

11. *Evidence of Adoption of the Necessary Requirements, Schedules and Timetables for Compliance, and Commitments to Implement and Enforce These Plan Elements*—The control measure in the plan is currently being implemented by the responsible agency. Consequently, further commitments to implement the plan elements are unnecessary.

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 these 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. 7401-7642.

Dated: September 27, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-29668 Filed 12-13-85; 8:45 am]

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40 CFR Parts 261, 264 and 265

[SWH-2932-6]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste, and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comment.

SUMMARY: On June 26, 1985, EPA proposed to amend its hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) for tank systems storing or treating hazardous waste. 50 FR 26444. Several commenters indicated that the Agency underestimated substantially the number of tank systems potentially affected by the proposed rule by not considering tanks that are integrally tied to reclamation operations that are part of the production process. These comments raised the further question as to whether such tank systems should be considered to be involved in hazardous waste management. EPA is seeking public comment on these questions, and also is seeking comment on relevant information about the numbers and types of such tank systems submitted by the Chemical Manufacturers Association.

DATES: EPA will accept comments from the public until January 30, 1986.

ADDRESSES: Send comments to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Communications should identify the regulatory docket number "Closed-Loop Tank Systems."

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll-free at 800-424-9346 or (202) 382-3000. For technical information contact: Mr. Matthew A. Straus, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-8551.

SUPPLEMENTARY INFORMATION: On June 26, 1985, EPA proposed to amend its regulations under RCRA that apply to tank systems storing or treating hazardous waste. 50 FR 26444. As part of the rulemaking, the Agency presented

estimates on the potential costs and economic impacts of the proposed rule.

The Synthetic Organic Chemical Manufacturers Association (SOCMA) submitted comments stating that EPA had seriously underestimated the potential impact of the rule on tanks involved in on-site recycling operations. As a result of the Agency's amended definition of solid waste (50 FR 614, Jan. 4, 1985), many such tanks would be deemed to be engaged in hazardous waste management even though they may be part of an essentially closed system. See 50 FR at 639. Similar comments were raised at the Washington, DC public hearing on the proposed tank standards and in the comments on Eli Lilly and Co., the National Paint and Coatings Association, and a number of other companies.

The Chemical Manufacturers Association (CMA) has voiced similar concerns to the Agency. They indicate (CMA letter to EPA of Nov. 13, 1985) that hazardous spent materials (frequently spent solvents) are often reclaimed in on-site, closed-loop types of systems where the spent materials are piped from the process to surge or equalization tanks, piped from the tank to the distillation unit (or similar recovery devices), and then (after being reclaimed) returned by pipe to the original unit process for reuse in the manufacturing process. These reclamation operations are generally considered to be part of the manufacturing process, and are often noted as such in standard technical literature on chemical manufacturing processes. CMA estimates that there may be between 3000-5000 such tanks in the organic chemical industry alone (which have not yet been included in the Agency's cost estimates in this rulemaking). CMA also notes that these tanks are not 90-day accumulation tanks because (for the most part) they cannot practically be emptied every 90 days due to the continuous nature of the manufacturing process.

The operations described by SOCMA and CMA appear to be within the language or policy of the closed-loop variance provision contained in 40 CFR 260.30(b) and 260.31(b) (January 4, 1985). This variance provision indicates that reclamation can be viewed as being so integrally tied to production, when followed by return of reclaimed materials to the original process, that the secondary materials being reclaimed are not solid wastes. See 40 CFR 260.31(b)(1)-(8). (The concept of "return to the original process" is explained at 50 FR 640 (Jan. 4, 1985), and involves

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 time before 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

¹ EPA realizes that his contemplated provision is somewhat broader than the language of the closed-loop variance contained in 40 CFR 260.31(b), which requires that reclaimed materials be returned as a feedstock to the original process. EPA is considering whether to modify the closed-loop variance to extend to all situations where reclaimed materials are reused in the original manufacturing process.

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 speculative 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 SOGMA, 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.

Dated: December 9, 1985.

J. W. McGraw,

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

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-372; RM-5172]

FM Broadcast Station in Rock Harbor, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Channel 271C2 for Channel 272A at Rock Harbor, Florida, and to modify the Class A license for Station WKLG-FM accordingly in response to a

petition filed by David W. Freeman, Sr., David W. Freeman, Jr., Elizabeth M. Freeman, and Elizabeth C. Freeman.

DATES: Comments must be filed on or before January 31, 1986, and reply comments on or before February 18, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Rock Harbor, Florida); MM Docket No. 85-372. RM-5172.

Adopted: November 25, 1985. Released: December 10, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by David W. Freeman, Sr., Elizabeth M. Freeman, Elizabeth C. Freeman, and David W. Freeman, Jr.,¹ which seeks to substitute Channel 271C2 for Channel 272A at Rock Harbor, Florida, and to modify the license for Station WKLG(FM) to specify operation on Channel 271C2.

2. We believe that the petitioners proposal warrants consideration. The transmitter site must be restricted 22.4 kilometers (13.9 miles) southwest of the city to meet the spacing requirements to Station WYLF(FM), Channel 268, Miami, Florida. In accordance with our established policy, we shall propose to modify the license for Station WKLG(FM), Channel 272A, to specify operation on Channel 271C2. Currently, pursuant to § 1.420(g), the modification may not be implemented should another party express an interest in the proposed allotment unless an additional equivalent channel is made available for allotment to Rock Harbor.²

¹ The petitioners are the licensees of Station WKLG-FM (Channel 272A), Rock Harbor, Florida.

² Interested parties should consider the pendency of a rule making proceeding (MM Dkt. 85-313), 50 FR 45439, published October 31, 1985, to amend

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