

**PART 52—[AMENDED]**

**Subpart Q—Iowa**

**§ 52.820 Identification of plan.**

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

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

■ 2. In § 52.820(c) the table is amended by revising the entries for 567–22.1 and 567–22.8 to read as follows:

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED IOWA REGULATIONS**

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
* * * * *				
Chapter 22—Controlling Pollution				
567–22.1 .....	Permits required for New or Existing Stationary Sources.	3/18/09	3/5/10 [insert FR page number where the document begins].	
* * * * *				
567–22.8 .....	Permits By Rule .....	3/18/09	3/5/10 [insert FR page number where the document begins].	
* * * * *				

\* \* \* \* \*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA–HQ–OAR–2008–0053; FRL–9122–9]

RIN 2060–AN47

**National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Paints and Allied Products Manufacturing—Technical Amendment**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** This action clarifies regulatory text of the “Revision of Source Category List for Standards Under Section 112(k) of the Clean Air

Act; National Emission Standards for Hazardous Air Pollutants: Paints and Allied Products Manufacturing Area Source Standards” which was issued as a final rule on December 3, 2009. These technical corrections will not change the level of health protection the final rule provides or the standards and other requirements established by the rule.

**DATES:** *Effective Date:* March 5, 2010

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0053. All documents in the docket are listed in the Federal Docket Management System index at [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available (*e.g.*, confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, Public Reading Room, 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 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:** Melissa Payne, Regulatory Development and Policy Analysis Group, Office of Air Quality Planning and Standards (C404–05), Environmental Protection Agency, Research Triangle Park, NC 27711. *Telephone number:* (919) 541–3609; *fax number:* (919) 541–0242; *e-mail address:* [payne.melissa@epa.gov](mailto:payne.melissa@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Paint & Coating Manufacturing .....	325510	Area source facilities engaged in mixing pigments, solvents, and binders into paints and other coatings, such as stains, varnishes, lacquers, enamels, shellacs, and water repellent coatings for concrete and masonry.
Adhesive Manufacturing .....	325520	Area source facilities primarily engaged in manufacturing adhesives, glues, and caulking compounds.
Printing Ink Manufacturing .....	325910	Area source facilities primarily engaged in manufacturing printing inkjet inks and inkjet cartridges.
All Other Miscellaneous Chemical Product and Preparation Manufacturing.	325998	Area source facilities primarily engaged in manufacturing indelible ink, India ink, writing ink, and stamp pad ink.

<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 is regulated by this action, you should examine the applicability criteria in 40 CFR 63.11599, subpart CCCCCC (NESHAP for Area Sources: Paints and Allied Products Manufacturing). If you have any questions regarding the applicability of this action to a particular entity, consult either the state delegated authority or the EPA regional representative, as listed in 40 CFR 63.13 of subpart A (General Provisions).

**Good Cause Determination.** Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's action final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial, and do not substantively change the requirements of the rule. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the Clean Air Act).

Section 553(d)(3) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's changes do not substantively change the requirements of the rule, we find good cause to make these technical corrections effective immediately.

**Electronic Access.** In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final 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.

## I. Corrections

On December 3, 2009 (74 FR 63504), the EPA promulgated the national emission standards for hazardous air pollutants (NESHAP) for area source

paints and allied products manufacturing facilities as subpart CCCCCC in 40 CFR part 63. Today's action contains notification of corrections to clarify the following numbering changes and editorial errors:

1. 63.11602(a)(2)(iii) references 63.11601(a)(4) toward the end of the paragraph. Instead it should reference 63.11601(a)(5).
2. 63.11603(c) references paragraph (7). There is no paragraph (7). Instead it should reference paragraph (6).
3. The section that follows 63.11603(c) is 63.11603(e). This should be changed to 63.11603(d).
4. 63.11601(a)(5)(i) should end in "or."
5. Paragraph 63.11601(a)(3) is a carbon copy of (a)(2) and should be deleted. This will change the subsequent numbering for this section.
6. 63.11599(b)(1): An affected source is existing if you commenced construction. \* \* \* before June 1, 2009 [the phrase "on or" is removed].

The corrections will become effective immediately (without further rulemaking action) on March 5, 2010.

These simple editorial changes provide further clarification to the applicability provisions that are referenced in the final rule. This is clearly the intent of the final rule and was explained in detail in the preamble of the final rule (74 FR 63504). Today's action notifies interested parties of the corrections.

## II. Statutory and Executive Order Reviews

Under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget (OMB). This action is not a "major rule" as defined by 5 U.S.C. 804(2).

The technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the APA or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA.

The technical correction does not have substantial direct effects on the States, or on the relationship between the national government and the States, as specified in Executive Order 13132, Federalism (64 FR 43255, August 10, 1999).

Today's action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000).

The technical correction is also not subject to Executive Order 13045, Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997) because it is not economically significant.

The technical correction 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.

The technical correction action does not involve changes to the technical standards related to test methods or monitoring methods; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply.

The technical correction also does not involve special consideration of environmental justice-related issues as required by Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). The EPA has complied with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings) (53 FR 8859, March 15, 1988) by examining the takings implications of this rule correction in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

In issuing the technical correction, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996).

The Congressional Review Act (CRA) (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, and established an effective date of March 5, 2010. The 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**.

The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the December 3, 2009, **Federal Register** notice containing the Area Source Paints and Allied Products Manufacturing final rule (74 FR 63504).

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

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

Dated: February 25, 2010.

**Gina McCarthy,**

*Assistant Administrator, Office of Air and Radiation.*

■ For the reasons set out in the preamble, 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 CCCCCC—[Amended]**

■ 2. Section 63.11599 is amended by revising paragraph (b)(1) to read as follows:

**§ 63.11599 Am I subject to this subpart?**

\* \* \* \* \*

(b) \* \* \*

(1) An affected source is existing if you commenced construction or reconstruction before June 1, 2009.

\* \* \* \* \*

■ 3. Section 63.11601 is amended by:

- a. Revising paragraph (a) introductory text;
- b. Removing paragraph (a)(3);
- c. Redesignating paragraphs (a)(4) through (a)(7) as paragraphs (a)(3) through (a)(6);
- d. Revising newly designated paragraph (a)(4)(i) to read as follows:

**§ 63.11601 What are the standards for new and existing paints and allied products manufacturing facilities?**

(a) For each new and existing affected source, you must comply with the requirements in paragraphs (a)(1) through (5) of this section. These requirements apply at all times.

\* \* \* \* \*

(4) You must:

(i) Capture particulate emissions and route them to a particulate control device meeting the requirements of paragraph (a)(5) of this section during the grinding and milling of materials containing compounds of cadmium, chromium, lead, or nickel; or

\* \* \* \* \*

■ 3. Section 63.11602 is amended by:

- a. In paragraph (a)(2)(iii) introductory text by revising the last sentence;
- b. In paragraph (a)(2)(iii)(A) by revising the last sentence;
- c. By revising paragraph (a)(2)(iii)(B).

**§ 63.11602 What are the performance test and compliance requirements for new and existing sources?**

(a) \* \* \*

(2) \* \* \*

(iii) \* \* \* If the Method 203C test runs indicates an opacity greater than the limitation in § 63.11601(a)(5), you must comply with the requirements in paragraphs (a)(2)(iii)(A) through (C) of this section.

(A) \* \* \* You must continue to take corrective action and retest each 15 days until a Method 203C test indicates an opacity equal to or less than the limitation in § 63.11601(a)(5).

(B) You must prepare a deviation report in accordance with § 63.11603(b)(3) for each instance in which the Method 203C opacity results were greater than the limitation in § 63.11601(a)(5).

\* \* \* \* \*

■ 4. Section 63.11603 is amended by:

- a. Revising paragraph (c) introductory text;
- b. Redesignating paragraph (e) as paragraph d).

**§ 63.11603 What are the notification, reporting, and recordkeeping requirements?**

\* \* \* \* \*

(c) *Records.* You must maintain the records specified I paragraphs (c)(1)

through (4) of this section in accordance with paragraphs (c)(5) through (6) of this section, for five years after the date of each recorded action.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2005-0316; FRL-8814-6]

**Beauveria bassiana HF23; Amendment of Exemption from the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation amends an exemption from the requirement of a tolerance for residues of the microbial insecticide, *Beauveria bassiana* HF23 (40 CFR 180.1273) on all food commodities when used to treat chicken and livestock facilities, from which manure will eventually be composted and used as fertilizer on agricultural crops. JABB of the Carolinas submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting this amendment of the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Beauveria bassiana* HF23.

**DATES:** This regulation is effective March 5, 2010. Objections and requests for hearings must be received on or before May 4, 2010, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2005-0316. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP