

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[FRL-7162-6]

RIN 2060-AJ34

**National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendment.

**SUMMARY:** The EPA is proposing to amend the national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production. This action changes the deadline for existing sources complying with the rule. Under the promulgated rule, existing affected sources would be required to be in compliance by June 23, 2002. With this action, existing sources will be required to be in compliance with the rule by December 23, 2003.

In the "Rules and Regulations" section of this **Federal Register**, we are making this change in a direct final rule without prior proposal because we view the change as noncontroversial and anticipate no adverse comments. We have explained our reasons for this change in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on this proposed rule. If we receive an adverse comment on the revised definition, we will publish a timely withdrawal of the direct final rule, and it will not take effect. If we receive adverse comment, we will respond to all such comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Written comments must be received by April 22, 2002.

**ADDRESSES:** *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-95-20,

U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-95-20, U.S. EPA, 401 M Street, SW., Washington DC 20460. A separate copy of each public comment must also be sent to the contact person listed in **FOR FURTHER INFORMATION CONTACT.**

*Docket.* Docket No. A-95-20 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (C504-04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5402, electronic mail address [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov).

**SUPPLEMENTARY INFORMATION:****Comments**

Comments and data may be submitted by electronic mail (e-mail) to: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect. All comments and data submitted in electronic form must note the docket number A-95-20. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Randy McDonald, c/o OAQPS Document Control Officer (C404-02), U.S. EPA,

Research Triangle Park, NC 27709. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

**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 Clean Air Act.) 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.

**Worldwide Web (WWW)**

In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site 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**

The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry .....	Typically, 325199 and 325320.	Typically, 2869 and 2879 ..	<ul style="list-style-type: none"> <li>Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides.</li> <li>Producers of any integral intermediate used in on-site production of an active ingredient used in herbicides, insecticides, or fungicides.</li> </ul>

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the proposed revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR part 63, subpart MMM. If you have questions regarding the applicability of this proposed amendment to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

#### **I. What Action Is EPA Proposing?**

This proposal would change the compliance date from June 23, 2002 to December 23, 2003. For further information, please see the information provided in the direct final rulemaking notice located in the "Rules and Regulations" section of today's **Federal Register**.

#### **II. What Are the Administrative Requirements for This Action?**

*Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (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 this proposed rule amendment on small entities, a small entity is defined as:

(1) A small business in the NAICS code 325320 that has as many as 500 employees; (2) a small business in NAICS code 325199 that has as many as 1,000 employees; (3) 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 (4) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule amendment on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory

alternatives "which minimize any significant economic impact on small entities" (5 U.S.C. 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The EPA has determined that none of the small entities will experience a significant impact because the proposed amendment merely extends the compliance date for such regulated entities and therefore imposes no additional regulatory requirements on owners or operators of affected sources.

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

#### **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: March 19, 2002.

**Christine Todd Whitman,**  
*Administrator.*

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