

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.*).

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

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 15, 2002. 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 in 40 CFR Part 52

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

Dated: June 28, 2002.

Jo Lynn Traub,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations 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.*

2. Section 52.770 is amended by adding paragraph (c)(151) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(151) On March 5, 2002, the Indiana Department of Environmental Management requested a revision to the Indiana State Implementation Plan in the form of revisions to the Permit Review Rules intended to add regulations to assure that construction permit conditions exist independently of title V permits. This revision took the form of an amendment to Title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2-1.1-9.5 General Provisions; Term of Permit.

(i) Incorporation by reference.

(A) Indiana Administrative Code Rules 326 IAC 2-1.1-9.5. Adopted by the Indiana Air Pollution Control Board October 3, 2001. Filed with the Secretary of State December 20, 2001. Effective January 19, 2002. Published at Indiana Register, Volume 25, Number 5, February 1, 2002.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7258-8]

RIN 2060-AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On June 14, 2002, the EPA promulgated amendments to the national emission standards for the secondary aluminum production industry as a direct final rule, along with a parallel proposal to be used as a basis for final action in the event that

we received any adverse comments on the direct final amendments. Because one commenter submitted adverse comments on several of the provisions in the direct final rule, we are withdrawing the entire direct final rule. We will address the adverse comments in a subsequent final rule based on the parallel proposal published on June 14, 2002. We intend to publish the subsequent final rule as soon as possible.

DATES: As of August 13, 2002, the EPA withdraws the amendments to §§ 63.1501, 63.1505, 63.1506, 63.1510, 63.1511, 63.1515 and Appendix A to subpart RRR published at 67 FR 41118 on June 14, 2002.

ADDRESSES: Docket number A-2002-05, containing supporting information used in the development of this notice, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102T), 1301 Constitution Avenue, NW, Room B108, Washington, DC 20460, or by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-0296, facsimile number (919) 541-5600, electronic mail address: schaefer.john@epa.gov.

SUPPLEMENTARY INFORMATION: On June 14, 2002, we published a direct final rule (67 FR 41118) and a parallel proposed rule (67 FR 41136) to amend the national emission standards for secondary aluminum production (40 CFR part 63, subpart RRR). The amendments were the result of settlement agreements which we executed in two cases which were brought seeking judicial review of the subpart RRR. The intent of the amendments in the direct final rule was to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to resolve some basic applicability questions being addressed in a separate rulemaking before the compliance date for certain new sources.

We stated in the preamble to the direct final rule and parallel proposal that if we received significant material adverse comment by July 15, 2002, on

one or more distinct provisions of the direct final rule, we would publish a timely notice in the **Federal Register** specifying which provisions will become effective and which provisions will be withdrawn due to adverse comment. We subsequently received from one commenter adverse comments on six of the amendments:

- § 63.1501(c), which deferred the compliance date for new and reconstructed affected sources which are located at existing aluminum die casting, foundry, or extrusion facilities; and

- § 63.1505(c),(d),(e),(f), and (k), which deferred the compliance date for thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, sweat furnaces and secondary aluminum processing units from the date on which performance testing was completed until the compliance date specified in § 63.1501.

In light of the relationship between the sections which were commented on and some of the remaining amendments, and to avoid the possibility of confusion resulting from partial adoption of the amendments, we have decided to withdraw all amendments contained in the direct final rule. Accordingly, all amendments in the direct final rule are withdrawn as of August 13, 2002. We recognize the potential disruptive effect of this withdrawal action on affected facilities. Therefore, after considering the adverse comments, we intend to take final action on the accompanying proposed rule as soon as possible. We will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: August 7, 2002.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL-7257-7]

Exclusion from the Definition of Solid Waste; Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today granting a variance from EPA's hazardous waste requirements for certain materials reclaimed by the World Resources Company (WRC) from metal-bearing sludges. This action responds to a petition submitted by WRC requesting that the Agency exclude from the definition of solid waste under the Resource Conservation and Recovery Act (RCRA) its concentrate material that is partially reclaimed from metal-bearing sludges and sold to smelters. In response to the petition, EPA published a **Federal Register** notice proposing to grant the variance on December 9, 1999 (64 FR 68968).

EFFECTIVE DATE: This variance is effective August 13, 2002.

ADDRESSES: Supporting materials for this variance are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F-2002-WRCF-FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, we recommend making an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket without charge. Additional copies cost \$0.15 per page. The docket index and some supporting materials are available electronically. For information on accessing them, see the beginning of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund/EPCRA/UST Call Center at (800) 424-9346 (toll free) or TDD (800) 553-7672 (hearing impaired). In the Washington, D.C. metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For more detailed information on specific aspects of this rulemaking, contact Ms. Marilyn Goode, U.S. Environmental Protection Agency, MC 5304W, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308-8800, electronic mail: goode.marilyn@epa.gov.

SUPPLEMENTARY INFORMATION: The index to the docket record and some supporting documents for this proposal are available on the Internet. Follow these instructions to access the information electronically: <http://www.epa.gov/epaoswer/hazwaste/id/index/htm>.

The official record for this action will be kept in paper form. The official

record is the paper record maintained at the RCRA Information Center, also referred to as the Docket, at the address provided in the **ADDRESSES** section at the beginning of this document.

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I. Background

A. Authority

Under 40 CFR 260.30(c), facilities may petition EPA to exclude from the definition of solid waste material that has been reclaimed but must be reclaimed further before recovery is complete. To qualify for the exclusion, the material resulting from initial reclamation must be commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). Petitioners must provide sufficient information to EPA to allow the Agency to make a determination that the material is not a solid waste, pursuant to criteria set forth at 40 CFR 260.31(c).

B. Summary of Petition

Pursuant to 40 CFR 260.30(c), WRC submitted to EPA a petition for a variance from classification as solid waste for metal-rich concentrate material produced at its facility in Phoenix, Arizona. WRC produces the concentrate primarily from sludges generated by electroplating operations. The sludges are rich in metals, and are generally classified as hazardous wastes. WRC then sells the partially reclaimed material to primary smelters for metals extraction. Currently, the partially reclaimed material produced at the Phoenix facility is fully regulated as hazardous waste, must be managed and sold as hazardous waste, and off-site shipments must be accompanied by a hazardous waste manifest. In support of its variance application, WRC provided data and information in its application about each of the factors listed in 40 CFR 260.31(c).

1. Applicability of the Variance

At its Phoenix facility, WRC principally reclaims wastewater treatment sludges (F006) received from generators who conduct electroplating and metal finishing operations. From