

US EPA ARCHIVE DOCUMENT

significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General

of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve revisions to MDE's regulations at COMAR 26.11.06, General Emission Standards, Prohibitions, and Restrictions, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 26, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart V—Maryland

■ 2. Section 52.1070 is amended by adding paragraph (c)(181) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(181) Revisions to the Code of Maryland's Administrative Regulations (COMAR) for particulate matter, visible emissions and sulfur compounds submitted on November 6, 2002 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of November 6, 2002 from the Maryland Department of the Environment transmitting the revision

consisting of housekeeping and clarification amendments to Regulations .02, .03, and .05 under COMAR 26.11.06 General Emission Standards, Prohibitions and Restrictions.

(B) The following amendments to COMAR 26.11.06—General Emission Standards, Prohibitions and Restrictions, effective November 11, 2002:

(1) Addition of COMAR 26.11.06.02A(1)(k).

(2) Revisions to COMAR 26.11.06.02A(1)(j), .02A(2), .02C(1), .03C (introductory paragraph), .03C(1), and .05A.

(3) Removal of COMAR 26.11.06.02C(3).

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(181)(i) of this section.

[FR Doc. 03-19922 Filed 8-5-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries

CFR Correction

■ In Title 40 of the Code of Federal Regulations, part 60 (60.1 to End), revised as of July 1, 2002, on page 496, § 60.593 is corrected by revising paragraph (e). The revised text reads as follows:

§ 60.593 Exceptions.

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(e) Pumps in light liquid service and valves in gas/vapor and light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the requirements of § 60.482-2 and § 60.482-7.

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[FR Doc. 03-55520 Filed 8-5-03; 8:45 am]

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[KS 189-1189a; FRL-7540-7]

Approval and Promulgation of Operating Permits Program; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Kansas Operating Permit Program. On June 25, 2001, the state of Kansas requested a revision to change the Class I Operating Permits annual emission inventory due date and to revise the annual emissions fee. Approval of these revisions will ensure consistency between the state and Federally-approved rules.

DATES: This direct final rule will be effective October 6, 2003, unless EPA receives adverse comments by September 5, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be submitted to Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to Heather Hamilton at hamilton.heather@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551-7039 or by e-mail at hamilton.heather@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions: What is the Part 70 operating permits program? What is being addressed in this document? What action is EPA taking?

What Is the Part 70 Operating Permits Program?

The Clean Air Act (CAA) Amendments of 1990 requires all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain

all applicable requirements under the CAA. One purpose of the Part 70 operating permits program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include: "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations.

Revisions to the state operating permits program are subject to public notice, comment, and EPA approval.

What Is Being Addressed in This Document?

The state of Kansas has requested that EPA approve as a revision to the 40 CFR Part 70 Operating Permits Program the following revisions:

1. This revision to K.A.R. 28-19-202 Annual Emissions Fee raised the annual rate from \$18.00 per ton to \$20.00 per ton for emissions occurring in 2001 and later. This revision changes the annual rate back to the original rate set when the Title V program was established, for which Kansas made a demonstration that it was collecting fees sufficient to cover its costs of implementing the Title V program. This monetary revision will adjust the balance in the air quality fee fund to adequately support the current actual developmental costs of the program.

2. This revision to rule K.A.R. 28-19-517 Class I Operating Permits, annual emission inventory due date changed the annual inventory due date for Class I operating permits from April 1 of each year to June 1. This revision is being made to allow additional time to submit fees and to regulate the fee cycle with the state's budget cycle.

What Action Is EPA Taking?

EPA is approving the revision to the Kansas Operating Permits Program to change the due date of the annual emission inventory from April 1 to June 1, and to raise the annual emissions fee from \$18.00 to \$20.00 per ton for emissions occurring in the year 2001 and later. On June 25, 2001, the state of Kansas submitted a request for EPA to revise the rules to reflect these changes.

We are processing this action as a direct final action because the revisions

make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives an adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number, KS 189-1189a, in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

a. *Electronic mail.* Comments may be sent by e-mail to Heather Hamilton at hamilton.heather@epa.gov. Please include identification number KS 189-1189a in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through www.regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

b. *Regulations.gov.* Your use of www.regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, click on "To Search for Regulations," then select Environmental Protection Agency and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online

instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

2. *By Mail.* Written comments should be sent to the name and address listed in the ADDRESSES section of this document.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885,

April 23, 1997), because it is not economically significant.

In reviewing state operating permits programs submitted pursuant to Title V of the CAA, EPA will approve state programs provided that they meet the requirements of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state operating permits program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program submission, to use VCS in place of a state program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 70

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental

relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 28, 2003.

William Rice,

Acting Regional Administrator, Region 7.

■ 40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to part 70 is amended by adding paragraph (b) under Kansas to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Kansas

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(b) The Kansas Department of Health and the Environment approved revisions to the Kansas Administrative Record (K.A.R.), 28-19-202 and 28-19-517, which became effective on March 23, 2001, and February 28, 1998, respectively. These revisions were submitted on June 25, 2001. We are approving these program revisions effective October 6, 2003.

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[FR Doc. 03-20019 Filed 8-5-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2003-0207; FRL-7317-3]

Spinosad; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of spinosad in or on onion, dry bulb. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on onion, dry bulb. This regulation establishes a maximum permissible level for residues of spinosad in this food commodity. The tolerance will expire and is revoked on December 31, 2006.

DATES: This regulation is effective August 6, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0207, must be received on or before October 6, 2003.