

(3) *Sample 3*: Clause for awardees [insert name, if desired] that are not subject to the Single Audit Act, do not have a procurement contract subject to Cost Principles (48 CFR part 31) and/or Cost Accounting Standards (48 CFR part 99), and refuse to accept Government access to their records:

The Agreements Officer shall have the right to request an examination or audit of the awardee's records during the period of the agreement and for three years after final payment, unless notified otherwise by the Agreements Officer. The audit will be conducted by an independent public accountant (IPA), subject to the following conditions:

(i) The audit shall be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS).

(ii) The Agreements Officers' authorized representative shall have the right to examine the IPA's audit report and working papers for 3 years after final payment or three years after issuance of the audit report, whichever is later, unless notified otherwise by the Agreements Officer.

(iii) The IPA shall send copies of the audit report to the Agreements Officer and the Assistant Inspector General (Audit Policy and Oversight) [AIG(APO)], 400 Army Navy Drive, Suite 737, Arlington, VA 22202.

(iv) The IPA shall report instances of suspected fraud directly to the DoDIG.

(v) When the Agreements Officer determines (subject to appeal under the disputes clause of the agreement) that the audit has not been performed within twelve months of the date requested by the Agreements Officer or has not been performed in accordance with GAGAS or any other pertinent provisions of the agreement, the Government shall have the right to require corrective action by the awardee. The awardee may take corrective action by having the IPA correct any deficiencies identified by the Agreements Officer, having another IPA perform the audit, or electing to have the Government perform the audit. If corrective action is not taken, the Agreements Officer shall have the right to take one or more of the following actions:

(A) Withhold or disallow a percentage of costs until the audit is completed satisfactorily;

(B) Suspend performance until the audit is completed satisfactorily; and/or

(C) Terminate the agreement.

(vi) If it is found that the awardee was performing a procurement contract subject to Cost Principles (48 CFR part 31) and/or Cost Accounting Standards (48 CFR part 99) at the time of agreement award, the Agreements Officer, or an authorized representative, shall have the right to audit sufficient records of the awardee to ensure full accountability for all Government funding or to verify statutorily required cost share under the agreement. The awardee shall retain such records for three years after final payment, unless notified otherwise by the Agreements Officer.

(4) *Sample 4*: Clause for all awardees for flowing down requirements:

The awardee shall flow down the applicable audit access requirements in agreements with key participants who contribute to statutory cost share requirements or will receive total payments that exceed \$300,000 and are based on amounts generated from cost or financial records. The awardee shall request audits of key participants when the Agreements Officer advises that audits are necessary. The Agreements Officer will provide sample audit access clauses to the awardee. Unless otherwise permitted by the Agreements Officer, the awardee shall alter the sample clauses only as necessary to identify properly the contracting parties and the Agreements Officer. The awardee shall provide a statement to the Agreements Officer when a business unit meets the conditions for use of an Independent Public Accountant (other than pursuant to the Single Audit Act) for any needed audits. The statement shall include the business unit's name and address, and the expected value of its award. The statement must show that the business unit currently is not performing on a procurement contract subject to the Cost Principles (48 CFR part 31) and/or Cost Accounting Standards (48 CFR part 99) and refuses to allow Government access to its records. The key participant may provide this statement directly to the Agreements Officer if this is agreeable to the awardee.

Dated: November 15, 2001.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 01-29008 Filed 11-20-01; 8:45 am]

**BILLING CODE 5001-08-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-7106-2]

#### National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

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

**ACTION:** Proposed rule; amendment.

**SUMMARY:** The EPA is proposing to amend the national emission standards for hazardous air pollutants (NESHAP) for Pesticide Active Ingredient (PAI) Production. This action changes the deadline for existing sources submitting precompliance plans. Rather than requiring the precompliance plans 6 months in advance of the compliance date, the amended rule will require the plans 3 months in advance. Under the promulgated rule, precompliance plans for existing sources would be due December 23, 2001. With this action, these plans will be due by March 23, 2002.

In the "Rules and Regulations" section of this **Federal Register**, we are making this change in a direct final rule without prior proposal because we view it as minor and noncontroversial, and we anticipate no adverse comments. We have explained our reasons for this change in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on this proposed rule. If we receive an adverse comment on the revised definition, we will publish a timely withdrawal of the direct final rule, and it will not take effect. If we receive adverse comment, we will respond to all such comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** *Comments.* Written comments must be received by December 6, 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-95-20, Room M-1500, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. A separate copy of each public comment must also be sent to the contact person listed below in **FOR FURTHER INFORMATION CONTACT**. Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION**.

*Docket.* Docket No. A-95-20 contains supporting information used in developing the NESHAP. 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 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504-04), U.S. EPA, Research Triangle Park, North Carolina 27711 (express packages to 4930 Old Page Road, Research Triangle Park, North Carolina 27709), telephone number (919) 541-5402, electronic mail address [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Comments.* Comments and data may be submitted by electronic mail (e-mail) to: [a-and-r-docket@epa.gov](mailto: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-95-20. 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: Mr. Randy McDonald, c/o OAQPS Document Control Officer (MD-C404-02), U.S. EPA, Research Triangle Park, NC 27709. 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 EPA, the information may be made available to the public without further notice to the commenter.

*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 the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act.) 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.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site 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.* The regulated category and entities affected by this action include:

| Category       | NAICS codes                  | SIC codes                      | Examples of regulated entities  |
|----------------|------------------------------|--------------------------------|---|
| Industry ..... | Typically, 325199 and 325320 | Typically, 2869 and 2879 ..... | <ul style="list-style-type: none"> <li>Producers of pesticide active ingredients that contain organic compounds that are used in herbicides, insecticides, or fungicides.</li> <li>Producers of any integral intermediate used in onsite production of an active ingredient used in an herbicide, insecticide, or fungicide.</li> </ul> |

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the proposed revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR part 63, subpart MMM. If you have questions regarding the applicability of this proposed amendment to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**I. What Action Is EPA Proposing?**

This proposal would change the date that the precompliance plan must be submitted from 6 months prior to the compliance date to 3 months prior to the compliance date. For further information, please see the information provided in the direct final rulemaking notice located in the "Rules and Regulations" section of today's **Federal Register**.

**II. What Are the Administrative Requirements for This Action?**

*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 this proposed rule amendment on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325320 that has as many as 500 employees; (2) a small business in NAICS code 325199 that has as many as 1,000 employees; (3) 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 (4) 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 this proposed rule amendment on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact on small entities" (5 U.S.C. sections 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The EPA has determined that none of the small entities will experience a

significant impact because the proposed amendment imposes no additional regulatory requirements on owners or operators of affected sources.

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

#### 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: November 16, 2001.

**Christine Todd Whitman,**

*Administrator.*

[FR Doc. 01-29068 Filed 11-20-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-7106-7]

#### National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

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

**ACTION:** Proposed rule; amendment.

**SUMMARY:** The EPA is proposing to amend the National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production. This action proposes to revise the definition of the term "process tank."

In the "Rules and Regulations" section of this **Federal Register**, we are making this change in a direct final rule without prior proposal because we view it as minor and noncontroversial, and we anticipate no adverse comments. We have explained our reasons for this change in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on this proposed rule. If we receive an adverse comment on the revised definition, we will publish a timely withdrawal of the direct final rule, and it will not take effect. If we receive adverse comment, we will respond to all such comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** *Comments.* Written comments must be received by December 21, 2001,

unless a hearing is requested by December 3, 2001. If a hearing is requested, written comments must be received by January 7, 2002.

*Public Hearing.* If anyone contacts the EPA requesting to speak at a public hearing by December 3, 2001, a public hearing will be held on December 5, 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-95-20, Room M-1500, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below in **FOR FURTHER INFORMATION CONTACT**. Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION**.

*Public Hearing.* If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina at 10:30 a.m.

*Docket.* Docket No. A-95-20 contains supporting information used in developing the NESHAP. 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 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5402, electronic mail address mcdonald.randy@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-95-20. 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: Mr. Randy McDonald, c/o OAQPS Document Control Officer (Room 740B), U.S. EPA, 411 W. Chapel Hill Street, Room 944, 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 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, U.S. EPA, MD-13, Research Triangle Park, NC 27711, telephone (919) 541-5607, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Maria Noell to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning this proposed amendment.

*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 the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act.) 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.

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