

State	Compliance supplement pool (tons of NO <sub>x</sub> )	State	Compliance supplement pool (tons of NO <sub>x</sub> )
Virginia .....	5,504	Wisconsin .....	6,920
West Virginia .....	16,709	Total .....	200,000

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(ii) The revised NO<sub>x</sub> emissions sub-inventories for each State, expressed in tons per ozone season, are as follows:

State	EGU	Non-EGU	Area	Nonroad	Highway	Total
Alabama .....	29,022	43,415	28,762	20,146	51,274	172,619
Connecticut .....	2,652	5,216	4,821	10,736	19,424	42,849
Delaware .....	5,250	2,473	1,129	5,651	8,358	22,861
District of Columbia .....	207	282	830	3,135	2,204	6,658
Georgia .....	30,402	29,716	13,212	26,467	88,775	188,572
Illinois .....	32,372	59,577	9,369	56,724	112,518	270,560
Indiana .....	47,731	47,363	29,070	26,494	79,307	229,965
Kentucky .....	36,503	25,669	31,807	15,025	53,268	162,272
Maryland .....	14,656	12,585	4,448	20,026	30,183	81,898
Massachusetts .....	15,146	10,298	11,048	20,166	28,190	84,848
Michigan .....	32,228	60,055	31,721	26,935	78,763	229,702
Missouri .....	24,216	21,602	7,341	20,829	51,615	125,603
New Jersey .....	10,250	15,464	12,431	23,565	35,166	96,876
New York .....	31,036	25,477	17,423	42,091	124,261	240,288
North Carolina .....	31,821	26,434	11,067	22,005	73,695	165,022
Ohio .....	48,990	40,194	21,860	43,380	94,850	249,274
Pennsylvania .....	47,469	70,132	17,842	30,571	91,578	257,592
Rhode Island .....	997	1,635	448	2,455	3,843	9,378
South Carolina .....	16,772	27,787	9,415	14,637	54,494	123,105
Tennessee .....	25,814	39,636	13,333	52,920	66,342	198,045
Virginia .....	17,187	35,216	27,738	27,859	72,195	180,195
West Virginia .....	26,859	20,238	5,459	10,433	20,844	83,833
Wisconsin .....	17,381	19,853	11,253	17,965	69,319	135,771
Total .....	544,961	640,317	321,827	540,215	1,310,466	3,357,786

Note to paragraph (g)(2)(ii): Totals may not sum due to rounding.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[FRL-6545-2]

**Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality; Maricopa County; Environmental Services Department**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Maricopa County Environmental Services Department (MC) in Arizona. The preamble outlines the process that MC will use to receive delegation of any future NESHAPs, and identifies the

NESHAP categories to be delegated by today's action. EPA has reviewed MC's request for delegation and has found that this request satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting MC the authority to implement and enforce the unchanged NESHAP categories listed in this rule. This action is also notifying the public of additional NESHAPs that were delegated to the Arizona Department of Environmental Quality (ADEQ) on November 10, 1999.

**DATES:** This rule is effective on May 1, 2000, without further notice, unless EPA receives relevant adverse comments by April 3, 2000. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A-96-25) at the following location:

U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR-4), Air Division, 75 Hawthorne Street, San Francisco, California 94105-3901.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901, (415) 744-1200.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Delegation of NESHAPs*

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards set out in 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR Part 63, Subpart E (hereinafter referred to as "Subpart E"), establishing procedures for EPA's approval of state rules or programs under section 112(l) (*see* 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR Part 63, Subpart E. To streamline the approval process for future applications, a state or

local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

#### B. Maricopa County Delegation Request

On October 30, 1996, EPA approved the Maricopa County Environmental Services Department's (MC's) program for accepting delegation of section 112 standards that are unchanged from Federal standards as promulgated (see 61 FR 55910). The approved program reflects an adequate demonstration by MC of general resources and authorities to implement and enforce section 112 standards. However, formal delegation for an individual standard does not occur until MC obtains the necessary regulatory authority to implement and enforce that particular standard, and EPA approves MC's formal delegation request for that standard.

MC informed EPA that it intends to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into local codes of regulation. The details of this delegation mechanism are set forth in a Memorandum of Agreement (MOA) between MC and EPA, and are available for public inspection at the U.S. EPA Region IX office (docket No. A-96-25).

On February 1, 2000, MC requested delegation for several individual section 112 standards that have been incorporated by reference into the Maricopa County Air Pollution Control Regulations. The standards that are being delegated by today's action are listed in the table at the end of this rule.

#### C. ADEQ delegations

On July 17, 1998, EPA published a direct final action delegating to ADEQ several NESHAPs and approving ADEQ's delegation mechanism for future standards (see 63 FR 38478). That action explained the procedure for EPA to grant delegations to ADEQ by letter, with periodic Federal Register listings of standards that have been delegated. On October 6, 1999, ADEQ requested delegation of the following NESHAPs contained in 40 CFR Part 63:

Subpart S—NESHAP from the Pulp and Paper Industry

Subpart LL—NESHAP for Primary Aluminum Reduction Plants

Subpart EEE—NESHAP for Hazardous Waste Combustors

On November 10, 1999, EPA granted delegation to ADEQ for these NESHAPs. Today's action is serving to notify the public of the November 10, 1999, delegation and to codify these delegations into the Code of Federal Regulations.

#### II. EPA Action

##### A. Delegation to Maricopa County for Specific Standards

After reviewing MC's request for delegation of various NESHAPs, EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91. Accordingly, MC is granted the authority to implement and enforce the requested NESHAPs. These delegations will be effective on May 1, 2000. A table of the NESHAP categories that will be delegated to MC is shown at the end of this rule. Although MC will have primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. In addition, EPA does not delegate any authorities that require implementation through rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112.

After a state or local agency has been delegated the authority to implement and enforce a NESHAP, the delegated agency becomes the primary point of contact with respect to that NESHAP. Pursuant to 40 CFR sections 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA Region IX waives the requirement that notifications and reports for delegated standards be submitted to EPA as well as to MC.

In its February 1, 2000 request, MC included a request for delegation of the regulations implementing CAA section 112(i)(5), codified at 40 CFR Part 63, Subpart D. These requirements apply to state or local agencies that have a permit program approved under title V of the Act (see 40 CFR 63.70). MC received final interim approval of its title V operating permits program on October 30, 1996 (see 61 FR 55910). State or local agencies implementing the requirements under Subpart D do not need approval under section 112(l). Therefore, EPA is not taking action to delegate 40 CFR Part 63, Subpart D to MC.

MC also included a request for delegation of the regulations implementing CAA sections 112(g) and 112(j), codified at 40 CFR Part 63, Subpart B. These requirements apply to major sources only, and need not be delegated under the section 112(l) approval process. When promulgating the regulations implementing section 112(g), EPA stated its view that "the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g)" (see 61 FR 68397). Similarly, when promulgating the regulations implementing section 112(j), EPA stated its belief that "section 112(l) approvals do not have a great deal of overlap with the section 112(j) provision, because section 112(j) is designed to use the title V permit process as the primary vehicle for establishing requirements" (see 59 FR 26447). Therefore, state or local agencies implementing the requirements under sections 112(g) and 112(j) do not need approval under section 112(l). As a result, EPA is not taking action to delegate 40 CFR Part 63, Subpart B to MC.

##### B. Maricopa's delegation mechanism for future standards

Today's document serves to notify the public of the details of MC's procedure for receiving delegation of future NESHAPs. As set forth in the MOA, MC intends to incorporate by reference, into local codes of regulation, each newly promulgated NESHAP for which it intends to seek delegation. MC will then submit a letter to EPA Region IX, along with proof of regulatory authority, requesting delegation for each individual NESHAP. Region IX will respond in writing that delegation is either granted or denied. If a request is approved, the delegation of authorities will be considered effective upon the date of the response letter from Region IX. Periodically, EPA will publish in the **Federal Register** a listing of the standards that have been delegated. Although EPA reserves its right, pursuant to 40 CFR section 63.96, to review the appropriateness of any future delegation request, EPA will not institute any additional comment periods on these future delegation actions. Any parties interested in commenting on this procedure for delegating future unchanged NESHAPs should do so at this time.

### C. Notice of Delegations to ADEQ

Today's document serves to notify the public that on November 10, 1999, EPA granted delegation to ADEQ for the following NESHAPs contained in 40 CFR Part 63:

- Subpart S—NESHAP from the Pulp and Paper Industry
- Subpart LL—NESHAP for Primary Aluminum Reduction Plants
- Subpart EEE—NESHAP for Hazardous Waste Combustors

Today's action will codify these delegations into the Code of Federal Regulations.

### D. Opportunity for Public Comment

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective May 1, 2000, without further notice unless the Agency receives relevant adverse comments by April 3, 2000.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and informing the public that the rule will take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the rule. Any parties interested in commenting on the rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 1, 2000, and no further action will be taken on the proposed rule.

## III. Administrative Requirements

### A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from review under Executive Order 12866.

This final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegations of authority to implement and enforce unchanged Federal standards under section 112(l) of the Clean Air Act do not create any new requirements but simply transfer primary implementation authorities to the State. Therefore, because this action does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected.

### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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 private sector, of \$100 million or more. Under section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the delegation action promulgated 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. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

### D. Submission to Congress and the General Accounting Office

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. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

### E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 1, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness 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 63

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

**Authority:** This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

Dated: February 18, 2000.

**David P. Howekamp,**

*Director, Air Division, Region IX.*

Title 40, chapter I, part 63 of the Code of Federal Regulations 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.*

### Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising paragraph (a)(3) to read as follows:

#### § 63.99 Delegated Federal Authorities

(a) \* \* \*

(3) *Arizona.* The following table lists the specific Part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Arizona. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA

Subpart	Description	ADEQ <sup>1</sup>	MCESD <sup>2</sup>	PDEQ <sup>3</sup>	PCAQCD <sup>4</sup>
A	General Provisions	X	X	X	X
F	Synthetic Organic Chemical Manufacturing Industry	X	X	X	X
G	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	X	X	X	X
H	Organic Hazardous Air Pollutants: Equipment Leaks	X	X	X	X
I	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	X	X	X	X
L	Coke Oven Batteries	X	X	X	X
M	Perchloroethylene Dry Cleaning	X	X	X	X
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	X	X	X	X
O	Ethylene Oxide Sterilization Facilities	X	X	X	X
Q	Industrial Process Cooling Towers	X	X	X	X
R	Gasoline Distribution Facilities	X	X	X	X
S	Pulp and Paper Industry	X			
T	Halogenated Solvent Cleaning	X	X	X	X
U	Group I Polymers and Resins	X	X		X
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X	X	X	X
X	Secondary Lead Smelting	X	X	X	X
CC	Petroleum Refineries	X	X	X	X
DD	Off-Site Waste and Recovery Operations	X	X		X
EE	Magnetic Tape Manufacturing Operations	X	X	X	X
GG	Aerospace Manufacturing and Rework Facilities	X	X	X	X
JJ	Wood Furniture Manufacturing Operations	X	X	X	X
KK	Printing and Publishing Industry	X	X	X	X
LL	Primary Aluminum Reduction Plants	X			
OO	Tanks—Level 1	X	X		X
PP	Containers	X	X		X
QQ	Surface Impoundments	X	X		X
RR	Individual Drain Systems	X	X		X
VV	Oil-Water Separators and Organic-Water Separators	X	X		X
EEE	Hazardous Waste Combustors	X			
JJJ	Group IV Polymers and Resins	X	X		X

<sup>1</sup> Arizona Department of Environmental Quality.  
<sup>2</sup> Maricopa County Environmental Services Department.  
<sup>3</sup> Pima County Department of Environmental Quality.  
<sup>4</sup> Pinal County Air Quality Control District.

[FR Doc. 00-5036 Filed 3-1-00; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[OPP-300981; FRL-6492-6]

RIN 2070-AB78

**Fenpropathrin; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of fenpropathrin (alpha-cyano-3-phenoxy-benzyl 2,2,3,3-tetra-methylcyclopropanecarboxylate) in or on citrus, grapes, head and stem *Brassica* (crop subgroup 5A), melon (crop subgroup 9A) and pome fruits. Valent USA Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective March 2, 2000. Objections and requests

for hearings, identified by docket control number OPP-300981, must be received by EPA on or before May 1, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300981 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: William Sproat, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8587; and e-mail address: sproat.william@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.