

due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not

affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 12, 1997.

John H. Hankinson, Jr.,
Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401-7671q.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(50) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(50) Georgia Enhanced Inspection and Maintenance submitted to EPA by the Georgia Department of Natural Resources on March 27, 1996.

(i) Incorporation by reference.

(A) Chapter 391-3-20 Enhanced Inspection and Maintenance program effective on September 24, 1996.

(ii) Other material. None.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5872-7]

National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 25, 1995, the EPA issued national emission standards for

hazardous air pollutants (NESHAP) under Section 112 of the Clean Air Act, as amended in 1990, for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. The NESHAP requires existing and new major and area sources to control emissions of hazardous air pollutants by meeting emission limits that are based on the use of maximum achievable control technology (MACT). On January 30, 1997, the EPA issued an interim final rule that revised the compliance date for some provisions for some of the sources subject to this standard. Specifically, the interim rule extended the compliance date for the monitoring, reporting, and recordkeeping (MRR) requirements for hard chromium electroplaters and chromium anodizing operations in California from January 25, 1997 to July 24, 1997.

Based on the comments received on the interim final rule, the EPA has reconsidered the extension deadline and is promulgating these revisions in today's action. Specifically, today's action further extends the compliance date for performance test requirements and all the monitoring, reporting, and recordkeeping (MRR) requirements for hard chromium electroplaters and chromium anodizing operations in California to January 25, 1998.

DATES: The final rule will be effective August 11, 1997.

ADDRESSES: *Docket.* Docket No. A-88-02 containing the supporting information for the original NESHAP and this action, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, room M-1500, first floor, 401 M Street SW., Washington, DC 20460, or by calling (202) 260-7548 or 260-7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5420.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include the hard chromium electroplating and chromium anodizing operations in the State of California only. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.340 of the regulation. If you have questions

regarding the applicability of this action to a particular entity, consult your State/local agency, EPA regional office, or the EPA Office of Enforcement and Compliance Assurance.

I. Basis for Changes to Rule

In response to two public comments received and further consideration by the EPA, the following changes have been made to the rule since the interim final rule. The EPA is extending the compliance date for all the MRR requirements for hard chromium electroplaters and the chromium anodizing sources in California from January 25, 1997, to January 25, 1998 (the interim final rule extended some of these up to July 24, 1997). Also, the performance test completion date is extended for all the hard chromium electroplaters and the chromium anodizing sources in California for which a source test is required from July 24, 1997, to January 25, 1998.

These changes are made primarily to allow more time for the California Air Resources Board (CARB) to establish and obtain approval under Subpart E of its MRR requirements for these sources that would be at least as stringent as the Federal NESHAP requirements. It also will allow more time for EPA to review and approve/disapprove over one hundred performance tests for sources that performed these tests prior to July 24, 1997. CARB and EPA Region IX have developed a source test review protocol to use in reviewing these performance tests for approval. Those sources whose performance tests are disapproved will have to perform additional performance test(s) following the criteria and methods provided in the final NESHAP rule. Thus, the extension will give CARB and the sources additional time to achieve this. The net effect of this compliance extension will be that all the hard chromium electroplating and chromium anodizing sources in California that apply add-on emission control devices to reduce chromium emissions will continue to operate as they do now, while complying with the current applicable State/district rules. The Federal NESHAP continues to require these sources to monitor applicable parameters on and after the date on which the initial performance test is required to be completed, which is currently July 24, 1997. However, for chromium anodizing sources that use fume suppressants as the control technology, the MRR requirements were effective January 25, 1997, if they choose not to do a performance test (which is allowed). Today's action extends these dates to January 25, 1998.

As stated in the interim final rule, there is no adverse environmental impact as a result of this extension. The sources in California presently are required to comply with California's "Chrome Plating Air Toxics Control Measure" (February 1988), which specifies the application of control technology (already in place) that is identical to that required by the Chromium NESHAP. The Chromium NESHAP requires control technology to be installed by January 25, 1997. California is in the process of obtaining approval of its rule, including State MRR requirements, as equivalent to the Federal rule under section 112(l) of the CAA, 42 U.S.C. § 7412(l). In the event that California is unable to obtain approval before January 25, 1998, the requirements of the Chromium NESHAP will take effect. In this action, the EPA is not extending the date by which control technology must be installed, only the date by which California sources subject to the rule must meet the Federal performance testing and MRR requirements. This extension is not considered for similar sources in other States because no other State has a pre-existing State regulation that requires the installation of equivalent control technology by January 25, 1997, nor is any other State seeking approval of an equivalent rule or other authority.

II. Impacts

The extension of the performance testing and MRR compliance dates for some sources in California will not have any detrimental environmental effects because there is no delay in installation of control technology; thus, there is no impact on the estimated emissions reduction or the control cost for the rule.

III. Public Participation

The EPA provided 30 days for submission of public comments on the interim final rule. Two comment letters were received during the comment period. Both commentors asked for more time to allow the regulatory and equivalency process to be completed thereby ensuring that California sources are subject to only one set of requirements in the interim and also to allow time for EPA to complete its review of performance tests that certain sources conducted before July 24, 1997. These commenters also requested that the EPA include in the extension all other MRR requirements that were not included in the interim final rule. These other MRR requirements relate to having an operation and maintenance plan, reporting and recordkeeping of all malfunctions, etc. One commenter

wanted the extension to be as long as it takes for differences between the State and Federal rules to be resolved. Considering the status of the equivalency proposal, and the fact that the sources for which the extension applies are required to install control technology by the NESHAP's compliance date of January 25, 1997, the EPA has decided to extend the date by which a source must conduct its performance test and comply with the MRR requirements until January 25, 1998. In the event that California is unable to submit an approvable rule to EPA before January 25, 1998, the requirements of the Chromium NESHAP will take effect. EPA does not intend to grant additional extensions beyond January 25, 1998 for this source category as the current extension has been granted in consideration of extraordinary circumstances which we are committed to resolving prior to this date.

Both the commenters requested clarification regarding the compliance date and performance test compliance date and whether the source is in violation if a performance test conducted after January 25, 1997 shows noncompliance, while a subsequent performance test conducted before the extended performance test compliance date shows compliance. As stated above, today's action does not extend the source's compliance date, which was January 25, 1997, which is the date by which all sources were required to be in compliance. Compliance is required as of the compliance date, regardless of when the performance test is performed. If a performance test shows noncompliance, then the EPA considers the source to be not in compliance from the initial compliance date (January 25, 1997). This provision is not changed in the final rule. Moreover, one of the premises underlying EPA's decision to grant the extension is there is no delay in compliance. The extension only allows additional time to conduct the requisite performance tests and comply with the MRR requirements.

IV. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (EPA ICR number 1611.02) may be obtained from Sandy Farmer, Information Policy Branch (PM-223Y); U.S. Environmental Protection Agency; 401 M Street, SW;

Washington, DC 20460 or by calling (202) 260-2740.

Today's changes to the NESHAP should have no impact on the information collection burden estimates made previously. Today's action merely extends the date of compliance with the source test requirements and the MRR requirements in the rule for the existing affected sources in California. These changes do not impose new requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866 Review

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is "significant" and therefore, subject to OMB review and the requirements of the executive order. The Order defines "significant" regulatory action as one that is likely to lead to 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 in 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.

The Chrome Electroplating NESHAP promulgated on January 25, 1995 was determined by OMB to be a "significant regulatory action" within the meaning of the Executive Order. For this reason, OMB reviewed the final rule as promulgated. However, today's action merely extends for certain sources the source test completion and the compliance deadline for MRR requirements. These changes do not add any additional control requirements or costs. Therefore, this regulatory action does not affect the previous decision and is not considered to be significant.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis when the regulation will impose a significant economic impact on a substantial number of small entities. Because today's action imposes no adverse

economic impacts, a Regulatory Flexibility Analysis has not been prepared.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedures Act (APA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the EPA must select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the Act and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Reform Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 4, 1997.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of 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.*

Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

2. Section 63.342 is amended by revising the first sentence of paragraph (f)(3)(i) introductory text to read as follows:

§ 63.342 Standards.

* * * * *

(f) * * *

(3) * * * (i) The owner or operator of an affected source subject to the work practices of paragraph (f) of this section shall prepare an operation and maintenance plan to be implemented no later than the compliance date, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998. * * *

* * * * *

3. Section 63.343 is amended by revising paragraph (b)(1) and the first sentence of paragraphs (c)(1)(ii), (c)(2)(ii), (c)(4)(ii), (c)(5)(ii) introductory text, and (c)(6)(ii) introductory text, to read as follows:

§ 63.343 Compliance provisions.

* * * * *

(b) * * *

(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, an owner or operator of an affected source subject to the requirements of this subpart is required to conduct an initial performance test as required under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, using the procedures and test methods listed in §§ 63.7 and 63.344.

* * * * *

(c) * * *

(1) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. * * *

(2) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California

which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the velocity pressure at the inlet to the packed-bed system and the pressure drop across the scrubber system once each day that any affected source is operating. * * *

* * * * *

(4) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the fiber-bed mist eliminator, and the control device installed upstream of the fiber bed to prevent plugging, once each day that any affected source is operating. * * *

(5) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source shall monitor the surface tension of the electroplating or anodizing bath. * * *

(6) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source shall monitor the foam blanket thickness of the electroplating or anodizing bath. * * *

* * * * *

4. Section 63.347 is amended by revising paragraph (e)(4) to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(e) * * *

(4) For sources that are not required to complete a performance test in accordance with § 63.343(b), the notification of compliance status shall be submitted to the Administrator no later than 30 days after the compliance date specified in § 63.343(a), except the date on which sources in California shall monitor the surface tension of the

anodizing bath is extended to January 25, 1998.

* * * * *

[FR Doc. 97-21143 Filed 8-8-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300521; FRL-5732-7]

RIN 2070-AB78

Glyphosate; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of glyphosate, per se in or on dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on dry peas, lentils and chickpeas. This regulation establishes a maximum permissible level for residues of glyphosate 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 August 30, 1998.

DATES: This regulation is effective August 11, 1997. Objections and requests for hearings must be received by EPA on or before October 10, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP-300521], 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-300521], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), 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. 1132, 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@epamail.epa.gov. Copies of 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 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300521]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, 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: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9359, e-mail: dietrich.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the herbicide *N*-(Phosphonomethyl)glycine, in or on dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep) at 5, 60, 200, 90, 5, and 4, respectively part per million (ppm). These tolerances will expire and are revoked on August 30, 1998. After August 30, 1998, EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and