

a result of this statutory amendment, and to assist employers, plan sponsors, health insurance issuers, and workers, the Department of Labor has developed this amendment of the interim final regulations, in consultation with the Departments of the Treasury and Health and Human Services, conforming the regulatory sunset date to the new statutory sunset date. The Department is also making conforming changes extending the duration of the increased cost exemption to be consistent with the new sunset date.

Since the extension of this sunset date is not discretionary, this amendment to the MHPA regulations is promulgated on an interim final basis pursuant to Section 734 of ERISA. This interim final amendment is also promulgated pursuant to Section 553(d)(3) of the Administrative Procedure Act, allowing for regulations to become effective immediately for good cause.

C. Executive Order 12866

Under Executive Order 12866, the Department must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this action is not a "significant regulatory action" within the meaning of the Executive Order. This action is an amendment to the interim final regulations and merely extends the regulatory sunset date to conform to the

year of a small employer. The term "small employer" is defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

new statutory sunset date added by H.R. 6111.

D. Paperwork Reduction Act

This action does not impose any new or revised information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–30. Therefore, no submission for OMB approval is being made in connection with this interim final amendment.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Because this amendment to the interim final regulations is being published on an interim final basis, without prior notice and a period for comment, the Regulatory Flexibility Act does not apply.

F. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), as well as Executive Order 12875, this interim final amendment does not include any federal mandate that may result in expenditures by state, local, or tribal governments, and does not include mandates that may impose an annual expenditure of \$100 million or more on the private sector.

G. Congressional Review Act

This interim final amendment is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA), and has been transmitted to Congress and the Comptroller General for review. This amendment to the interim final regulations is not a major rule, as that term is defined by 5 U.S.C. 804.

H. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires the adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the states, the relationship between the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This interim final amendment does not have federalism implications as it only

conforms the regulatory sunset date to the new statutory sunset date added by H.R. 6111.

List of Subjects in 29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

Employee Benefits Security Administration

■ 29 CFR part 2590 is amended as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 1. The authority for part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c, sec. 101(g), Pub. L. 104–191, 101 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); Secretary of Labor's Order 1–2003, 68 FR 5374 (Feb. 3, 2003).

§ 2590.712 [Amended]

■ 2. Amend § 2590.712 (f)(1), (g)(2), and (i) by removing the date "December 31, 2006" and add in its place the date "December 31, 2007" wherever it appears in these paragraphs.

Signed at Washington, DC this 21st day of February, 2007.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E7–3278 Filed 2–26–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2004–0357; FRL–8281–9]

RIN 2060–AO03

National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair (Surface Coating) Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule; notice of reopening of public comment period.

SUMMARY: Because EPA received adverse comments, we are withdrawing the direct final rule for the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations

published on December 29, 2006. Additionally, this notice serves to reopen the public comment period for 60 days to facilitate the collection and submission of data by affected sources. This information will assist EPA in determining the appropriate course of action for addressing surface coating operations that are the subject of the direct final rule amendments.

DATES: As of February 27, 2007, EPA withdraws the direct final rule published at 71 FR 78369 on December 29, 2006 and reopens the public comment period. *Comments.* Written comments must be received on or before April 30, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2002-0093, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* a-and-r-docket@epa.gov and serageldin.mohamed@epa.gov.
- *Fax:* (202) 566-1741 and (919) 541-3470.

- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket (6102T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* In person or by courier, deliver comments to: Air and Radiation Docket (6102T), EPA West, Room 334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0357, (Legacy No. A-92-11). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, EPA (C404-02), Attention Docket ID No. EPA-HQ-

OAR-2004-0357, (Legacy No. A-92-11), Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI.

The 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 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 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 the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket, Docket ID No. EPA-HQ-OAR-2002-0093, EPA West, Room 334, 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 EPA Docket Center is (202) 566-1742.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at <http://www.epa.gov/epahome/dockets.htm> for current information on docket operations,

locations, and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to www.regulations.gov are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Dr. Mohamed Serageldin, Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143-03), Research Triangle Park, NC 27711, telephone number (919) 541-2379, electronic mail address serageldin.mohamed@epa.gov.

SUPPLEMENTARY INFORMATION: Because EPA received adverse comment, we are withdrawing the direct final rule for the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) Operations published on December 29, 2006 (71 FR 78369). We stated in that direct final rule that if we received adverse comment by January 29, 2007, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule and are, therefore, withdrawing the rule. EPA is also reopening the public comment period for 60 days to afford affected sources an opportunity to collect and submit additional data. EPA will evaluate the comments received, including any data and other information, and will determine the appropriate course of action for addressing the activities at issue in the direct final rule.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 21, 2007.

Stephen L. Johnson,
Administrator.

■ The direct final amendments are withdrawn, accordingly, the amendments to the rule published on December 29, 2006 (71 FR 78369) are withdrawn as of February 27, 2007.

[FR Doc. E7-3311 Filed 2-26-07; 8:45 am]

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