

(20) Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr.

(21) Appendix B, Allowable Emissions for Incinerators with Capacities Less Than 100 lbs/hr.

(22) Appendix C, Particulate Matter Emission Limits for Fuel-Burning Equipment.

(23) Appendix E, Primary Ambient Air Quality Standards.

(24) Appendix F, Secondary Ambient Air Quality Standards.

(25) Appendix G, Allowable Rate of Emissions.

(ii) The following previously approved ODEQ regulations remain in the Oklahoma SIP:

(A) Regulation 1.4, "Air Resources Management Permits Required," as approved by EPA on: August 25, 1983 (48 FR 38636), at 52.1920(c)(26); April 2, 1984 (49 FR 13039), at 52.1920(c)(29); July 27, 1984 (49 FR 30185), at 52.1920(c)(31); August 20, 1990 (55 FR 33907), at 52.1920(c)(34); February 12, 1991 (56 FR 5655), at 52.1920(c)(38); and July 23, 1991 (56 FR 33717), at 52.1920(c)(41).

(B) Regulation 3.8, "Control of Emission of Hazardous Air Contaminants," approved by EPA on August 15, 1983 (48 FR 36819), at 52.1920(c)(27).

(iii) Additional materials—None.

[FR Doc. 99-27541 Filed 11-2-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-050-9953(a); FRL-6461-8]

Approval and Promulgation of Implementation Plans: Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on April 22, 1999, by the State of Alabama. These revisions were made to comply with the regulations set forth in the Clean Air Act (CAA). Included in this document are revisions to Chapter 335-3-1—General Provisions which establishes Credible Evidence regulations and Chapter 335-3-14—Air Permits which allows

exemptions for projects which are found to be beneficial to the environment.

DATES: This direct final rule is effective January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 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: Kimberly Bingham 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.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

FOR FURTHER INFORMATION CONTACT:

Kimberly Bingham of the EPA Region 4, Air Planning Branch at (404) 562-9038 and at the above address.

SUPPLEMENTARY INFORMATION:

I. Analysis of State's Submittal

Listed below is a summary of the revisions to the Alabama State implementation plan (SIP) on which EPA is taking action in this document.

Chapter 335-3-1—General Provisions

Rule 335-3-1-.13—Credible Evidence

On February 24, 1997, EPA promulgated regulations under sections 113(a) and 113(e)(1) of the CAA that gave EPA the authority to use all available data to prove CAA violations (See 62 FR 8314-8328). EPA required states to incorporate provisions into their SIPs to ensure that the states have the ability to use any available data or "credible evidence" to determine violations. To comply, the ADEM submitted rule 335-3-1-.13 to EPA Region 4 for approval. This new rule allows the use of any credible evidence that is both reference test data and comparable non-reference test data. The data will be used to prove or disprove violations of the State of Alabama's regulations in enforcement actions.

Chapter 335-3-14—Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]

Rule 335-3-14.04(2)(ff)

ADEM is revising its PSD rules to allow an exemption for modifications or projects that are proven to be beneficial to the environment. These regulations would require that an ambient air quality analysis be completed before the project can be approved. Class 1 areas must also not be affected by the new project. Moreover, the public notification requirements of the PSD regulations would also have to be met.

Rule 335-3-14.04(2)(gg)

The rule was revised to include a definition for Pollution Prevention Projects that can also be exempted if proven to be environmentally beneficial. ADEM defines Pollution Prevention Projects as any activity that through process changes, product reformulation or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal. It does not mean recycling (other than certain "in process recycling" practices), energy recovery, treatment, or disposal.

Rule 335-3-14-.04(8)(m)

This rule lists the PSD exemptions for projects that are environmentally beneficial.

II. Final Action

EPA is approving the aforementioned changes to the State of Alabama's SIP because they are consistent with the CAA and EPA policy. 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 January 3, 2000 without further notice unless the Agency receives adverse comments by December 3, 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 January 3, 2000 and no further action will be taken on the proposed rule.

III. 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 Orders on Federalism

Under E.O. 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. If the mandate is unfunded, EPA must 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 written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 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 E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 (52 FR 41685 (October 30, 1987)) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. 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.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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, E.O. 13084 requires EPA to develop an effective process permitting elected 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 E.O. 13084 do not apply to this rule.

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new

regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 3, 2000. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 5, 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.*

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
Chapter No. 335-3-1—General Provision				
* * * * *				
Section 335-3-1-.13	Credible Evidence	04/13/99	11/03/99	[Insert citation of publication]
Chapter No. 335-3-14—Air Permits				
Section 335-3-14-.04(ff-gg)	Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration (PSD)].	04/13/99	11/03/99	[Insert citation of publication]
Section 335-3-14-.04(8)(m)	Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration (PSD)].	04/13/99	11/03/99	[Insert citation of publication]
* * * * *				

Subpart B—Alabama

2. Section 52.50 is amended by revising the table heading and adding three new entries in the table in paragraph (c) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) EPA approved regulations.

* * * * *

[FR Doc. 99-27539 Filed 11-2-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 097-5041; FRL-6459-9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Control of VOC Emissions From Solvent Metal Cleaning Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions

submitted by the Commonwealth of Virginia. The revisions pertain to and clarify the Commonwealth's regulation to control of volatile organic compound (VOC) emissions from solvent metal cleaning operations using non-halogenated solvents, and update another of its regulations to incorporate certain federal regulations by reference. The intended effect of this action is to approve the Commonwealth's request to approve these SIP revisions pertaining to solvent metal cleaning operations. **DATES:** This final rule is effective on December 20, 1999 without further notice, unless EPA receives adverse