

US EPA ARCHIVE DOCUMENT

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, *Identification of plan*, paragraph (c)(47) is added as follows:

§ 52.2420 *Identification of plan.*

* * * * *

(c) * * *

(47) Amendments to Chapter 1 of all nonattainment plans; amendments to Chapter 11 of the Richmond, Northern Virginia, Peninsula and Southeastern plans; amendments to Chapter 9 of the Roanoke and Stafford plans; addition of Appendices A and B to all plans; amendments to Chapter 3 of the Northern Virginia, Peninsula, Southeastern, Roanoke and Stafford plans; amendments to Chapter 10 of the Richmond, Peninsula and Southeastern plans; addition of Appendix C to the Northern Virginia Plan; and, certain revisions to Chapter 5 of all plans were submitted by the Secretary of Commerce and Resources on April 13, 1981. Revision of Chapter 10 of the Northern Virginia plan submitted on July 23, 1981.

§ 52.2431 [Amended]

2. In § 52.2431, Control Strategy: Carbon monoxide and ozone, remove paragraph (e).

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40 CFR Part 264

[SWH-FRL 1903-1]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim rule.

SUMMARY: EPA is today revising Appendix VI to 40 CFR Part 264. Appendix VI lists political jurisdictions within which the probability of Holocene fault displacement and deformation warrants a geologic investigation in order to demonstrate compliance with the seismic location standard for hazardous waste management facilities in § 264.18(a). Facilities not located in these areas are presumed to be in compliance with the standard. This amendment deletes from Appendix VI those areas where the risk of facility damage due to fault

displacement and deformation does not warrant a geological investigation. This amendment is the result of EPA's review of public comments and new information received after January 12, 1981.

DATES: This interim final amendment is effective on November 23, 1981. Comments are due on or before December 23, 1981.

ADDRESSES: Comments should be addressed to Deneen Shrader, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Commenters should identify this rulemaking as follows: "Docket No. 3004, Appendix VI to Part 264". The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Cindy Hoppmann, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9201.

SUPPLEMENTARY INFORMATION:

I. Authority

This amendment is issued under the authority of Sections 2002(a) and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6924.

II. Background of and Basis for Amendment

On January 12, 1981 (46 FR 2802), EPA promulgated permitting standards for new and existing hazardous waste management facilities. Section 264.18(a) of these standards prohibits the issuance of a permit to a new facility which is located within 200 feet of a fault which has had displacement in Holocene time. Compliance with this standard must be demonstrated by a geologic investigation. See § 122.25(a)(11).

The January 12 standards do not require a geologic investigation in all areas, however. As noted in the preamble to the standards, not all areas of the United States are affected by Holocene faulting (46 FR 2810-2813). EPA concluded that requiring a geological investigation in areas known not to have Holocene faults would impose an unnecessary regulatory burden and cost on a hazardous waste management facility. Thus, a geological investigation is required only for those areas which have some historical

evidence of faulting or potential for such faulting. These areas are listed in Appendix VI to Part 264.¹ EPA based its selection of those areas on two maps: The "Map for Coefficient Aa" (coefficient Aa is a measure of ground motion) by the Applied Technology Council (1978), and the "Preliminary Map of Young Faults in the United States as a Guide to Possible Fault Activity" by Howard and others of the United States Geological Survey (1978) (hereinafter "USGS Map").

EPA also stated in the January 12 preamble that Holocene deposits and landforms (e.g., fault scarps, offset streams) are either nonexistent or incomplete in some areas of the United States. In such areas, an inspection of the geologic strata does not yield enough evidence to conclusively determine when the most recent displacement occurred (see 46 FR 2812). An example was given of areas where glacial activity stripped the surficial ground cover and left highly resistant rock. It was stated that in situations of this sort, indirect methods such as a review of records of the location of epicenters of historic earthquakes, and an examination of possible fault-related features expressed in Pleistocene and older deposits would have to be conducted to determine if Holocene faults are present within 200 feet of the facility.

Since this standard was promulgated, EPA has learned that there are no faults east of the front range of the Rocky Mountains which have been conclusively identified as having had displacement during Holocene time. Geologists at the U.S. Geological Survey working on updated versions of the USGS Map confirm this finding.

Moreover, information obtained from the U.S. Geological Survey suggests important differences in the geology of the areas east and west of the eastern front of the Rocky Mountains. In the Eastern United States, there is a general lack of usable stratigraphic horizons upon which to base age dates of faulting. In addition, faults in the East do not break the surface as frequently as they do in the West. In the relatively few instances where faults are visible at the surface in the East, the exposed deposits are usually either older than Holocene age or they cannot be precisely dated. Under these geologic conditions, geologists cannot determine with certainty whether a fault has had displacement in Holocene time. The

¹ Facilities located in areas not listed in Appendix VI are presumed to be in compliance with the standard.

geologist can state with certainty only that the fault moved after the uppermost deposits that are displaced were laid down.

More importantly, in the Eastern United States the risk of any fault displacing and deforming the earth's surface is very low (e.g., the risk is two to three orders of magnitude lower than the risk of a 100-year flood). Even the largest historical shocks (e.g., New Madrid, Missouri and Charleston, South Carolina) have not broken the ground to form the obvious fault traces typical of West Coast faulting. Therefore, the probability is very low that displacement and deformation along Holocene faults, the very processes that the seismic standard was intended to protect against, would occur in the near future in the East.

Furthermore, it is dubious whether or not an investigation conducted in the East would turn up useful information about Holocene faulting. EPA stated in the January 12 preamble that where Holocene deposits are scarce, indirect methods can be used to determine if Holocene faults are present within 200 feet of the facility. EPA now realizes that it is doubtful whether these indirect methods would indicate the presence of a fault, much less a Holocene fault, in the East. This is because, whereas some areas in the East have experienced repeated earthquakes, a surface fault has not been identified as being associated with the earthquakes even after extensive study.

EPA received comments on the interim final seismic standard which argued that we should not require a potentially costly demonstration where no documented evidence of Holocene fault displacement exists. Some commenters suggested that where the USGS Map does not indicate the existence of Holocene faults, the seismic standard should not apply.

EPA agrees that a potentially costly demonstration should not be required where available evidence indicates that the presence of Holocene faults is unlikely. Furthermore, EPA believes that the USGS Map should only be used as a definitive guide insofar as it represents the best and most recent geological information available. Because no Holocene faults have been identified east of the front range of the Rocky Mountains, and because the risk of fault displacement and deformation is low in the East, EPA has decided to limit the requirement for a geological investigation to political jurisdictions which are west of the front range of the Rocky Mountains. Accordingly, Appendix VI to Part 264 is today being revised so that only owners and

operators of facilities which are located in the following states (or identified portions thereof) will be required to conduct a geologic investigation: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Utah, Washington, and Wyoming. The seismic standard in § 264.18(a) and the information requirements for permit applications in § 122.25(a)(11) remain unchanged.

Although EPA does not believe that fault displacement and deformation represent a significant risk for location of hazardous waste facilities east of the front range of the Rocky Mountains, the Agency continues to be concerned about possible damage to facilities due to ground motion and ground failure in these areas. EPA is continuing to consider the need for a location standard which addresses ground motion and ground failure (see 46 FR 2811 for discussion).

III. Economic and Regulatory Impact

EPA has determined, pursuant to Executive Order 12291, that the amendment promulgated here today does not constitute a major rule and therefore, that no Regulatory Impact Analysis is required. This amendment results in a net reduction in regulatory burden and compliance costs for the regulated community. Geological investigations will no longer be required for hazardous waste management facilities located in those portions of the United States, east of the front range of the Rocky Mountains, which were listed in the original Appendix VI.

In compliance with Executive Order 12291, EPA submitted this notice to the Office of Management and Budget (OMB) for review.

The Regulatory Flexibility Act requires all Federal agencies to consider the effects of their regulations on small entities (i.e., small businesses, small organizations and small governmental jurisdictions). As this amendment reduces the net regulatory burden on new hazardous waste management facilities, regardless of their size, it will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not necessary.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient lead time to prepare to comply with major new regulatory requirements. Because this amendment eliminates an

existing regulatory requirement for some facilities, EPA believes that a six-month effective date is not needed to serve the purpose of Section 3010(b). Moreover, the Agency believes that an effective date six months after promulgation would defeat the purpose of this amendment. EPA is therefore making this amendment effective on November 23, 1981.

Dated: November 17, 1981.

Anne M. Gorsuch,
Administrator.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

For the reasons set forth in the preamble, Appendix VI to Part 264 of Title 40 of the Code of Federal Regulations is revised to read as follows:

Appendix VI to Part 264—Political Jurisdictions¹ in Which Compliance With § 264.18(a) Must Be Demonstrated

Alaska	
Aleutian Islands	Kodiak
Anchorage	Lynn Canal-Icy Straits
Bethel	Palmer-Wasilla-Talkeena
Bristol Bay	Seward
Cordova-Valdez	Sitka
Fairbanks-Fort Yukon	Wade Hampton
Juneau	Wrangell Petersburg
Kenai-Cook Inlet	Yukon-Kuskokwim
Ketchikan-Prince of Wales	
Arizona	
Cochise	Greenlee
Graham	Yuma
California	
All	
Colorado	
Archuleta	Mineral
Conejos	Rio Grande
Hinsdale	Saguache
Hawaii	
Idaho	
Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Bonneville	Madison
Caribou	Oneida
Cassia	Power
Clark	Teton
Montana	
Beaverhead	Cascade
Broadwater	Deer Lodge

¹ These include counties, city-county consolidations, and independent cities. In the case of Alaska, the political jurisdictions are election districts, and, in the case of Hawaii, the political jurisdiction listed is the island of Hawaii.

Flathead
Gallatin
Granite
Jefferson
Lake
Lewis and Clark
Madison
Meagher
Missoula

Park
Powell
Sanders
Silver Bow
Stillwater
Sweet Grass
Teton
Wheatland

Nevada

All

New Mexico

Bernalillo
Catron
Grant
Hidalgo
Los Alamos
Rio Arriba
Sandoval

Sante Fe
Sierra
Socorro
Taos
Torrance
Valencia

Utah

Beaver
Box Elder
Cache
Carbon
Davis
Duchesne
Emery
Garfield
Iran
Juab
Millard
Morgan

Piute
Rich
Salt Lake
Sanpete
Sevier
Summit
Tooele
Utah
Wasatch
Washington
Wayne
Weber

Washington

Chelan
Clallam
Clark
Cowlitz
Douglas
Ferry
Grant
Gray Harbor
Jefferson
King
Kitsap
Kittitas
Lewis

Mason
Okanogan
Pacific
Pierce
San Juan Islands
Skagit
Skamania
Snohomish
Thurston
Wahkiakum
Whatcom
Yakima

Wyoming

Fremont
Lincoln
Park
Sublette

Teton
Uinta
Yellowstone National
Park

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40 CFR Part 429

[WH-FRL 1936-2]

Timber Products Processing Point Source Category Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule; Technical Amendment and Correction.

SUMMARY: On January 26, 1981, EPA promulgated effluent guidelines and standards under the Clean Water Act for pollution discharges from the timber products industry. Shortly afterwards,

the American Hardboard Association (AHA) expressed concerns about the new source performance standard promulgated for the wet process hardboard subcategory. AHA also brought to EPA's attention an error in the definition of process wastewater for the dry process hardboard, veneer, finishing, particleboard, and sawmills and planing mills subcategories.

In response to AHA's concerns, EPA is today limiting the applicability of the new source performance standards for the wet process hardboard subcategory. It is also correcting the inadvertent error in the definition of process wastewater for the dry process hardboard and other subcategories.

EFFECTIVE DATE: These amendments will become effective December 23, 1981. In accordance with 40 CFR 100.01 (45 FR 26048), these amendments shall be considered issued for purpose of judicial review at 1:00 p.m. Eastern time on December 7, 1981.

ADDRESS: The record for this rulemaking is available for public inspection and copying at EPA's Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Richard E. Williams, Environmental Protection Agency, Effluent Guidelines Division (WH-552), 401 M St., S.W., Washington, D.C. 20460, (202) 426-2554.

SUPPLEMENTARY INFORMATION:

I. New Source Performance Standards—Wet Process Hardboard Subcategory

On January 26, 1981, EPA promulgated effluent guidelines and standards for various subcategories in the timber products industry. These standards included a new source performance standard for the wet process hardboard subcategory, which required new sources to achieve no discharge of process wastewater pollutants (see 40 CFR 429.64, 46 FR 8290). Shortly after promulgation, the AHA requested EPA to rescind the wet process hardboard new source performance standard. AHA based its request on concerns about the Agency's proposed criteria for identifying "new sources." These criteria define "new source" to include not only sources which are constructed where no other industrial sources presently exist (i.e., "greenfield" sites) but also sources which are constructed at the site of an existing source and either totally replace the processes causing the discharge at the existing source or are substantially independent

of the processes causing the discharge at the existing source (see 45 FR 59343-59344, September 9, 1980). AHA pointed out that, in promulgating the new source performance standard for the wet process hardboard subcategory, EPA only evaluated the impact of this no discharge requirement on new sources constructed at "greenfield" sites—not on new sources created by the modification of existing sources. AHA suggested that, without undertaking further analysis, it was improper for EPA to require new sources other than "greenfield" facilities to meet the no discharge limitation.

EPA agrees that AHA's concerns have merit. Achievement of the no discharge new source performance standard for the wet process hardboard subcategory depends, to a large extent, on the application of spray irrigation—a particularly land-intensive treatment technology. It was appropriate for EPA to assume that "greenfield"-type new sources have the flexibility to obtain the land required for spray irrigation. Without engaging in further analysis, however, it was inappropriate for EPA to assume that non-"greenfield" new sources would always have the ability to obtain the land required for spray irrigation. Consequently, EPA is amending the new source performance standard for the wet process hardboard subcategory to make it applicable only to "greenfield" facilities. As a result of this amendment, substantial modifications of existing sources, which might possibly qualify as new sources under the previous definition, will only be required to comply with the limitations applicable to existing sources. This change will be restricted to the wet process hardboard subcategory and will not affect the Agency's general definition of "new source" or the criteria for identifying the sources which fit within this definition. That definition and the accompanying criteria, once finalized, will be generally applicable to all other industrial subcategories.

II. Process Wastewater Definition—Dry Process Hardboard, Veneer, Finishing, Particleboard, and Sawmills and Planing Mills Subcategories

In its January 26, 1981 promulgation of effluent guidelines and standards for the timber industry, EPA included, for the sake of completeness, a number of timber effluent guidelines and standards which had been previously promulgated in 1974-1976 and were not substantively amended by the 1981 promulgation. Among these were the effluent guidelines and standards for the dry process hardboard, veneer, finishing,