Indirect Source Review

On May 30, 1985 (50 FR 23031), EPA proposed to approve the State’s deletion of indirect source review requirements for the State of Nebraska except as they pertain to the Lincoln and Omaha CO nonattainment areas. EPA stated that the indirect source review program would be retained in these areas until the State could adequately demonstrate whether this program should be part of the control strategy for attaining and maintaining the CO standards in those CO nonattainment areas. The reader is referred to the May 30 proposal for further information.

The Nebraska SIP for Lincoln adequately demonstrates attainment of the CO standard in the Lincoln nonattainment area without the use of the indirect source review program in the control strategy. Consequently, EPA believes the deletion of the indirect source review program would be appropriate for the Lincoln nonattainment area.

Proposed Action

EPA proposes to approve the Lincoln CO revision to the Nebraska SIP and to approve the revocation and deletion from the Nebraska SIP of indirect source review rules as they pertain to Lincoln.

EPA is soliciting comments on the State’s submissions for Lincoln and on the actions proposed in this document. The Administrator will consider comments received from the public in deciding to approve or disapprove this submission.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide.

Authority. 42 U.S.C. 7401-7462.
return of reclaimed material to the same part of the process from which it was generated (although not necessarily the same unit operation).) CMA in fact indicates that its member companies have begun to file variance applications, and at least one already has been granted.

Consequently, EPA is considering amending its rules to indicate that hazardous secondary materials are not solid wastes when all of the following conditions are present:

- They are returned, after being reclaimed, to the original process in which they were generated where they are reused in the manufacturing process (e.g., as purifying agents to remove contaminants from feedstocks, as reaction media to dissolve or suspend chemicals, as raw material feedstock, or as reactants to facilitate chemical reactions); ¹
- Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
- The hazardous secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;
- Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators).

With respect to the third criterion, EPA's information is that the normal accumulation period before reclamation where continuous manufacturing processes are involved is very short (ranging from constant flow through (i.e., no accumulation) to a maximum accumulation prior to reclamation of several weeks). Accumulation time when hazardous secondary materials from a series of batch processes are reclaimed likewise is of very limited duration, since distillation normally operates continuously in such circumstances. However, certain manufacturing processes are operated in a batch mode, sometimes on a relatively infrequent basis (semi-annually, for example), with residual materials being sent to a dedicated distillation unit. Materials not reclaimed when the batch process ceases operation are accumulated until the batch process resumes. Our tentative opinion is that

this last situation is a close question because of the longer accumulation time, but that reclamation is still linked to the manufacturing process. We would specify, however, that the accumulation period could not exceed one year. This period would be drawn from the speculatively accumulation provision contained in 40 CFR 261.1(b)(8).

EPA is noticing the following information, which bears on all of these issues, for public comment:

1. Comment of SOCMA, dated August 30, 1985;
2. Comment of Eli Lilly and Co., dated August 26, 1985;
3. Comment of National Paint and Coating Ass'n, dated September 5, 1985;
4. Comment of Chemical Manufacturers Ass'n, dated August 26, 1985;
5. Letter of CMA, dated November 13, 1985;
6. Memorandum of November 13 Meeting Between Officials of EPA and Representatives of CMA;
7. Illustrative Applications for Closed-Loop Variance filed by Eastman Kodak Co.;
8. Portions of Brief of CMA in AMC v. EPA, (No. 85–1208 D.C. Cir. 1985);
9. Portions of comments of Environmental Defense Fund to Definition of Solid Waste Rulemaking (which voiced some support for considering tanks to be eligible for a closed-loop exclusion).

EPA solicits comment on this new information, and on the issues addressed in this notice. These comments must be received before January 30, 1986.

J. W. McGraw,
Acting Assistant Administrator, Office of Solid Waste and Emergency Response
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