

in approximate position 40°44'49" N 074°01'02" W (NAD 1983), about 500 yards west of Pier 60, Manhattan, New York.

(e) *Raritan Bay Safety Zone*: All waters of Raritan Bay in the vicinity of the Raritan River Cutoff and Ward Point Bend (West) within a 240-yard radius of the fireworks barge in approximate position 40°30'04" N 074°15'35" W (NAD 1983), about 240 yards east of Raritan River Cutoff Channel Buoy 2 (LLNR 36595).

(f) *Notification*. Coast Guard Activities New York will cause notice of the activation of these safety zones to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the local notice to mariners, marine information broadcasts, and facsimile. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled "FIREWORKS BARGE". This sign will consist of 10" high by 1.5" wide red lettering on a white background.

(g) *Effective Period*. This section is effective from 8 p.m. e.s.t. to 1 a.m. e.s.t. each day a barge with a "FIREWORKS BARGE" sign on the port and starboard side is on-scene in a location listed in paragraphs (a) through (e) of this section. Vessels may enter, remain in, or transit through these safety zones during this time frame if authorized by the Captain of the Port New York or designated Coast Guard patrol personnel on scene.

(h) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 14, 1999.

R.E. Bennis,

Captain, Coast Guard,

Captain of the Port, New York.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-195-9947(a), TN-188-9959(a); FRL-6519-4]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to Rule Governing Monitoring of Source Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On February 24, 1997, and May 8, 1997, the Tennessee Department of Environment and Conservation submitted revisions to the Tennessee State Implementation Plan (SIP). These revisions consisted of amendments to Rules 1200-3-12-.04 Monitoring Required for Determining Compliance of Certain Large Sources and 1200-3-10-.02 Monitoring of Source Emissions, Recording and Reporting of the Same are Required. Tennessee submitted these revisions to clarify the reporting requirements. EPA is approving the aforementioned changes to the SIP because they are consistent with the Clean Air Act and EPA requirements.

DATES: This direct final rule is effective on March 7, 2000 without further notice, unless EPA receives adverse comment by February 7, 2000. 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: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

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.

Office of the **Federal Register**, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Tennessee Department of Environment and Conservation, 9th Floor L & C Annex, 401 Church St, Nashville, TN 37243-1531.

FOR FURTHER INFORMATION CONTACT: Randy Terry at the above Region 4 address or at 404-562-9032.

SUPPLEMENTARY INFORMATION: On February 24, 1997, the Tennessee Department of Environment and

Conservation submitted a revision to paragraph (1) of rule 1200-3-12-.04. This revision was made to change an incorrect reference to a subparagraph (e) to the correct reference of subparagraph (d).

On May 8, 1997, the Tennessee Department of Environment and Conservation submitted revisions to Subpart (i) of part 1. of Subparagraph (c) of paragraph (2) of Rule 1200-3-10-.02 of the Tennessee SIP. These revisions delete the word "or" and add the language "in excess of the applicable emission standard or all" to the first sentence between the words "averages" and the number "24" so that as amended, the subpart shall read:

1. (i) The source owner or operator shall report all 3-hour averages in excess of the applicable emission standard or all 24-hour averages in units of the applicable emission standard. The 3-hour and 24-hour values shall be computed by taking the average of three contiguous or 24 contiguous one-hour values of sulfur dioxide emissions. The one-hour average values may be obtained by integration over the one-hour period or be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included on the data averages.

Final Action

EPA is approving the aforementioned changes to the State Implementation Plan (SIP) because they are consistent with the Clean Air Act and EPA requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 relevant adverse comments be filed. This rule will be effective March 7, 2000 without further notice unless the Agency receives relevant adverse comments by February 7, 2000.

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 on the proposed rule. Only parties interested in commenting on this action should do so at this time. If no such comments are received, the public is

advised that this rule will be effective on March 7, 2000 and no further action will be taken on the proposed rule.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Orders on Federalism

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. 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, 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.

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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 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, Executive Order 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 Executive Order 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 March 7, 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 18, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

2. The entries for sections 1200–3–10–.02 and 1200–3–12–.04 in the table in § 52.2220 (c) are revised to read as follows:

§ 52.2220 Identification of plan.

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(c) EPA approved regulations.

EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	Adoption date	EPA approval date	FEDERAL REGISTER notice
* * *	* * *	* * *	* * *	* * *
Section 1200–3–10–.02	Monitoring of Source Emissions, Recording, Reporting of the Same are Required.	02/14/96	01/07/00	[65 FR 1070]
* * *	* * *	* * *	* * *	* * *
Section 1200–3–12–.04	Monitoring Required for Determining Compliance of Certain Large Sources.	12/28/96	01/07/00	[65 FR 1070].
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[FR Doc. 00–268 Filed 1–6–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL 6517–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule to delete the D.L. Mud, Inc., Superfund Site from the National Priorities List and Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its direct final action to delete the D.L. Mud, Inc., Superfund Site (Site), located in Vermilion Parish, Louisiana, from the

National Priorities List (NPL) and requests public comments on this deletion.

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final action to delete is being taken by EPA with the concurrence of the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ) because EPA has determined that all appropriate response actions under CERCLA have been completed and that the Site poses no significant threat to public health or the environment and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final rule will be effective March 7, 2000 unless EPA

receives significant adverse or critical comments by February 7, 2000. If significant adverse or critical comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to: Ms. Janetta Coats, Community Involvement Coordinator (6SF–PO), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–7308 or 1–800–533–3508. Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Suite 12D13, Dallas, Texas 75202–2733, (214) 665–6524, Monday through Friday 8:00 a.m. to 12:00 p.m.; Vermilion Parish Library, 200 North Magdalen Square, Abbeville, Louisiana 70511, (318) 893–2674, Monday and Thursday 9:00 a.m. to 8:00