

Dated: May 17, 1999.

Bonnie R. Cohen,

Under Secretary for Management.

[FR Doc. 99-13213 Filed 5-27-99; 8:45 am]

BILLING CODE 4710-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region VII Docket No. MO 060-1060; FRL-6351-5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the State Implementation Plan (SIP) submitted by the state of Missouri to amend the fugitive dust rule. The proposed revisions amend the state fugitive dust rule in order to provide an exemption for adverse or unusual weather conditions. The fugitive dust rule is necessary to help maintain compliance with the National Ambient Air Quality Standards (NAAQS) for particulate matter.

DATES: Comments must be received on or before June 28, 1999.

ADDRESSES: All comments should be addressed to: Aaron Worstell, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, 913-551-7787.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Aaron Worstell, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, 913-551-7787.

SUPPLEMENTARY INFORMATION:

Background

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality

meets the NAAQS established by EPA. These ambient standards are established under section 109 of the CAA and they currently address six criteria pollutants. These pollutants are: CO, nitrogen dioxide, ozone, lead, PM₁₀, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

The CAA requires each state to have a Federally approved SIP which protects air quality, primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state may submit the adopted provisions to EPA and request that these provisions be included in the Federally enforceable SIP. EPA must then decide on an appropriate Federal action, provide public notice on this action, and seek additional public comment regarding this action. If adverse comments are received, they must be addressed prior to a final action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which were approved are not reproduced in their entirety in the CFR but are "incorporated by reference," which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state function. However, once the regulation is Federally approved, EPA

and the public may take enforcement action against violators of these regulations.

What Is Being Acted on in This Document?

On January 21, 1998, EPA approved revisions to the Missouri SIP which included the addition of rule 10 CSR 10-6.170, Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin (see 63 FR 3037). Subsequently, on November 25, 1998, Missouri submitted an amended 10 CSR 10-6.170 (the fugitive dust rule) to EPA and requested that it be included as part of the SIP. It is the amended fugitive dust rule for which EPA is proposing approval today.

In general, the fugitive dust rule limits fugitive dust emissions onto adjacent property and into the atmosphere. The rule achieves this by prohibiting the deposition of particulate matter onto surrounding property and by restricting visible emissions. In addition, the rule requires that reasonable control measures be used to correct any noncompliance situation that may occur and lists several typical fugitive dust control measures. Finally, the rule provides specific exemptions where the fugitive dust rule would not be practical (e.g., agricultural operations such as tilling).

The amended fugitive dust rule proposed here today adds an exemption for activities that would otherwise be subject to control requirements except for the occurrence of adverse or unusual weather conditions. These weather conditions include, but are not limited to: high winds, extended dry weather periods, and extreme cold weather periods. However, the staff director has the discretion to determine what constitutes "adverse or unusual weather." The fugitive dust rule is applicable throughout the state of Missouri.

EPA believes that the exemption merely recognizes that fugitive emissions may occur despite the application of reasonable control measures and that, in some instances, conditions beyond the control of the source owner or operator may cause fugitive dust emissions beyond the property line of the source. In such cases, the rule provides authority for the state to exempt sources from the prohibition.

In addition to the new exemption, the amendments include minor renumbering and wording changes which are unsubstantial and do not effect the application or requirements of the rule.

The proposed SIP revisions are amendments to a regulation necessary to help maintain compliance with the particulate matter NAAQS in Missouri.

What Action Is Being Proposed by EPA?

EPA is proposing to approve revisions to the SIP submitted by the state of Missouri on November 25, 1998, amending rule 10 CSR 10-6.170, Restriction of Particulate Matter to the Ambient Air Beyond the Premises of Origin.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. E.O. 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, a summary of the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's proposal does not create a mandate on state, local, or tribal governments. The proposal does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this proposal.

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposal is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposal does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposal.

E. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility

analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies 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 small governmental jurisdictions. This proposal does not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual 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 proposed approval action would not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, would result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter.

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

Dated: May 18, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99-13660 Filed 5-27-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 268**

[FRL-6351-4]

RIN-2050-AE54

Potential Revisions to the Land Disposal Restrictions Mercury Treatment Standards

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Environmental Protection Agency (EPA or Agency) is considering publication of a proposed rule to revise the 40 CFR part 268 Land Disposal Restrictions (LDR) treatment standards applicable to mercury-bearing wastes. This ANPRM is intended to give advance notice of EPA's comprehensive reevaluation of the treatment standards for mercury-bearing hazardous wastes as well as various options, issues, and data needs related to potential mercury treatment standard revisions. The Agency requests additional data and comments on these issues and options.

DATES: Written and electronic comments in response to this ANPRM must be received on or before July 27, 1999.

ADDRESSES: Commenters should submit an original and two copies of their comments referencing Docket No. F-1999-MTSP-FFFFF to: the RCRA Information Center (RIC), U.S. Environmental Protection Agency Headquarters (5305W), 401 M Street, SW, Washington, D.C. 20460. Courier deliveries of comments should be submitted to the RIC at the address listed below. Comments may also be submitted electronically through the Internet to:

RCRA-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-1999-MTSP-FFFFF. Submit electronic comments as an ASCII file and avoid the use of special characters and any form of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional

copy of the comments on disk in WordPerfect 6.1 file format.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of the CBI must be submitted under separate cover to: Regina Magbie, RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460.

The Agency will consider the public comments during development of any proposed rule related to this action. The Agency urges commenters submitting data in support of their views to include with the data evidence that appropriate quality assurance/quality control¹ (QA/QC) procedures were followed in generating the data. Data that the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing regulatory options for proposal and final rules.

Public comments and supporting materials are available for viewing in the RIC, located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. To review docket materials, the public must make an appointment by calling 703-603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15 per page. The docket index and notice are available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing it.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, D.C., metropolitan area, call 703-412-9810 or TDD 703-412-3323.

For information on specific aspects of this document, contact Rita Chow, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 703-308-6158, e-mail address: chow.rita@epa.gov.

SUPPLEMENTARY INFORMATION: The docket index and the notice are available on the Internet. From the World Wide Web (WWW), type <http://www.epa.gov/fedrgstr>. For the text of the notice, choose: Year/Month/Day. The document may also be obtained

¹ For guidance, see Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology; USEPA, October 23, 1991.

using File Transfer Protocol (FTP) at: <ftp://epa.gov>.

Login: anonymous

Password: your Internet address

Glossary of Acronyms

APCD—Air Pollution Control Device

ATON—Aid-to-Navigation

ATTIC—Alternative Technology

Treatment Information Center

BDAT—Best Demonstrated Available Technology

BIF—Boiler and Industrial Furnace

BRS—Biennial Reporting System

DOE—Department of Energy

IMERC—Incineration of Wastes

Containing Organics and Mercury (Specified Treatment Method)

LDR—Land Disposal Restrictions

MACT—Maximum Achievable Control Technology

NESHAP—National Emissions Standard for Hazardous Air Pollutants

NHWCS—National Hazardous waste Constituent Survey

PBT—Persistent, Bioaccumulative, and Toxic

PCB—Polychlorinated Biphenyls

POTW—Publically Owned Treatment Works

PSD—Prevention of Significant Deterioration Permit

RCRA—Resource Conservation and Recovery Act

RMERC—Roasting or Retorting of Mercury-Bearing Hazardous Wastes (Specified Treatment Method)

RREL—Risk Reduction Engineering Laboratory

S/S—Solidification/stabilization

SPC—Sulfur Polymer Cement

TCLP—Toxicity Characteristic Leaching Procedure

TOC—Total Organic Carbon

TRI—Toxic Release Inventory

VISITT—Vendor Information System for Innovative Treatment Technology

WMNP—Waste Minimization National Plan

Table of Contents**I. Introduction**

A. Agency's Concern for Mercury

B. Key Issues Addressed in the ANPRM

II. Background

A. Mercury in the Environment

B. The Resource Conservation Recovery Act

C. Mercury Treatment Standards

III. Mercury Hazardous Waste Generation and Management

A. Industries Generating Mercury-Bearing Wastes

B. Generation of Mercury-Bearing Hazardous Wastes

IV. Current RCRA Regulations Governing Treatment of Mercury-Bearing Hazardous Wastes

A. RCRA Waste Code Classification and Treatment