comment before this action takes effect.[2] However, by this action, the EPA is providing the public with an opportunity to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that were the basis for the limited disapproval that started the sanctions clocks. Therefore, it is not in the public interest to apply sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction.[3]

III. Statutory and Executive Order Reviews

This action defers Federal sanctions and imposes no additional requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because it does not concern an environmental health risk or safety risk;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this action as discussed in section II of this preamble, including the basis for that finding.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 2, 2025. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 14, 2025.

Cheree D. Peterson,

Acting Regional Administrator, Region IX.

[FR Doc. 2025–05376 Filed 4–1–25; 8:45 am]

BILLING CODE 6560–50–P

[2] 5 U.S.C. 553(b)(B).

[3] 5 U.S.C. 553(d)(1).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2020–0642; FRL 8317.1–01–OCSPP]

RIN 2070–AK83

Postponement of Effectiveness for Certain Provisions of Trichloroethylene (TCE); Regulation Under the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification; postponement of effectiveness.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is postponing the effectiveness of certain regulatory provisions of the final rule entitled ''Trichloroethylene (TCE); Regulation Under the Toxic Substances Control Act (TSCA)'' for 90 days pending judicial review. Specifically, this postponement applies to the conditions imposed on the uses with TSCA exemptions.

DATES: As of March 21, 2025, the EPA further postpones the conditions imposed on each of the TSCA section 6(g) exemptions, as described in this document, in the final rule published on December 17, 2024 at 89 FR 102568 until June 20, 2025.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0642, is available online at *https://www.regulations.gov*. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT:

For technical information: Gabriela Rossner, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 565–2426; email address: *TCE.TSCA@epa.gov*.

For general information: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 17, 2024, EPA issued a final risk-management rule under TSCA section 6(a) prohibiting all uses of trichloroethylene (TCE), most of which would be prohibited within one year, including TCE manufacture and processing for most commercial and all consumer products. (89 FR 102568, December 17, 2024 (FRL–8317–02–OCSPP)). That final rule included extended phaseouts or TSCA section 6(g) exemptions to permit several uses to continue under workplace restrictions for longer periods, including an interim exposure level (ECEL) of 0.2 ppm.

The final rule was originally scheduled to become effective on January 16, 2025. EPA received petitions for an administrative stay of the effective date on behalf of Microporous, LLC (Microporous), which also separately sought partial reconsideration of the final rule, and Alliance for a Strong U.S. Battery Sector (Alliance) on January 10, 2025. EPA denied these requests on January 15, 2025. Microporous and Alliance submitted renewed petitions to the Agency to stay the effective date of the rule, or, in the alternative, for an administrative stay of the final rule's workplace conditions for battery separator manufacturers, on January 20, 2025. PPG Industries, Inc. (PPG) also submitted a request for an administrative stay on January 21, 2025.

EPA also received thirteen petitions for review of the final rule in various circuits of the U.S. Courts of Appeals. On January 13, 2025, petitioners Microporous and Alliance filed emergency motions for stay in the Fifth and Sixth Circuit Courts of Appeals of the final rule's effective date and workplace conditions for battery-separator manufacturers, as well as a temporary administrative stay of the final rule pending consideration of the emergency stay motion. The same day, the Fifth Circuit granted the motion for a temporary administrative stay of the final rule's effective date while the court considered the emergency stay motion.

Shortly thereafter, the petitions for review were consolidated in the U.S. Court of Appeals for the Third Circuit as *USW* v. *U.S. EPA,* Case No. 25–1055. On January 16, 2025, the Third Circuit issued an order leaving the temporary administrative stay of the effective date of the final rule in place pending briefing on whether the temporary stay should be lifted or converted to a permanent stay. On January 21, 2025, petitioner PPG filed a new stay motion with the court, and Alliance and Microporous refiled their existing motions to stay the effective date. On January 24, 2025, EPA filed a motion requesting that the court extend all deadlines in the case for sixty days, including with respect to further stay briefing, which the court granted.

EPA temporarily delayed the effective date of the final rule until March 21, 2025. (90 FR 8254, January 28, 2025 (FRL–12583–01–OA)). Although the final rule has yet to go into effect, it was incorporated into the Code of Federal Regulations (CFR) on January 16, 2025. *See* 40 CFR part 751, subpart D.

II. Statutory Authority

Section 705 of the Administrative Procedure Act (APA) authorizes an agency to postpone the effective date of an agency action pending judicial review when the agency finds ''that justice so requires.'' 5 U.S.C. 705. In determining whether justice requires staying an action, the agency should weigh the equities and consider the underlying litigation to assess whether a stay is necessary to ''afford parties an adequate judicial remedy.'' *Bauer* v. *DeVos,* 325 F. Supp. 3d 74, 106 (D.D.C. 2018) (citing APA, Pub. L. 1944–46, S. Doc. No. 248, at 277 (1946)). This analysis includes ''balancing the competing claims of injury, considering the effect on each party of granting a stay, and paying particular regard for the public consequences.'' *Id.* at 107. An agency need only provide a ''reasoned explanation'' that is sufficient to allow a reviewing court to evaluate whether an administrative stay was appropriate. *Id.* at 106.

In deciding whether to grant a stay under APA section 705, EPA has occasionally employed the four-factor test for a judicial stay that courts typically use in determining whether to issue a preliminary injunction. *See, e.g., Winter* v. *Natural Resources Defense Council, Inc.,* 555 U.S. 7 (2008). The EPA did not use the four-factor test for a judicial stay in the Agency's review of Microporous' and Alliance's January 10, 2025, request for an administrative stay and is not employing it in this administrative stay. Nothing in APA section 705 requires that agencies apply the four-factor test for preliminary judicial relief. Rather, the APA simply requires that the agency find ''that justice so requires'' a stay pending judicial review. EPA's approach of weighing equitable concerns and assessing whether a stay is required to ensure that parties may obtain an adequate judicial remedy is consistent with APA section 705.

Notice and comment is not required when an agency delays the effective date of a rule under APA section 705 because such a stay pending judicial review is not substantive rulemaking subject to APA section 553; it merely maintains the status quo to allow for judicial review. *See Bauer,* 325 F. Supp. 3d at 106–07; *Sierra Club* v. *Jackson,* 833 F. Supp. 2d 11, 28 (D.D.C. 2012).

III. Postponement of Effective Date

In light of the pending litigation, and for the following reasons, EPA has reconsidered its position from its earlier denial of an administrative stay pending judicial review and determined that justice requires a 90-day postponement of the effective date (*i.e.,* until June 20, 2025) of the conditions for each of the TSCA section 6(g) exemptions. *See* 40 CFR 751.325(a)(2). The postponement applies, for example, to the conditions imposed under the TSCA section 6(g) exemption for the use of TCE as a processing aid for specialty polymeric microporous sheet material manufacturing. 40 CFR 751.325(b)(6)(i)–(iv).

The postponement will temporarily preserve the status quo while the Third Circuit litigation is pending. Several petitioners have raised serious questions concerning the validity of the workplace conditions imposed by the final rule's TSCA section 6(g) exemptions for lead-acid battery separator manufacturing and specialty polymeric microporous sheet materials. Petitioners argue that the interim workplace conditions are impracticable and function as a total ban, which was not the EPA's intention in providing for the TSCA section 6(g) exemptions. Specifically, petitioners allege that because the interim workplace conditions would require petitioners to reduce TCE exposure levels to the interim ECEL of 0.2 ppm, the final rule effectively requires the use of personal protective equipment that cannot feasibly be worn all day, and therefore could cause petitioners to cease operations. Although EPA does not concede these allegations, petitioners have raised significant legal challenges and allege significant harms as a result of the workplace conditions required by the final rule's TSCA section 6(g) exemptions.

In the final rule, EPA determined that the petitioners' uses, along with several other uses, would be given exemptions under TSCA section 6(g). 89 FR at 102610. Specifically, EPA determined that banning the use of TCE as a processing aid for lead acid battery separator manufacturing would significantly disrupt the national economy, national security, or critical infrastructure under TSCA section 6(g)(1)(B), and that the use of TCE as a

processing aid for specialty polymeric microporous sheet material manufacturing is a critical or essential use for which no technically and economically feasible safer alternative is available, taking into consideration hazard and exposure under TSCA section 6(g)(1)(A). EPA similarly found that several other uses met the criteria at either TSCA section 6(g)(1)(B) or 6(g)(1)(A). EPA placed conditions on these uses that protect workers while achieving the purposes of the exemptions. 89 FR at 102633–35. EPA finalized these exemptions after careful consideration of the comments submitted by petitioners, and others, and the exemptions are intended to permit these critical activities to continue. EPA has reconsidered its position regarding the interim workplace conditions since its January 15, 2025, denial in light of the petitions for review and is concerned that critical uses may be disrupted if the identified portions of the final rule go into effect. That would be contrary to the purpose of the exemptions, and the EPA believes a limited postponement of the effective date for these aspects of the final rule to preserve the status quo for those uses with TSCA section 6(g) exemptions is warranted in light of the pending judicial review.

Moreover, a limited postponement that maintains the status quo for these uses appropriately balances the alleged harm to petitioners and other entities with critical uses against the public interest in the health protections that will be afforded by the broader TCE prohibitions and workplace protections going into effect. Because this action will not delay the implementation of other requirements that bear no impact on the specific activities of the administrative petitioners and of persons who conduct other critical uses, the EPA has determined that the balance of harms weighs in favor of a narrowly tailored postponement. This limited postponement of the effective date is required to ensure that the parties can ultimately obtain an adequate judicial remedy.

Authority: 5 U.S.C. 705 and 15 U.S.C. 2605(a).

Lee Zeldin

Administrator.

[FR Doc. 2025–05641 Filed 3–31–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2024–0197; FXMB12310700000–256–FF07M01000]

RIN 1018–BG70

Migratory Bird Subsistence Harvest in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are revising the migratory bird subsistence harvest regulations in Alaska. Subsistence harvest regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and establish when and where the harvesting of certain migratory birds may occur within each subsistence region. Subsistence harvest regulations, including the changes set forth in this document, were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

DATES: This rule is effective on April 2, 2025.

ADDRESSES: You may inspect the comments received on the Migratory Bird Subsistence Harvest in Alaska proposed rule at the Federal eRulemaking Portal: *https://www.regulations.gov* in Docket No. FWS–R7–MB–2024–0197.

FOR FURTHER INFORMATION CONTACT: Wendy Loya, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 227–2942.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to protect migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of certain migratory birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take certain migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary to provide for the preservation and maintenance of these migratory birds (16 U.S.C. 712(1))

The take of migratory birds for subsistence uses in Alaska occurs primarily during the spring and summer, a timeframe not included in the fall and winter general migratory game bird hunting regulations for the United States. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and establish when and where the harvesting of certain birds in Alaska may occur within each subsistence region.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (AMBCC) consists of the Service, the Alaska Department of Fish and Game (ADFG), and Alaska Native representatives. The AMBCC's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

This rule incorporates changes to the subsistence harvest regulations that were recommended by the AMBCC in 2024 as described below.

Comments Received on the Proposed Rule

Per the collaborative process described above, we published a proposed rule to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer (90 FR 7066; January 21, 2025). By the end of the comment period on the proposed rule, we received seven comments. Some of the comments pertained to issues that are outside the scope of this rulemaking action; we hereby respond to the relevant issues that were raised in the public input. We made no changes to the proposed rule as a result of the input we received via the public comments (see Final Regulations, below, for more information).

Issue: Two commenters believe that there should not be a legal subsistence harvest opportunity for migratory birds in Alaska.

Response: For millennia, indigenous inhabitants of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The U.S. treaties with Canada and Mexico were amended for the express purpose of allowing subsistence harvest of migratory birds during these months. The MBTA allows for the lawful and sustainable harvest of migratory birds per annual hunting regulations. Spring-summer subsistence and fall-winter hunting regulations are reviewed each year, the impacts of which are monitored by annual population and harvest surveys.