

of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 12, 2009.

George Pavlou,

Acting Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. Section 52.1570 is amended by adding new paragraph (c)(86) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(86) Revisions to the New Jersey State Implementation Plan (SIP) for particulate matter granting a variance from Subchapter 6, Control and Prohibition of Particles from Manufacturing Processes for the cooling tower at the PSEG Nuclear LLC Hope Creek and Salem Generating Stations located in Lower Alloways Creek Township, Salem County dated November 2, 2007 submitted by the New Jersey State Department of Environmental Protection (NJDEP) which establishes hourly emission limits for TSP and PM-10 (total) of less than or equal to 42 pounds per hour and annual emission limits for TSP and PM-10 (total) of less than or equal to 65.9 tons per year.

(i) Incorporation by reference:

(A) A letter from Lisa P. Jackson, Commissioner, New Jersey Department of Environmental Protection, addressed to Alan J. Steinberg, Regional Administrator, EPA, dated November 2, 2007 submitting the variance for PSEG Nuclear LLC Hope Creek and Salem Generating Stations without the attachments.

(B) Section J, Facility Specific Requirements, Emission Unit U24 Cooling Tower, (Significant Modification Approval date August 7, 2007) contained in the Air Pollution Control Operating Permit, Significant Modification and Preconstruction Approval, PSEG Nuclear LLC Hope

Creek and Salem Generating Stations, Permit Activity Number: BOP05003.

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[FR Doc. E9-7179 Filed 3-31-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[EPA-HQ-OPA-2007-0584; FRL-8788-5]

RIN 2050-AG16

Oil Pollution Prevention; Non-Transportation Related Onshore Facilities; Spill Prevention, Control, and Countermeasure Rule—Final Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule; delay of effective date.

SUMMARY: The Environmental Protection Agency (EPA) is delaying the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated in the **Federal Register** on December 5, 2008. The amendments will become effective on January 14, 2010. EPA additionally is requesting public comment on whether a further extension of the effective date may be warranted.

DATES: This document is effective April 1, 2009. The effective date of the final rule (FR Doc. E8-28159), published in the **Federal Register** on December 5, 2008 (73 FR 74236), that was delayed until April 4, 2009 (74 FR 5900), is further delayed to January 14, 2010.

Comments must be received on or before May 1, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OPA-2007-0584, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- **Mail:** EPA Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- **Hand Delivery:** EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. 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: Direct your comments to Docket ID No. EPA-HQ-OPA-2007-0584. 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 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 additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in index at the <http://www.regulations.gov>. Although listed in the index, some information may not be publicly available, such as Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the EPA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. 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 of the Public Reading Room is 202-566-1744, and the telephone number to make an appointment to view the docket is 202-566-0276.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil

Information Center at 800-424-9346 or TDD at 800-553-7672 (hearing impaired). In the Washington, DC metropolitan area, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at 703-412-9810 or TDD 703-412-3323. For more detailed information on specific aspects of this final rule, contact either Vanessa E. Principe at 202-564-7913 (principe.vanessa@epa.gov), or Mark W. Howard at 202-564-1964 (howard.markw@epa.gov), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, Mail Code 5104A.

SUPPLEMENTARY INFORMATION: On February 3, 2009 (74 FR 5900), EPA delayed, by sixty days, the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations that was promulgated in the **Federal Register** on December 5, 2008 (73 FR 74236) under section 311 of the Clean Water Act. This was done in accordance with the January 20, 2009, White House memorandum entitled "Regulatory Review" (74 FR 4435, January 26, 2009) and the memorandum from the Office of Management and Budget entitled "Implementation of Memorandum Concerning Regulatory Review" (M-09-08, January 21, 2009) (OMB memorandum). The Agency took that action to ensure that the rule reflects proper consideration of all relevant facts. In the February 3, 2009 notice (74 FR 5900), EPA requested public comment on the extension of the effective date and its duration, and on the regulatory amendments contained in the final rule. The SPCC rule amendments clarify, tailor, and streamline certain existing requirements for those facility owners or operators who are required to prepare and implement an SPCC Plan (or "Plan") to prevent the discharge of oil into or upon navigable waters of the United States or adjoining shorelines.

EPA received 57 comments in response to the February 3, 2009 notice. Several comments addressed the effective date for the December 2008 rule amendments. Specifically, three commenters suggested the rule become effective on April 4, 2009, particularly for provisions related to onshore, non-oil production facilities, while one commenter requested that EPA finalize the rule expeditiously to ensure time to conduct outreach efforts. On the other hand, one commenter suggested the rule not become effective on April 4, 2009 and requested that the rule be withdrawn permanently, or the effective

date extended indefinitely until the 2008 proposed amendments can be carefully reconsidered. Other commenters provided recommendations related to specific amendments, such as the optional approaches for produced water containers, the criteria for qualified oil production facilities, and other amendments. Consistent with the January 21, 2009 OMB memorandum "Implementation of Memorandum Concerning Regulatory Review," the EPA Administrator has chosen this rule for additional assessment of policy and legal issues; therefore, EPA must carefully consider the issues raised in these comments. Because EPA cannot adequately address the comments before an April 4, 2009 effective date, the Agency agrees with the comment in support of delaying the effective date. With this action, the Agency is extending the effective date of the December 5, 2008 SPCC amendments and is requesting public comment on whether a further extension of the effective date may be warranted. The Agency will provide a complete discussion of the comments received specific to the amendments, and its response to those comments, in a **Federal Register** notice describing any changes to the 2008 amendments.

The effective date of the final rule would have been April 4, 2009. With this extension, the amendments will become effective on January 14, 2010.

This rule is effective immediately. Section 553(d) of the Administrative Procedures Act requires 30 days notice before the effective date of a final rule. However, section 553(d)(1) allows an exception to the 30-day notice where a rule relieves a restriction. Because this final rule relieves a restriction, the Agency invokes section 553(d)(1) to allow an immediate effective date.

Finally, the Agency is also reviewing the dates by which owners or operators of facilities must prepare or amend their SPCC Plans, and implement those Plans. EPA intends to address these dates in a separate notice.

Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action results in no changes to the

information collection requirements of the SPCC rule and will have no impact on the information collection estimate of project cost and hour burden previously submitted to OMB.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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 today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action is delaying the effective date of the final rule that amends the SPCC regulations promulgated in the **Federal Register** on December 5, 2008. We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

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, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA. 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. This action only delays the effective date of the December 5, 2008 rule and does not impose any additional enforceable duty.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (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 action 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 action will not impose direct compliance costs on state or local governments, and will not preempt state law. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (59 FR 22951, November 9, 2000). It will 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 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 Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action presents a disproportionate risk to children.

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

This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113; section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when EPA decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

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 action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore. EPA will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Dated: March 26, 2009.

Lisa P. Jackson,
Administrator.

[FR Doc. E9–7301 Filed 3–31–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0362; FRL–8405–2]

Quinoxifen; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of quinoxifen in or on artichoke, globe; fruit, stone, group 12; squash, winter; pumpkin; and gourd, edible. This regulation also deletes the established cherry, sweet;