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Attainment of the lead standard is based upon regulations found in 40 CFR 50.12. The lead national primary and secondary air quality standards are 1.5 micrograms per cubic meter, maximum arithmetic mean averaged over a calendar quarter. The data indicate that four monitors in the Herculaneum area continue to measure violations of the NAAQS for lead in spite of the state's efforts.

Under section 179(c)(1) of the CAA, the EPA has the responsibility for determining whether a nonattainment area has attained the lead NAAQS. The EPA must make an attainment determination as expeditiously as practicable, but no later than six months after the attainment date for the area. The Act also requires the EPA to publish a notice of its findings in the Federal Register.

In the case where the area fails to attain the NAAQS by the applicable attainment date, the EPA policy (Shaver 1995) specifies that the EPA will notify the affected state(s) by letter and Federal Register notice of the EPA's findings. The EPA notified Missouri of its finding on August 27, 1996.

B. Implementation of Contingency Measures

Upon receipt of notification, affected states are required to implement specific contingency measures previously identified in the approved SIP. These measures were identified and submitted under section 172(c)(9) of the CAA. These measures are to be undertaken without further action on the part of the state or the EPA. In general, the EPA expects all actions needed to effect full implementation of the contingency measures to occur with 60 days of notification. On December 10, 1996, the EPA received written notification from the Missouri Department of Natural Resources that all contingency measures in the approved SIP have been implemented.

C. Call for Revision of Missouri's SIP

In accordance with section 179(d) of the CAA, upon publication of the EPA's notice indicating an area has failed to attain, states must within one year submit a SIP revision meeting all of the requirements of sections 110 and 172 of the Act and any additional measures as may be reasonably prescribed, including all measures that can be feasibly implemented in light of technological achievability, costs, and other factors. With this document, the EPA gives notice that it has notified the Governor of Missouri that the Herculaneum, Missouri, area has failed to attain the NAAQS for lead. This notice requests public comment on this determination.

Retention of the area's nonattainment status under section 107(d) of the Act does not impose any new requirements on small entities. Retention of the nonattainment designation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the area must adopt new regulations, based on its nonattainment status, the EPA will review the effect of those actions on small entities at the time the state submits those regulations. The Administrator certifies that retention of the area's nonattainment status will not affect a substantial number of small entities.

III. Administrative Requirements

A. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), the EPA is required to determine whether regulatory actions are significant and therefore should be subject to the Office of Management and Budget review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.''

The Agency has determined that today's finding of failure to attain results in none of the effects identified in section 3(f). Under section 179(c) of the CAA, findings of failure to attain for nonattainment areas are based upon air quality considerations, in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

As discussed in section III of this notice, findings of failure to attain for nonattainment areas under section 179(c) of the CAA do not in and of themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

C. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, the EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

The EPA believes, as discussed above, that the proposed finding of failure to attain for the Herculaneum, Missouri, lead nonattainment area is a factual determination based upon air quality considerations and does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, National parks, Wilderness areas, Lead.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 18, 1997.

Dennis Grams,

Regional Administrator.

[FR Doc. 97–5416 Filed 3–4–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 70

[MO 014–1014; FRL–5698–8]

Approval and Promulgation of Implementation Plan and State Operating Permit Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to Missouri's State Implementation Plan (SIP) concerning Missouri's rule 10 CSR 10–6.110, Submission of Emission Data, Emission Fees, and Process Information. This rule also clarifies the requirements for the payment of emission fees to support Missouri's Title V program and was submitted as part of the state's plan to comply with Title V of the Clean Air Act (CAA).

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DATES: Comments must be received on or before April 4, 1997.

ADDRESSES: Comments may be mailed to Stan Walker, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Stan Walker at (913) 551–7494.

SUPPLEMENTARY INFORMATION:

I. Background

On February 1, 1996, the state of Missouri submitted revisions to Missouri rule 10 CSR 10–6.110 as part of the SIP and to comply with the operating permit requirement outlined in Title V of the CAA as amended (1990). A public hearing was held on July 27, 1996.

A. Missouri's SIP Submission

Revisions to the rule provide procedures for collecting, recording, and submitting emission data and process information on state-supplied Emission Inventory Questionnaires (EIQ) and Emission Statement forms, or in a format satisfactory to the Director. This is necessary so the state can calculate emissions for state air resource planning. As specified in sections 182(a)(3)(B) and 182(b) of the CAA, emission statements are required of certain facilities in nonattainment areas. Emission statements are required if the actual emissions of either nitrogen oxide, volatile organic compounds, or carbon monoxide are equal to or greater than ten tons annually. Facilities must report emissions of each pollutant if they meet the ten-ton threshold for any of the three.

An amendment to the rule also establishes emission factor approvability and procedures for adjusting emission fees. Also, the amendment revises the use of the terms ''contaminant'' and ''pollution'' to reflect definitions in 10 CSR 10–6.020.

B. Proposed Approval of Revision to Missouri's Part 70 Operating Permit Program

One amendment to Missouri rule 10 C.S.R. 10–6.110, changes section (1), ''Applicability,'' to include a provision that all installations required to obtain permits under 10 C.S.R. 10–6.060 or 10 C.S.R. 10–6.065 to file an EIQ as outlined in the reporting frequency table in subsection (2)(E). Installations, however, can prove to the staff director that their potential emissions are below de minimis levels and that they should be exempt. The purpose of this change is to remove exemptions that were not intended by the Missouri legislature. Consequently, all air contaminant sources required to obtain a permit must pay emission fees. This rule requires subject facilities to submit emission information and emission fees, and makes emission data available to the public. Reference to rules 10 CSR 10–6.060 and 10 CSR 10–6.065, as well as changes to Section (5) of the rule, relate to Missouri's Title V program covered under 40 CFR Part 70.

The revision to Section (5) of Missouri rule 10 CSR 10–6.110 clarifies language related to payment of fees by charcoal kilns. This particular change relates to Missouri's Operating Permits Program, as specified in the Missouri statutes, which was previously approved by the EPA on April 4, 1996 (61 FR 16063).

II. Proposed Action

The EPA is proposing to approve revisions to Missouri's SIP and Missouri's Title V Operating Permit Program concerning Missouri rule 10 CSR 10–6.110, ''Submission of Emission Data, Emission Fees, and Process Information.''

Nothing in this action should be construed as permitting or 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.

III. Administrative Requirements

A. Docket

Copies of the state submittal and other information relied upon for the proposed approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this proposed approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5. U.S.C. § 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing 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, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirement.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 5, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–5422 Filed 3–4–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 268

[FRL–5699–3]

RIN 2050 AE05

Land Disposal Restrictions—Phase IV: Treatment Standards for Characteristic Metal Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: EPA has received additional information on an issue it first raised in the Land Disposal Restrictions (LDR) Phase III proposed rule (60 FR 11702, March 2, 1995), that of whether the addition of iron filings (and iron dust) to lead-contaminated spent foundry sand is a means of diluting the waste impermissibly rather than treating it to conform with the requirements of the LDR rules. The new information being noticed today addresses whether this practice stabilizes (or otherwise treats) lead, the chief hazardous constituent found in the spent sand, so that the lead will not migrate through the environment when the spent sand is land disposed. Stabilization as a technology-based LDR standard (STABL) is described in 40 CFR 268.42 as using the following reagents (or waste reagents) or combinations of reagents: (1) Portland cement; or (2) lime/pozzolans (e.g., fly ash and cement kiln dust)—this does not preclude the addition of reagents (e.g., iron salts, silicates, and clays) designed to enhance the set/cure time and/or compressive strength, or to overall reduce the leachability of the metal or inorganic. New studies have been performed to evaluate this hazardous waste management practice, and the studies have undergone external Peer Review. EPA is noticing these studies, and the results of the Peer Review, in this Notice, and soliciting public comment. EPA may use the results of the studies to promulgate a revised final approach on this waste management practice in an upcoming LDR rulemaking (Phase IV).

The public has 30 days from publication of this notice to comment on the results of the studies and the Peer Review. This notice does not reopen for comment any other Phase III or Phase IV issue; only comments about the waste management practice of adding iron filings or dust to lead-contaminated spent foundry sand will be considered by the Agency.

DATES: Comments are due by April 4, 1997.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number F–97–PH3A–FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center, U.S. Environmental Protection Agency (5305W), 401 M Street, SW, Washington, DC 20460. RCRA Information Center is located at 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RCRA Information Center is open for public inspection and copying of supporting information for RCRA rules from 9:00 a.m. to 4:00 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information or to order paper copies of this Federal Register document, call the RCRA Hotline. Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). Long-distance callers may call 1–800–424–9346 or TDD 1–800–553–7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m., Eastern Standard Time. For other information on this notice, contact Mary Cunningham at (703) 308–8453, John Austin at (703) 308–0436 or Rhonda Craig at (703) 308–8771, Office of Solid Waste, Mail Code 5302W, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. This expedited procedure is in conjunction with the Agency ''Paperless Office'' campaign. For further information on the submission of diskettes, contact Rhonda Craig of the Waste Treatment Branch at (703) 308–8771.

This Federal Register notice is available on the Internet System through EPA Public Access Server, www.epa.gov. For the text of the notice, choose: Rules, Regulations, and Legislation; FR-Waste; Year/Month/Day.

Notice of Data Availability

I. Overview

On March 2, 1995, EPA published the LDR Phase III proposal in the Federal Register (60 FR 11702). Among other things, EPA proposed that adding iron filings to lead-contaminated spent foundry sand constituted impermissible dilution of hazardous lead waste rather than treatment to meet the LDR treatment standards (60 FR 11731). As explained in the proposed rule, the addition of iron filings seems to temporarily retard the leachability of lead in the spent foundry sand thus allowing the waste to pass the TCLP test, but not to be permanently treated. Comments were mixed on this issue, and EPA decided not to finalize a determination that the practice is a form of impermissible dilution in the Phase III final rule without studying the issue further. See 61 FR 15569, April 8, 1996.

Since then, two studies have become available on this issue. One study was developed by Dr. John Drexler of the University of Colorado, and the other by Dr. Douglas Kendall of the National Enforcement Investigations Center (NEIC). The results of these studies indicate that the addition of iron filings or iron dust to spent foundry sand does

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