

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference.

Thomas C. Voltaggio,

Acting 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 paragraphs (c)(147) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(147) Revisions to the Maryland State Implementation Plan submitted on March 11, 1999, by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of March 11, 1999, from the Maryland Department of the Environment transmitting revisions to Maryland's State Implementation Plan, pertaining to Code of Maryland Administrative Regulations (COMAR) 26.11.19. Volatile Organic Compounds from Specific Processes at 26.11.19.07 Paper, Fabric, Vinyl, and Other Plastic Parts Coating.

(B) Revision to COMAR 26.11.19.07: Paper, Fabric, Vinyl, and Other Plastic Parts Coating to add at COMAR 26.11.19.07 F. "Emission Standards for Printing on Plastic Other than Vinyl." This revision was adopted on August 6, 1997, and effective on September 8, 1997.

(C) Revisions to COMAR 26.11.19.07: Paper, Fabric, Vinyl, and Other Plastic Parts Coating, adopted August 4, 1998, and effective on August 24, 1998, including the following:

(1) Revision to COMAR 26.11.19.07 B. "Applicability" at B (1) to delete previous text describing subject coating and printing operations and to add new text stating that the regulation applies to any coating or printing operation that it listed in and has VOC emissions equal to or greater than the applicability levels in subsection C. (2) and (3) of this regulation.

(2) Revision to COMAR 26.11.19.07 C. to change the title from "Emission Standards for Web, Paper, Fabric, and Vinyl Coating" to "Emission Standards for Coating or Printing Installations."

(3) Revision to COMAR 26.11.19.07 C. (1) to delete text which specified installations by substrates and listed the

associated emission standards, and to add text to refer to the installations and emission standards found in subsections C. (2) and (3) of this regulation.

(4) Revision to COMAR 26.11.19.07 to add subsection C. (2) and (3) to list in tabular format subject installations, applicability thresholds, and VOC emission standards.

(5) Revision to COMAR 26.11.19.07 to delete subsections E. D. and F. as their requirements are found in the new simplified table at COMAR 26.11.19.07 C (2) and (3).

(ii) Additional Material—Remainder of March 11, 1999 submittal pertaining to COMAR 26.11.19.07 Paper, Fabric, Vinyl, and Other Plastic Parts Coating.

[FR Doc. 00-616 Filed 1-13-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

[FRL-6518-2]

Slotted Guidepoles at Certain Petroleum and Organic Liquid Storage Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Regulatory interpretation.

SUMMARY: This action provides express notice that slotted guidepoles at certain petroleum storage vessels and tanks may not comply with regulatory requirements. Slotted guidepoles are relatively simple devices for sampling the contents of a floating roof storage tank. Unless they are controlled, the slots, hollow core and the space between the guidepole and the tank's roof are observable emission pathways that violate the "no visible gap" prohibition in the Standards of Performance for Storage Vessels for Petroleum Liquids (40 CFR part 60, subpart Ka (NSPS)) and the Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) (40 CFR part 60, Subpart Kb (NSPS)).

SUPPLEMENTARY INFORMATION: NSPS Subpart Ka requires that "each opening in the roof except for automatic bleeder vents, rim space vents, and leg sleeves, is to be maintained in a closed position at all times (i.e., no visible gaps) except when the device is in actual use." 40 CFR 60.112a(a)(1)(iii). See also 40 CFR 60.112a(a)(2). NSPS Subpart Kb establishes similar (and more stringent) requirements. 40 CFR 60.112b(a)(1)(iv) and (a)(2)(ii). Thus, there must be no

"visible gap" or readily observable emission pathway in any tank roof/cover at any affected facility under NSPS Subparts Ka and Kb. The overall purpose of the Ka/Kb regulations is to reduce emissions from tanks and other petroleum storage vessels; the intent of the "no visible gap" requirement is to eliminate or minimize any pathway through which evaporative tank losses could be emitted to the atmosphere. The only exceptions to this closed cover ("no visible gap") requirement are expressly identified in the rule: automatic bleeder vents, rim space vents and leg sleeves. All other openings and emission pathways in the roof/cover, including slotted guidepoles, are subject to the "no visible gap" requirement.

Slotted guidepoles are hollow poles with holes or "slots" that perforate the length of the pole, typically a foot-long and 1.5-inch wide. Where the pole passes through the roof, there is an opening in the roof and a gap between the pole and the roof. These holes, slots and gaps have exactly the same emissions effect as any other roof opening: they constitute an emissions pathway through which volatile organic compounds (VOCs) escape from the tank. Thus, they also constitute openings in the tank roof/cover. In short, both the hole through which the guidepole passes and the slots in the guidepole constitute openings in the roof/cover (i.e., "visible gaps") that must be maintained in a closed position with appropriate coverings and closures except when in actual use.

Slotted guidepoles are a potential source of significant VOC emissions. VOCs include a wide variety of hydrocarbons, some of which are hazardous air pollutants (e.g., benzene, toluene, xylene and ethyl benzene). Depending on the size, location and contents of a tank, uncontrolled emissions from the use of slotted guidepoles can exceed 25,000 pounds per year.

The United States Environmental Protection Agency ("EPA") issued a trio of applicability determinations in which it determined that slotted guidepoles were subject to the no visible gap requirement under NSPS Subpart Ka/Kb. In the first, the Agency determined that slotted guidepoles at external floating roof tanks (NSPS Subparts Ka/Kb) were subject to the no visible gap requirement, required the use of gasketed covers (e.g., pole wipers) and recognized that gasketed floats were available. ADI Control No. 93000002 (April 27, 1993). In the second, EPA determined that the no visible gap requirement applied equally to slotted guidepoles at both external and internal

floating roof/cover tanks. It also then observed that one way to address visible gaps could be through the use of internal sleeves and pole caps, provided there were also external seals which minimized gaps and emission pathways between the liquid surface and the atmosphere:

[T]he intent of the regulations is to ensure that the liquid surface is closed off from the atmosphere by a gasketed float or other device. This requirement may be met for slotted guide poles through the use of internal and external seals which minimize gaps and pathways between the liquid surface and the atmosphere."

ADI Control No. 9400014 (November 16, 1993). The third determination reaffirmed both prior determinations, explaining that:

[s]lotted guidepoles are one type of many possible openings in a floating roof. EPA need not have specifically cited slotted guidepoles for them to be subject to the no visible gap requirement. The November 16 [1993] letter [to Chevron] is a clarification that slotted guide poles were intended to be regulated by NSPS Ka and Kb and have always been subject to the no visible gap requirement.

Letter from John Rasnic, Director, EPA Stationary Source Compliance Division, to J.B. Krider, Chevron (June 6, 1994).

Based on these determinations, EPA Region IX brought enforcement actions against 5 California refineries that had tanks with slotted guidepoles and later issued a letter to the Western States Petroleum Association in which it provided a detailed analysis of the issue, determining that slotted guidepoles are subject to the no visible gap requirement. Letter from Esteban L. Oyenque, Assistant Regional Counsel, EPA Region IX, to Western States Petroleum Association (June 30, 1995). These enforcement matters were settled by the facilities installing controls (e.g., floats and wipers) at 20 NSPS Subpart Ka/Kb tanks and 27 non-NSPS tanks.

This **Federal Register** document ensures that all members of the regulated community are aware of past EPA determinations that uncontrolled slotted guidepoles do not comply with the "no visible gap" requirement in NSPS Subparts Ka and Kb, positions we expressly reaffirm today. EPA believes there are a substantial number of facilities with slotted guidepoles that are not in compliance with this requirement. To address these sources of potentially significant VOC emissions in the most expeditious way possible, EPA is also today proposing to establish a program for reducing these emissions in a highly cost-effective and environmentally beneficial manner. Neither this document nor that program

modify or otherwise affect the currently applicable requirements identified and described above.

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations and regulatory policies that 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."

This document does not have federalism implications. It will 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. It reaffirms and publicizes prior EPA determinations concerning the applicability of certain federal requirements to the regulated community. Thus, the requirements of section 6 of the Executive Order do not apply to this document.

The Office of Air Quality Planning and Standards, Office of Air and Radiation, and the Office of Compliance, Office of Enforcement and Compliance Assurance, jointly issue this document reaffirming regulatory interpretation.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Dated: December 23, 1999.

Thomas C. Curran,

Acting Director, Office of Air Quality Planning and Standards, Office of Air and Radiation.

Dated: December 23, 1999.

Bruce R. Weddle,

Acting Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-6523-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (we or EPA) is granting a petition submitted by BWX Technologies, Inc. (formerly Babcock & Wilcox), to exclude from hazardous waste control (or delist) a certain solid waste. This action responds to the petition originally submitted by BWX Technologies, Inc. to delist a wastewater treatment sludge in the form of a filter cake on a "generator specific" basis from the lists of hazardous waste.

After careful analysis, we have concluded that the petitioned waste is not hazardous waste when disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste, a permitted Subtitle C landfill or a Subtitle C landfill which is operating under interim status. This exclusion applies to filter cake generated at BWX Technologies, Inc.'s Lynchburg, Virginia facility.

Accordingly, this final rule excludes the petitioned waste from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste, a permitted Subtitle C landfill or a Subtitle C landfill which is operating under interim status, but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

EFFECTIVE DATE: January 14, 2000.

ADDRESSES: The RCRA regulatory docket for this final rule is located at the offices of U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029, and is available for viewing from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. Call David M. Friedman at (215) 814-3395 for appointments. The public may copy material from the regulatory docket at \$0.15 per page. The docket for this final rule is also located at the offices of the Campbell County Administrator's Office, P.O. Box 100, Main Street—Haberer Building 2nd floor, Rustburg,