



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22, 51, 124, 171, 300, and 770

[FRL-9960-28-OP]

### Further Delay of Effective Dates for Five Final Regulations Published by the Environmental Protection Agency Between December 12, 2016 and January 17, 2017

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

**ACTION:** Final rule; further delay of effective dates.

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**SUMMARY:** In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” and the **Federal Register** document published by EPA on January 26, 2017, EPA is further delaying the effective dates for the five regulations listed in the table below.

**DATES:** This regulation is effective March 21, 2017. The effective date of each regulation listed in the table below is delayed to a new effective date of May 22, 2017.

#### FOR FURTHER INFORMATION CONTACT:

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**SUPPLEMENTARY INFORMATION:** On January 26, 2017, EPA published a document in the Federal Register entitled “Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017” (82 FR 8499) (January 26 Document). In that document, EPA delayed the effective dates of the five regulations listed in the table below to March 21, 2017, as requested in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory

Freeze Pending Review” (January 20 Memo). That memo directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the January 20 Memo the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect.

The January 20 Memo also directs that where appropriate and as permitted by applicable law, agencies should consider a rule to delay the effective date for regulations beyond that 60-day period. In this document, EPA is taking action to further delay the effective dates for five regulations listed in the table below until May 22, 2017. EPA is taking this action to give recently arrived Agency officials the opportunity to learn more about these regulations and to decide whether they would like to conduct a substantive review of any of those regulations. If Agency officials decide to conduct a substantive review of any of those regulations, EPA will take appropriate actions to conduct such a review, including, but not limited to, issuing a document in the **Federal Register** addressing any further delay of the effective date of such regulation. If Agency officials decide not to conduct a substantive review of a regulation listed in the table below, it will become effective on May 22, 2017.

The Agency’s implementation of this action without opportunity for public comment is based on the good cause exception in 5 U.S.C. 553(b)(B). (The good cause exception is also referenced in section 307(d) of the Clean Air Act (CAA).) The Agency has determined that seeking public comment is impracticable, unnecessary and contrary to the public interest. The further temporary delay in effective date until May 22, 2017, is necessary to give Agency officials the opportunity to decide whether they would like to conduct a substantive review of the five regulations, consistent with the January 20 Memo. The intent of the January 20 Memo was to delay the effective dates of rules that had recently been promulgated to give the new

Administration time to review them. When that delay was implemented through the January 26 Document, the EPA believed 60 days would be sufficient time for incoming Agency officials to review rules recently promulgated by the EPA. However, given the length of the confirmation process for the EPA Administrator and the fact that the Agency lacks Senate-confirmed officials elsewhere, the new Administration has not had the time contemplated by the January 20 Memo for this review. Thus, the EPA is deferring the effective date for the five regulations listed in the table below for another 62 days to allow Agency officials to conduct this review. Given the imminence of the effective date, seeking prior public comment on this further temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. Specifically, the Agency has been faced with circumstances beyond its control; as was the case on January 26, it is difficult to predict when the appropriate officials might assume their responsibilities. Indeed, as noted above, even today the EPA has only one Senate-confirmed official in place. Furthermore, allowing these regulations to go into effect without first deciding whether to undertake a substantive review may create public confusion. In addition, to the extent this extension is a procedural rule, it is exempt from notice and comment under 5 U.S.C. 553(b)(A), which is also referenced in CAA section 307(d).

<b>Federal Register Citation</b>	<b>Title</b>	<b>Publication Date</b>	<b>Original Effective Date</b>	<b>New Effective Date</b>
82 FR 2760	Addition of a Subsurface Intrusion Component to the Hazard Ranking System	1/9/17	2/8/2017	5/22/2017
81 FR 89674	Formaldehyde Emission Standards for Composite Wood Products	12/12/16	2/10/2017	5/22/2017
82 FR 5182	Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter	1/17/17	2/16/2017	5/22/2017

82 FR 952	Pesticides; Certification of Pesticide Applicators	1/4/17	3/6/2017	5/22/2017
82 FR 2230	Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/ Termination or Suspension of Permits; Procedures for Decisionmaking	1/9/17	3/10/2017	5/22/2017

For the foregoing reasons, the EPA relies on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3) to make today's action effective on March 21, 2017.

Dated: March 14, 2017.

E. Scott Pruitt,  
Administrator.

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