

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

| State citation | Title subject | State effective date | EPA approval date | Comments |
|-------------------------|--|----------------------|-------------------|----------|
| Section 13 | Implementation Deadlines | 6/11/99 | 9/30/99 | |
| Appendix 1(d) | Commitment to Extend the I/M Program to the Attainment Date Letter from Secretary Tulou to EPA Administrator, W. Michael McCabe. | 8/13/98 | 9/30/99 | |
| Appendix 3 (a)(7) | Exhaust Emission Limits According to Model Year. | 8/13/98 | 9/30/99 | |
| Appendix 3(c)(2) | VMAS TM Test Procedure | 6/11/99 | 9/30/99 | |
| Appendix 4(a) | Sections from Delaware Criminal and Traffic Law Manual. | 8/13/98 | 9/30/99 | |
| Appendix 5(a) | Division of Motor Vehicles Policy on Out-of-State Renewals. | 8/13/98 | 9/30/99 | |
| Appendix 5(f) | Clean Screening Vehicle Exemption | 6/11/99 | 9/30/99 | |
| Appendix 6(a) | Idle Emissions Test Procedures | 6/11/99 | 9/30/99 | |
| Appendix 6(a)(5) | Vehicle Emission Repair Report Form | 8/13/98 | 9/30/99 | |
| Appendix 6(a)(8) | Evaporative System Integrity (Pressure) Test. | 8/13/98 | 9/30/99 | |
| Appendix 7(a) | Emission Repair Technician Certification Process. | 8/13/98 | 9/30/99 | |
| Appendix 8(a) | Registration Denial System Requirements Definition. | 8/13/98 | 9/30/99 | |
| Appendix 9(a) | Enforcement Against Operators and Inspectors. | 8/13/98 | 9/30/99 | |
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§ 52.424 [Amended]

3. In section 52.424, paragraph (b) is removed and reserved.

[FR Doc. 99-25424 Filed 9-29-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[TN 222-1-9928a; FRL-6448-3]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Tennessee Department of Environment and Conservation (DEC) for the State of Tennessee on January 8, 1999, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills.

DATES: This direct final rule is effective on November 29, 1999 without further notice, unless EPA receives significant, material, and adverse comment by November 1, 1999. If EPA receives 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.

ADDRESSES: You should address comments on this action to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents related to this action are available for the public to review during normal business hours at the locations below. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN 222-1-9928a. The Region 4 office may have additional documents not available at the other locations.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Steven M. Scofield, 404/562-9034.

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

FOR FURTHER INFORMATION CONTACT:

Scott Davis at 404/562-9127 or Steven M. Scofield at 404/562-9034.

SUPPLEMENTARY INFORMATION:**I. Background**

Under section 111(d) of the Clean Air Act (Act), EPA has established

procedures whereby States submit plans to control certain existing sources of “designated pollutants.” Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not “criteria pollutants” (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes EG in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the “designated facility” as defined at 40 CFR 60.21(b)). Thus, a State, local, or tribal agency’s section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published EG for existing MSW landfills at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (See 61 FR 9905-9944.) The

pollutants regulated by the NSPS and EG are MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.32c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to either: (1) Submit a plan for the control of the designated pollutant to which the EG applies; or (2) Submit a negative declaration if there were no designated facilities in the State within nine months after publication of the EG (by December 12, 1996).

EPA has been involved in litigation over the requirements of the MSW landfill EG and NSPS since the summer of 1996. On November 13, 1997, EPA issued a notice of proposed settlement in *National Solid Wastes Management Association v. Browner, et.al*, No. 96-1152 (D.C. Cir), in accordance with section 113(g) of the Act. See 62 FR 60898. It is important to note that the proposed settlement does not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the proposed settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA is amending 40 CFR part 60, subparts Cc and WWW, to add clarifying language, make editorial amendments, and to correct typographical errors. See 63 FR 32743-32753, 32783-32784. EPA regulations at 40 CFR 60.23(a)(2) provide that a State has nine months to adopt and submit any necessary State Plan revisions after publication of a final revised emission guideline document. Thus, States are not yet required to submit State Plan revisions to address the June 16, 1998, direct final amendments to the EG. In addition, as stated in the June 16, 1998, preamble, the changes to 40 CFR part 60, subparts Cc and WWW, do not significantly modify the requirements of those subparts. See 63 FR 32744. Accordingly, the MSW landfill EG

published on March 12, 1996, was used as a basis by EPA for review of section 111(d) Plan submittals.

This action approves the section 111(d) Plan submitted by the Tennessee DEC for the State of Tennessee to implement and enforce subpart Cc.

II. Discussion

The Tennessee DEC submitted to EPA on January 8, 1999, in addition to a prior portion of the plan submitted on November 16, 1998, the following in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in the State of Tennessee: Statutory and Legal Authority; Enforceable Mechanisms; MSW Landfill Source and Emissions Inventory; Emission Limitations; Process for Review and Approval of Collection and Control System Design Plans; Testing, Monitoring, Recordkeeping, and Reporting; Compliance Schedule; Demonstration That the Public Had Adequate Notice and Public Hearing Record; Submittal of Progress Reports to EPA; Quality Assurance; and applicable State of Tennessee codes and Tennessee DEC Air Pollution Control regulations.

The approval of the Tennessee State Plan is based on finding that: (1) The Tennessee DEC provided adequate public notice of public hearings for the proposed rulemaking and State Plan which allows the Tennessee DEC to implement and enforce the EG for MSW landfills; and (2) The Tennessee DEC also demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require recordkeeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

In the plan and appendix A, the Tennessee DEC cites the following reference demonstrating their legal authority: Tennessee Code Annotated 68-201-105. On the basis of these codes of the State of Tennessee, the State Plan is approved as being at least as protective as the Federal requirements for existing MSW landfills.

In the plan and appendix B, the Tennessee DEC cites the enforceable mechanism for implementing the EG for existing MSW landfills. The enforceable mechanisms are the state regulations adopted by the State of Tennessee in Tennessee Air Pollution Control Regulations, Paragraphs 1200-3-7-

.07(7), (8), and (9). The State's regulations meet the Federal requirements for an enforceable mechanism and are approved as being at least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

In the plan and appendix B, the Tennessee DEC cites all emission limitations for the major pollutant categories related to the designated sites and facilities. These limitations in Paragraph 1200-3-7-.07(7) are approved as being at least as protective as the Federal requirements contained in subpart Cc for existing MSW landfills.

The plan describes the process the Tennessee DEC will utilize for the review of site-specific design plans for gas collection and control systems. The process outlined in the Plan meets the Federal requirements contained in subpart Cc for existing MSW landfills.

In the plan, the Tennessee DEC cites the compliance schedules adopted in Paragraph 1200-3-7-.07(7)(c) for each existing MSW landfill to be in compliance within 30 months of the effective date of their State regulation (effective on December 28, 1998). These compliance times for affected MSW landfills address the required compliance time lines of the EG. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

In appendix E of the plan, the Tennessee DEC submitted a source and emission inventory of all designated pollutants for each MSW landfill in the State of Tennessee. This portion of the plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

The plan includes Tennessee's legal authority to require owners and operators of designated facilities to maintain records and report to their Agency the nature and amount of emissions and any other information that may be necessary to enable their Agency to judge the compliance status of the facilities. The Tennessee DEC also cites its legal authority to provide for periodic inspection and testing and provisions for making reports of MSW landfill emissions data, correlated with emission standards that apply, available to the general public. Tennessee Code 68-201-105, Paragraph 1200-3-7-.07(7), and Paragraph 1200-3-9-.02(11) support the requirements of monitoring, recordkeeping, reporting, and compliance assurance. These Tennessee regulations (appendices A, B, and C) have been reviewed and approved as being at least as protective as Federal

requirements for existing MSW landfills.

The Plan outlines how the Tennessee DEC will provide progress reports of Plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the Plan has been reviewed and approved as meeting the Federal requirement for Plan reporting.

Consequently, EPA finds that the Tennessee State Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and C. The Tennessee DEC did not, however, submit evidence of authority to regulate existing MSW landfills in Indian Country. Therefore, EPA is not approving this Plan as it relates to those sources.

III. Final Action

EPA is approving the State of Tennessee section 111(d) Plan, as submitted on January 8, 1999, for the control of landfill gas from existing MSW landfills, except for those existing MSW landfills located in Indian Country. As provided by 40 CFR 60.28(c), any revisions to the Tennessee State Plan or associated regulations will not be considered part of the applicable plan until submitted by the Tennessee DEC in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by EPA in accordance with 40 CFR part 60, subpart B.

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 November 29, 1999 without further notice unless the Agency receives relevant adverse comments by November 1, 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. Only 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 November 29, 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 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 EPA complies by consulting, E.O. 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 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.

C. 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 EPA complies by consulting, E.O. 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 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. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 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 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 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 November 29, 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: July 28, 1999.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

Part 62 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–76719.

Subpart RR—Tennessee

2. § 62.10626 is amended by adding paragraph (b)(3) to read as follows:

§ 62.10626 Identification of plan.

* * * * *

(b) * * *

(3) State of Tennessee Plan for Implementing the Municipal Solid Waste Landfill Emission Guideline Requirements of 40 CFR part 60, subpart Cc, submitted on January 8, 1999, by the Tennessee Department of Environment and Conservation.

[FR Doc. 99–25431 Filed 9–29–99; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6447–7]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion for the Anchor Chemicals Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 2 announces the

deletion of the Anchor Chemicals Superfund Site, located at 500 West John Street, Hicksville, New York, from the National Priorities List (NPL). The NPL is a list of releases which are identified as Appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA promulgated the NCP pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA). EPA and the State of New York have determined that all appropriate responses under CERCLA have been implemented. Moreover, EPA and NYSDEC have determined that the response activities, which have been conducted at the Site by the responsible parties, are protective of public health and the environment.

EFFECTIVE DATE: September 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Taccone, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007–1866. Mr. Taccone also may be reached by telephone at (212) 637–4281 or by electronic mail at “Taccone.Tom@epamail.epa.gov.”

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: Anchor Chemicals Site, Hicksville, New York.

A Notice of Intent to Delete for this Site was published in the **Federal Register** on August 12, 1999 (64 FR 43970). The closing date for comments on the Notice of Intent to Delete was September 13, 1999. EPA received no comments and therefore has not prepared a Responsiveness Summary.

EPA, through its listing of sites on the NPL, identifies sites that appear to present a significant risk to public health, welfare or the environment. Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund financed action(s) in the unlikely event that conditions at the site warrant such future action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.