

**§ 36.4227 Advertising and solicitation requirements.**

Any advertisement or solicitation in any form (*e.g.*, written, electronic, oral) from a private lender concerning manufactured housing loans to be guaranteed or insured by the Secretary:

(a) Must not include information falsely stating or implying that it was issued by or at the direction of VA or any other department or agency of the United States, and

(b) Must not include information falsely stating or implying that the lender has an exclusive right to make loans guaranteed or insured by VA.

(Authority: 38 U.S.C. 3703, 3704)

3. Section 36.4365 is added immediately after § 36.4364 to read as follows:

**§ 36.4365 Advertising and Solicitation Requirements.**

Any advertisement or solicitation in any form (*e.g.*, written, electronic, oral) from a private lender concerning housing loans to be guaranteed or insured by the Secretary:

(a) Must not include information falsely stating or implying that it was issued by or at the direction of VA or any other department or agency of the United States, and

(b) Must not include information falsely stating or implying that the lender has an exclusive right to make loans guaranteed or insured by VA.

(Authority: 38 U.S.C. 3703, 3704)

[FR Doc. 00-31291 Filed 12-7-00; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[AL-054-200027(b); FRL-6910-7]

**Approval and Promulgation of Implementation Plans: Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing approval of revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on August 10, 2000, by the State of Alabama. The revisions comply with the regulations set forth in the Clean Air Act (CAA). On August 10,

2000, the State of Alabama through ADEM submitted revisions to chapters 335-3-1, 2, 3, 4, 5, 6, 9, 12, 14, 15, and 16. In chapter 335-3-1 the definition of "New Source" is being clarified to indicate that it is not applicable to the definitions of new source in chapters 335-3-10 Standards of Performance for New Stationary Sources and chapter 11 National Emission Standard for Hazardous Air Pollutants, which are not part of the federally enforceable state implementation plan (SIP).

ADEM combined rule 335-3-5-.03(5) and 335-3-5-.03(6) to be consistent with Alabama Administrative Procedures Act, and revised rule 335-3-14-.05(2)(i) to be consistent with 40 CFR 51, subpart I. ADEM deleted rule 335-3-4-.08(4) pertaining to emissions from wood waste boilers at pulp mills in Autauga County. International Paper (formally Union Camp) operates the only pulp mill in Autauga County which has been upgraded and no longer requires a bubble. The Union Camp boilers are subject to other emission limits in the federally approved SIP.

ADEM revised the numbering system in chapters 335-3-1, 2, 3, 4, 5, 6, 9, 12, 14, 15, and 16 to comply with numbering system required by the Legislative Reference Service under Alabama Administrative Procedures Act.

In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before January 8, 2001.

**ADDRESSES:** Written comments should be addressed to Sean Lakeman, at the EPA Regional Office listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, Air, Pesticides, and Toxics Management Division, 61 Forsyth Street, Atlanta, Georgia 30303-3104.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman of the EPA Region 4, Air Planning Branch at (404) 562-9043 and at the above address.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the Final Rules Section of this **Federal Register**.

Dated: November 8, 2000.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 00-30636 Filed 12-7-00; 8:45 am]

BILLING CODE 6560-50-U

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

[FRL-6913-8]

RIN 2060-AH82

**National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes national emission standards for hazardous air pollutants (NESHAP) for the Polyvinyl Chloride (PVC) and Copolymers Production source category. These proposed NESHAP require that PVC and copolymers production facilities, which already must comply with the existing Vinyl Chloride NESHAP, continue to comply with that existing NESHAP. This proposed rule reflects EPA's determination that the hazardous air pollutants (HAP) control level resulting from compliance with the existing Vinyl Chloride NESHAP already reflects the application of maximum achievable control technology (MACT) and, thus, meets the requirements of section 112(d) of the Clean Air Act (CAA) for the PVC and Copolymers Production source category. The EPA has determined that this source category includes facilities that are major sources of HAP, including vinyl chloride, vinylidene chloride (1,1 dichloroethylene), and vinyl acetate. The EPA has classified vinyl chloride as

a known human carcinogen and vinylidene chloride as a possible human carcinogen. All of these HAP can cause noncancer health effects in humans. By proposing compliance with the Vinyl Chloride NESHAP as MACT, the EPA is promoting regulatory consistency and eliminating the costs that would be incurred by enforcing a new set of standards that likely would result in no additional HAP emissions reductions.

**DATES:** *Comments.* Submit comments on or before February 6, 2001.

*Public Hearing:* If anyone contacts the EPA requesting to speak at a public hearing by December 28, 2000, a public hearing will be held on January 8, 2001.

**ADDRESSES:** *Comments.* Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-99-40, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

*Public Hearing:* If a public hearing is held, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

*Docket:* Docket No. A-99-40 contains information supporting today's action. 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 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Warren Johnson, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541-5124, johnson.warren@epa.gov. For public hearing information, contact Maria Noell, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North

Carolina 27711, (919) 541-5607, noell.maria@epa.gov.

**SUPPLEMENTARY INFORMATION:**

*Comments.* Comments and data may be submitted by electronic mail (e-mail) to: 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® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A-99-40. 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: Warren Johnson, c/o OAQPS Document Control Officer (Room 740B), U.S. EPA, 411 W. Chapel Hill Street, Durham, NC 27701. 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 the EPA, the information may be made available to the public without further notice to the commenter.

**Public Hearing**

Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Maria Noell at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Noell to verify the time, date, and location of the hearing. The

address, telephone number, and e-mail address for Ms. Noell are listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. If a public hearing is held, it will provide interested parties the opportunity to present data, views, or arguments concerning today's action.

**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 case of judicial review (see section 307(d)(7)(A) of the CAA.) 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. In addition to being available in the docket, an electronic copy of today's action will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of today's action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN 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**

Categories and entities potentially regulated by this action include:

| Category       | NAICS code | SIC code | Examples of affected entities  |
|----------------|------------|----------|--|
| Industry ..... | 325211     | 2821     | Facilities that polymerize vinyl chloride monomer to produce polyvinyl chloride and/or copolymer products. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.211 of the proposed rule. If you have any questions regarding the applicability of this action

to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**Outline**

The information presented in this preamble is organized as follows:

I. Background

- A. What is the source of authority for development of NESHAP?
  - B. What criteria are used in the development of NESHAP?
  - C. What is the history of the source category?
  - D. What are the health effects associated with the pollutants emitted from the PVC and Copolymers Production source category?
- II. Summary of the Proposed NESHAP

- A. What source category is affected by these proposed NESHAP?
  - B. What is PVC and copolymers production and what are the primary sources of emissions?
  - C. What is the affected source?
  - D. What are the compliance requirements in the proposed NESHAP?
  - E. When must an affected source comply with these proposed NESHAP?
- III. Rationale for Selecting the Proposed Standards
- A. What controls are used to limit HAP emissions?
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  - C. What is the relationship of today's proposed NESHAP to other rules?
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- V. Administrative Requirements
- A. Executive Order 12866, Regulatory Planning and Review.
  - B. Executive Order 13132, Federalism.
  - C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments.
  - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks.
  - E. Unfunded Mandates Reform Act of 1995.
  - F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
  - G. Paperwork Reduction Act.
  - H. National Technology Transfer and Advancement Act of 1995.

## I. Background

### A. What is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of all major sources and some area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The major sources covered by today's proposed NESHAP are new and existing sources that produce PVC and copolymers. Major sources of HAP are those that are located within a contiguous area and under common control and have the potential to emit 9.1 megagrams per year (Mg/yr) (10 tons/yr) or more of any one HAP or 22.7 Mg/yr (25 tons/yr) or more of any combination of HAP.

### B. What Criteria are Used in Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and

is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures all major sources achieve the level of control already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. In considering whether to establish standards more stringent than the floor, we must consider cost, non-air quality health and environmental impacts, and energy requirements.

### C. What is the History of the Source Category?

The EPA recognized that PVC and copolymer production would not be addressed by the Hazardous Organic NESHAP (HON) (40 CFR part 63, subparts G, F and H), which address the requirements of section 112(d) of the CAA for the manufacturing of synthetic organic chemical manufacturing industry (SOCMI) chemicals, including ethylene dichloride (EDC) and vinyl chloride monomer (VCM). Therefore, on July 16, 1992 (57 FR 31576), the EPA listed PVC and Copolymers Production as a separate source category. This source category was listed because we had not yet evaluated whether the existing part 61 NESHAP, specifically the Vinyl Chloride NESHAP (40 CFR part 61, subpart F) was sufficient as MACT. Now that we have evaluated it and are proposing to find it adequate, the requirements constitute MACT in accordance with CAA section 112(d) and (q)(1). In addition, as with other NESHAP issued under the authority of CAA section 112(d), today's proposed NESHAP will also be subject to CAA section 112(f).

### D. What are the health effects associated with the pollutants emitted from the PVC and Copolymers Production source category?

Polyvinyl chloride and copolymer products are not considered toxic, but the VCM feedstock is toxic, and the copolymer feedstocks, when they are

used, may also be toxic chemicals (*i.e.*, vinyl acetate and vinylidene chloride).

Acute (short-term) exposure to high levels of vinyl chloride in air has resulted in central nervous system effects, such as dizziness, drowsiness, and headaches in humans. Chronic (long-term) exposure to vinyl chloride through inhalation and oral exposure in humans has resulted in liver damage. There are positive human and animal studies showing adverse effects which raise a concern about potential reproductive and developmental hazards to humans from exposure to vinyl chloride. Cancer is a major concern from exposure to vinyl chloride via inhalation, as vinyl chloride exposure has been shown to increase the risk of a rare form of liver cancer in humans. The EPA has classified vinyl chloride as a Group A, known human carcinogen. In addition, VCM is explosive when airborne in concentrations between 4 and 22 percent by volume. For these reasons, special care (*e.g.*, nitrogen blankets and polymerization inhibitors) must be taken in storage and shipment of VCM, and manufacturing processes using VCM must control the VCM emissions, worker exposure, and the residual content of VCM in products.

The primary acute (short-term) effects in humans from vinylidene chloride (1,1 dichloroethylene) exposure are on the central nervous system, including central nervous system depression and symptoms of inebriation, convulsions, spasms, and unconsciousness at high concentrations. Low-level, chronic (long-term) inhalation exposure of vinylidene chloride in humans may affect the liver. Animal studies indicate that chronic exposure to vinylidene chloride can affect the liver, kidneys, central nervous system, and lungs. No studies were located regarding developmental or reproductive effects in humans, but birth defects have been reported in offspring of pregnant animals that had inhaled vinylidene chloride. Human data are considered inadequate in providing evidence of cancer from exposure to vinylidene chloride. Limited animal cancer data have shown an increase in kidney and mammary tumors, while other studies have not shown an increase in tumors. Vinylidene chloride has been classified as a Group C, possible human carcinogen.

Acute (short-term) inhalation exposure of workers to vinyl acetate has resulted in eye and upper respiratory tract irritation. Chronic (long-term) occupational exposure results in upper respiratory tract irritation, cough, and/or hoarseness. Nasal epithelial lesions and

irritation and inflammation of the respiratory tract were observed in mice and rats chronically exposed by inhalation. No information is available on the reproductive, developmental, or carcinogenic effects of vinyl acetate in humans. Some limited animal data suggest reduced body weight, fetal growth retardation, and minor skeletal fetal defects at high exposure levels. An increased incidence of nasal cavity tumors has been observed in rats exposed by inhalation. The EPA has not classified vinyl acetate for carcinogenicity.

## II. Summary of the Proposed NESHAP

### A. What Source Category Is Affected by These Proposed NESHAP?

The PVC and Copolymers Production source category includes all sources that are new and existing major sources that polymerize vinyl chloride monomer alone, or in combination with other materials, to produce PVC and copolymers.

We estimate there are 28 PVC and copolymer manufacturing plants operating in the United States. This source category was listed under CAA section 112 because it contains major sources of HAP. Although today's proposal applies only to these major sources in the source category, the existing part 61 NESHAP make no distinction between major and area sources and, therefore, continue to apply to both. Likewise, the existing part 61 NESHAP make no distinction between new and existing sources and, therefore, require the same emission standards for both. Rationale for why we decided that new source MACT should be the same as existing source MACT in today's proposed NESHAP is discussed in section III.B.

Although demand for PVC and copolymers has increased slightly in the last year, this increase and anticipated future increases are within the capacity of the current facilities. For this reason, we anticipate near zero growth of this source category beyond the existing sources over the next 5 years.

### B. What Is PVC and Copolymers Production and What Are the Primary Sources of Emissions?

Polyvinyl chloride and copolymer products have a large number of commercial and industrial applications. It is the manufacture of the resins used to make these products that is considered PVC and copolymers production. The resins are produced in a variety of mediums resulting from one of four basic polymerization process types: suspension, emulsion, bulk, and

solution. Producing these resins involves batch reactor processes where VCM is polymerized with itself as a homopolymer or copolymerized with varying amounts of vinyl acetate, ethylene, propylene, vinylidene chloride, or acrylates. The resulting resins are generally dried into nontoxic powders or granules that are compounded with auxiliary ingredients and converted into a variety of plastic end products. These end products can be used in a large number of applications, including latex paints, coatings, adhesives, clear plastics, rigid plastics, and flooring.

The PVC is not a HAP, but manufacturing PVC requires VCM, which is a HAP, as a primary feedstock, and trace amounts of unreacted VCM may linger in the PVC product. There are basically two ways for HAP to be introduced to the atmosphere from these processes: either the HAP is released from an opening or leak in the process equipment, or the residual HAP (*i.e.*, unreacted VCM) in the product become airborne. Stripping at the production stage to recover unreacted feedstock reduces the air emissions from the product by reducing the residual HAP in the product.

### C. What Is the Affected Source?

The affected source is the collection of all equipment and activities necessary to produce PVC and copolymers. To determine whether a facility is affected by today's action, you should examine the applicability criteria at 40 CFR 61.60(a)(3), (b) and (c).

The following emission types (*i.e.*, emission points) are currently covered by the existing part 61 NESHAP: reactor opening losses, equipment leaks, storage vessels, process vents, hoses and lines, wastewater operations, and major releases from process upsets.

### D. What Are the Compliance Requirements in the Proposed NESHAP?

As provided under the authority of CAA section 112(d) and (q), we are proposing that you comply with all the requirements of the Vinyl Chloride NESHAP, as specified at 40 CFR part 61, subpart F. The Vinyl Chloride NESHAP sets forth emission standards in the forms of numerical emission limits and work practices. The Vinyl Chloride NESHAP also sets forth all requirements for monitoring, test methods, recordkeeping, and reporting.

### E. When Must an Affected Source Comply With These Proposed NESHAP?

All existing sources, as defined at 40 CFR 61.02, should already be in compliance with today's proposed

NESHAP since we are proposing that owners or operators comply with all the requirements of the Vinyl Chloride NESHAP.

Therefore, we believe that the requirement to set a compliance date that is as expeditious as practicable is satisfied by setting the compliance date on [the effective date for the final rule] for existing sources. A new source must be in compliance with the NESHAP on [the effective date of the final rule] or at start up, whichever is later.

## III. Rationale for Selecting the Proposed Standards

### A. What Controls Are Used To Limit HAP Emissions?

Although the existing part 61 NESHAP contain standards for alternative controls, stripping is the primary control used for limiting VCM and other HAP emissions.

Through stripping operations, residual unreacted VCM in the PVC and copolymers is minimized before subsequent process steps (*e.g.*, product drying) occur. Stripping is also an economical way to recover unreacted feeds, primarily VCM, following the polymerization process. In stripping out the VCM from the product, other residual HAP are also removed. As a result, the stripping really controls all HAP by removing the unreacted chemicals from the PVC and copolymers before the product is exposed to the atmosphere during later processing steps, which typically include drying. It is important that these HAP be removed before drying, not only because dryers efficiently convey dilute HAP emissions to the atmosphere, but also because these HAP are explosive under certain conditions.

In addition to stripping, other HAP control measures include operating under a closed-vent system with add-on control (*e.g.*, flare) to incinerate HAP gases not returning to the process, minimizing the presence of HAP before opening a reactor or piece of process equipment containing VCM and other HAP, ongoing leak detection and repair (LDAR), ongoing area monitoring to sample the ambient air for the presence of VCM as a precautionary early warning of a major release, and other special care.

### B. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

Because there are fewer than 30 sources in this source category, to identify the existing source MACT floor, we look at the average emission limitation achieved by the five best

performing sources. Since all 28 sources are subject to the existing part 61 NESHAP, we did not identify a group of five sources as best performers. Rather, we have identified the existing part 61 NESHAP as the existing source MACT floor.

We are aware that some States have added numerical emission limits in facilities' permits that are lower than the numerical limits specified in the part 61 NESHAP. We do not believe, however, that using these lower State limits is an appropriate basis for identifying a group of five best performers in setting a new, lower emission limit within the context of a part 63 NESHAP.

These lower State numbers are in addition to the limit in the part 61 NESHAP, and they correspond to a longer averaging time. Unlike other NESHAP which may allow quarterly or annual averaging times to achieve a limit, the part 61 NESHAP require daily compliance with the limit on an instantaneous basis. Since process variability is inherent in even normal operations in the batch processes where PVC and copolymers are produced, facilities must set operational parameters below regulatory limits to ensure that the instantaneous limits are not exceeded.

Also, these State limits are set based on the products each facility is manufacturing since PVC and copolymers vary in their ability to be stripped based on their morphology and resistance to shear. Depending on the resins being produced, State operating permits generally stipulate lower numerical limits over a longer averaging time, in addition to the instantaneous daily limits required by the part 61 NESHAP. These permit conditions are good practice on the part of the State permitting authorities for ensuring control consistency over longer periods for the specific facilities. However, we do not believe that new part 63 NESHAP, based on the average of the best quarterly or yearly limits, would result in any greater emissions reductions beyond the current levels resulting from the part 61 NESHAP since we would have to factor in the wide range of product variability to set limits achievable across the source category.

We are also proposing new source MACT equivalent to existing source MACT. Although some processes may be able to strip and achieve a HAP concentration lower than the limit specified in the Vinyl Chloride NESHAP, such a lower limit would not be applicable across the source category due to variations in the processes and product characteristics.

After stripping, some unreacted VCM will remain suspended in the product. The amount of VCM remaining in a product varies with the product design. Excessive stripping could shear some of the products while other products can strip to very low levels of residual HAP. Also, these residual HAP generally provide a necessary part of the product design characteristics. The existing part 61 NESHAP took this into account when requiring residual VCM to be limited to below 400 parts per million (ppm) for all cases except for certain dispersion resins.

We have also not identified any work practice standards more stringent than those required by the Vinyl Chloride NESHAP, which require that equipment be vapor tight and any HAP release to the atmosphere be less than 10 ppm VCM. In comparison to LDAR provisions or low concentration cutoffs (typically at 20 ppm) in other NESHAP, the Vinyl Chloride NESHAP work practice standards are more stringent.

#### *C. What Is the Relationship of Today's Proposed NESHAP to Other Rules?*

The Vinyl Chloride NESHAP apply to sources that manufacture EDC, VCM, and PVC and copolymers. The sources that manufacture EDC and VCM are not the subject of today's proposal because they are already subject to the HON, which is the NESHAP for the source category that produces SOCMCI chemicals. The PVC and copolymers are not considered SOCMCI chemicals since they are produced in batch process reactors, which are distinctly different than the continuous process units employed by the SOCMCI chemical manufacturers. Hence, PVC and copolymers were not included in the HON applicability because they are a separate source category and unique to SOCMCI.

Since the Vinyl Chloride NESHAP reside in 40 CFR part 61, and since today's proposal incorporates the existing standards, it is appropriate that the General Provisions to part 61 continue to apply. Today's proposed NESHAP affect only new and existing "major sources," which is a concept not used in part 61. Therefore, in order to properly address applicability as it pertains to part 63 standards, certain terms and provisions in the General Provisions of part 63 that delineate MACT applicability, construction and reconstruction (specifically, provisions in §§ 63.1 and 63.5) would also need to apply. Since today's proposed NESHAP require that reconstructed sources comply with the new source MACT requirements, they would be subject to the new source requirements under part

61 even though the term "reconstruction" is not used in part 61. Within §§ 63.1 and 63.5, the provisions in § 63.1(a)(9) through (12) regarding notices, time periods, and postmarks; and the references in §§ 63.5, 63.6, 63.9 and 63.10 regarding administrative compliance, notification and recordkeeping procedures should be disregarded since these procedures are already defined in the part 61 General Provisions.

We anticipate that all existing sources (an estimated 28 sources) are major sources, and that any new sources will also be major sources, as defined by the CAA. Part 70 requires that all major sources retain reports and records for 5 years under § 70.6(a)(3)(ii)(B), even though the 40 CFR part 61 NESHAP only require that reports and records be retained for 3 years. Under part 70, affected sources are expected to be in compliance with applicable standards on a continuous basis, and exceedances or excursions outside the established limits or parameter ranges, including those that occur during periods of startup, shutdown or malfunction, are considered deviations under § 70.6(a)(3)(iii)(B).

The 40 CFR part 61 NESHAP do not rely on the recent publication of performance specification (PS) 8 for volatile organic compound (VOC) continuous emissions monitoring system (CEMS), PS 9 for gas chromatographic CEMS, or the quality assurance requirements for VOC measurement in 40 CFR part 60, appendix F, procedure 1. We are soliciting comment on whether or not we should require PS 8 and 9, and appendix F in lieu of, or as an option to, the monitoring requirements in § 61.68.

#### **IV. Summary of Environmental, Energy, and Economic Impacts**

There are no environmental, energy or economic impacts anticipated from these proposed NESHAP beyond the current requirements of 40 CFR part 61, subpart F, which are already in effect.

#### **V. Administrative Requirements**

##### *A. Executive Order 12866, Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that 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 obligation 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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

#### *B. Executive Order 13132, Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed NESHAP. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed NESHAP.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's

prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, it must include a certification from EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *C. 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 proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate PVC and copolymer production facilities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's proposed NESHAP.

#### *D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives that EPA considered.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is based solely on technology performance. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this proposed rule has been determined not to be "economically significant" as defined under Executive Order 12866.

#### *E. Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-

burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA's regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. There are no cost burdens introduced by today's proposed rule. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

*F. 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 today's proposed rule on small entities, small entity is defined as: (1) a small business whose parent company has fewer than 750 employees; (2) 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 (3) 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 today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined, following discussions with State and industry representatives, that the scope of today's proposed rule includes no small entities as defined above. But, even if a small entity was within the scope of today's proposed rule, no adverse impact to the small entity would result, since today's proposed rule creates no new requirements or burdens for any of the affected entities.

The EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcomes comments on issues

*G. Paperwork Reduction Act*

The OMB has approved the information collection requirements contained in 40 CFR part 61, subpart F (Vinyl Chloride NESHAP) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060-0071. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 186.08), and a copy may be obtained from Sandy Farmer by mail at Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260-2740. You may also download a copy off the Internet at <http://www.epa.gov/icr>.

Today's proposed NESHAP (*i.e.*, proposed 40 CFR part 63, subpart J) require that PVC and copolymers production facilities continue to comply with 40 CFR part 61, subpart F. Therefore, today's proposed NESHAP add no additional information collection burden. Consequently, no ICR has been prepared for today's proposed NESHAP.

*H. National Technology Transfer and Advancement Act of 1995*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or

adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This proposal references 40 CFR part 61, subpart F. Since there are no new standard requirements in these proposed NESHAP, and there are no new requirements resulting from specifying subpart F of part 61, EPA is not proposing/adopting any voluntary consensus standards in today's proposed NESHAP.

The EPA takes comment on proposed compliance demonstration requirements proposed in this rulemaking and specifically invites the public to identify potentially-applicable voluntary consensus standards. Commenters should also explain why this proposed rule should adopt them in lieu of EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied with a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if method other than Method 301, 40 CFR part 63, appendix A, was used).

**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: December 4, 2000.

**Carol M. Browner,**  
*Administrator.*

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the Federal Regulations is proposed to be 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. Part 63 is proposed to be amended by adding subpart J to read as follows:

**Subpart J—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production**

Sec.

**What This Subpart Covers**

- 63.210 What is the purpose of this subpart?  
63.211 Am I subject to this subpart?  
63.212 What parts of my facility does this subpart cover?

63.213 When do I have to comply with this subpart?

#### Standards and Compliance Requirements

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#### Other Requirements and Information

63.215 What General Provisions apply to me?

63.216 Who administers this subpart?

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### What This Subpart Covers

#### § 63.210 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for polyvinyl chloride (PVC) and copolymers production.

#### § 63.211 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a PVC plant, as defined in 40 CFR 61.61(c) that is a major source of hazardous air pollutants (HAP) emissions or that is located at, or is part of, a major source of HAP emissions.

(b) You are a major source of HAP emissions if you own or operate a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons (9.07 megagrams) or more per year or any combination of HAP at a rate of 25 tons (22.68 megagrams) or more per year.

#### § 63.212 What parts of my facility does this subpart cover?

(a) This subpart applies to each new or existing affected source at PVC and copolymer production operations.

(b) The affected source subject to this subpart is the collection of all equipment and activities necessary to produce PVC and copolymers. This subpart applies to the PVC and copolymers production operations that meet the applicability criteria at 40 CFR 61.60(a)(3).

(c) An affected source does not include portions of your PVC and copolymers production operations that meet the criteria at 40 CFR 61.60(b) or (c).

(d) An affected source is a new affected source if you commenced construction or reconstruction of the affected source after December 8, 2000.

(e) An affected source is existing if it is not new.

#### § 63.213 When do I have to comply with this subpart?

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before [the effective date of this subpart], then you must comply with the standards in this subpart no later than [the effective date of this subpart].

(2) If you startup your affected source after [the effective date of this subpart], then you must comply with the standards in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must be in compliance with the standards in this subpart by [the effective date of this subpart].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP and an affected source subject to this subpart, paragraphs (c)(1) and (2) of this section apply.

(1) An area source that meets the criteria of a new affected source as specified at § 63.212(d) must be in compliance with this subpart upon becoming a major source.

(2) An area source that meets the criteria of an existing affected source as specified at § 63.212(e) must be in compliance with this subpart upon becoming a major source.

#### Standards and Compliance Requirements

#### § 63.214 What are the requirements I must comply with?

You must meet all the requirements in 40 CFR part 61, subpart F, as they pertain to processes that manufacture polymerized vinyl chloride. These requirements include the emission standards and compliance, testing, monitoring, notification, recordkeeping, and reporting requirements.

#### Other Requirements and Information

#### § 63.215 What General Provisions apply to me?

(a) All the provisions in 40 CFR part 61, subpart A, apply to this subpart.

(b) The provisions in subpart A of this part also apply to this subpart as specified in (b)(1) through (3) of this section.

(1) The general applicability provisions in § 63.1(a)(1) through (8) and (13) through (14).

(2) The specific applicability provisions in § 63.1(b) through (e) except for the reference to § 63.10 for recordkeeping procedures.

(3) The construction and reconstruction provisions in § 63.5 except for the references to § 63.6 for compliance procedures and the references to § 63.9 for notification procedures.

#### § 63.216 Who administers this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the primary authority to administer and enforce this subpart. You should contact your EPA Regional Office to find out if the authority to implement and enforce this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under section subpart E of this part, the authorities contained in paragraphs (b)(1) through (5) of this section are retained by the Administrator of EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of alternatives to the non-opacity emissions standards in §§ 63.211, 63.212 and 63.214 under 40 CFR 61.12(d). Where these standards reference another subpart, the cited provisions will be delegated according to the delegation provisions of the referenced subpart.

(2) [Reserved]

(3) Approval of major alternatives to test methods under 40 CFR 61.13(h) and as defined in § 63.90.

(4) Approval of major alternatives to monitoring under 40 CFR 61.14(g) and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under 40 CFR 61.10 and as defined in § 63.90.

#### § 63.217 What definitions apply to this subpart?

Terms used in this subpart are defined in: the Clean Air Act; 40 CFR 61.02 of this chapter, the NESHAP General Provisions; 40 CFR 61.61, the Vinyl Chloride NESHAP; and, § 63.2, in regard to terms used in §§ 63.1 and 63.5. [FR Doc. 00-31332 Filed 12-7-00; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL-6913-1]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed deletion of the University of Minnesota Rosemount Research Center Superfund Site (Site) from the National Priorities List (NPL).