

made on the basis of the relative gross income derived by each such affiliate with respect to the product produced in whole or in part in the possession. For this purpose, gross income must be determined consistently for each affiliate and consistently from year to year.

(iii) The allocations made under paragraphs (i)(B) and (i)(D) of this A. 13 shall be made on the basis of the relative gross income derived by each such affiliate from the active conduct of the trade or business in the same product area.

(iv) The allocations made under paragraphs (i)(C) and (i)(E) of this A. 13 shall be made on the basis of the relative total gross income of each such affiliate before allocating income under this section.

(v) Income allocated to affiliates shall be treated as U.S. source and section 863(b) does not apply for this purpose.

(vi) For purposes of determining an affiliate's estimated tax liability for income thus allocated for taxable years beginning prior to January 1, 1995, the income shall be deemed to be received on the last day of the taxable year of each such affiliate in which or with which the taxable year of the possessions corporation ends. For taxable years beginning after December 31, 1994, quarterly estimated tax payments will be required as provided under section 711 of the Uruguay Round Agreements, Public Law 103-465 (1994), page 230, and any administrative guidance issued by the Internal Revenue Service thereunder.

* * * * *

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: April 4, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 96-11639 Filed 5-9-96; 8:45 am]

BILLING CODE 4830-01-U

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Orange County (NC) Human Relations Commission and Palm Beach County (FL) Office of Equal Opportunity; Designation as Fair Employment Practices Agencies

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its

regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges within their jurisdictions. Publication of this amendment effectuates the designation of the Orange County (NC) Human Relations Commission and the Palm Beach County (FL) Office of Equal Opportunity.

EFFECTIVE DATE: May 10, 1996.

FOR FURTHER INFORMATION CONTACT:

Boyce Nolan, Equal Employment Opportunity Commission, Office of Program Operations, Charge Resolution Review Program, 1801 L Street, N.W., Washington, D.C. 20507, Telephone (202) 663-4856.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

Accordingly, title 29, chapter XIV, part 1601 of the Code of Federal Regulations is amended as follows:

PART 1601—PROCEDURAL REGULATIONS

1. The authority citation for part 1601 continues to read as follows:

Authority: 42 U.S.C. 2000e to 2000e-17; 42 U.S.C. 12111 to 12117.

2. Section 1601.74(a) is amended by adding in alphabetical order the following agencies:

§ 1601.74 Designated and notice agencies.

(a) * * *

Orange County (NC) Human Relations Commission

* * * * *

Palm Beach County (FL) Office of Equal Opportunity

* * * * *

Signed at Washington, D.C. this 2nd day of May, 1996.

For the Commission.

Gilbert F. Casellas,

Chairman.

[FR Doc. 96-11745 Filed 5-9-96; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5503-3]

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 20, 1994, the Agency promulgated a rule in the Federal Register governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a Title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled to, but failed to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the Title V permitting authority 18 months after the EPA's missed promulgation date. This action amends the original Regulations Governing Equivalent Emission Limitations by Permit rule. This amendment delays the section 112(j) permit application deadline for all 4-year source categories listed in the regulatory schedule by 180 days until November 15, 1996. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies.

EFFECTIVE DATE: May 10, 1996.

ADDRESSES: *Docket.* All information used in the development of this final action is contained in the preamble below. However, Docket No. A-93-32, containing the supporting information for the original Regulations Governing Equivalent Emission Limitations by Permit rule is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday at the Air and Radiation Docket and Information Center (6102), Room M-1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 260-7548, fax (202) 260-4000. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James Szykman or Mr. Anthony Wayne, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2452 (Szykman) or (919) 541-5439 (Wayne).

SUPPLEMENTARY INFORMATION: In the Proposed Rules Section of this Federal Register, EPA is proposing a rule that is identical to this direct final rule. If significant, adverse comments are timely received on the proposed rule, the direct final rule will be withdrawn, and all such comments will be addressed in a subsequent final rule based on the proposed rule. If no significant, adverse comments are timely received on the proposed final rule, then the direct final rule remains effective upon publication, and no further action is contemplated on the parallel proposal published today.

The information presented in this preamble is organized as follows:

- I. Background
- II. Summary of Rule Change and Rationale
 - A. Permit Application Deadline
 - B. Effective Date
 - C. Judicial Review
- III. Administrative Requirements
 - A. Docket
 - B. Regulatory Impact Analysis
 - C. Impact on Reporting Requirements
 - D. Impact on Small Entities
 - E. Reduction of Governmental Burden
 - F. Environmental Justice
 - G. Unfunded Mandates

I. Background

Section 112(e) of the Clean Air Act (the Act) requires the Agency to publish a schedule for promulgating regulations establishing hazardous air pollutants (HAP) emission standards for all source categories listed pursuant to Section 112 of the Act. The Act further directs that this regulatory schedule require the promulgation of emission standards for at least 40 source categories by 1992, for at least 25 percent of the listed categories by 1994, for at least 50 percent of the listed categories by 1997, and all remaining categories by the year 2000. These are commonly referred to as the 2-year, 4-year, 7-year, and the 10-year maximum achievable control technology (MACT) standards, respectively. This regulatory schedule was published by EPA on December 3, 1993 (58 FR 64931).

If EPA should fail to promulgate a MACT standard for a listed source category by 18 months after the date in the regulatory schedule, section 112(j) of the Act requires owners or operators of major sources within that source category to obtain a Title V permit, if the major source is located in a State with an approved Title V permit program. This permit will require compliance with an emission limitation equivalent to that which the major source would have been subject to had EPA promulgated a timely MACT standard for that source category.

On May 20, 1994, EPA issued a final rule for implementing section 112(j) (59 FR 26429). This rule requires major source owners or operators to submit a permit application by the date 18 months after a missed date on the regulatory schedule. In accordance with this regulation, the deadlines for submittal of permit applications are as follows:

Emission standard	Regulatory schedule	112(j) permit application deadline
4-year	11/15/94	5/15/96
7-year	11/15/97	5/15/99
10-year	11/15/00	5/15/02

II. Summary of Rule Change and Rationale

A. Permit Application Deadline

To date, EPA has promulgated several 4-year MACT standards and intends to promulgate MACT standards for all of the remaining 4-year source categories within the 18-month period following the date in the regulatory schedule. All of the remaining 4-year source categories for which MACT standards must be promulgated have court-ordered deadlines with the latest deadline coinciding with the section 112(j) permit application deadline of May 15, 1996.

In order for owners or operators of major sources to submit a timely permit application in the event that EPA would fail to promulgate a 4-year emission standard, applicants would have to begin preparation of these applications immediately. If EPA promulgates standards in accordance with the court-ordered schedule, this would result in an unnecessary burden for both the owners or operators and the Title V permitting agencies.

The EPA believes that ample authority for this rule revision exists under the *de minimis* doctrine. That doctrine allows EPA to promulgate a rule that avoids a statutory requirement if (1) following that requirement would yield an environmental benefit of trivial or no value, and (2) the statutory scheme is not so rigid as to preclude this result. *Alabama Power Co. v. Costle*, 636 F.2d 323, 360–61 (D.C. Cir 1979). The EPA believes both tests are met here. Regarding the first point, it should be intuitively apparent that requiring sources to complete applications for a case-by-case determination is pointless when it is very likely that EPA will promulgate the MACT standard within a timeframe that renders the entire case-by-case exercise moot. This is precisely the case with regard to the pending 4-year MACT standards, all of which are

under a court-ordered deadline for issuance close to the date applications are due. Regarding the second test, the language of section 112(j)(2), requiring that applications be submitted on a date “beginning” 18 months after a deadline has been missed, and the clear intent of the statute that case-by-case determinations should be made where they will serve as a substitute for the pending MACT standard, together suggest a level of flexibility in the statutory scheme sufficient to allow resort to the *de minimis* rationale.

The EPA is amending the definition of “Section 112(j) deadline” in § 63.51 of the final rule to delay the section 112(j) permit application deadline for all 4-year source categories by 180 days until November 15, 1996. The EPA believes that this new application deadline will allow sufficient time to promulgate the remaining 4-year emission standards and is consistent with the intent of section 112(j). If EPA does promulgate the emission standards before this time, permit applications or reopenings will be governed by Title V requirements.

B. Effective Date

The EPA is publishing this rule as a final rule, and it is effective immediately upon publication. The Agency believes that this action is supported by the “good cause” exception in the Administrative Procedures Act, which permits an agency for “good cause” to proceed directly to a final rule where issuing a proposed rule would be “impracticable, unnecessary, or contrary to the public interest” [5 U.S.C. 553(b)(B)] and for “good cause found” [5 U.S.C. 553(d)] to dispense with the general requirement that a rule be published 30 days before its effective date. The EPA believes that good cause exists here to issue a final, immediately effective rule because of the nearness of the May 15, 1996, permit application deadline (for major sources in the 4-year source category) specified in the May 20, 1994 (59 FR 26429) final rule. If the changes in this rulemaking were only being proposed, then the May 15, 1996, deadline would still be in effect and this would negate the intent of this change to the rule to delay the permit application deadline until November 15, 1996, for sources in the 4-year source category. Furthermore, EPA views this action to delay the permit application deadline as noncontroversial.

C. Judicial Review

Under Section 307(b)(1) of the Act, judicial review of the actions taken by this final rule is available only by the filing of a petition for review in the U.S.

Court of Appeals for the District of Columbia Circuit within 60 days of publication of this action. Under Section 307(b)(2) of the Act, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

III. Administrative Requirements

A. Docket

The docket for this regulatory action is A-93-32, the same docket as the original final rule, and a copy of today's amendment to the final rule will be included in the docket. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of the original rulemaking. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process, and

(2) To serve as the record in case of judicial review. The docket is available for public inspection at EPA's Air and Radiation Docket and Information Center, which is listed under the ADDRESSES section of this document.

B. Regulatory Impact Analysis

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

C. Impact on Reporting Requirements

The information collection requirements of the previously promulgated rule for Regulations Governing Equivalent Emission Limitations by Permit were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060-0266) may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 260-2740. Today's change to the final rule to delay the deadline for submittal of section 112(j) permit applications does not affect the information collection burden estimates made previously. Therefore, the ICR has not been revised.

D. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those

instances where small business impacts are possible. Because this rulemaking imposes no economic impacts, adverse or otherwise, a Regulatory Flexibility Analysis has not been prepared.

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

E. Reduction of Governmental Burden

Executive Order 12875 ("Enhancing the Intergovernmental Partnership") is designed to reduce the burden to State, local, and Tribal governments of the cumulative effect of unfunded Federal mandates. The Order recognizes the need for these entities to be free from unnecessary Federal regulation to enhance their ability to address problems they face and provides for Federal agencies to grant waivers to these entities from discretionary Federal requirements. The Order applies to any regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government. The EPA anticipates that there will be no additional cost burden imposed on State, local, and Tribal governments as a result of today's action. Indeed, the purpose of the action is to reduce unnecessary burden on permitting agencies.

F. Environmental Justice

Executive Order 12898 requires that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Today's action will help ensure timely compliance and the application of consistent regulatory requirements by allowing the section 112(d) MACT standards to become effective without triggering an unnecessary section 112(j) process. Therefore, no adverse human health or environmental effects are anticipated as a result of today's action.

G. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the EPA must select

the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practices and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 3, 1996.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, 40 CFR Part 63 is 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. In § 63.51, the definition of "Section 112(j) deadline" is revised to read as follows:

§ 63.51 Definitions.

* * * * *

Section 112(j) deadline means the date 18 months, after the date by which a relevant standard is scheduled to be promulgated under this part, except for all major sources listed in the source category schedule for which a relevant standard is scheduled to be promulgated by November 15, 1994, the section 112(j) deadline is November 15, 1996.

* * * * *

[FR Doc. 96-11737 Filed 5-9-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[AZR91-0003; FRL-5503-7]

**Clean Air Act Reclassification;
Arizona-Phoenix Nonattainment Area;
PM₁₀**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.