

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[AD-FRL-6301-5]

RIN 2060-AH-47

National Emission Standards for Hazardous Air Pollutants Emissions: Group I Polymers and Resins and Group IV Polymers and Resins and Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Polymer Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 5, 1996, the EPA issued the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Group I Polymers and Resins (61 FR 46906); on September 12, 1996, the EPA issued the Group IV Polymers and Resins NESHAP (61 FR 48208); and on December 11, 1990, the EPA issued the Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry (55 FR 51035). This action proposes to revise the promulgated rules by adding provisions, correcting errors, and

making clarifications in all of the above-mentioned rulemakings.

DATES: Comments. Comments must be received on or before April 8, 1999, unless a hearing is requested by March 19, 1999. If a hearing is requested, written comments must be received by April 23, 1999.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by March 19, 1999, a public hearing will be held in Research Triangle Park, North Carolina, beginning at 10 a.m. on March 23, 1999. Persons interested in attending the hearing should call Ms. Marguerite Thweatt at (919) 541-5673 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 19, 1999 by contacting Ms. Marguerite Thweatt, Organic Chemicals Group (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5673.

ADDRESSES: Comments. Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-92-44 (Group I Polymers and Resins) and/or Docket Number A-92-45 (Group IV Polymers and Resins), Room M-1500, U.S. Environmental Protection Agency,

401 M Street, SW, Washington, DC 20460. The EPA requests that a separate copy also 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**.

Docket. Docket numbers A-92-44 and A-92-45, containing information relevant to this proposed rulemaking, are available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC-6102), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260-7548. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5608.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Butyl Rubber, Halobutyl Rubber, Epichlorohydrin Elastomer, Ethylene Propylene Rubber, Hypalon™, Neoprene, Nitrile Butadiene Rubber, Nitrile Butadiene Latex, Polybutadiene Rubber, Styrene-Butadiene Rubber or Latex, Acrylonitrile Butadiene Styrene Resin, Styrene Acrylonitrile Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene Resin, Methyl Methacrylate Butadiene Styrene Resin, Poly(ethylene terephthalate) Resin, Polystyrene Resin, and Nitrile Resin producers.

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in the revisions to the regulations affected by this action. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in the promulgated versions of subpart U and JJJ (61 FR 46906 and 61 FR 48208, respectively), as well as in the proposed amendments to the applicability sections (§§ 63.480 and 63.1310). If you have any questions regarding the applicability of this proposal to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Access and Filing Addresses

This proposal, its accompanying Direct Final Rule, the promulgated texts, and other background information are

available in Docket Numbers A-92-44 and A-92-45 or by request from the EPA's Air and 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 (TTN), call Mr. Hersch Rorex, (919) 541-5637; or Mr. Phil Dickerson, (919) 541-4814.

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-92-44 and/or A-92-45. No Confidential Business Information (CBI) should be submitted through electronic mail. Electronic comments may be filed online at many Federal Depository Libraries.

If no relevant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule, and the direct final rule in the final rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If relevant adverse comments are timely received, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule. Because the EPA will not institute a second comment period on this proposed rule, any

parties interested in commenting should do so during this comment period.

For further supplemental information and the rule provisions, see the information provided in the direct final rule in the final rules section of this **Federal Register**.

Administrative Requirements

I. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of a rule. The docket is a dynamic file, because material is added throughout the rulemaking development. 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 Act.)

II. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must submit to the Office of Management and Budget (OMB) for review significant regulatory actions. The Executive Order defines "significant regulatory action" as one that OMB determines 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 obligations 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.

It has been determined that this proposal does not qualify as a "significant regulatory action" under the terms of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget.

III. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, the 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 proposed amendments do not create a mandate on State, local or tribal governments. These proposed amendments do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to these proposed amendments.

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

Under Executive Order 13084, the 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 the 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 proposed do not significantly or uniquely affect the communities of Indian tribal governments. These amendments do not impose any duties or compliance costs on Indian tribal governments. Further, the proposed amendments provided herein do not significantly alter the control standards imposed by subpart U or subpart JJJ for any source, including any that may affect communities of the Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed amendments.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

The EPA has determined that this proposal does not include a Federal mandate that may result in estimated costs of, in the aggregate, \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector, and that this proposal does not significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. The EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. In addition, because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this proposal.

VI. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 business, small not-for-profit enterprises, and

small governmental jurisdictions. This proposal would not have a significant impact on a substantial number of small entities, because it clarifies and makes corrections to the promulgated versions of the Group I and IV Polymers and Resins NESHAP, but imposes no additional regulatory requirements on owners or operators of affected sources. Therefore, I certify that this proposed action will not have a significant impact on a substantial number of small entities.

VII. Paperwork Reduction Act

For both the Group I and Group IV Polymers and Resins NESHAP, the information collection requirements (ICRs) were submitted to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*. At promulgation, OMB had already approved the ICRs for the Group IV Polymers and Resins NESHAP and assigned those standards the OMB control number 2060-0351. Subsequently, the OMB approved the ICRs for the Group I Polymers and Resins NESHAP, and on July 15, 1997 (62 FR 37720) the OMB control number 2060-0356 was assigned to the Group I Polymers and Resins NESHAP. 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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA has amended 40 CFR part 9, section 9.1, to indicate the ICRs contained in the Group I and IV Polymers and Resins NESHAP.

The amendments to the NESHAP contained in this proposal should have

no impact on the information collection burden estimates made previously. Therefore, the ICRs have not been revised.

VIII. Applicability of Executive Order 13045

The Executive Order 13045 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 regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposal is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

IX. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures,

business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

As part of a larger effort, the EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist the EPA in identifying potentially-applicable voluntary consensus standards which can then be evaluated for equivalency and applicability in determining compliance with future regulations.

List of Subjects

40 CFR Part 60

Environmental protection, Volatile Organic Compound, Air Pollution Control.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances.

Dated: February 10, 1999.

Carol M. Browner,
Administrator.

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