

**List of Subjects in 40 CFR Part 52**

Environmental Protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds, Ozone, Sulfur oxides, Nitrogen dioxide.

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

Dated: July 7, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9-17823 Filed 7-24-09; 8:45 am]

**BILLING CODE 6560-50-P**

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

[EPA-R09-OAR-2009-0353; FRL-8935-3]

**Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations; Extension of Comment Period**

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The EPA is announcing an extension of the public comment period for the proposed rule entitled "Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations." The proposed rule was initially published in the **Federal Register** on June 26, 2009. Written comments on the proposed rule were to be submitted to EPA on or before July 27, 2009 (30-day comment period). The EPA is extending the public comment period until August 27, 2009.

**DATES:** The comment period for the proposed rule published June 26, 2009 (74 FR 30481), is extended. Comments must be received on or before August 27, 2009.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2009-0353, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information

provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Stanley Tong, EPA Region IX, (415) 947-4122, [tong.stanley@epa.gov](mailto:tong.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:** The proposed rule was signed by the Acting Regional Administrator on June 17, 2009 and published in the **Federal Register** on June 26, 2009 (74 FR 30481).

The proposed action provided a 30-day public comment period. EPA has received a request for an additional 30 days to comment on the proposed rule and is granting that request. Therefore, EPA is extending the comment period until August 27, 2009.

Dated: July 17, 2009.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

[FR Doc. E9-17832 Filed 7-24-09; 8:45 am]

**BILLING CODE 6560-50-P**

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

[EPA-HQ-OAR-2008-0080; FRL-8935-1]

RIN 2060-AO98

**National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing national emissions standards for control of hazardous air pollutants from prepared feeds manufacturing facilities. The proposed emissions standards for new and existing sources are based on EPA's proposed determination as to what constitutes the generally available control technology or management practices for the area source category.

**DATES:** Comments must be received on or before August 26, 2009, unless a public hearing is requested by August 6, 2009. If a hearing is requested on the proposed rules, written comments must be received by September 10, 2009. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by Office of Management and Budget (OMB) on or before August 26, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0080, may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Agency Web Site:* <http://www.epa.gov/oar/docket.html>. Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web Site.

- *E-mail:* Comments may be sent by electronic mail (e-mail) to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), include Docket ID No. EPA-HQ-OAR-2008-0080 in subject line of the message.

- *Fax:* Fax your comments to: (202) 566-9744, Docket ID No. EPA-HQ-OAR-2008-0080.

- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Docket ID No. EPA-HQ-OAR-2008-0080. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory

Affairs, OMB, Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

• **Hand Delivery or Courier:** Deliver your comments to: EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments will be posted without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

For detailed instructions on submitting comments and additional

information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Center EPA Docket Center, 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan King, Outreach and Information Division, Office of Air Quality Planning and Standards (C404-05), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5665; fax number: (919) 541-7674; e-mail address: [king.jan@epa.gov](mailto:king.jan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Outline.** The information in this preamble is organized as follows:

- I. General Information
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  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

**I. General Information**

*A. Does this action apply to me?*

The regulated categories and entities potentially affected by the proposed standards are prepared feeds manufacturers who add chromium compounds or manganese compounds to their product. In general, the facilities potentially affected by the rule are covered under the North American Industrial Classification System (NAICS) code listed in the following table.

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry: Other Animal Foods Manufacturing .....	311119	Animal feeds, prepared (except dog and cat), manufacturing.

<sup>1</sup> North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be

regulated by this action, you should examine the applicability criteria in 40 CFR 63.11619 of subpart DDDDDDD (NESHAP for Area Sources: Prepared Feeds Manufacturing). If you have any

questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional

representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

*B. What should I consider as I prepare my comments to EPA?*

Do not submit information containing CBI to EPA through <http://www.regulations.gov> or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID EPA-HQ-OAR-2008-0080. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*C. Where can I get a copy of this document?*

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

*D. When would a public hearing occur?*

If anyone contacts EPA requesting to speak at a public hearing concerning the proposed rule by August 6, 2009, we will hold a public hearing on August 11, 2009. Persons interested in presenting oral testimony at the hearing, or inquiring as to whether a hearing will be held, should contact Ms. Christine Adams at (919) 541-5590 at least two days in advance of the hearing. If a public hearing is held, it will be held at 10 a.m. at the EPA's Environmental Research Center Auditorium, 109 T.W. Alexander Drive, Research Triangle Park, NC, or an alternate site nearby.

**II. Background Information for Proposed Area Source Standards**

*A. What is the statutory authority and regulatory approach for the proposed standards?*

Section 112(d) of the Clean Air Act (CAA) requires us to establish national emission standards for hazardous air pollutants (NESHAP) for both major and area sources of hazardous air pollutants (HAP) that are listed for regulation under CAA section 112(c). A major source emits or has the potential to emit 10 tons per year (tons/yr) or more of any single HAP or 25 tons/yr or more of any combination of HAP. An area source is a stationary source that is not a major source.

Section 112(k)(3)(B) of the CAA calls for EPA to identify at least 30 HAP which, as the result of emissions from area sources, pose the greatest threat to public health in the largest number of urban areas. EPA implemented this provision in 1999 in the Integrated Urban Air Toxics Strategy (Strategy), (64 FR 38715, July 19, 1999). Specifically, in the Strategy, EPA identified 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the "30 urban HAP." Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. A primary goal of the Strategy is to achieve a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources.

Under CAA section 112(d)(5), we may elect to promulgate standards or requirements for area sources "which provide for the use of generally available control technologies or management practices ("GACT") by such sources to reduce emissions of hazardous air pollutants." Additional information on GACT is found in the Senate report on the legislation (Senate Report Number 101-228, December 20, 1989), which describes GACT as:

\* \* \* methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

Consistent with the legislative history, we can consider costs and economic impacts in determining GACT, which is particularly important when developing regulations for source categories that may have many small businesses such as this one.

Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

We are proposing these national emission standards in response to a court-ordered deadline that requires EPA to issue standards for this source category, listed pursuant to section 112(c)(3) and (k) by August 17, 2009 (*Sierra Club v. Johnson*, no. 01-1537, D.D.C., March 2006). Other rulemakings will include standards for the remaining source categories that are due in October 2009.

*B. What source category is affected by the proposed standards?*

The source category affected by the proposed standards is prepared feeds manufacturers (except for dog and cat food) who add chromium compounds or manganese compounds to their product. We listed the prepared feed source category under CAA section 112(c)(3) in one of a series of amendments (November 22, 2002, 67 FR 70427) to the original source category list included in the 1999 Strategy. The inclusion of this source category of the section 112(c)(3) area source category list is based on 1990 emissions data, as EPA used 1990 as the baseline year for that listing. Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation.

In preparing this proposed rule, we solicited information on the production operations, emission sources, and available controls using written facility surveys from, and operating permits for, prepared feed manufacturing area sources, as well as from reviews of published literature. We also held discussions with trade association and industry representatives. From this

research we found that the prepared feeds manufacturing area source category emits the listed urban HAP chromium compounds and manganese compounds. Based on current information, including the 2002 Census, we believe that there are around 1,800 area source prepared feed manufacturing facilities currently operating that add chromium compounds or manganese compounds to their products that would be subject to the proposed area source standards. These proposed standards do not apply to research and development facilities, as defined in section 112(c)(7) of the CAA.

*C. What are the production operations, emission sources, and available controls?*

Prepared feeds manufacturers produce feeds for large and small animals, from hamsters and gerbils to farm animals. Over 200 ingredients may be used in feed production operations including grain and byproducts such as meat meal, bone meal, beet, and tomato pulp. Medicinals, vitamins, and minerals are also added in small portions.

Grain is usually received at the mill by hopper bottom truck and/or rail cars, or in some cases, by barge. Most mills pass selected feed ingredients, primarily grains, through cleaning equipment prior to storage. Upon removal from storage, the grain is transferred to the grinding area, where selected whole grains, primarily corn, are ground prior to mixing with other feed components. The hammermill is the most widely used grinding device. The pulverized material is forced out of the mill chamber when it is ground finely enough to pass through the perforations in the mill screen.

Mixing is the most important process in feed milling and is normally a batch process. Ingredients, including those containing chromium compounds and manganese compounds, are weighed on bench or hopper scales before mixing. Mixers may be horizontal or vertical type, using either screws or paddles to move the ingredients.

The material leaving the mixer is meal, or mash, and may be marketed in this form. If pellets are to be made, the meal is conditioned with steam prior to being pelleted. Pelleting is a process in which the conditioned meal is forced through dies. Pellets are usually 3.2 to 19 mm (1/8 to 3/4 in.) in diameter. After pelleting, pellets are dried and cooled in pellet coolers. If pellets are to be reduced in size, they are passed through a crumbler, or granulator. This machine is a roller mill with corrugated rolls.

Crumbles must be screened to remove fines and oversized materials. The product is sent to storage bins and then bagged or shipped in bulk.

In modern feed mills, transport equipment is often connected with closed spouting and turnheads, covered drag and screw conveyors, and tightly sealed transitions between adjoining equipment to reduce internal dust loss and consequent housekeeping costs. Some older facilities have also upgraded to these closed systems.

Emission sources where chromium compound and manganese compound emissions may occur include handling and storage of these compounds, mixing, storage of the meal or mash, steam conditioning, pelleting and pellet cooling, crumbling and screening, bagging, and bulk shipment loading to trucks or rail cars. Pelleting and pellet cooling is the most significant source of emissions, estimated to emit 90 percent or more of the total chromium compound and manganese compound emissions.

The chromium compounds and manganese compounds emitted comprise a small fraction of the total particulate matter (PM) emissions from prepared feed mills. Fabric filters and cyclones are commonly used to control PM, including the chromium compounds and manganese compounds, from the pelleting and pellet cooling process. These control devices are also used less frequently for other processes at prepared feed mill facilities. For some processes and areas, facilities use the pollution prevention technique of closed loop systems that return collected PM (including chromium compounds and manganese compounds) to the process. We believe that over half of the facilities have these closed loop systems for their mixing/grinding processes and for their conveyers. Common management practices that reduce chromium compound and manganese compound emissions include continual housekeeping to reduce dust that might contain these HAP compounds by vacuuming or sweeping, keeping doors closed to prevent air flow that would "stir-up" dust, preventative equipment maintenance, careful handling of chromium- and manganese-containing micronutrients, and the use of devices to reduce emissions during the loading of product on to trucks and railcars.

### III. Summary of This Proposed Rule

*A. What are the applicability provisions and compliance dates?*

The proposed subpart DDDDDDD standards would apply to each new or

existing prepared feeds manufacturing facility that is an area source and adds chromium compounds or manganese compounds to any of their products.

All existing area source facilities subject to this proposed rule would be required to comply with the rule requirements no later than two years after the date of publication of the final rule in the **Federal Register**. Based on our assessment, there will be around 32 facilities that will need to evaluate, purchase, and install add-on control equipment for their pelleting operations. We believe that the two-year period provides sufficient time for this to occur. In addition, since the vast majority of the companies in this area source category are small businesses and may not have significant experience complying with federal rules, we believe that this time period would also provide opportunity for all companies to prepare adequately.

A new source is any affected source that commences construction or reconstruction after July 27, 2009. All new sources would be required to comply with the rule requirements by the date of publication of the final rule in the **Federal Register** or upon startup, whichever is later.

*B. What are the proposed standards?*

The proposed standards include management practices and equipment standards that will reduce emissions of chromium compounds and manganese compounds at prepared feed manufacturing facilities. These practices and standards will also result in reductions of PM and other metal HAP emissions from the affected processes at prepared feed manufacturing facilities.

The proposed requirements, which apply to all new and existing sources, consist of general management practices that apply in all areas of the affected sources and requirements for specific processes or areas of an affected source. One proposed general management practice that would apply to all new and existing sources in all areas of the affected source is minimizing excess dust that could contain chromium compounds or manganese compounds. This would be achieved through practices including, but not limited to, the use of industrial vacuum systems or manual sweeping; monthly dust removal from walls, ledges, and equipment using low pressure air or by other means and then sweeping or vacuuming the area; and by keeping doors shut. The second general management practice is the requirement to maintain and operate all process equipment that stores, processes, or contains chromium compounds or

manganese compounds in a manner to minimize dust creation.

The proposed requirements that would apply to all new and existing sources which are specific to certain areas of the plant or processes are as follows:

- For the storage area, all raw materials containing chromium compounds or manganese compounds must be stored in closed containers.
- For mixing operations, materials containing chromium compounds or manganese compounds must be added to the mixer in a manner to reduce emissions, and the mixer must be covered at all times when mixing is occurring, except when materials are being added.
- For bulk loading operations, filter drop socks must be used when loading product containing chromium compounds or manganese compounds into trucks or railcars.

In addition to the above requirements that apply to all facilities, new and existing facilities with average daily feed production levels exceeding 50 tons per day would be required to install and operate a cyclone to reduce emissions from pelleting and pellet cooling operations. Specifically, the proposed rule would require that emissions of PM that include chromium compounds or manganese compounds would be required to be collected and routed to a cyclone that is designed to achieve at least 95 percent reduction in PM less than 10 microns in diameter (PM<sub>10</sub>) and that is operated properly and in accordance with the equipment manufacturers specifications.

#### *C. What are the compliance requirements?*

For all new and existing sources, compliance with the proposed regulation would be demonstrated through installation of the required equipment, adherence to the management practices, and by keeping the required records and submitting the required notifications and reports described below.

To ensure that the cyclone for the pelleting and pellet cooling process is operated properly at facilities with average daily feed production levels exceeding 50 tons per day, the proposed rule would require that the cyclone be inspected quarterly for corrosion, erosion, or any other damage that could result in air in-leakage, and that the pressure drop be monitored and recorded daily to ensure that it is being operated in accordance with the equipment manufacturer's specifications.

The proposed rule would also require that the filter drop socks on the bulk loading operations be inspected monthly to ensure that they are in good condition.

#### *D. What are the notification, recordkeeping, and reporting requirements?*

All new and existing sources would be required to comply with some requirements of the General Provisions (40 CFR part 63, subpart A), which are identified in Table 1 of this proposed rule. The General Provisions include specific requirements for notifications, recordkeeping, and reporting. Each facility would be required to submit an Initial Notification and a one-time Notification of Compliance Status according to the requirements in 40 CFR 63.9 in the General Provisions. The Initial Notification, which would be required to be submitted not later than 120 days after the final rule is published in the **Federal Register**, would contain basic information about the facility and its operations. The Notification of Compliance Status, which would be required to be submitted 120 days after the compliance date, would contain a statement that the source has complied with all relevant standards. It would also be required to include the pressure drop range that constitutes proper operation of the cyclone used to reduce emissions from the pelleting and pellet cooling operations.

The proposed rule would require that records be kept of all notifications. The proposed rule requires that records be kept documenting each cyclone or drop filter sock inspection, and each pressure drop monitoring event. The proposed rule further requires that a record be created monthly that certifies that all management practices have been followed. The records must also include the results of each inspection (including any actions taken in response to findings of the inspections), and each monitoring event. The proposed rule includes the requirement to prepare an annual compliance certification, which would need to be maintained on site. This report would contain a statement whether the source has complied with all relevant standards and other requirements of the final rule. If a deviation from the standard occurred during the annual reporting period, or if an instance occurred where the cyclone pressure drop was outside of the proper operating range submitted in the Notification of Compliance Status report, this information would be required to be included in the annual report and the report would need to be submitted to the EPA Administrator or

the designated authority by March 15 of the same year. All records are required to be maintained in a form suitable and readily available for expeditious review, and that they are kept for at least five years, the first two of which must be onsite.

#### **IV. Rationale for This Proposed Rule**

##### *A. How did we select the affected source?*

Affected source means the collection of equipment and processes in the source category or subcategory to which the subpart applies. The affected source may be the same collection of equipment and processes as the source category or it may be a subset of the source category. We are proposing to designate as the affected source in this area source NESHAP those prepared feeds manufacturing operations that emit chromium compounds and manganese compounds. Specifically, the proposed rule defines the affected source as the collection of all equipment and activities necessary to perform prepared feeds manufacturing operations from the point in the process where chromium compounds or manganese compounds are added to the point where the finished prepared feed product leaves the facility. This includes, but is not limited to, areas where materials containing chromium compounds and manganese compounds are stored and areas where the chromium compounds and manganese compounds are temporarily stored prior to addition to the feed at the mixer, as well as mixing and grinding processes, pelleting and pellet cooling processes, packing and bagging processes, crumblers and screens, bulk loading operations, and all conveyors and other equipment that transfer the feed materials throughout the manufacturing facility.

##### *B. How did we ensure that the listed HAP are addressed by this rule?*

In selecting the proposed emission standards, we are using PM as a surrogate for chromium compounds and manganese compounds. A sufficient correlation exists between PM and chromium compounds and manganese compounds to rely on PM as a surrogate for these HAP and for their control. When released, chromium compounds and manganese compounds are in particle form and behave as PM. The control technologies used for the control of PM emissions achieve comparable levels of performance on chromium compounds and manganese compounds emissions. Therefore, standards requiring good control of PM also

achieve good control of chromium compounds and manganese compounds. Furthermore, establishing chromium compound and manganese compound standards would impose costly and significantly more complex compliance and monitoring requirements and achieve little, if any, HAP emissions reductions beyond what would be achieved using an approach based on total PM control. Therefore, we decided to propose standards for prepared feeds manufacturing based on control of PM as a surrogate pollutant for chromium compounds and manganese compounds.

### C. How did we subcategorize the Prepared Feeds Manufacturing source category?

As part of the GACT analysis, we considered whether there were differences in processes, sizes, or other factors affecting emissions and control technologies that would warrant subcategorization of the Prepared feeds manufacturing area source category. Under section 112(d)(1) of the CAA, EPA “may distinguish among classes, types, and sizes within a source category or subcategory in establishing such standards”. In our review of available data, we observed differences between prepared feeds manufacturing facilities based on production levels. We estimate that the emissions for a typical small facility are only around 10 percent of the level of emissions at a typical larger facility.<sup>1</sup> There are also considerable differences in the emission stream flow rates at larger facilities, as they are, on average, around five times greater than the flow rates at the smaller facilities.<sup>2</sup> Based on these differences, we determined that subcategorization of the Prepared Feeds Manufacturing source category was justified. Consequently, we are proposing to subcategorize the Prepared Feeds Manufacturing source category into “small” and “large” facilities. The proposed threshold that we selected to distinguish between large and small facilities is a prepared feeds manufacturing rate of 50 tons per day, which as the record demonstrates, represents the characteristics mentioned above. We are specifically requesting comment on whether this production rate is the most appropriate level to

define the differences between the small and large prepared feeds manufacturing subcategories.

### D. How did we determine GACT?

As provided in CAA section 112(d)(5), we are proposing standards representing GACT for the prepared feeds manufacturing source HAP emissions. As noted in section II.A of this preamble, the statute allows the Agency to establish standards for area sources listed pursuant to section 112(c) based on GACT. The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to section 112(c), which is the case here.

As noted above, we solicited information on the available controls and management practices for this area source category using written facility surveys, reviews of published literature, and reviews of operating permits. We also held discussions with trade association and industry representatives. Our determination of GACT is based on this information. We also considered costs and economic impacts in determining GACT.

We identified two general management practices that reduce chromium compound and manganese compound emissions for all processes and in all areas of small and large prepared feed manufacturing facilities. The first were continual housekeeping practices to reduce dust that can contain chromium compounds and manganese compounds. Examples of these housekeeping practices include removing dust with industrial vacuum systems or by manual sweeping; periodically removing dust from walls, ledges, and equipment using low pressure air or by other means and then sweeping or vacuuming the area; and keeping doors closed to avoid spreading dust throughout the facility. The second management practice identified was the proper maintenance and operation of all process equipment that stores, processes, or contains chromium compounds or manganese compounds to minimize dust creation.

We believe that every prepared feed facility already employs these practices. Therefore, the proposed rule includes these general practices as GACT for small and large prepared feeds manufacturing facilities. We are, however, requesting comment on the particular requirements listed above under the first management practice (vacuuming/sweeping, removing dust from walls, etc., and keeping doors closed). Specifically, we would like to

know if there are additional general management practices that are commonly used throughout prepared feeds manufacturing facilities that should be included in this list of requirements. We are also asking for specific maintenance activities and operational practices that would be appropriate to include that would strengthen the second general management practice.

In addition, we evaluated other process-specific or area-specific measures and controls in our analysis. The following discussion is organized according to these processes/areas.

**Storage Areas.** For those facilities that provided information on the area where micronutrients containing chromium compounds and manganese compounds are stored, 100 percent of both large and small prepared feeds manufacturing facilities reported that these materials were stored in closed containers. There were no other measures or controls reported. Therefore, in addition to the general requirements to minimize dust and maintain equipment throughout the facility, we determined that GACT for the storage areas at small and large facilities included the requirement that any raw materials containing chromium compounds or manganese compounds be stored in closed containers.

**Mixing Processes.** Facilities routinely are careful to minimize losses during the mixing process of the expensive micronutrients that contain chromium compounds and manganese compounds. This also minimizes chromium compound and manganese compound emissions. The measures employed include adding materials carefully and keeping the mixer covered after they are added when mixing is occurring. We believe that every prepared feed facility employs these practices and that they represent GACT.

In addition, control devices to reduce emissions from mixing operations were reported in a few instances (24 percent of facilities surveyed). We estimated the cost effectiveness of requiring the uncontrolled mixing operations to install add-on controls at small prepared feeds manufacturing facilities to be around \$127 million per ton of chromium compound and manganese compound emission reduction and \$380,000 and \$1.6 million per ton of PM and PM<sub>2.5</sub>, respectively. For the larger facilities, we estimated the cost effectiveness to be around \$18 million per ton of chromium and manganese compound emission reduction, \$55,000 per ton of PM reduction, and \$240,000 per ton of PM<sub>2.5</sub> reduction. Because only a minority of facilities have installed these control devices and because the

<sup>1</sup> Memorandum. Jones, N. and Norwood, P., EC/R Incorporated, to King, J., EPA/OAQPS/OID. Baseline Emissions for the Prepared Feeds Manufacturing Area Source Category. February 27, 2009.

<sup>2</sup> Memorandum. Jones, N. and Norwood, P., EC/R Incorporated, to King, J., EPA/OAQPS/OID. Summary of Information Obtained from Industry Survey for the Prepared Feeds Manufacturing Area Source Category. February 27, 2009.

cost effectiveness is higher than we generally consider reasonable, we are not proposing that add-on control represents GACT for mixing operations. Therefore, in addition to the general requirements to minimize dust and maintain equipment throughout the facility, we are proposing that GACT for the mixing processes at small and large prepared feeds manufacturing facilities include the requirements to (1) add materials containing chromium compounds or manganese compounds to the mixer in a manner that minimizes emissions, and (2) cover the mixer at all times when materials containing chromium compounds or manganese compounds are being used. We are asking for comment on specific measures that would be appropriate to include to strengthen the proposed requirement to minimize emissions when materials are being added to the mixer.

*Pelleting and pellet cooling.* For pelleting and pellet cooling processes, add-on controls were reported for almost 98 percent of the larger facilities, but only around 20 percent of the smaller facilities. For the larger facilities, we estimated that requiring the additional 2 percent of the larger facilities to install cyclones would cost around \$300,000 per ton of chromium compound and manganese compound reduction, \$1,000 per ton of PM emission reduction, and \$4,000 per ton of PM<sub>2.5</sub> reduction. We concluded that these costs were reasonable in consideration of the emission reductions achieved, and determined that the use of cyclones to reduce emissions from pelleting cooling operations was GACT for large prepared feeds manufacturing facilities. Therefore, in addition to the general requirements to minimize dust and maintain equipment throughout the facility, we are proposing that GACT for large prepared feeds manufacturing facilities include the requirements that all chromium compound and manganese compound emissions from pelleting and pellet cooling operations must be captured and routed to a cyclone. The information provided via the industry survey did not include specific details about the performance of these cyclones, but we believe that properly designed cyclones should be able to achieve 95 percent reduction in PM emissions. This belief is based on follow-up of the survey responses and information obtained from cyclone vendors. Therefore, we are proposing that the cyclones be designed to achieve at least 95 percent reduction in PM<sub>10</sub>. We are specifically requesting comment

on this 95 percent efficiency requirement. In addition, we are requesting comment on whether control devices other than cyclones are used to reduce PM emissions from pelleting and pellet cooling. If other devices are used, we would request information that demonstrates that these devices are at least equivalent to the required cyclones, and the monitoring techniques utilized to ensure that they are operating properly.

We also evaluated the impacts of requiring the installation of cyclones at all facilities in the small prepared feeds manufacturing subcategory. As noted above, the available information suggests that around 80 percent of these smaller facilities do not control PM emissions from their pelleting and pellet cooling process. We estimated the cost effectiveness to be around \$1 million per ton of chromium and manganese compound emission reduction, \$4,000 per ton of PM emission reduction, and \$20,000 per ton of PM<sub>2.5</sub> reduction. We estimated that the annual cost of installing and operating a cyclone at one of these small facilities would be around \$58,000 per year. Our economic impacts assessment indicates that annual costs of this magnitude could represent over 5 percent of the total annual sales for a smaller prepared feeds manufacturing facility. We concluded that the adverse economic impacts do not justify a determination requiring cyclones for the small prepared feeds manufacturing subcategory. Therefore, we are proposing that GACT for small prepared feeds manufacturing facilities as only the general management practices to minimize dust and maintain equipment.

*Bagging.* The information provided by facilities also indicated that add-on controls, primarily fabric filters, are used to reduce emissions from bagging operations at prepared feeds manufacturing facilities. The available information suggests that around 1/3 of the smaller facilities and over 90 percent of the larger facilities control the emissions from the bagging processes. We evaluated the impacts of the installation and operation of fabric filters at the remaining facilities, and estimated that, for the smaller facilities, the total capital costs would be over \$7 million and the total annual costs would be over \$16 million per year. Since bagging is a relatively small source of emissions, the cost effectiveness for these controls would be around \$255 million per ton of chromium and manganese compound reduction, over \$750,000 per ton of PM emission reduction, and \$3.3 million per ton of PM<sub>2.5</sub> reduction. We concluded that these cost effectiveness values were too

high to be considered GACT. Therefore, for bagging operations at smaller prepared feeds manufacturing facilities, the proposed rule would require that the general requirements to minimize dust and maintain equipment throughout the facility be followed, but would not require the installation and operation of add-on control.

For the larger facilities, we estimated that the total capital costs would be over \$10 million and the total annual costs would be over \$13 million per year. The cost effectiveness for these controls at these larger facilities would be around \$37 million per ton of chromium and manganese compound reduction, over \$100,000 per ton of PM emission reduction, and around \$500,000 per ton of PM<sub>2.5</sub> reduction. We concluded that, although a significant portion of the existing large facilities control emissions from bagging, these cost effectiveness values were too high to be considered GACT. Therefore, for bagging operations at larger prepared feeds manufacturing facilities, the proposed rule would also only require that the general requirements to minimize dust and maintain equipment throughout the facility be followed.

*Bulk loading.* Based on the industry surveys, we believe that every facility uses drop filter socks to reduce dust and the loss of product during the loading of railcars and trucks. We determined that this equipment represents GACT for bulk loading operations at both small and large facilities. Therefore, in addition to the general requirements to minimize dust and maintain equipment throughout the facility, we are proposing that GACT for bulk loading include the requirement to install drop filter socks for small and large prepared feeds manufacturing facilities.

#### *E. How did we select the compliance requirements?*

In order to ensure that the cyclones on the pelleting and pellet cooling operations remain effective in reducing chromium compounds and manganese compounds, we are proposing that these cyclones be operated and maintained in accordance with the manufacturer's specifications. We are also proposing that these cyclones be inspected monthly and that the pressure drop be monitored daily and recorded. Similarly, we are requiring that the drop filter socks on the bulk loading operations be inspected monthly to ensure they are in good condition and functioning properly.

We are proposing certain notification, recordkeeping, and reporting requirements. Those requirements are described in detail in section III.D. In

selecting these requirements, we identified the information necessary to ensure that management practices are being followed and that emission control devices and equipment are maintained and operated properly. The proposed requirements ensure compliance with this proposed rule without posing a significant additional burden for facilities that must implement them.

*F. How did we decide to exempt this area source category from Title V permit requirements?*

We are proposing exemption from title V permitting requirements for affected sources in the prepared feeds manufacturing area source category for the reasons described below.

Section 502(a) of the CAA provides that the Administrator may exempt an area source category from title V if he determines that compliance with title V requirements is “impracticable, infeasible, or unnecessarily burdensome” on an area source category. See CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term “unnecessarily burdensome” in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (“Exemption Rule”).

The four factors that EPA identified in the Exemption Rule for determining whether title V is “unnecessarily burdensome” on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (70 FR 75326).

In discussing these factors in the Exemption Rule, we further explained that we considered on “a case-by-case

basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be ‘unnecessarily burdensome’ on the category, consistent with section 502(a) of the Act.” See 70 FR 75323. Thus, in the Exemption Rule, we explained that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination, and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. See 70 FR 15254–15255, March 25, 2005. As explained below, we propose that title V permitting is unreasonably burdensome for the area source category at issue in this proposed rule. We have also determined that the proposed exemptions from title V would not adversely affect public health, welfare and the environment. Our rationale for this decision follows here.

In considering the exemption from title V requirements for sources in the category affected by this proposed rule, we first compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to the requirements in the proposed NESHAP for the area source category. The proposed rule requires implementation of certain management practices and the use of add on controls for one process. We believe these practices are currently used at all facilities and the controls are in use at most facilities. The proposed rule requires direct monitoring of control device parameters, recordkeeping that also may serve as monitoring, and deviation and other annual reporting to assure compliance with these requirements.

The monitoring component of the first factor favors title V exemption. For the management practices, this proposed standard provides monitoring in the form of recordkeeping that would assure compliance with the requirements of the proposed rule. Monitoring by means other than recordkeeping for the

management practices is not practical or appropriate. Records are required to ensure that the management practices are followed. The rule requires continuous parameter monitoring and periodic recording of the parameter for the required control device to assure compliance. The proposed rule requires the owner or operator to record the date and results of periodic control device inspections, as well as any actions taken in response to findings of the inspections. The records are required to be maintained in a form suitable and readily available for expeditious review, and that they are kept for at least five years, the first two of which must be onsite.

As part of the first factor, in addition to monitoring, we considered the extent to which title V could potentially enhance compliance for area sources covered by this proposed rule through recordkeeping or reporting requirements. We have considered the various title V recordkeeping and reporting requirements, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6.

For any prepared feeds manufacturing area source, this proposed NESHAP requires an Initial Notification and a Notification of Compliance Status. This proposed rule also requires facilities to certify compliance with the control device and management practices. In addition, facilities must maintain records showing compliance through the required parameter monitoring and deviation requirements. The information required in the deviation reports is similar to the information that must be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

We acknowledge that title V might impose additional compliance requirements on this category, but we have determined that the monitoring, recordkeeping and reporting requirements of the proposed NESHAP are sufficient to assure compliance with the provisions of the NESHAP, and title V would not significantly improve those compliance requirements.

For the second factor, we determine whether title V permitting would impose a significant burden on the area sources in the category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. EPA estimated that the average cost of obtaining and complying with a title V permit was \$38,500 per

source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05. EPA does not have specific estimates for the burdens and costs of permitting these types of prepared feeds manufacturing area sources; however, there are certain activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on any facility subject to title V. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of consultants to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional information on the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for facilities affected by this proposal, we found that many of the facilities that would be affected by this proposed rule are small entities. These small sources lack the technical resources that would be needed to comply with permitting requirements and the financial resources that would be needed to hire the necessary staff or outside consultants. As discussed above, title V permitting would impose significant costs on these area sources, and, accordingly, we conclude that title V is a significant burden for sources in this category. Furthermore, given the number of sources in the category, it would likely be difficult for them to obtain sufficient assistance from the permitting authority. Thus, we conclude

that factor two supports title V exemption for this category.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We explained above under the second factor that the costs of compliance with title V would impose a significant burden on many of the approximately 450 facilities affected by the proposed rule. We also concluded in considering the first factor that, while title V might impose additional requirements, the monitoring, recordkeeping and reporting requirements in the proposed NESHAP assure compliance with the emission standards imposed in the NESHAP. In addition, below in our consideration of the fourth factor, we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs, both economic and non-economic, of compliance with title V are high, and the potential for gains in compliance is low, title V permitting is not justified for this source category. Accordingly, the third factor supports title V exemptions for this area source category.

The fourth factor we considered in determining if title V is unnecessarily burdensome is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. EPA has implemented regulations that provide States the opportunity to take delegation of area source NESHAP, and we believe that State delegated programs are sufficient to assure compliance with this NESHAP. See 40 CFR part 63, subpart E (States must have adequate programs to enforce the section 112 regulations and provide assurances that they will enforce the NESHAP before EPA will delegate the program).

We also noted that EPA retains authority to enforce this NESHAP anytime under CAA sections 112, 113 and 114. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these proposed standards. We believe that the statutory requirements for implementation and enforcement of this NESHAP by the delegated States and EPA and the additional assistance

programs described above together are sufficient to assure compliance with these proposed standards without relying on title V permitting.

In light of all the information presented here, we believe that there are implementation and enforcement programs in place that are sufficient to assure compliance with the proposed standards without relying on title V permitting.

Balancing the four factors for this area source category strongly supports the proposed finding that title V is unnecessarily burdensome. While title V might add additional compliance requirements if imposed, we believe that there would not be significant improvements to the compliance requirements in this proposed rule because the proposed rule requirements are specifically designed to assure compliance with the emission standards imposed on this area source category. We further maintain that the economic and non-economic costs of compliance with title V would impose a significant burden on the sources. We determined that the high relative costs would not be justified given that there is likely to be little or no potential gain in compliance if title V were required. And, finally, there are adequate implementation and enforcement programs in place to assure compliance with these proposed standards. Thus, we propose that title V permitting is "unnecessarily burdensome" for this area source category.

In addition to evaluating whether compliance with title V requirements is "unnecessarily burdensome", EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting this area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of this area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources.

Furthermore, we explained in the Exemption Rule that requiring permits

for the large number of area sources could, at least in the first few years of implementation, potentially adversely affect public health, welfare, or the environment by shifting State agency resources away from assuring compliance for major sources with existing permits to issuing new permits for these area sources, potentially reducing overall air program effectiveness. Based on the above analysis, we conclude that title V exemptions for these area sources will not adversely affect public health, welfare, or the environment for all of the reasons explained above.

For the reasons stated here, we are proposing to exempt this area source category from title V permitting requirements.

## V. Summary of Impacts of the Proposed Standards

We project that the baseline PM emissions from the estimated 1,800 facilities in the prepared feeds source category are around 32,000 tons/yr, with around 7,500 tons/yr of PM<sub>2.5</sub>, 100 tons/yr of manganese compounds and just under 2 tons/yr of chromium compounds. We believe that the management practices in the proposed rule are already being implemented throughout the industry. Therefore, we do not expect any additional reductions in chromium compound, manganese compound, or general PM emissions from these measures. We estimate that the requirement to install cyclones on the pelleting processes at the facilities with daily production levels exceeding 50 tons per day will result in emission reductions of around 4,000 tons/yr of PM, 900 tons/yr of PM<sub>2.5</sub>, and around 11 tons/yr of manganese compounds and chromium compounds emissions. While cyclones do remove PM from the air stream, these solids are typically recycled back to the process. Therefore, we do not anticipate any significant indirect or secondary air impacts of this rule as proposed. In addition, we do not expect any non-air health, environmental, or energy impacts.

As noted above, we believe all prepared feed manufacturing facilities already implement the proposed management practices. Therefore, there will be no additional costs for these measures. We estimate that the nationwide capital costs for the installation of cyclones on the pelleting cooling operations at the large facilities will be just over \$3 million. The associated annual costs are estimated to be just under \$4 million/year.

Many of the plants in this analysis have fewer than 500 employees, which is the threshold to be considered

“small” by the Small Business Administration. It is currently estimated only around 2 percent of the facilities in the category would potentially need to change under the proposed regulatory alternative. The potential impact on the industry as a percentage of the value of shipments is small. Under the proposed regulatory alternative, the largest potential impact is estimated as 0.96 percent of shipments for a subset of firms with an overall impact of 0.94 percent of shipments for the industry as a whole. As a result, this action is not expected to have a significant impact on a substantial number of small entities or the economy as a whole, regardless of whether or not the firms in the industry are able to pass along any increases in their costs to the consumers.

## VI. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to the OMB for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2354.01.

The recordkeeping and reporting requirements in this proposed rule are based on the requirements in EPA’s NESHAP General Provisions (40 CFR part 63, subpart A). The recordkeeping and reporting requirements in the General Provisions are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information other than emissions data submitted to EPA pursuant to the information collection requirements for which a claim of confidentiality is made is safeguarded according to CAA section 114(c) and the Agency’s implementing regulations at 40 CFR part 2, subpart B.

This proposed NESHAP would require prepared feeds manufacturing area sources to submit an Initial Notification and a Notification of Compliance Status according to the requirements in 40 CFR 63.9 of the General Provisions (subpart A). Records

would be required to demonstrate compliance with the monitoring and management practice requirements that ensure good operation and maintenance of capture and control devices. The owner or operator of a prepared feeds manufacturing facility also is subject to notification and recordkeeping requirements in 40 CFR 63.9 and 63.10 of the General Provisions (subpart A), although we are proposing that annual compliance reports are sufficient instead of semiannual reports.

The annual burden for this information collection averaged over the first three years of this ICR is estimated to be a total of 27,000 labor hours per year at a cost of approximately \$2.1 million or \$1,200 per facility. The average annual reporting burden is 0.6 hours per response, with approximately 2 responses per facility. The only capital and operating and maintenance costs are associated with the installation of monitoring equipment on cyclones required to control pelleting emissions at the larger prepared feeds manufacturing facilities. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency’s need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number [EPA-HQ-OAR-2008-0080]. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this proposed rule for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 27, 2009, a comment to OMB is best assured of having its full effect if OMB receives it by August 26, 2009. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 500 employees for NAICS 311119); (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 this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule is estimated to impact 1,800 prepared feed manufacturing facilities that are currently operating. We estimate that all of these facilities may be small entities. We have determined that small entity compliance costs, as assessed by the facilities' cost-to-sales ratio, are expected to be less than 0.004 percent. The costs are so small that the impact is not expected to be significant. The impact on small entities is significantly decreased since the proposed rule would not require plants with daily production levels less than 50 tons per day to install add-on controls. Although this proposed rule contains requirements for new area sources, we are not aware of any new area sources being constructed now or planned in the next 3 years, and consequently, we did not estimate any impacts for new sources.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this proposed rule on small entities. The standards represent practices and controls that are common throughout the prepared feeds manufacturing industry. The standards also require only the essential recordkeeping and reporting needed to demonstrate and verify compliance. These standards were developed based on information obtained from small businesses in our surveys, consultation with small business representatives on the state and national level, and

industry representatives that are affiliated with small businesses.

We continue to be interested in the potential impacts of this proposed action on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, and tribal governments or the private sector. This action imposes no enforceable duty on any State, local, tribal governments or the private sector.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The proposed rules contain no requirements that apply to such governments, and impose no obligations upon them.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (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.”

This proposed rule does not have federalism implications. It 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. This proposed rule does not impose any requirements on state and local governments. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comment on this proposed rule from state and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action would not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The action imposes requirements on owners and operators of specified area sources and not tribal governments. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

EPA interprets Executive Order 13045 (62 F.R. 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based solely on technology performance.

#### *H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this proposed rule would not likely have any significant adverse energy impacts.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule will establish national standards for the prepared feeds manufacturing area source category.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 21, 2009.

**Lisa P. Jackson,**  
*Administrator.*

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of 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 amended by adding subpart DDDDDDD to read as follows:

**Subpart DDDDDDD—National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing**

**Applicability and Compliance Dates**

Sec.

63.11619 Am I subject to this subpart?

63.11620 What are my compliance dates?

**Standards, Monitoring, and Compliance Requirements**

63.11621 What are the standards for new and existing prepared feed manufacturing facilities?

63.11622 What are the monitoring requirements for new and existing sources?

63.11623 [Reserved]

63.11624 What are the notification, reporting, and recordkeeping requirements?

**Other Requirements and Information**

63.11625 What parts of the General Provisions apply to my facility?

63.11626 Who implements and enforces this subpart?

63.11627 What definitions apply to this subpart?

63.11628—63.11638 [Reserved]

**Tables to Subpart DDDDDDD of Part 63**

Table 1 to Subpart DDDDDDD of Part 63—Applicability of General Provisions to Prepared Feeds Manufacturing Area Sources

**Subpart DDDDDDD—National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing**

**Applicability and Compliance Dates**

**§ 63.11619 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a prepared feed manufacturing facility that uses chromium compounds or manganese compounds and is an area source of emissions of these hazardous air pollutants (HAP).

(b) The provisions of this subpart apply to each new and existing prepared feed manufacturing facility affected source. A prepared feeds manufacturing affected source is the collection of all equipment and activities necessary to perform prepared feeds manufacturing operations from the point in the process where chromium compounds or manganese compounds are added to the point where the finished prepared feed product leaves the facility. This includes, but is not limited to, areas where materials containing chromium compounds and manganese compounds are stored, areas where the chromium compounds and manganese compounds are temporarily stored prior to addition

to the feed at the mixer, mixing and grinding processes, pelleting and pellet cooling processes, packing and bagging processes, crumblers and screens, bulk loading operations, and all conveyors and other equipment that transfer the feed materials throughout the manufacturing facility.

(c) A prepared feed manufacturing facility affected source exists if you commenced construction or reconstruction of the facility on or before July 27, 2009.

(d) A prepared feed manufacturing facility affected source is new if you commenced construction or reconstruction of the facility after July 27, 2009.

(e) This subpart does not apply to the facilities identified in paragraphs (e)(1) and (2) of this section.

(1) Prepared feed manufacturing facilities that do not add any materials containing chromium compounds or manganese compounds to any product manufactured at the facility.

(2) Research or laboratory facilities as defined in section 112(c)(7) of the Clean Air Act (CAA).

(f) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

**§ 63.11620 What are my compliance dates?**

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart by no later than two years after the date of publication of the final rule in the **Federal Register**.

(b) If you start up a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart by no later than the date of publication of the final rule in the **Federal Register**.

(c) If you start up a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

**Standards, Monitoring, and Compliance Requirements**

**§ 63.11621 What are the standards for new and existing prepared feed manufacturing facilities?**

You must comply with the management practices and standards in

paragraphs (a) through (f) of this section at all times.

(a) In all areas of the affected source, you must comply with the management practices in paragraphs (a)(1) and (2) of this section.

(1) You must perform housekeeping measures to minimize excess dust. These measures must include, but not be limited to, the practices specified in paragraphs (a)(1)(i) through (iii) of this section.

(i) You must use either an industrial vacuum system or manual sweeping to reduce the amount of dust,

(ii) At least once per month, you must remove dust from walls, ledges, and equipment using low pressure air or by other means, and then sweep or vacuum the area.

(iii) You must keep doors shut, as practicable.

(2) You must maintain and operate all process equipment in a manner to minimize dust creation.

(b) You must store any raw materials containing chromium compounds or manganese compounds in closed containers.

(c) The mixer where materials containing chromium compounds or manganese compounds are added must be covered at all times when mixing is occurring, except when the materials are being added to the mixer. Materials containing chromium compounds or manganese compounds must be added to the mixer in a manner that minimizes emissions.

(d) For the bulk loading process where prepared feed products are loaded into trucks or railcars, you must use filter drop socks at the end of the loading arms.

(e) For the pelleting operations at facilities with a daily production rate exceeding 50 tons per day, you must capture emissions and route them to a cyclone designed to reduce emissions of particulate matter less than 10 microns in diameter by at least 95 percent. You must operate and maintain the cyclone in accordance with manufacturer's specifications. This includes operating within the pressure drop range recommended by the manufacturer. You must comply with the monitoring requirements in § 63.11622(b) of this subpart.

#### **§ 63.11622 What are the monitoring requirements for new and existing sources?**

(a) If you own or operate an affected source required by § 63.11621(d) to use a filter drop sock reduce emissions from a bulk loading process, you must perform monthly inspections of each filter drop sock to ensure it is in proper working condition. You must record the

results of these inspections in accordance with § 63.11624(c)(4) of this subpart.

(b) If you own or operate an affected source required by § 63.11621(e) to install and operate a cyclone to control emissions from pelleting operations, you must comply with the monitoring requirements in paragraphs (b)(1) and (2) of this section.

(1) You must perform monthly inspections of the cyclone for corrosion, erosion, or any other damage that could result in air in-leakage, and record the results in accordance with § 63.11624(c)(5)(ii).

(2) You must monitor pressure drop at least once per day. You must also record the pressure drop in accordance with § 63.11624(c)(5)(iii).

#### **§ 63.11623 [Reserved]**

#### **§ 63.11624 What are the notification, reporting, and recordkeeping requirements?**

(a) *Notifications.* You must submit the notifications identified in paragraphs (a)(1) and (2) of this section.

(1) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b)(2) of the General Provisions no later than 120 days after the date of publication of the final rule in the **Federal Register**. The Initial Notification must include the information specified in paragraphs (a)(1)(i) through (iv) of this section.

(i) The name, address, phone number and e-mail address of the owner and operator;

(ii) The address (physical location) of the affected source;

(iii) An identification of the relevant standard (i.e., this subpart); and

(iv) A brief description of the operation

(2) *Notification of Compliance Status.* If you are the owner of an existing affected source, you must submit a Notification of Compliance Status in accordance with § 63.9(h) of the General Provisions on or before 2 years and 120 days after the date of publication of the final rule in the **Federal Register**. If you are the owner or operator of a new affected source, you must submit a Notification of Compliance Status within 120 days of initial startup, or by 120 days after the date of publication of the final rule in the **Federal Register**, whichever is later. This Notification of Compliance Status must include the information specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) Your company's name and address;

(ii) A statement by a responsible official with that official's name, title, phone number, e-mail address and

signature, certifying the truth, accuracy, and completeness of the notification and a statement of whether the source has complied with all the relevant standards and other requirements of this subpart;

(iii) The pressure drop range that constitutes proper operation of the cyclone if you own or operate an affected source required by § 63.11621(e) to install and operate a cyclone to control emissions from pelleting operations.

(b) *Annual compliance certification report.* You must, by March 1 of each year, prepare an annual compliance certification report for the previous calendar year containing the information specified in paragraphs (b)(1) through (b)(4) of this section. You must submit the report by March 15 if you had any instance described by paragraph (b)(3) or (b)(4) of this section.

(1) Your company's name and address.

(2) A statement by a responsible official with that official's name, title, phone number, e-mail address and signature, certifying the truth, accuracy, and completeness of the notification and a statement of whether the source has complied with all the relevant standards and other requirements of this subpart.

(3) If the source is not in compliance, include a description of deviations from the applicable requirements, the time periods during which the deviations occurred, and the corrective actions taken.

(4) Identification of all instances when the daily pressure drop across a cyclone is outside of the pressure drop range that constitutes proper operation of the cyclone submitted as part of your Notification of Compliance Status. In these instances, include the time periods when this occurred and the corrective actions taken.

(c) *Records.* You must maintain the records specified in paragraphs (c)(1) through (5) of this section in accordance with paragraphs (c)(6) through (8) of this section.

(1) As required in § 63.10(b)(2)(xiv), you must keep a copy of each notification that you submitted to comply with this subpart in accordance with paragraph (a) of this section, and all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted.

(2) You must keep a copy of each Annual Compliance Certification prepared in accordance with paragraph (b) of this section.

(3) You must keep a monthly record certifying that you have complied with

the management practices in § 63.11621(a), (b), (c), and (d).

(4) For each filter drop sock used to comply with the requirements in § 63.11621(d), you must keep the records of all monthly inspections including the information identified in paragraphs (c)(4)(i) through (iii) of this section.

- (i) The date, place, and time of each inspection;
- (ii) Person performing the inspection;
- (iii) Results of the inspection, including the date, time, and duration of the corrective action period from the time the inspection indicated a problem to the time of the indication that the filter drop sock was replaced or restored to proper operation.

(5) For each cyclone used to comply with the requirements in § 63.11621(e), you must keep the records in paragraphs (c)(5)(i) through (iii) of this section.

- (i) Manufacturer's specifications.
- (ii) Records of all quarterly inspections including the information identified in paragraphs (c)(5)(ii)(A) through (C) of this section.

- (A) The date, place, and time of each inspection;
- (B) Person performing the inspection;
- (C) Results of the inspection, including the date, time, and duration of the corrective action period from the time the inspection indicated a problem to the time of the indication that the cyclone was restored to proper operation.

(iii) Records of the daily pressure drop measurements, along with the date, time, and duration of the correction action period from the time the monitoring indicated a problem to the time of the indication that the cyclone was restored to proper operation.

(6) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(7) As specified in § 63.10(b)(1), you must keep each record for 5 years

following the date of each recorded action.

(8) You must keep each record onsite for at least 2 years after the date of each recorded action according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

**Other Requirements and Information**

**§ 63.11625 What parts of the General Provisions apply to my facility?**

Table 1 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

**§ 63.11626 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by 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 authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of 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 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the state, local, or tribal agency.

(c) The authorities that cannot be delegated to state, local, or tribal agencies are specified in paragraphs (c)(1) through (5) of this section.

(1) Approval of an alternative nonopacity emissions standard under § 63.6(g).

(2) Approval of an alternative opacity emissions standard under § 63.6(h)(9).

(3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(4) Approval of a major change to monitoring under § 63.8(f). A "major

change to monitoring" is defined in § 63.90.

(5) Approval of a major change to recordkeeping and reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

**§ 63.11627 What definitions apply to this subpart?**

Terms used in this subpart are defined in the CAA, in § 63.2, and in this section.

*Cyclone* means a mechanically aided collector that uses inertia to separate particulate matter from the gas stream as it spirals through the cyclone.

*Daily production level* means the average amount of prepared feed product produced each day over a typical annual period.

*Filter drop sock* means a device at the loadout end of a bulk loader that lessens fugitive emissions by containing the unloaded product within the device thus preventing windblown and drop caused fugitive emissions. Flexible spouts are considered filter drop socks.

*Pelleting operations* means all operations that make pelleted food from meal, including but not limited to, the steam conditioning, die-casting, drying, cooling, and crumbling, and granulation.

*Prepared feed manufacturing facility* means a facility that produces feeds for large and small animals, not including dogs and cats.

**§ 63.11628—63.11638 [Reserved]**

**Tables to Subpart DDDDDDD of Part 63**

**Table 1 to Subpart DDDDDDD of Part 63—Applicability of General Provisions to Prepared Feeds Manufacturing Area Sources**

As required in § 63.11619, you must meet each requirement in the following table that applies to you.

Draft Part 63 General Provisions to be incorporated for Prepared Feeds:

Citation	Subject	Applies to Subpart DDDDDDD?
63.1	Applicability	Yes.
63.2	Definitions	Yes.
63.3	Units and Abbreviations	Yes.
63.4	Prohibited Activities and Circumvention	Yes.
63.5	Preconstruction Review and Notification Requirements.	No.
63.6(a),(b)(1)–(b)(5), (b)(7), (c), (f)(2)–(3), (g), (i), and (j).	Compliance with Standards and Maintenance Requirements.	Yes.
63.6(e)(1), (e)(3), (f)(1), and (h)	Startup, shutdown, and malfunction requirements and opacity/visible emission standards.	No. Standards apply at all times, including during startup, shutdown, and malfunction events.
63.7	Performance Testing Requirements	No.
63.8	Monitoring Requirements	Yes.
63.9(a), (b), (c), (d), (h), (i), and (j)	Notification Requirements.	Yes.
63.9(e), (f), (g)		No

Citation	Subject	Applies to Subpart DDDDDDD?
63.10(a),(b)(1), ..... (b)(2)(i)–(iii), (b)(2)(vi)–(xiv), (c), (d)(1), (e), and (f).	Recordkeeping and Reporting Requirements	Yes.
63.10(b)(2)(iv)–(v), (b)(3), and (d)(2)–(5) .....		No.
63.11 .....	Control Device Requirements .....	No.
63.12 .....	State Authorities and Delegations .....	Yes.
63.13 .....	Addresses .....	Yes.
63.14 .....	Incorporations by Reference .....	Yes.
63.15 .....	Availability of Information and Confidentiality ..	Yes.
63.16 .....	Performance Track Provisions .....	Yes.
63.1(a)(5), (a)(7)–(9), (b)(2), (c)(3)–(4), (d), 63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv), 63.8(a)(3), 63.9(b)(3), (h)(4), 63.10(c)(2)–(4), (c)(9).	Reserved .....	No.

[FR Doc. E9–17826 Filed 7–24–09; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–2009–0501; FRL–8934–1]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete the Southern California Edison, Visalia Pole Yard Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region IX is issuing a Notice of Intent to Delete the Southern California Edison (SCE), Visalia Pole Yard Superfund Site (Site) located in northeastern Visalia, Tulare County, California, from the National Priorities List (NPL), and requests public comments on this action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of California, through the Department of Toxic Substances Control (DTSC), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments concerning deletion of this Site must be received by August 26, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–

SFUND–2009–0501 by one of the following methods:

- <http://www.regulations.gov>. Follow online instructions for submitting comments.

- *E-mail:* [lane.jackie@epa.gov](mailto:lane.jackie@epa.gov).
- *Fax:* (415) 947–3528.
- *Mail:* Jackie Lane, Community Involvement Coordinator, U.S. EPA Region IX (SFD 6–3), 75 Hawthorne Street, San Francisco, California 94105.
- *Phone:* (415) 972–3236.
- *Hand delivery:* U.S. EPA Region IX (SFD 6–3), 75 Hawthorne Street, San Francisco, California 94105. Deliveries are only accepted during regular office days and hours of operation (Monday through Friday, 8 a.m. to 5 p.m.). Special arrangements will need to be made with EPA staff for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–SFUND–2009–0501. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means that EPA will not know your identity or contact information unless it is provided in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the publicly available docket on the Internet. EPA recommends that all submittals include your name and other contact information (*i.e.* e-mail and/or physical address and phone number).

Please note that electronic file submittals should be free of any physical defects and computer viruses and avoid the use of special characters and any form of encryption. If technical difficulties prevent EPA from reading your comment and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket**

All documents in the docket are listed in the <http://www.regulations.gov> index; however, although listed in the index, some information is not publicly available (*e.g.* CBI or other information whose disclosure is restricted by disclosure statute. Certain other materials, such as copyrighted materials, will be publicly available only in the hard copy. All other publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Site Information repositories below: U.S. EPA Superfund Records Center, 95 Hawthorne Street, San Francisco, California 94105–3901, (415) 536–2000. Tulare County Public Library, 200 West Oak Street, Visalia, CA 93291, (818) 952–0603.

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, Remedial Project Manager, U.S. EPA Region IX (SFD 7–3), 75 Hawthorne Street, San Francisco, California 94105, (415) 972–3960.

**SUPPLEMENTARY INFORMATION:** In the “Rules and Regulations” section of today’s **Federal Register**, we are publishing a direct final Notice of Deletion of the Southern California Edison (SCE), Visalia Pole Yard Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we