

"federally enforceable" for purposes of limiting PTE (and, thus, avoiding major source requirements) if a permit contains terms and conditions which are not quantifiable or practically enforceable in accordance with the revised version of Regulation No. 2 proposed for SIP approval and the June 28, 1989 criteria.

EPA has determined that the Federal enforceability "opt-in" process established in revised Regulation No. 2 (whereby sources can request to have certain permit terms and conditions be designated as federally enforceable for purposes of limiting PTE) fully meets the requirements of EPA's June 28, 1989 criteria for federally enforceable state operating permits programs. EPA proposes full approval of the Regulation No. 2 provisions as meeting the June 28, 1989 criteria for a FESOPP.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **Addresses** section of this document.

III. Proposed Action

EPA is proposing limited approval of revisions to the Delaware minor NSR program submitted on June 4, 1997, because the revised Regulation No. 2 strengthens the SIP, but does not fully meet the current requirements for public participation of minor NSR programs under 40 CFR 51.161. EPA is proposing full approval of the provisions of Regulation No. 2 establishing a FESOPP which provides a mechanism for sources to request that certain terms and conditions of Regulation No. 2 permits be designated as federally-enforceable for purposes of limiting the PTE regulated air pollutants. Final action by EPA to approve Delaware's FESOPP would confer Federal enforceability status, and EPA would recognize limits on PTE for sources to avoid major source requirements, to existing permits which are issued in accordance with the revised Regulation No. 2 and the June 28, 1989 criteria, including permits which have been issued prior to EPA's final action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, 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, 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 sections 110 and 301, 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, EPA 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. 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.

The Regional Administrator's decision to approve or disapprove this revision to Delaware Regulation 2 will be based on whether it meets the requirements of section 110(a)(2)(a)-(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, New source review, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: March 25, 1998.

Thomas Valtaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR 372

[OPPTS-400128; FRL-5783-1]

Emergency Planning and Community Right-to-Know; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a public meeting regarding the Agency's proposal to add dioxins and dioxin-like compounds to the list of chemicals for which reporting is required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), specifically to discuss potential impact on small entities. This meeting will also cover aspects of ongoing considerations by the Agency of two issues related to listing of dioxins and dioxin-like compounds: possible listing of other persistent bioaccumulative toxic (PBTs) chemicals under section 313 of EPCRA and possible lowering of EPCRA section 313 reporting thresholds for persistent bioaccumulative chemicals.

DATES: The meeting will take place on Friday, May 1, 1998, from 9 a.m. to 5 p.m. The meeting will continue until all registered participants have spoken.

Participants must register to speak by 5 p.m., Tuesday, April 28, 1998.

ADDRESSES: The meeting will be held at: EPA Auditorium, 401 M St., SW., Washington, DC.

All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G-099 East Tower, Washington, DC 20460. Each comment must bear the docket control number "OPPTS-400128." Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record. Persons submitting information on any portion of what they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: Myra Karstadt at 202-260-0658, e-mail karstadt.myra@epa.gov or the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460; Toll-free telephone number: 1-800-535-0202. In Virginia and Alaska call: 703-412-9877. The toll-free TDD number is 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Background

In 1986, Congress enacted the Emergency Planning and Community

Right-to-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment or otherwise manage as waste. The purpose of this requirement is to inform the public, government officials, and industry about chemical management practices for specified toxic chemicals.

On August 28, 1996, EPA received a petition from Communities for a Better Environment that requested addition of dioxins to the list of chemicals for which reporting is required under section 313 of EPCRA. On May 7, 1997, EPA issued in the **Federal Register** a notice that proposed addition of "a chemical category that includes dioxin and 27 dioxin-like compounds" to the chemicals for which reports are required under section 313 of EPCRA (62 FR 24887). In that **Federal Register** notice, it was stated that, because of the thresholds for reporting set out in section 313 of EPCRA: "EPA believes that, under current reporting thresholds, it is highly unlikely that any entities will be required to report for the proposed chemical category."

The Agency has been considering possibly lowering reporting thresholds for the chemicals in the proposed category of dioxins and dioxin-like chemicals. In addition, the Agency has been considering how best to use reporting authorities under section 313 of EPCRA to provide the public with information on persistent bioaccumulative toxic chemicals other than those in the category of dioxins and dioxin-like chemicals covered by the May 1997 **Federal Register** notice.

This public meeting is one of a series of meetings that will provide opportunities for discussion among EPA, potentially affected industry groups, and the public, regarding EPA's proposed action concerning dioxins as well as possible actions concerning other persistent bioaccumulative toxic chemicals. This meeting is being held specifically to discuss the potential impacts of the proposed action and other possible actions on small entities, including small businesses and small local governments.

Oral statements will be scheduled on a first-come first-serve basis. To schedule an oral statement, call Thelma Harvey at 202-260-3941. Oral presentations or statements may be limited in time, depending on the number of individuals who have registered to speak. All statements will become part of the public record for the proposed rule and will be considered in the development of the proposed rule and other possible actions.

II. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "OPPTS-400128." The record includes comments and data submitted electronically as described below. A public version of this record, which includes printed (paper) records of electronic comments, but which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPPTS-400128." Electronic comments on this action may be filed online at many Federal Depository Libraries.

Dated: March 30, 1998.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

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