

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[DE26-1-6940; FRL-5444-8]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Amendment of Final Rule Pertaining to Regulation 24—Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Amendment of direct final rule.

SUMMARY: On January 26, 1996, EPA published approval of a State Implementation Plan (SIP) revision submitted by Delaware (61 FR 2419) pertaining to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, sections 10, 11, 12, 44, 45, 47, 48, and 49, and Appendices I, K, L, and M, effective November 29, 1994. These sections of Regulation 24 establish additional emission standards that represent the application of reasonably available control technology (RACT) to categories of stationary sources of volatile organic compounds (VOCs). This action was published without prior proposal. Because EPA received adverse comments on a section of this action, EPA is withdrawing the reference pertaining to Regulation 24, section 47, Offset Lithographic Printing.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597-3164.

SUPPLEMENTARY INFORMATION: EPA approved this direct final rule without prior proposal because the agency viewed it as a noncontroversial amendment and anticipated no adverse comments. The direct final rule was published, without prior proposal, in the Federal Register (61 FR 2419) with a provision for a 30 day comment period. At the same time, EPA published a proposed rule which announced that this final rule would convert to a proposed rule in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the Federal Register (61 FR 2464). By publishing a document announcing withdrawal of the final rule action, this action would be withdrawn. EPA received adverse comments within the prescribed comment period on section 47, Offset Lithographic Printing. Therefore, EPA is withdrawing the reference pertaining to Regulation 24, section 47 only. All public comments received will be addressed in a

subsequent rulemaking action based on the proposed rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen Dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 14, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

Accordingly, 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. 7402-7671q.

§ 54.420 [Amended]

2. In § 54.420(c)(54)(i)(B), the number "47" is removed.

[FR Doc. 96-7063 Filed 3-25-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[TN-CHAT-95-01; FRL-5445-8]

Clean Air Act Final Full Approval of Operating Permits Program; Hamilton County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the title V operating permits program submitted by the State of Tennessee on behalf of the Chattanooga-Hamilton County Air Pollution Control Bureau (CHCAPCB). The CHCAPCB program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

EFFECTIVE DATE: April 25, 1996.

ADDRESSES: Copies of the CHCAPCB submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365. Interested persons wanting to examine these documents, contained in EPA docket number TN-CHAT-95-01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT:

Kelly Fortin, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, (404) 347-3555, Ext. 4150.

SUPPLEMENTARY INFORMATION:**I. Background and Purpose****A. Introduction**

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (the Act)) and the implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the permitting authority's submission is materially changed during the one-year period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following the receipt of the additional materials.

EPA's operating permit program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permit program for that state or local agency.

On November 8, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for CHCAPCB in the Federal Register. See 60 FR 56285. The Federal Register notice stated that, as a condition of full approval, certain revisions or clarifications were required in the insignificant activities list contained in CHCAPCB's program. The above-referenced Federal Register notice and the technical support document describe in detail the changes required for full program approval. The November 8, 1995, notice also proposed approval of CHCAPCB's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal notice.

On March 14, 1996, the State of Tennessee submitted, on behalf of CHCAPCB, revisions to the operating

permits program that addressed the deficiencies discussed in the proposed full/interim approval Federal Register notice. These changes became locally effective on the following dates: February 7, 1996, in the unincorporated areas of Hamilton County and in the East Ridge municipality; March 6, 1996, in the City of Chattanooga; March 7, 1996, in the Soddy-Daisy municipality; March 11, 1996, in the Signal Mountain municipality; March 12, 1996, in the Lookout Mountain and Walden municipalities; March 18, 1996, in the Collegedale municipality; March 19, 1996, in the Red Bank municipality; and March 21, 1996, in the Lakesite municipality. The changes will become locally effective in the Ridgeside municipality on April 16, 1996. In this action, EPA is promulgating full approval of the CHCAPCB operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

EPA is promulgating full approval of the operating permits program submitted by the State of Tennessee, on behalf of CHCAPCB, on November 22, 1993, and as supplemented on January 23, 1995, February 24, 1995, October 13, 1995, and March 14, 1995. The November 8, 1995, Federal Register notice established that CHCAPCB would receive full approval of its program if certain changes were made to the insignificant activities provisions of the program and submitted to EPA prior to EPA's final action. CHCAPCB has demonstrated that the program will be adequate to meet the minimum elements of a local operating permits program as specified in 40 CFR part 70.

The scope of the CHCAPCB program that EPA is approving in this action applies to all part 70 sources (as defined in the approved program) within Hamilton County, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-18 (November 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

The Chattanooga-Hamilton County Air Pollution Control Board, operating under a certificate of exemption

pursuant to Tennessee Code Annotated, Section 68-201-115, has authority to administer the operating permits program in all areas of Hamilton County, Tennessee, with the exception of Indian reservations and tribal lands. The CHCAPCB program is implemented and enforced through: (1) the Chattanooga Air Pollution Control Code (within the incorporated municipality of the City of Chattanooga, Tennessee); (2) the Hamilton County Air Pollution Control Regulation (in the unincorporated areas of Hamilton County, Tennessee); and (3) the air pollution control ordinances prepared for and enacted in the incorporated municipalities of East Ridge, Red Bank, Soddy-Daisy, Signal Mountain, Lakesite, Walden, Collegedale, Lookout Mountain, and Ridgeside.

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of CHCAPCB's preconstruction review program found in section 4-8 of the Chattanooga Code and the corresponding sections of the Hamilton County and local municipalities' regulations as the mechanism for implementing section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and CHCAPCB's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by CHCAPCB to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide Hamilton County, the City of Chattanooga, and the affected municipalities with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that CHCAPCB's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of CHCAPCB's program for receiving

delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the CHCAPCB submittal and other information relied upon for this final full approval action are contained in docket number TN-CHAT-95-01 maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this action. The docket is available for public inspection at the location listed previously in the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 costs to State, local, or tribal governments in the aggregate, or to the 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 final full approval promulgated in this document does not include a Federal mandate that may result in estimated costs of \$100 million or more to 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: March 15, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. In appendix A to part 70 the entry for Tennessee is amended by redesignating paragraph (b) as (d), by adding and reserving paragraph (c), and by adding a new paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Tennessee

(a) [Reserved]

(b) Chattanooga-Hamilton County Air Pollution Control Bureau, Hamilton County, State of Tennessee: submitted on November 22, 1993, and supplemented on January 23, 1995, February 24, 1995, October 13, 1995, and March 14, 1996; full approval effective on April 25, 1996.

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[FR Doc. 96-7166 Filed 3-25-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 261

[FRL-5446-2]

RIN 2050-AE31

Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: EPA is correcting the text of a regulatory exclusion from the regulatory definition of solid waste for recovered oil which is inserted into the

petroleum refining process. The current text of the exclusion contains a factual error as to the location in the refining process at which recovered oil can be inserted. The result of this error is to inappropriately restrict legitimate recycling of recovered oil. The corrected rule also in fact reflects the result EPA initially intended, which was to condition the exclusion of recovered oil on that oil being reinserted into the petroleum refining process at a point where that process removes or will remove at least some contaminants.

In the proposed rules Section of today's Federal Register, EPA is proposing this identical correction and soliciting public comment on this correction. If adverse comments are received, EPA will withdraw this direct final rule and address the comments in a subsequent final rule. EPA will not provide additional opportunity for comment on the correction.

DATES: This final action will become effective on May 28, 1996, unless EPA is notified by April 9, 1996, that any person wishes to submit adverse comment. If such notification is received and EPA withdraws this final rule, then timely notice will be published in the Federal Register.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. F-96-SW2F-FFFFF and are located in the EPA RCRA docket, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9:00 to 4:00, Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy a maximum of 100 pages from any one regulatory docket at no cost. Additional copies cost \$.15 per page. Persons wishing to notify EPA of their intent to submit adverse comments on this action should contact Steven Silverman, Office of General Counsel (2366), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Steven Silverman, (202) 260-7716, Office of General Counsel at the above address.

SUPPLEMENTARY INFORMATION:

Outline of Today's Action

I. Authority

II. Background

III. Clarification of Issues Discussed in the Preamble

- A. Status of Recovered Oil from Refineries with Synthetic Organic Chemical Manufacturing Industry (SOCMI) Units
- B. Status of Recovered Oil from Co-Located Petroleum Refineries and Petrochemical Facilities

C. Recycling of Secondary Materials Between Industries

IV. State Authority

V. 60-Day Effective Date

VI. Regulatory Requirements

A. Executive Order No. 12866

B. Regulatory Flexibility Act

C. Paperwork Reduction Act

D. Unfunded Mandates Reform Act

I. Authority

These regulations are issued under the authority of Sections 2002 and 3001 et seq. of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6912 and 6921 et seq.

II. Background

In this document, EPA is correcting a significant error in the text of a regulatory exclusion relating to recycling of recovered oil—oil that has been recovered from secondary materials such as wastewater generated from normal petroleum exploration, refining, and transport activities—back into the petroleum refining process. Although the genesis of this error requires some detailed explanation (which appears below), the ultimate resolution is straightforward: the Agency intended to exclude from the definition of solid waste, and RCRA Subtitle C authority, recovered oil that is inserted into a petroleum refining process at a point at which the process removes or will remove at least some contaminants. Today's document corrects the erroneous regulatory text to restore this intended result.

The rule at issue is an exclusion for recovered oil found at 40 CFR 261.4(a)(12) (promulgated at 59 FR 38545 (July 28, 1994)). That rule excludes recovered oil from the definition of solid waste, and RCRA Subtitle C authority, provided the recovered oil is reinserted into a petroleum refining process "prior to crude distillation or catalytic cracking." 40 CFR 261.4(a)(12). The purpose of the exclusion is to exclude from RCRA regulation recovered oil which is used as a feedstock in the petroleum refining process. 59 FR at 38538. Conditioning the exclusion on insertion into the refining process at a point where the process removes contaminants from the recovered oil also helps assure the legitimacy and safety of the activity. 59 FR at 38542.

However, the rule's limitation on the point of reinsertion is, in fact, erroneously restrictive. The correct formulation is that reinsertion should be at, or before, any point in the petroleum refining process where at least some