

Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (32)(e), of Commandant Instruction M16475.IC, this proposed rule is categorically excluded from further environmental documentation. Drawbridge regulatory changes are categorically excluded. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations, as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Public Law 102-587, 106 Stat. 5039.

2. In Section 117.1051 paragraph (e)(2)(i) is revised and paragraph (e)(3) is removed to read as follows:

#### § 117.1051 Lake Washington Ship Canal.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(i) The draw need not open from 7 a.m. to 9 a.m. and from 3:30 p.m. to 6:30 p.m. from April 30 to September 1 and from 7 a.m. to 10 a.m. and from 3:30 p.m. to 7 p.m. from September 1 to April 30.

\* \* \* \* \*

Dated: September 20, 2002.

**Erroll Brown,**

*Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.*

[FR Doc. 02-24634 Filed 9-27-02; 8:45 am]

BILLING CODE 4910-15-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 62

[OH153-1b; FRL-7386-8]

#### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve, through direct final procedure, a negative declaration submitted by the State of Ohio which indicates there is no need for regulations covering existing Small Municipal Waste Combustors (MWC) in the State. The State's negative declaration regarding this category of sources was submitted in a letter dated June 25, 2002, and was based on a systematic search of the State's internal data bases. The intent of the State's action is to satisfy a Federal requirement to develop a plan to control emissions from small MWCs or to declare there are no sources of this type in the State.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's negative declaration request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives written adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Comments on this action must be received by October 30, 2002.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the State's negative declaration request is available for inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084.

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" are used we mean the EPA.

- I. What actions are EPA taking today?
- II. Where can I find more information about this proposal and corresponding direct final rule?

## I. What Actions Are EPA Taking Today?

The EPA is proposing to approve a negative declaration submitted by the State of Ohio which indicates there is no need for regulations to control emissions from small Municipal Waste Combustors in the State. The State performed an analysis which shows that there are no small MWCs in Ohio.

## II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 4201 *et seq.*

Dated: September 18, 2002.

**Steve Rothblatt,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 02-24768 Filed 9-27-02; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### 49 CFR Part 40

[Docket OST-2002-13435]

RIN 2015-AD14

### Drug and Alcohol Management Information System Reporting

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Transportation's Office of Drug and Alcohol Policy and Compliance (ODAPC) proposes to revise the Management Information System (MIS) forms currently used within six U.S. Department of Transportation (DOT) operating administrations (OA) for submission of annual drug and alcohol program data. These OAs are: Federal Motor Carrier Safety Administration (FMCSA); Federal Aviation Administration (FAA); Federal Transit Administration (FTA); Federal Railroad Administration (FRA); Research and Special Programs Administration (RSPA); and the United States Coast Guard (USCG). The Department proposes to streamline the annual reporting of drug and alcohol program data to OAs through use of a one-page MIS data collection form. The Department desires to standardize across the OAs the information collected and to reduce the amount of data reported by transportation employers. If an OA intends to require

supplemental data, the OA will address those issues separately.

**DATES:** The Docket Office must receive comments by November 14, 2002. We will consider late-filed documents to the extent practicable.

**ADDRESSES:** To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (SVC-124), U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. [It is important to note that because of current security procedures affecting the U.S. Mail, other means (e.g., FedEx, UPS) may be faster];

(2) By delivery to room PL-401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329;

(3) By fax to the Docket Management Facility at 202-493-2251; or,

(4) By electronic means through the Web site for the Docket Management System at: <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments to the docket will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The public may also review docketed comments electronically at: <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jim L. Swart, Drug and Alcohol Policy Advisor at 202-366-3784 (voice) 202-366-3897 (fax) or at: [jim.swart@ost.dot.gov](mailto:jim.swart@ost.dot.gov) (e-mail).

### SUPPLEMENTARY INFORMATION:

#### Background and Purpose

Six OAs collect drug and alcohol program data from their regulated employers on an annual basis. Employers compile this data on MIS forms and each form is OA specific. In fact, more than twelve MIS data collection forms currently exist within the OAs. The Department believes that data collection and entry will be greatly simplified for transportation employers and the Department if a single form is utilized throughout the transportation industries and the OAs.

All drug and alcohol testing conducted under DOT authority uses a standard form for drug testing—Federal Drug Testing Custody and Control Form—and a standard form for alcohol

testing—DOT Alcohol Testing Form. In essence, use of standard testing forms should limit MIS reporting to a finite number of data elements. Therefore, a core set of data elements will make up the new MIS form—a ONE-DOT MIS form—which all transportation employers will complete, as appropriate, for their company and the OA regulating them.

This MIS form will simplify and streamline data recording for transportation employers and will require employers to enter less data. In addition, because the proposed form contains fewer data elements and is on a one-page format, it can be more easily entered and processed via electronically based systems. As an added benefit, there will be a single set of MIS instructions for all transportation employers, regardless of OA.

However, not every OA expects information for all potential data elements (e.g., RSPA does not conduct random alcohol testing), and some data elements may be collected through some means other than MIS (e.g., USCG receives alcohol data immediately following each post-accident testing event). The form's instructions will highlight some of those peculiar testing differences, and companies not required to conduct or report certain types of tests will simply leave those sections blank. For instance, because USCG wants no alcohol testing data on the MIS form, USCG-regulated employers will leave blank Section IV of the form. In addition, when no testing was done or no results were received for particular data elements, employers will leave those items blank rather than inserting zeros (as is now required).

On June 6, 2002, President Bush announced his proposal to create a Cabinet-level homeland security department. Inside this new department, the President proposes to put several agencies, including the USCG. The President urged Congress to pass legislation to create the new Department of Homeland Security. This process may take some time. As a result, if you have USCG ties and MIS interests, please submit your comments to this NPRM. We will consider congressional and presidential action regarding the USCG and homeland security in the final rule.

#### Discussion of Proposed Rule

The ODAPC and the OAs propose to revise the MIS reporting requirements to standardize the collection of data for the OAs. The proposed rulemaking would impose a few new requirements for data collection; specifically, data related to information associated with the revised