

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/Subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020
119	Motor Vehicle Fuel Volatility Limit.	March 9, 1999	May 14, 1999	[Insert FR citation from published date].	49 Maine Motor Vehicle Fuel Volatility Limit. Amends previously approved regulation to require that fuel with a further volatility controls be sold in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox and Lincoln Counties. The RVP limit during the summer will begin in 1999 with a 7.8 psi limit, and drop to 7.2 psi in each subsequent summer.
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[FR Doc. 99-11827 Filed 5-13-99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6343-1]

RIN 2060-A128

Hazardous Air Pollutants: Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of an adverse comment, EPA is withdrawing an April 16, 1999 direct final rule (64 FR 18824) which would have amended the rule implementing Clean Air Act section 112(j) to extend the section 112(j) permit application deadline for sources in 7-year source categories until December 15, 1999. Having withdrawn the direct final rule, EPA is today taking final action to extend the section 112(j) permit application deadline based on the proposed rule which was also published on April 16, 1999 (64 FR 18862).

DATES: The direct final rule to amend the section 112(j) permit application deadline, which was published on April

16, 1999 (64 FR 18827), is hereby withdrawn as of May 14, 1999.

ADDRESSES: Docket No. A-93-32 containing information pertaining to this rulemaking is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday, excluding holidays. The docket is located in the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M-1500, 401 M Street, SW, Washington, DC 20460, or by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman at (919) 541-2452, Emission Standards Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, electronic mail address is szykman.jim@epa.gov.

SUPPLEMENTARY INFORMATION: On April 16, 1999, EPA published a direct final rule (64 FR 18824) and a parallel proposal (64 FR 18862) to amend the section 112(j) permit application deadline in the Regulations Governing Equivalent Emission Limitations by Permit. This amendment would extend to December 15, 1999 the permit application deadline for major sources subject to 7-year MACT standards which were not promulgated in a timely manner.

The EPA stated in the direct final rule that if relevant, adverse comments were

received by April 26, 1999, the EPA would publish a notice withdrawing the direct final rule before its effective date of May 17, 1999. The EPA received adverse comments on the direct final rule from one commenter on April 26, 1999 and is, therefore, withdrawing the direct final rule. The EPA will address these comments in a final rule extending the section 112(j) permit application deadline for major sources subject to 7-year MACT standards published elsewhere in today's **Federal Register**.

Dated: May 10, 1999.

Carol M. Browner,
Administrator.

[FR Doc. 99-12242 Filed 5-13-99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-6343-2]

RIN 2060-A128

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule adopts an amendment to the Regulations Governing Equivalent Emission Limitation by Permit proposed in the **Federal Register** on April 16, 1999 (64 FR 18862). This action amends the rule implementing Clean Air Act section 112(j) to extend the section 112(j) permit application deadline for sources in 7-year source categories until December 15, 1999.

EFFECTIVE DATE: May 14, 1999.

ADDRESSES: *Docket.* The administrative record for this rulemaking may be found in Docket No. A-93-32. The docket is 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 (6102), 401 M Street, SW, Washington, DC 20460, or by calling (202) 260-7548. A reasonable fee may be charged for copying. An electronic version of this rule is available for download 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: For information concerning this rule, contact Mr. James Szykman or Mr. David Markwordt, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2452 (Szykman), or (919) 541-0837 (Markwordt), e-mail szykman.jim@epa.gov and markwordt.david@epa.gov.

SUPPLEMENTARY INFORMATION: Entities potentially affected by this action are owners or operators of major sources that fall into one of the following source categories:

Category	Affected source categories
Industry	hydrogen fluoride production; primary lead smelting; ferroalloys production; steelpickling—HCl processes; oil and natural gas production; butadiene-furfural cotriemer (R-11) production; 4-chloro-2-methyl phenoxyacetic acid production; 2, 4-D salts and esters production; 4, 6-dinitro-o-cresol production; captafol production; captan production; chloroneb production; chlorothalonil production; dacthal (tm) production; sodium pentachlorophenate production; tordon (tm) acid production; acrylic fibers/modacrylic fibers production; acetal resins production; mineral wool production; portland cement manufacturing; wool fiberglass manufacturing; polycarbonates production; polyether polyols production; phosphate fertilizer production; phosphoric acid manufacturing; publicly owned treatment works; amino resins production; phenolic resins production; secondary aluminum production; and pulp and paper (combustion).

The information presented in this preamble is organized as follows:

- I. Background
- II. Public Comment on the April 16, 1998 Proposal
- III. Judicial Review
- IV. Administrative Requirements
 - A. Docket
 - B. Paperwork Reduction Act
 - C. Executive Order 12866
 - D. Executive Order 12875
 - E. Executive Order 13045
 - F. Executive Order 13084
 - G. Submission to Congress and the General Accounting Office
 - H. National Technology Transfer and Advancement Act

I. Background

On May 20, 1994, the Agency promulgated a rule (59 FR 26429) governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled, but failed, to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the title V permitting authority 18 months after the EPA's missed promulgation date.

On April 16, 1999, the Agency issued a direct final rule (64 FR 18824) and a parallel proposed rule (64 FR 18862) to amend the original Regulations Governing Equivalent Emission

Limitations by Permit rule. This amendment would extend until December 15, 1999 the permit application deadline for major sources subject to 7-year maximum achievable control technology (MACT) standards which were not promulgated in a timely manner.

Due to receipt of an adverse comment, the EPA has withdrawn the direct final rule and is instead issuing this final rule extending the deadline pursuant to the proposal. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies.

II. Public Comment on the April 16, 1999 Proposal

One timely adverse comment was submitted in response to the April 16, 1999 proposed rule. The commenter opposed the delay in the permit application deadline from May 15, 1999 to December 15, 1999, stating that EPA erroneously concluded that no environmental benefit would be lost by delaying the permit application deadline until December 15, 1999.

In his first argument, the commenter stated that the existence of a consent decree requiring promulgation of 25 source categories by May 15, 1999 is irrelevant. The commenter further stated that it is unreasonable to assume, based on EPA's current rate of promulgating the 7-year standards, that EPA will be able to promulgate the remaining 7-year standards in accordance with the

consent decree, which requires 25 source categories by May 15, 1999.

The EPA does not agree that the deadlines established by the consent decree are "irrelevant." Before agreeing to the schedule embodied in the proposed consent decree, The EPA assessed the current status of each 7-year source category standard in order to select realistic promulgation dates for each standard included in the consent decree. The EPA fully intends to meet the time frames established in the consent decree for promulgation of the standards.

Moreover, EPA believes that the commenter's stated concerns about the potential inability of EPA to meet every promulgation deadline in the consent decree actually are consistent with the Agency's stated rationale for extending the section 112(j) permit application deadline. One of the principal objectives of the extension is to minimize the necessity for preparation of precautionary applications by sources that cannot be completely certain whether EPA will promulgate a MACT standard by the dates specified in the consent decree. EPA believes that preparation of such contingent applications would be totally futile and represent an unnecessary waste of resources.

In his second argument, the commenter stated that even if EPA promulgates the standards for the 25 source categories by May 15, 1999, in accordance with the consent decree, that there is no assurance the standards

will be enforceable. The commenter also states that Federally Enforceable Equivalent Emissions by Permit will, in the absence of an enforceable MACT standard, provide environmental benefits in excess of the de minimis levels upon which the proposal was based.

The EPA does not agree that the commenter's second argument is relevant to the proposed action. The obligation to submit a section 112(j) permit application is based on the failure by EPA to promulgate a MACT standard governing the category or subcategory in question in a timely manner. Any alleged limitations on the enforceability of the promulgated standard are not germane. Moreover, EPA does not agree with the commenter's apparent premise that MACT emission limitations adopted on a case-by-case basis are more enforceable than a generally applicable MACT standard.

Nothing in the adverse comments which were submitted change in any way the prior determination by EPA that extension of the section 112(j) permit application deadline is warranted. Therefore, EPA affirms the rationale for extension of the deadline set forth in the April 16, 1999 **Federal Register** notices and is today promulgating the proposed extension in the form which was proposed on that date. In light of the notice of this change which EPA has provided previously, the final amendment will be effective immediately.

III. Judicial Review

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 July 13 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 record supporting this final rule is included in Docket No. A-93-32, the same docket as the original final rule. This 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 notice.

B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document will be prepared by EPA and a copy will be available from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them. Section 112(j) of the Act as amended in 1990 requires a source to submit a permit application if EPA fails to promulgate a MACT standard for a category or subcategory of major sources on schedule. The permit application is used by the permitting agency to issue permits containing MACT emission limitations on a case-by-case (source-by-source) basis, equivalent to what would have been promulgated by EPA. The requirement to submit the permit application is not voluntary. Section 112(j) of the Act contains the need and authority for this information collection (42 U.S.C. 7401 *et seq.* as amended by Pub. L. 101-549).

Any information submitted to a permitting authority with a claim of confidentiality is to be safeguarded according to policies in 40 CFR chapter 1, part 2, Subpart B—Confidentiality of Business Information.

The total estimated burden, which includes all activities associated with the respondents or government agencies, is \$1,323,000 and 46,339 hours. This collection of information has an estimated reporting burden of 171 hours per respondent and 140 hours per permitting agency. The permit application is a one time occurrence along with the issuance of the permit by the permitting agency. This estimated cost per respondent is \$4,600 and \$4,300 per permitting agency.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any

previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

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 expected to reduce 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 (NTTAA) 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 NTTAA 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 NTTAA 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 OMB, 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. Rather, these rule revisions reduce burdens associated with certain regulatory requirements. 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 OMB 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 revisions do not create a mandate on State, local or tribal governments. The rule revisions do not impose any enforceable duties on these entities. Rather, the rule revisions reduce burden for certain regulatory requirements. 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. The EPA previously submitted a report containing the withdrawn direct final rule, and will also 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 for 40 CFR Part 63

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

Dated: May 10, 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. In § 63.51, the definition of *Section 112(j) deadline* is revised to read as follows:

§ 63.51 Definitions.

* * * * *

Section 112(j) deadline means the date 18 months after the date by which a relevant standard is scheduled to be promulgated under this part, except that for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996, and for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1997, the section 112(j) deadline is December 15, 1999.

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