

Dated: July 7, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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.*

Subpart T—Louisiana

2. In § 52.970(e) the second table is amended by revising the title to the table to read "EPA approved Louisiana nonregulatory provisions and quasi-regulatory measures", revising the first column title "Control measures" to read "Name of SIP provision", revising the

last column title "Comments" to read "Explanation" and adding a new entry to the end of the table to read as follows:

§ 52.970 Identification of plan.

* * * * *

(e) EPA approved nonregulatory provisions and quasi-regulatory measures.

* * * * *

EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures

| Name of SIP provision | Applicable geographic or non-attainment area | State submittal date/ effective date | EPA approval date | Explanation |
|--|--|--------------------------------------|----------------------|---|
| * * * * * | * * * * * | * * * * * | * * * * * | * * * * * |
| Clean Fuel Fleet Program Substitution. | Baton Rouge, LA | 03/21/99 | 7/19/99 64 FR 38580. | Substituted above RACT VOC emission reductions from storage tank rule LAC 33:III.2103 |

[FR Doc. 99-18037 Filed 7-16-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-207-1-9924a; TN-214-1-9925a; FRL-6379-4]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee SIP Regarding National Emission Standards for Hazardous Air Pollutants and Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to Rule 1200-3-2-.01 and Rule 1200-3-9-.01 of the Tennessee State Implementation Plan (SIP) that were submitted to EPA by the Tennessee Department of Air Pollution Control (TDAPC), on June 16, 1998 and February 11, 1999. Rule 1200-3-2-.01 is revised to include a definition for hazardous air pollutants (NESHAPs). Rule 1200-3-9-.01 is revised to incorporate by reference the definition for volatile organic compounds (VOCs) contained in 40 CFR part 51, subpart F. **DATES:** This direct final rule is effective September 17, 1999 without further notice, unless EPA receives adverse comment by August 18, 1999. If adverse comment is received, EPA 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.

ADDRESSES: All comments should be addressed to: Allison Humphris at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Allison Humphris, 404/562-9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531. 615/532-0554.

FOR FURTHER INFORMATION CONTACT: Allison Humphris at 404/562-9030.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA is approving revisions to Rules 1200-3-2-.01 and 1200-3-9-.01 of the Tennessee SIP. Rule 1200-3-2-.01 is amended to include a subparagraph establishing a definition for NESHAPs. Rule 1200-3-9-.01 is revised to incorporate by reference an updated definition for VOCs contained in 40 CFR part 51, subpart F.

II. Analysis of State's Submittal

Rule 1200-3-2-.01 is being amended to include the following definition for NESHAPs: "standards for the emissions of hazardous air pollutants promulgated by the Administrator of the Environmental Protection Agency and published in the **Federal Register**." The purpose for this addition is to ensure that the Tennessee SIP includes an accurate description of these emission standards, which are applied to new major sources and modifications through implementation of the construction permitting programs that were approved into the SIP via Rule 1200-3-2.

The definition for VOCs in Rule 1200-3-9-.01 is revised to be consistent with the definition for this term that was approved by EPA on October 8, 1996 (61 FR 52848). The revision adds HFC 43-10mee and HCFC 225ca and cb to the list of compounds excluded from the definition of VOCs on the basis that these compounds have negligible contribution to tropospheric ozone formation. The definition is revised for use in preparing SIPs to attain the National Ambient Air Quality Standard (NAAQS) for ozone under Title I of the Clean Air Act.

III. Final Action

EPA is approving the aforementioned changes to the SIP because they are consistent with Clean Air Act and EPA requirements.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register**

publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 17, 1999 without further notice unless the Agency receives adverse comments by August 18, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 17, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment

rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

F. 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 annual 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 promulgated does not include a Federal mandate that may result in estimated annual 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.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 September 17, 1999. 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 14, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *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.*

Subpart RR—Tennessee

2. Section 52.2220(c) is amended by revising the entries for Section 1200–3–2–.01 and Section 1200–3–9–.01 to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED TENNESSEE REGULATIONS FOR TENNESSEE

| State citation | Title/subject | Adoption date | EPA approval date | Federal Register notice |
|----------------------------|----------------------------|---------------|-------------------|-------------------------|
| Section 1200–3–2–.01 | General Definitions | 07/29/93 | 7/19/99 | [64 FR 38582 |
| * * * * * | * * * * * | * * * * * | * * * * * | * * * * * |
| Section 1200–3–9–.01 | Construction Permits | 01/26/99 | 7/19/99 | [64 FR 38582 |

[FR Doc. 99–18043 Filed 7–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. NY31–192a, FRL–6379–2]

Approval and Promulgation of State Plans For Designated Facilities; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving the State Plan submitted by New York implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines. The State Plan establishes performance standards for existing MSW landfills located in New York State and provides for the implementation and enforcement of those standards, which will reduce the designated pollutants.

DATES: This direct final rule is effective on September 17, 1999 without further notice, unless EPA receives adverse comment by August 18, 1999. If adverse comment is received, EPA 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.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Craig Flamm or Kirk Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

II. State Submittal

III. Review of State Submittal

A. Identification of Enforceable State Mechanism for Implementing the EG

B. Demonstration of the State's Legal Authority to Carry Out the Section 111(d) State Plan as Submitted

C. Inventory of Existing MSW Landfills in the State Affected by the State Plan

D. Emission Limitations for MSW Landfills

E. A Process for State Review and Approval of Site-Specific Gas Collection and Control System Design Plans

F. Compliance Schedules

G. Testing, Monitoring, Recordkeeping and Reporting Requirements

H. Submittal of Annual State Progress Reports to EPA

IV. Conclusion

V. Administrative Requirements

A. Executive Order 12866

B. Executive Order 12875

C. Executive Order 13045

D. Executive Order 13084