Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule for the Pennsylvania VOC and NOx RACT Regulation is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: April 27, 1998.

Andrew Carlin,

Acting Regional Administrator, Region III.

[FR Doc. 98–11878 Filed 5–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[OPPTS–00238; FRL–5785–2]

Labeling Requirements for Pesticides; Respirator Compliance Policy Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH has developed changes to the regulations at 42 CFR part 84 that set forth certification standards for non-powered air-purifying particulate respirators. EPA has determined that all 42 CFR part 84 respirators meet or exceed all 30 CFR part 11 respirator (hereinafter part 11 and part 84 respirators) requirements, and that respirators certified under part 84 will be considered the equivalent of a respirator certified under part 11. EPA will allow pesticide handlers to use either part 11 or part 84 respirators to satisfy non-powered, air-purifying respirator requirements for pesticide applications. The Agency will publish an amendment to 40 CFR 156.212 to reflect the NIOSH changes in particulate respirator designations and a Pesticide Registration (PR) Notice to direct registrants on how to modify product labels.

EFFECTIVE DATE: This document is effective April 24, 1998.

FOR FURTHER INFORMATION CONTACT: Yvette Hellyer, Toxics and Pesticides Enforcement Division (2245A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–564–4033, E-mail: hellyer.yvette@epa.gov; or, Judy Smith, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 703–305–5621, E-mail: smith.judy@epa.gov.

I. Background

On July 10, 1995, NIOSH modified its existing regulation, 30 CFR part 11, and changed the certification standards for non-powered, air-purifying particulate filters. The NIOSH change was made to update and upgrade certification tests developed in the 1930's by the Bureau of Mines. The new regulation, 42 CFR part 84, requires that respirators certified under 42 CFR part 84 undergo a different test using a more penetrating particle size than in the past and takes into account the presence of oil in the contaminant.

The NIOSH certification changes require that manufacture and certification of part 11 respirators cease on July 10, 1998; however, distributors and other respiratory protection product sellers can continue to sell their existing supplies. In terms of additional NIOSH certification changes, canister type respirators that are certified for use with pesticides will not be made after July 10, 1998. Combination respirators, those certified for use for paints and pesticides, will also not be made after July 10, 1998. Certification requirements for all other respirator types, such as powered air-purifying respirators (PAPR) were transferred from 30 CFR part 11 to 42 CFR part 84 without change.

To minimize the impact of the manufacturing transition from part 11 to part 84 respirators, all particulate respirator manufacturers now sell part 84 respirators and are now phasing out part 11 respirators. Manufacturers cannot precisely estimate when the existing supply of part 11 respirators will be exhausted, but a general consensus in the industry estimates this will occur in 3 years.

II. NIOSH Certification Changes and EPA Determination

NIOSH certifies part 84 respirators using a more rigorous testing method, and EPA has determined that part 84 respirators provide at least as much protection to pesticide handlers, applicators, and users as part 11 respirators. As a result, a pesticide user may substitute a part 84 non-powered, air-purifying particulate respirator for a part 11 respirator even though the pesticide product label requires use of a part 11 respirator, and EPA will not initiate an enforcement action for misuse of the product. This substitution will only be allowed until the pesticide product label change from part 11 to part 84 respirator requirements have been completed. Following the pesticide product label change to part 84 respirators, this substitution will no longer apply.

III. Information for Registrants

EPA plans to require label changes for pesticide products because of the NIOSH certification changes, and this will impact pesticide registrants. EPA will issue a Pesticide Registration (PR) Notice that will call for registrants to add 42 CFR part 84 language to the existing respirator language (30 CFR part 11) on current product labels. The Agency also intends to amend 40 CFR 156.212 to incorporate the new NIOSH designations for dust/mist filtering respirators and organic vapor-removing cartridge respirators. The revised rule will affect the pesticide product labels with part 11 respirator requirements, i.e., those requiring either a Mine Safety and Health Administration (MSHA)/NIOSH-approved dust filtering respirator (known as a TC-21C) or a MSHA/NIOSH-approved organic vapor removing cartridge respirator with a prefilter approved for pesticides (MSHA/NIOSH approval number prefix TC-23C), and will require the addition of 42 CFR part 84 language to the product label.

IV. Information for Pesticide Applicators

Given that both part 11 or part 84 respirators meet respiratory protection requirements for pesticide products, the Agency is confident that allowing pesticide handlers to use part 84 respirators will assure applicators of an adequate supply of acceptable respirators.

V. Compliance and Enforcement

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 12(a)(2)(G) states that it is unlawful ''to use any registered pesticide in a manner inconsistent with its labeling.'' EPA has determined that both part 11 or part 84 respirators will provide adequate protection for users. Therefore, EPA considers the part 84 respirator to be the equivalent of part 11 respirators for the purpose of complying with the label of

pesticide products for application-related activities. EPA will not consider the substitution of a part 84 for a part 11 respirator a misuse. Furthermore, EPA requires pesticide handlers, applicators, and users to comply with all the requirements of 40 CFR 170.240 regardless of whether the respirator is part 11 or part 84.

VI. Conclusion

EPA recognizes that part 84 respirators offer applicators equivalent levels of respiratory protection, and the supply of part 11 respirators will be exhausted in the next 1 to 3 years. EPA also recognizes that pesticide handlers must have an adequate supply of respirators that provide adequate respiratory protection during application. Effective immediately, EPA will not find misuse violations against applicators who use either part 11 or part 84 respirators to satisfy existing product labels that require part 11 respirators.

VII. Regulatory Assessment Requirements

This action does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects in Part 156

Environmental protection, Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 24, 1998.

Jesse Baskerville,

Director, Toxics and Pesticides Enforcement Division, Office of Regulatory Enforcement and Policy Assurance.

[FR Doc. 98–12151 Filed 5–6–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6009–2]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Pomona Oaks Residential Wells site and the Vineland State School site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Pomona Oaks Well Contamination Site in Pomona, New Jersey and the Vineland State School Site in Vineland, New Jersey from the National Priorities List (NPL).

The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended. EPA and the State of New Jersey have determined that the sites pose no significant threat to public health or the environment and, therefore, no remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: May 7, 1998.

FOR FURTHER INFORMATION CONTACT: Matthew Westgate, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th floor, New York, N.Y. 10007–1866, (212) 637–4422.

ADDRESSES: Comprehensive information about the Pomona Oaks Site is available for viewing at the Administrative Record Repository located at Galloway Township Municipal Building, 300 East Jimmie Leeds Road, Absecon, New Jersey 08201, Attn: Mr. Andrew Katz, Township Manager.

Comprehensive information about the Vineland State School (Developmental Center) Site is available for viewing at the Administrative Record Repository located at Vineland City Library, 1058 East Landis Ave., Vineland, New Jersey 08360, Attn: Mr. Anthony Agnesino, Reference Director.

SUPPLEMENTARY INFORMATION: The sites to be deleted from the NPL are: Pomona Oaks Well Contamination, Pomona, New Jersey and the Vineland State School (Developmental Center), Vineland, New Jersey.

A Notice of Intent to Delete was published on July 15, 1996 (61 FR 36858). The closing date for comments on the Notice of Intent to Delete was August 14, 1996. There were no comments received for the Vineland State School Site; therefore, no responsiveness summary was prepared. EPA received two letters from residents of the Pomona Oaks subdivision. Both of the residents asked that EPA reconsider the deletion of the Pomona Oaks Site based on their belief that the source of the groundwater contamination has not been cleaned up and the once suspected underground gas tanks are still in the ground. They also inquired about additional testing of groundwater. EPA never positively identified the source of the groundwater contamination when the problems were discovered in 1982. Comprehensive sampling conducted as part of the Remedial Investigation in 1988 and afterwards demonstrated that the contamination was due to a singular event and had dispersed over time through natural attenuation and/or biodegradation. EPA concluded there was no ongoing source of contamination in the subdivision based on sampling conducted in 1990 and 1992.

The commentors expressed concerns about the health effects from the exposure to chemicals in their drinking water. EPA, the Agency for Toxic Substances and Disease Registry (ATSDR) as well as the state and local health departments were involved in assessing the health effects due to exposure to benzene in 1982. No acute effects were noted during the 1982 to 1985 period and no long-term health effects have been reported.

Finally, the residents asked that the site remain under investigation. Long-term groundwater monitoring was included as part of the No Action Record of Decision.

EPA provided detailed responses to these comments in a Responsiveness Summary, which is contained in the Deletion Docket. The Responsiveness Summary and entries in the Deletion