed that all permitting authorities would have established section 112(g) programs by that time. However, it has now become clear that a few permitting authorities will not have initiated an implementing program by June 29, 1999. In addition, some of these jurisdictions believe that they may not yet have the authority even to issue a Notice of MACT Approval for EPA concurrence. Therefore, in some jurisdictions, after June 29, 1999, it is possible that there could be no mechanism by which a major source could receive the MACT determination required by the Act in order to construct.

This action therefore provides a longer time period (up to 30 months) during which the EPA Regional Administrator may determine MACT emission limitations on a case-by-case basis, if the permitting authority has not yet established procedures for requiring MACT on constructed or reconstructed major sources. This action is needed in order to ensure that major sources can obtain MACT determinations required for construction or reconstruction in those jurisdictions where permitting authorities require extra time to establish procedures to implement the section 112(g) rule. We believe that this action provides enough extra time for permitting authorities to establish

procedures for requiring MACT on constructed or reconstructed major sources, as required by section 112(g) of the Act.

III. 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 August 30, 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.

IV. Administrative Requirements

A. Docket

The docket for this regulatory action is A-91-64, 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. Paper Reduction Act

The information collection requirements of the previously promulgated rule for Regulations Governing Equivalent Emission Limitations by Permit were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (ICR No. 1658.01) may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 260-2740. Today's change to the final rule does not affect the information collection burden estimates made previously. Therefore, the ICR has not been revised.

C. Analysis 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 notice 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 not expected to affect the 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. 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 additional enforceable duties on these entities. 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: June 24, 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. Section 63.42(b) is revised to read as follows:

§ 63.42 Program requirements governing construction or reconstruction of major sources.

* * * * *

(b) *Failure to adopt program.* In the event that the permitting authority fails to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP with an effective date on or before June 29, 1998, and the permitting authority concludes that it is able to make case-by-case MACT determinations which conform to the provisions of § 63.43 in the absence of such a program, the permitting authority may elect to make such determinations. However, in those instances where the permitting authority elects to make case-by-case MACT determinations in the absence of a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP, no such case-by-case MACT determination shall take effect until after it has been submitted by the permitting authority in writing to the appropriate EPA Regional Administrator and the EPA Regional Administrator has concurred in writing that the case-by-case MACT determination by the permitting authority is in conformity with all requirements established by §§ 63.40 through 63.44. In the event that the permitting authority fails to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP with an effective date on or before June 29, 1998, and the permitting authority concludes that it is unable to make case-by-case MACT determinations in the absence of such a program, the

permitting authority may request that the EPA Regional Administrator implement a transitional program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP in the affected State of local jurisdiction while the permitting authority completes development and adoption of a section 112(g) program. Any such transitional section 112(g) program implemented by the EPA Regional Administrator shall conform to all requirements established by §§ 63.40 through 63.44, and shall remain in effect for no more than 30 months. Continued failure by the permitting authority to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP shall be construed as a failure by the permitting authority to adequately administer and enforce its title V permitting program and shall constitute cause by EPA to apply the sanctions and remedies set forth in the Clean Air Act section 502(l).

* * * * *

[FR Doc. 99-16681 Filed 6-29-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300876; FRL-6086-3]

RIN 2070-AB78

Cyprodinil; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of cyprodinil in or on caneberries. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on caneberries. This regulation establishes a maximum permissible level for residues of cyprodinil in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on December 31, 2000.

DATES: This regulation is effective June 30, 1999. Objections and requests for hearings must be received by EPA on or before August 30, 1999.

ADDRESSES: Written objections and hearing requests, identified by the

docket control number [OPP-300876], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300876], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP-300876]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide cyprodinil, in or on caneberries at 10 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2000. EPA will publish a document in the **Federal Register** to remove the revoked