Dated: April 25, 1996.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 96–11023 Filed 5–2–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL–5468–1]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Perchloroethylene Dry Cleaning Facilities; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments to rule.

SUMMARY: This action proposes amendments to the national emission standards for hazardous air pollutants (NESHAP) for perchloroethylene (PCE) dry cleaning facilities promulgated in the Federal Register on September 22, 1993. The NESHAP was promulgated to minimize emissions of PCE, which has been listed by EPA as a hazardous air pollutant (HAP). The Administrator is proposing to implement a settlement agreement that the EPA has entered into regarding a small number of transfer machines.

DATES: *Comments.* Comments on the proposed amendments must be received by June 17, 1996.

Public Hearing. Persons requesting a public hearing should contact Mr. George Smith at (919) 541–1549 by May 15, 1996. If anyone requests a public hearing by May 15, 1996, a public hearing will be held in Research Triangle Park, North Carolina. Persons wishing to make oral statements at this public hearing must contact Mr. Smith by May 15, 1996 at (919) 541–1549, Emission Standards Division, U.S. EPA, MD–13, Research Triangle Park, NC 27711. Persons interested in attending the public hearing should also contact Mr. Smith for information on the exact location of the public hearing, if one is requested.

ADDRESSES: *Comments.* Comments on the proposed amendments should be submitted (in duplicate, if possible) to: The Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail Code 6102, 401 M Street, SW, Washington, DC 20460, attention Docket Number A–95–16.

Docket. Docket Number A–95–16, containing supporting information used in developing the proposed amendments, is available for public inspection and copying between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday (except for government holidays) at The Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George Smith at (919) 541–1549, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: *Regulated entities.* Entities regulated by this action are dry cleaning facilities that use perchloroethylene. Regulated categories and entities include:

Category	Examples of regulated entities
Perchloroethylene dry cleaning facilities.	Perchloroethylene dry cleaning facilities that installed transfer machines between proposal and promulgation.

The above table is an exhaustive guide for readers regarding entities to be regulated by this action.

The information presented in this preamble is organized as follows:

I. Background, Summary, and Rationale for Rule Changes

National emission standards for hazardous air pollutants (NESHAP) for perchloroethylene (PCE) dry cleaning facilities were promulgated on September 22, 1993 (58 FR 49354), and amended on December 20, 1993 (58 FR 66287), as 40 CFR Part 63, subpart M. On December 20, 1993, the International Fabricare Institute (IFI), a trade association representing commercial and industrial dry cleaners nationwide, submitted a statement of issues to the U.S. Court of Appeals for the District of Columbia Circuit challenging the NESHAP. The Agency subsequently entered into a settlement agreement with IFI, notice of which was published prior to being lodged with the court (60 FR 52000, October 4, 1995).

International Fabricare Institute raised the issue of new transfer machines purchased or installed between proposal and promulgation. The IFI's concern stems from the fact that the Agency did not propose to ban new transfer machines, yet at promulgation did ban such machines. The IFI argued that dry cleaners who installed new transfer machines between proposal and promulgation did so with the understanding that the Agency had not proposed any prohibitions against this. These dry cleaners now have no recourse but to scrap these new transfer machines and replace them with new dry-to-dry machines in order to comply with the NESHAP. The IFI asserted that this is unfair, given these dry cleaners acted in accordance with the law to the best of their knowledge at the time.

At the time of proposal, the Agency believed that no new transfer machines were being sold or installed, and for this reason did not propose to ban purchase of new transfer machines. However, due to new information that the Agency received after proposal that is explained in the preamble to the final rule, the Agency banned the purchase of new transfer machines. The ban was considered reasonable because the Agency's analysis showed that emissions from clothing transfer could be eliminated by requiring dry-to-dry machines in their place. Emissions from clothing transfer account for about 25 percent of transfer machine emissions. The Agency's analysis also showed that in the typical case where a new dry-to-dry machine was installed instead of a new transfer machine, a net savings of $300 per ton of emission reductions would be realized by the dry cleaner. Hence, the Agency decided at promulgation to effectively ''ban'' new transfer machines from being introduced subsequent to promulgation, by making the emission limit for new transfer machines impossible to achieve. It was believed this decision would have no impact on dry cleaners, since no new transfer machines were being purchased or installed. It was only after promulgation that it became apparent that a few new transfer machines had been sold and installed between proposal and promulgation of the NESHAP.

The Agency agrees with IFI on this issue. Consequently, the Administrator proposes to subcategorize new transfer machines into two types: new transfer machines installed after promulgation (i.e., September 22, 1993) and new transfer machines installed between proposal (i.e., December 9, 1991) and promulgation (i.e., September 22, 1993). The requirements the Administrator is proposing today for new transfer machines installed after promulgation

do not change from what they are in the NESHAP—under no circumstances are new transfer machines installed after promulgation allowed to operate. The requirements the Administrator is proposing today for the new subcategory, new transfer machines installed between proposal and promulgation, are similar to those for existing transfer machines.

Creation of the subcategory would recognize differences in the technologies used at new sources and the achievability of the emissions limit by these technologies. As noted, at the time it set the emissions limit, the Agency failed to recognize that some owners and operators had installed transfer machines after the proposal. Transfer machine technology is fundamentally different than dry-to-dry technology. In order to stay in business, an owner or operator that had installed new transfer machines after proposal would have to purchase both a transfer machine system and a dry-to-dry system in time period between December 9, 1991 (proposal) and September 22, 1996 (final rule compliance date), while an owner and operator of a new source built after promulgation would only have to purchase one dry-to-dry system. The investment required for parties that had installed transfer machines would not be achievable for these parties, which are mostly small businesses. The proposal would not sacrifice significant emissions reductions because the number of affected machines is approximately one-tenth of one percent of all dry-cleaning machines. Today's proposal would allow for the greatest achievable emissions reductions by both those who had installed transfer machines prior to issuance of the final rule and all other new sources and would maintain the prospective prohibition on new transfer machines.

II. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP for PCE Dry Cleaning Facilities were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0234) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740. Today's changes to the NESHAP for PCE Dry Cleaning Facilities do not affect the information collection burden estimates made previously.

B. Executive Order 12866 Review

Under Executive Order 12866 [58 FR 51735, (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a ''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 land programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule was classified ''non-significant'' under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget.

C. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a statement to accompany any proposed rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule. The unfunded mandates statement under Section 202 must include: (1) a citation of the statutory authority under which the rule is proposed, (2) an assessment of the costs and benefits of the rule, including the effect of the mandate on health, safety, and the environment, and the federal resources available to defray the costs, (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry, (4) where relevant, an estimate of the effect on the national economy, and (5) a description of EPA's prior consultation with State, local, and tribal officials.

The amendments to the NESHAP that the Administrator is proposing today will not cause State, local, or tribal governments, or the private sector to incur costs that will be $100 million or more in any one year. Rather, the costs involved in this rulemaking are relatively insignificant in comparison to the $100 million threshold of the Unfunded Mandates Act. Therefore, the requirements of the Unfunded Mandates Act are not applicable to this rulemaking.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 26, 1996.

Carol M. Browner,

Administrator.

Title 40, chapter I, part 63, of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

2. Section 63.320 is amended by revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 63.320 Applicability.

* * * * *

(c) Each dry cleaning system that commenced construction or reconstruction before December 9, 1991 and each new transfer machine system

and its ancillary equipment that commenced construction or reconstruction on or after December 9, 1991 and before September 22, 1993 shall comply with §§ 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) beginning on December 20, 1993 and shall comply with other provisions of this subpart by September 23, 1996.

(d) Each existing dry-to-dry machine and its ancillary equipment located in a dry cleaning facility that includes only dry-to-dry machines, and each existing transfer machine system and its ancillary equipment and each new transfer machine system and its ancillary equipment installed between December 9, 1991 and September 22, 1993 as well as each existing dry-to-dry machine and its ancillary equipment, located in a dry cleaning facility that includes both transfer machine system(s) and dry-to-dry machine(s) is exempt from § 63.322, § 63.323, and § 63.324, except paragraphs 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the total perchloroethylene consumption of the dry cleaning facility is less than 530 liters (140 gallons) per year. Consumption is determined according to § 63.323(d).

(e) Each existing transfer machine system and its ancillary equipment, and each new transfer machine system and its ancillary equipment installed between December 9, 1991 and September 22, 1993 located in a dry cleaning facility that includes only transfer machine system(s) is exempt from § 63.322, § 63.323, and § 63.324, except paragraphs 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the perchloroethylene consumption of the dry cleaning facility is less than 760 liters (200 gallons) per year. Consumption is determined according to § 63.323(d).

(f) If the total yearly perchloroethylene consumption of a dry cleaning facility determined according to § 63.323(d) is initially less than the amounts specified in paragraph (d) or (e) of this section, but later exceeds those amounts, the existing dry cleaning system(s) and new transfer machine system(s) and its (their) ancillary equipment installed between December 9, 1991 and September 22, 1993 in the dry cleaning facility must comply with § 63.322, § 63.323, and § 63.324 by 180 calendar days from the date that the facility determines it has exceeded the amounts specified, or by September 23, 1996, whichever is later.

* * * * *

3. Section 63.322 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 63.322 Standards.

(a) The owner or operator of each existing dry cleaning system and of each new transfer machine system and its ancillary equipment installed between December 9, 1991 and September 22, 1993 shall comply with either (a)(1) or (a)(2) of this paragraph and shall comply with (a)(3) of this paragraph if applicable.

* * * * *

(b) The owner or operator of each new dry-to-dry machine and its ancillary equipment and of each new transfer machine system and its ancillary equipment installed after September 22, 1993:

* * * * *

[FR Doc. 96–11079 Filed 5–2–96; 8:45 am]

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40 CFR Part 170

[OPP–250101B; FRL–5366–2]

Exceptions to Worker Protection Standard Early Entry Restrictions; Limited Contact Activities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: EPA issued a document in the Federal Register that proposed a rule change allowing early entry into pesticide-treated areas. In that proposal, EPA indicated that methyl parathion requires both oral and written notification (''double notification'') of agricultural workers when it is applied. Methyl parathion was mentioned incorrectly, as the Agency had previously determined that its acute dermal toxicity is Toxicity Category II, which does not require double notification. Moreover, a study of methyl parathion's potential for acute dermal irritation demonstrated that it is Toxicity Category IV and that it is not a skin sensitizer.

FOR FURTHER INFORMATION CONTACT: Joshua First, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 1121, Arlington, VA, 703-305-7437, e-mail: first.joshua.@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 11, 1995 (60 FR 2842) (FRL-4930-4), EPA issued a proposed rule to change allowing early entry into pesticide-treated areas under certain conditions (the proposal was subsequently finalized on May 3, 1995 (60 FR 21955) (FRL-4950-4). In the January 11th proposal, EPA described some pesticides whose labeling requires ''double notification'' when those pesticides are applied. The ''double notification'' requirement is set by the Worker Protection Standard (40 CFR part 170). EPA is hereby stating that its previous indication that methyl parathion requires ''double notification'' was incorrect. Methyl parathion does not require ''double notification.''

Lists of Subjects

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: April 26, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–11074 Filed 5–2–96; 8:45 am]

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40 CFR Part 300

[FRL–5465–5]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Whiteford Sales & Service Superfund Site South Bend, Indiana.

SUMMARY: The Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Whiteford Sales & Service, Inc. (WSS) site from the National Priorities List (NPL) and requests public comment on this proposed action. As specified in Appendix B of CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), it has been determined that all appropriate Fund-financed responses at the site under CERCLA have been implemented. EPA, in consultation with the State of Indiana, has determined that the WSS site poses no significant threat to public