By the Commission.

Dated: September 11, 1995.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendment to Rule 3a12–8 (''Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'') set forth in Securities Exchange Act Release No. 36213, which would define government securities of Mexico as exempted securities under the Exchange Act for the purpose of trading futures on such securities, will not have a significant economic impact on a substantial number of small entities for the following reasons. First, the proposed amendment imposes no record-keeping or compliance burden in itself and merely allows, in effect, the marketing and trading in the United States of futures contracts overlying the government securities of Mexico. Second, because futures contracts on the fifteen countries whose debt obligations are designated as ''exempted securities'' under the Rule, which already can be traded and marketed in the U.S., still will be eligible for trading under the proposed amendment, the proposal will not affect any entity currently engaged in trading such futures contracts. Third, because the level of interest presently evident in this country in the futures trading covered by the proposed rule amendment is modest and those primarily interested are large, institutional investors, neither the availability nor the unavailability of these futures products will have a significant economic impact on a substantial number of small entities, as that term is defined for broker-dealers in 27 CFR 240.0–10 and to the extent that it is defined for futures market participants in the Commodity Futures Trading Commission's ''Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act.'' [18]

Dated: September 8, 1995.

Arthur Levitt, Jr.,

Chairman.

[FR Doc. 95–23019 Filed 9–15–95; 8:45 am]

BILLING CODE 8010–01–P

[18] 45 FR 18618 (April 30, 1982).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–5296–2]

RIN 2060–AF33

Hazardous Air Pollutant List; Proposed Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule, upon promulgation, will amend the Clean Air Act (Act) list of hazardous air pollutants (section 112(b)(1), by removing the compound caprolactam (CAS No. 105–60–2). This action is being taken in response to a petition to delete the substance caprolactam which was filed by AlliedSignal, Inc., BASF Corporation, and DSM Chemicals North America under section 112(b)(3) of the Act. The EPA is granting the petition by issuance of this proposed rule. The decision to grant the petition is based on the Agency's examination of the available information concerning the potential hazards of and projected exposures to caprolactam. Based on this information, EPA has made an initial determination that there are adequate data on the health and environmental effects of caprolactam to determine that emissions, ambient concentrations, bioacccumulation, or deposition of the compound are not reasonably anticipated to cause adverse human health or environmental effects. This determination also takes into consideration the likelihood of adverse effects in light of the very limited potential for ambient inhalation exposure.

DATES: Written comments must be received on or before November 2, 1995. The EPA will hold a public hearing if EPA receives a written request for such a hearing on or before October 18, 1995. If a hearing is requested in a timely manner, EPA will keep the record open for thirty days after such hearing to receive rebuttal or supplementary information.

ADDRESSES: Submit written comments (duplicate copies preferred) to: Central Docket Section (A–130), Environmental Protection Agency, Attention: Docket No. A–94–33, 401 M St. SW., Washington, D.C. 20460. The docket includes a copy of the original petition, comments submitted concerning that petition, and additional materials supporting the proposed rule. The docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M St., SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy B. Pate, Office of Air Quality Planning and Standards, (MD–12), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–5347.

SUPPLEMENTARY INFORMATION:

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I. Background

Section 112 of the Act contains a mandate for EPA to evaluate and control emissions of hazardous air pollutants. Section 112(b)(1) includes an initial list of hazardous air pollutants that is composed of specific chemical compounds and compound classes to be used to identify source categories for which the EPA will promulgate emissions standards. The listed categories are subject to emission standards subsequently developed under section 112. The EPA must periodically review the list of hazardous air pollutants and, where appropriate, revise this list by rule. In addition, any person may petition EPA under section 112(b)(3) to modify the list by adding or deleting one or more substances. A petitioner seeking to delete a substance must demonstrate that there are adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the substance may not reasonably be anticipated to cause any adverse effects to human health or the environment. To sustain this burden, a petitioner must provide a detailed evaluation of the available data concerning the substance's potential adverse health and environmental effects, and estimate the potential exposures through inhalation or other routes resulting from emissions of the substance.

On July 19, 1993, EPA received a petition from AlliedSignal, Inc., BASF Corporation, and DSM Chemicals North America, Inc. (''petitioners''), to delete caprolactam (CAS No. 105–60–2) from the hazardous air pollutant list in section 112(b)(1), 42 U.S.C., section 7412(b)(1). Following receipt of the petition, EPA conducted a preliminary evaluation to determine whether the petition was complete according to Agency criteria. To be deemed complete, a petition must consider all available health and environmental

effects data. A petition must also provide comprehensive emissions data, including current peak and annual average emissions for each source, and must estimate the resultant exposures of people living in the vicinity of the source. In addition, a petition must address the environmental impacts associated with emissions to the ambient air and impacts associated with the subsequent cross-media transport of those emissions. The EPA found the petition to delete caprolactam to be complete and published a notice of receipt and request for comments in the **Federal Register** on August 26, 1993 (58 FR 45081).

The EPA received ten submissions in response to the request for comments concerning the caprolactam petition. Eight of these submissions related to an AlliedSignal facility that emits caprolactam which is located in Irmo, South Carolina. A number of Irmo residents reported health problems that they believed were associated with caprolactam emissions from this plant. The EPA subsequently met with a local citizens' group, representatives of AlliedSignal, and the South Carolina Department of Health and Environmental Control to discuss the citizens' concerns regarding caprolactam emissions from the facility, and to explore mechanisms which could lead to prompt installation of additional controls of such emissions.

On March 13, 1995, EPA executed two detailed agreements with AlliedSignal concerning the Irmo manufacturing facility and another facility located in Chesterfield, Virginia, copies of which are included in the public docket for this rulemaking. AlliedSignal agreed that, if caprolactam is delisted pursuant to this proposal, AlliedSignal will install emissions controls which EPA believes are equivalent to the controls which would have been required had EPA issued a standard to control these sources under section 112. The agreed emissions controls will be incorporated in federally enforceable operating permits for the affected facilities, and will be in place years earlier than controls would have otherwise been required. In addition, AlliedSignal has agreed to establish a citizen advisory panel concerning the Irmo facility in order to improve communications with the community and to assure that citizens have an ongoing role in implementation of the agreed emission reductions.

II. Criteria for Delisting

Section 112(b)(2) of the Act requires EPA to make periodic revisions to the initial list of hazardous air pollutants set forth in section 112(b)(1) and outlines criteria to be applied in deciding whether to add or delete particular substances. Section 112(b)(2) identifies pollutants that should be listed as:

> * * * pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise * * *

To assist EPA in making judgments about whether a pollutant causes an adverse environmental effect, section 112(a)(7) defines an ''adverse environmental effect'' as:

> * * * any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

Section 112(b)(3) establishes general requirements for petitioning EPA to modify the hazardous air pollutant list by adding or deleting a substance. Although the Administrator may add or delete a substance on his own initiative, the burden is on a petitioner to include sufficient information to support the requested addition or deletion under the substantive criteria set forth in sections 112(b)(3) (B) and (C). The Administrator must either grant or deny a petition within 18 months of receipt. If the Administrator decides to grant a petition, the Agency publishes a written explanation of the Administrator's decision, along with a proposed rule to add or delete the substance. If the Administrator decides to deny the petition, the Agency publishes a written explanation of the basis for denial. A decision to deny a petition is final Agency action subject to review in the D.C. Circuit Court of Appeals under Section 307(b) of the Act.

To promulgate a final rule deleting a substance from the hazardous air pollutant list, section 112(b)(3)(C) provides that the Administrator must determine that:

> * * * there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

The EPA will grant a petition to delete a substance, and publish a proposed rule to delete that substance, if it makes an initial determination that this criterion has been met. After affording an opportunity for comment and for a hearing, EPA will make a final determination whether the criterion has been met.

The EPA does not interpret section 112(b)(3)(C) to require absolute certainty that a pollutant will not cause adverse effects on human health or the environment before it may be deleted from the list. The use of the terms ''adequate'' and ''reasonably'' indicate that the Agency must weigh the potential uncertainties and their likely significance. Uncertainties concerning the risk of adverse health or environmental effects may be mitigated if EPA can determine that projected exposures are sufficiently low to provide reasonable assurance that such adverse effects will not occur. Similarly, uncertainties concerning the magnitude of projected exposures may be mitigated if EPA can determine that the levels which might cause adverse health or environmental effects are sufficiently high to provide reasonable assurance that exposures will not reach harmful levels. However, the burden remains on a petitioner to resolve any critical uncertainties associated with missing information. The EPA will not grant a petition to delete a substance if there are major uncertainties which need to be addressed before EPA would have sufficient information to make the requisite determination.

III. Summary of the Petition

The petition to delete caprolactam stated that the petitioners comprise 100 percent of the U.S. caprolactam producers and caprolactam by-product ammonium sulfate manufacturers, 88 percent of the Nylon 6 fiber producers, 72 percent of the Nylon 6 plastic producers, and the only major supplier of Nylon 6 films. The petition contained the following information:

(A) Identification and location of all facilities producing or using caprolactam;

(B) Estimated current and future air emissions of caprolactam, atmospheric modeling and monitoring data supporting the estimation of peak short-term and annual average ambient concentrations, estimates of the number people potentially exposed to those concentrations, and estimated deposition of caprolactam to the land and surface water;

(C) Documentation of a literature search conducted within 6 months prior to the petition filing, including identification of the data bases searched, the search strategy, and printed results;

(D) Printed copies of all human, animal, in vitro, or other toxicity studies cited in the literature search. In addition, the petition contained unpublished occupational health data and studies collected at the AlliedSignal facility in Hopewell, Virginia;

(E) Printed copies of environmental effect data characterizing the fate of caprolactam when it is released into the atmosphere. This information includes atmospheric residence time, solubility, phase distribution, vapor pressure, octanol/water partition coefficient, particle size, adsorption coefficients, information on atmospheric transformations, potential degradation or transformation products, and bioaccumulation potential; and

(F) A list of all support documents in the petition.

IV. EPA Analysis of Petition

A. Hazard Evaluation

The EPA reviewed the discussion of health effects in the petition and determined that it comprehensively describes the toxicologic and epidemiologic data concerning caprolactam which is currently available. There is extensive toxicologic information concerning caprolactam, but most of the available studies involve ingestion rather than inhalation of the substance.

The toxicologic information on ingestion of caprolactam includes long-term bioassays in mice and rats, a three generation reproduction study in rats, subchronic studies in rats, developmental toxicity studies in rats and rabbits, and even administration to humans. In general, the oral studies indicate that caprolactam has low toxicity. In the available studies, caprolactam was not found to be carcinogenic or mutagenic. Caprolactam caused neurotoxicity in some acute studies at high doses. The most sensitive endpoint in the available oral studies was reduced mean body weight of offspring in a reproductive study in rats (no observed adverse effect level of 50 mg/kg/day).

The no-observed adverse effect level (NOAEL) for reduced mean body weight of offspring in the rat study was used by EPA to derive its current reference dose (RFD) for caprolactam of 0.5 mg/kg/day. The RFD is defined as an estimate (with uncertainty spanning perhaps an order of magnitude) of the daily exposure to the human population (including sensitive subpopulations) that is likely to be without deleterious effects during a life time. The EPA has assigned a ''high'' confidence level to the RFD for oral exposure to caprolactam.

The available animal data on inhalation of caprolactam consist of two acute toxicity studies, one in guinea pigs and the other in rats. Caprolactam is a highly water soluble solid with a very low vapor pressure at ambient temperatures. These physical properties make it difficult to generate stable atmospheres of caprolactam for use in inhalation toxicity studies and to exclude secondary exposure to caprolactam by other routes.

Given the present lack of suitable inhalation data, EPA concluded that derivation of an inhalation reference concentration (RfC) for caprolactam was infeasible. The petitioners sought to derive an equivalent human inhalation dose from the oral RFD for caprolactam by adjusting for human body weight and inhalation rate. The similarity between the LC_{50} by the inhalation route and the LD_{50} by the oral route in rats does not suggest any important differences in systemic effects from acute exposures between the two routes. However, it is inappropriate to utilize an inhalation dose derived from the oral RFD for all potential adverse effects because caprolactam is a respiratory irritant. Portal of entry effects preclude use of route-to-route extrapolation for such a purpose. Moreover, any comparison between the oral and inhalation routes must consider the possibility of pharmacokinetic and metabolic differences between the routes.

As noted above, the most sensitive endpoint in the available oral studies was reduced mean body weight of offspring in a reproductive toxicity study in rats (no observed adverse effect level of 50 mg/kg/day). The EPA is reluctant to make quantitative comparisons between the oral and inhalation routes and EPA has been unable to validate any general procedures for extrapolation between these routes. Although EPA considers it questionable to evaluate inhalation risks for many chronic effects based on oral data, EPA sometimes evaluates the risk of developmental/reproductive effects by the inhalation route based on an appropriate oral study. In this instance, the oral NOAEL of 50 mg/kg/day would be equivalent to approximately 175 mg/m^3, after adjusting for a human body weight of 70 kg, 100 percent absorption, and a human inhalation rate of 20 m^3/day.

Limited occupational studies of workers with chronic caprolactam exposure have not found any measurable change in pulmonary function compared to matched controls. Chronic workplace exposures to caprolactam in these studies ranged as high as 9,900 µg/m^3 (9.9 mg/m^3). However, respiratory tract irritation from caprolactam vapor has been recorded to occur in workers at 46 mg/m^3. The recommended worker exposure limit for caprolactam vapor, established to reduce the potential for irritation, is 23 mg/m^3 (ACGIH TWA). Both concentrations are far below the figure of 175 mg/m^3 extrapolated above.

B. Exposure Evaluation

The primary use of caprolactam is as the monomer for manufacture of Nylon 6 fiber, resin, and film. Approximately 83 percent of domestically-manufactured caprolactam is used in the production of Nylon 6 fibers, and virtually all of the rest is used to produce Nylon 6 resins and films.

The EPA believes that inhalation is the only important route of nonoccupational exposure resulting from caprolactam emissions. Dermal absorption is likely to be insignificant compared to inhalation. The rapid biodegradation of caprolactam in water as well as the ease of treatability in sewage treatment systems indicates that humans are unlikely to be exposed to significant amounts of caprolactam in drinking water. In addition, caprolactam emitted to the air would be unlikely to concentrate in food sources.

The EPA source category list identifies three categories of sources which emit caprolactam: caprolactam manufacturers, ammonium sulfate manufacturers, and Nylon 6 manufacturers. In their petition, the petitioners evaluated caprolactam releases by each of these types of facilities, as well as two additional categories of facilities: Nylon 6 film manufacturers and facilities that heat set Nylon 6 fiber as part of the manufacture of other products.

The highest annual emissions of caprolactam by an individual facility reported in the petition were at the AlliedSignal Nylon 6 manufacturing plants in Chesterfield, Virginia (233.5 tons/year), and Irmo, South Carolina (164.4 tons/year). As noted above, AlliedSignal has committed to install emission controls at each of these facilities which will be fully operational well before any controls would be required based on any standard promulgated under section 112. These commitments will be implemented through legally enforceable permit terms and are expected to reduce aggregate caprolactam emissions (including uncontrolled fugitive emissions) at these facilities by more than one half, to approximately 111 tons/year and 79 tons/year.

The petitioners presented modeled maximum exposure levels for every

major source of caprolactam (sources emitting more than 10 tons annually). The highest estimated caprolactam exposures were for AlliedSignal's Chesterfield manufacturing facility, at which the petitioners estimated that the maximum 1-hour concentration would be 1107.8 μg/m^3 and the maximum annual concentration would be 44.7 μg/m^3. After controls are installed at the Chesterfield and Irmo facilities, the projected maximum 1-hour concentrations will be 543 μg/m^3 and 482 μg/m^3 respectively, and the projected maximum annual concentrations will be 19 μg/m^3 and 21 μg/m^3.

Once the agreed emission controls are installed at the AlliedSignal facilities, the highest modeled caprolactam concentrations will be at certain of the facilities that heat set Nylon 6 fiber. However, the annual caprolactam emissions at these facilities will still be less than the emissions at the AlliedSignal manufacturing facilities, even after controls have been installed at the AlliedSignal facilities. The higher modeled concentrations at facilities that heat set Nylon 6 fiber reflect the more conservative modeling techniques used for these facilities (the petitioners used ISCST modeling for their own manufacturing facilities and Tier II screen modeling for other sources).

C. Human Risk Determination

The maximum modeled concentrations for caprolactam of approximately 1 mg/m^3 for 1-hour, 0.25 mg/m^3 for 24-hour, and 0.05 mg/m^3 for annual are well below the lowest documented nose and throat irritation level of 46 mg/m^3. Moreover, the emission controls which AlliedSignal has agreed to install at its manufacturing facilities will significantly reduce the prospect that any person will be exposed to caprolactam concentrations as great as the maximum estimates presented in the petition.

As noted above, some citizens living near the AlliedSignal facility in Irmo, South Carolina, report that they have experienced adverse health effects in the past which they believe are a result of caprolactam emissions from that facility. The EPA has discussed these concerns at length with local citizens, and has made considerable efforts to assure that prompt and enforceable reductions in caprolactam emissions are achieved at the Irmo facility. However, EPA cannot conclude that there is any relation between caprolactam emissions and the reported health effects based on the information currently available. In 1993, in response to the concerns of citizens living near the Irmo facility, the Agency for Toxic Substance and Disease Registry (ATSDR) conducted a preliminary screening study and recommended that a full study not be conducted since ''the concentrations of hazardous substances found in the ambient air sampling were not of health concern and were not plausibly related to the release of hazardous substances.'' While the ATSDR investigators acknowledged that hazardous substances were present in air releases from the facility, they also stated that the reported symptoms could be associated with naturally occurring allergens in the local environment.

The available oral toxicology data do not suggest that caprolactam is appreciably toxic in humans or test animals. The emission controls which AlliedSignal has agreed to install at its manufacturing plants should further reduce the prospect for actual exposures as great as the maximum exposures estimated in the petition. Even though extrapolation of oral data to the inhalation route of exposure is suspect and uncertainties remain about portal of entry effects from long-term exposure, the available information as a whole indicates that adverse health effects would not be reasonably anticipated in the human populations located near facilities emitting caprolactam. This conclusion is reinforced by consideration of the likelihood of adverse effects given the very limited potential for ambient inhalation exposure. Based on this information, EPA has made an initial determination that there are adequate data on the health and environmental effects of caprolactam to determine that emissions, ambient concentrations, bioacccumulation, or deposition of caprolactam are not reasonably anticipated to cause adverse human health effects.

As explained above, the physical properties of caprolactam tend to make additional inhalation testing difficult to conduct and to interpret. As a result of discussions with EPA, the petitioners conducted an inhalation feasibility study and have now agreed to conduct a 90-day subchronic inhalation study in rats. The variations in exposure concentrations at the targeted exposure levels in the 90 day subchronic inhalation study will likely be high. In addition, the inhalation concentrations generated may not reach the levels which would cause any of the potential systemic effects predicted by studies using the oral route but may achieve concentrations that would produce portal of entry effects.

The EPA anticipates that the results from the 90-day study which the petitioners have agreed to conduct will not materially alter the current EPA assessment. Moreover, EPA does not intend to defer final action in this rulemaking pending submission and analysis of the results from this inhalation study. If the results of this study indicate that there are portal of entry effects or systemic effects from inhalation exposure at levels significantly below those suggested by the Agency's present assessment, EPA will review any final action taken in this rulemaking in light of such data.

D. Environmental Effects

In order to delete a substance from the hazardous air pollutant list, EPA must also evaluate potential environmental effects associated with emissions of the substance. In the case of caprolactam, the information in the petition demonstrates that caprolactam will be rapidly degraded, and is not likely to bioaccumulate, in aquatic ecosystems. Caprolactam also has low toxicity to fish, invertebrates, and higher terrestrial plants. Based on this information, EPA has made an initial determination that there are adequate data on the health and environmental effects of caprolactam to determine that emissions, ambient concentrations, bioacccumulation, or deposition of caprolactam are not reasonably anticipated to cause environmental effects.

V. Proposal to Delete

The EPA hereby proposes to modify the Act list of hazardous air pollutants (section 112(b)(1), 42 U.S.C. 7412(b)(1)) by deleting the compound caprolactam (CAS No. 105–60–2).

VI. Interim Relief

Although EPA has proposed to modify the hazardous air pollutant list by deleting caprolactam, it will remain on the list for most purposes during the pendency of the rulemaking initiated by this notice. However, if caprolactam remains on the hazardous air pollutant list for all purposes during the pendency of the rulemaking to delist caprolactam, certain facilities which would not otherwise be required to obtain operating permits under title V of the Act will be required to prepare and submit applications for operating permits. The EPA has determined that retention, during the rulemaking to delist caprolactam, of permit application requirements which will no longer exist after the delisting process has been completed would result in unnecessary private and public expenditures on preparation, submission, and processing of such

applications, and would yield no environmental benefits.

Because retention of the listing of caprolactam for purposes of determining the applicability of title V operating permit requirements during the rulemaking to delist would be burdensome and costly, and would not effectuate the objectives of the Act, and because it would be impracticable and contrary to the public interest to defer administrative relief until after the rulemaking has been completed, EPA has determined that there is good cause to immediately suspend the listing of caprolactam for this limited purpose. Accordingly, EPA is today suspending the listing of caprolactam, for the duration of the rulemaking to delist caprolactam, for purposes of determining the applicability of title V permitting requirements. This action provides sensible regulatory relief for those facilities which manufacture or utilize Nylon 6 products, and who will not otherwise be subject to title V requirements once the delisting of caprolactam has been completed. Any facilities which emit caprolactam but which are otherwise subject to title V requirements are not affected by this action, and must satisfy the applicable permitting requirements.

While the proposed rule to delist caprolactam is pending, State permitting authorities should make any revisions or adjustments in their title V operating programs necessary to implement today's action suspending caprolactam from the hazardous air pollutant list for purposes of determining the applicability of permitting requirements. In the event that the Agency decides at the conclusion of the rulemaking not to delete caprolactam from the list, the Agency will work with affected facilities and State permitting authorities to assure that any title V requirements resulting solely from that decision are implemented in a fair and orderly manner.

VII. Miscellaneous

A. Executive Order 12866

Under Executive Order 12866 (58 FR 57735, October 4, 1993), the Agency must determine whether this regulation, if promulgated, is ''significant'' and therefore subject to review by the Office of Management and Budget under the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action will not result in an annual effect on the economy of $100 million or another adverse economic impact, does not create a serious inconsistency or interfere with another agency's action, and does not materially alter the budgetary impacts of entitlements, grants, user fees, etc. However, since this proposal reflects the Agency's first decision to grant a petition to modify the hazardous air pollutant list, EPA has concluded that it might be construed as raising novel legal or policy issues and has therefore submitted the proposal for OMB review under Executive Order 12866.

B. Regulatory Flexibility Analysis

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an ''initial regulatory flexibility analysis'' in connection with any rulemaking for which there is a statutory requirement that a general notice of proposed rulemaking be published. The ''initial regulatory flexibility analysis'' describes the effect of the proposed rule on small business entities. However, section 605(b) of the Act provides that an analysis not be required when the head of an agency certifies that the rule will not, if promulgated, have a significant impact on a substantial number of small entities.

Because adoption of this proposal would reduce regulatory burdens which would otherwise result from retention of caprolactam on the hazardous air pollutant list, EPA believes that this rule will have no adverse effect on small businesses. For the preceding reason, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a written statement to accompany any rules that have ''Federal mandates'' that may result in the expenditure by the private sector of $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of such a rule and that is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising small governments that may be significantly and uniquely affected by the rule.

The Unfunded Mandates Act defines a ''Federal private sector mandate'' for regulatory purposes as one that, among other things, ''would impose an enforceable duty upon the private sector.'' This proposal to modify the hazardous air pollutant list to delete caprolactam is deregulatory in nature and does not impose any enforceable duties upon the private sector. Therefore, this rulemaking is not a ''Federal private sector mandate'' and is not subject to the requirements of section 202 or section 205 of the Unfunded Mandates Act. As to section 203, EPA finds that small governments will not be significantly and uniquely affected by this rulemaking.

Dated: September 8, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–22954 Filed 9–15–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD-FRL–5296–8]

Clean Air Act Proposed Interim Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Pinal County Air Quality Control District, Arizona: Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule; Extension of comment period.

SUMMARY: The EPA is extending the comment period for a proposed rule published July 13, 1995 (60 FR 36083) in which EPA proposed interim approval of the title V operating permits program submitted by the State of Arizona. The Arizona program is comprised of programs from the Arizona Department of Environmental Quality, the Maricopa County Environmental Services Department, the Pima County Department of Environmental Quality, and the Pinal County Air Quality Control District.

At the request of the Arizona Center for Law in the Public Interest, EPA is