

**Environmental Protection Agency**

**RULES**

**Air pollutants, hazardous; national emission standards: Perchloroethylene emissions from dry cleaning facilities, 66287**

Vol. 58 No. 242 Monday, December 20, 1993 p 66287 (Rule)

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40 CFR Part 63

[AD-FRL-4816-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action makes several amendments to the national emission standards for hazardous air pollutants (NESHAP) for perchloroethylene (PCE) dry cleaning facilities promulgated in the Federal Register on September 22, 1993 (58 FR 49354). This action:

- (1) Corrects a typographical error regarding repair of PCE dry cleaning equipment leaks;
- (2) Extends the time for reporting information to EPA; and
- (3) Deletes the requirement of having reports submitted to EPA certified before a notary public.

EFFECTIVE DATE: December 20, 1993.

ADDRESSES: Docket. All information used in the development of this final action is contained in the preamble below. However, Docket No. A-88-11, containing the supporting information for the original NESHAP, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room M-1500, 1st floor, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George Smith at (919) 541-1549 or Mr. Fred Porter at (919) 541-5251, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Background II. Summary of and Rationale for Rule Changes

- A. PCE Dry Cleaning Equipment Leaks
- B. Extension for Initial Reporting Time

- C. Deletion of Certification Before Notary Public
- D. Effective Date
- E. Judicial Review III. Administrative Requirements
  - A. Paperwork Reduction Act
  - B. Executive Order 12866 Review
  - C. Regulatory Flexibility Act

I. Background

This action amends §§ 63.320 and 63.324 of subpart M of 40 CFR Part 63. These sections deal with the applicability, definitions, and recordkeeping and reporting requirements for the NESHAP for PCE dry cleaning facilities. As published, the final regulation contains a typographical error and reporting requirements that the Administrator now considers unreasonable.

II. Summary of and Rationale for Rule Changes

A. PCE Dry Cleaning Equipment Leaks

The typographical error in the applicability section, § 63.320© is evident from the discussion in the preamble to the promulgated NESHAP. Without this correction, existing sources would only be required to find leaks, but would not have to repair them. The NESHAP has been revised to require that sources repair leaks they find.

B. Extension for Initial Reporting Time

The changes made to the recordkeeping and reporting requirements section reflect the Administrator's conclusion that the timeframe for reporting information to EPA are now unreasonable for the majority of PCE dry cleaning facilities. The dry cleaning industry is composed primarily of small businesses. As a consequence, dissemination of information concerning the NESHAP to the dry cleaning industry is proving to be more difficult and time-consuming than anticipated. More time is needed for the dry cleaning industry to become aware of the NESHAP and the information reporting requirements it includes.

The Administrator believes that relaxing the reporting dates will provide affected PCE dry cleaning facilities the additional time they need to respond to these requirements. Therefore, the reporting requirements are extended by 180 days.

The Administrator also believes that the affected PCE dry cleaning facilities need to be given time to become aware of the General Provisions, which will be promulgated in the next several months. The General Provisions are additional regulations that will affect PCE dry cleaning facilities, as they are general to all NESHAP's. The 180 day extension to the information reporting requirements provided in this notice should provide an adequate period for owners or operators of PCE dry

cleaning facilities to become aware of those parts of the General Provisions that are applicable to them.

#### C. Deletion of Certification Before Notary Public

The deletion of the requirement that reports submitted to the Administrator or delegated State authority be certified before notary public reflects the Administrator's concern that this requirement is now unreasonable for the majority of PCE dry cleaning facilities. This requirement is apparently viewed by some dry cleaners as an indication that EPA does not trust them. This is not the case and to prevent any resentment or misunderstandings from arising, this requirement is deleted.

#### D. Effective Date

The EPA is publishing this rule as a final rule, and it is effective immediately upon publication. The Administrator 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 Administrator believes that "good cause" exists here to issue a final, immediately effective rule because of the nearness of the December 20, 1993 initial notification deadline specified in the promulgated NESHAP for PCE Dry Cleaning Facilities. If the changes in this rulemaking were only being proposed, then the December 20, 1993 initial notification deadline would still be in effect and this would negate the intent of the changes of this rulemaking. Furthermore, the Administrator views this action, which delays reporting but not compliance with the actual standards, as noncontroversial.

#### E. 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. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP for PCE Dry Cleaning Facilities were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060-0234) may be obtained from Sandy Farmer, Information Policy Branch (PM-223Y); U.S. Environmental Protection

Agency; 401 M Street, SW.; Washington, DC 20460 or by calling (202) 260-2740. Today's changes to the NESHAP for PCE Dry Cleaning Facilities do not affect the information collection burden estimates made previously, only the timing of the submittal of the information requested has been affected somewhat. Therefore, the ICR has not been revised.

#### B. Executive Order 12866 Review

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

#### C. Regulatory Flexibility Act

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

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

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

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

Dated: December 13, 1993.

Carol M. Browner, Administrator.

Title 40, chapter I, part 63, of the Code of Federal Regulations is amended to read as follows:  
**PART 63-NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES**

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

Authority: 42 U.S.C. 7401, 42 U.S.C. 7412, 42 U.S.C. 7414, 42 U.S.C. 7416, and 7601.  
Subpart M-National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

2. Section 63.320 is amended by revising paragraph © to read as follows:

§ 63.320 Applicability. \* \* \* \* \*

© Each dry cleaning system that commenced construction or reconstruction before December 9, 1991, shall comply with §§ 63.322 (c), (d), (I), (j), (k), (l), and (m), 63.323(d), and 63.324(a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) beginning on December 20, 1993, and shall comply with other

provisions of this subpart by September 23, 1996. \* \* \* \* \*

3. Section 63.324 is amended by revising the introductory text of paragraphs (a), (b) and © to read as follows:

§ 60.324 Reporting and recordkeeping requirements.

(a) Each owner or operator of a dry cleaning facility shall notify the Administrator or delegated State authority in writing within 270 calendar days after September 23, 1993 (i.e., June 18, 1994) and provide the following information: \* \* \* \* \*

(b) Each owner or operator of a dry cleaning facility shall submit to the Administrator or delegated State authority by registered mail on or before the 30th day following the compliance dates specified in § 63.320 (b) or © or June 18, 1994, whichever is later, a notification of compliance status providing the following information and signed by a responsible official who shall certify its accuracy: \* \* \* \* \*

© Each owner or operator of an area source dry cleaning facility that exceeds the solvent consumption limit reported in paragraph (b) of this section shall submit to the Administrator or a delegated State authority by registered mail on or before the dates specified in § 63.320 (f) or (I), a notification of compliance status providing the following information and signed by a responsible official who shall certify its accuracy: \* \* \* \* \*

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