

("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 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 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 acts on 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.

#### *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.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

#### *I. 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).

#### *J. 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 July 8, 2002. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 29, 2002.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

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 F—California**

2. Section 52.220 is amended by adding paragraph (c)(294) to read as follows:

##### **§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(294) New and amended regulations for the following APCD were submitted on February 20, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4653, amended on December 20, 2001.

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**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[SC 42-200220(b); FRL-7207-2]

#### **Approval and Promulgation of Implementation Plans; South Carolina: Approval of Miscellaneous Revisions to the South Carolina State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On November 21, 2001, the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina State Implementation Plan (SIP). These revisions include the amending of volatile organic compounds (VOC's), prevention of significant deterioration (PSD), and other miscellaneous regulations. The purpose of these revisions is to make the revised regulations consistent with the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

**DATES:** This direct final rule is effective July 8, 2002 without further notice, unless EPA receives adverse comment by June 6, 2002. 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 30303-8960.

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

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Randy Terry, 404/562-9032.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201-1708.

**FOR FURTHER INFORMATION CONTACT:** Randy B. Terry at 404/562-9032, or by electronic mail at [terry.randy@epa.gov](mailto:terry.randy@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On November 21, 2001, the South Carolina Department of Health and Environmental Control (SCDHEC) submitted revisions to the South Carolina SIP. These revisions include

the amending of volatile organic compounds (VOC's), prevention of significant deterioration (PSD), and other miscellaneous regulations. A description of each revision submitted is listed below.

## II. Analysis of South Carolina's Submittal

### *Regulation 61–62, Air Pollution Control Regulations and Standards*

.1 Section I, Definition 94. The definition of VOC was revised to include volatile methyl silicates.

.1 Section II, Permit Requirements; Part B(1). This section was revised to clarify when the written request for an operating permit is due.

.5 Standard 1, Emissions From Fuel Burning Operations; Section I.A. This section was revised to clarify the opacity requirements for existing sources. Section I.B. This section was revised to clarify the opacity requirements for new sources.

.5 Standard 4 Emissions from Process Industries; Section XI, and .5 Standard 5, Volatile Organic Compounds; Section I, Part C. These sections were revised to update a reference to the Clean Air Act.

.5 Standard 5 Volatile Organic Compounds Section I, Part A. This section was amended to correct the definition of "petroleum liquids." Section II, Part A(2). This section was amended to add language to aid in the clarity of the regulation.

.5 Standard 7. Prevention of Significant Deterioration. This regulation was replaced in whole to adopt a new regulation that incorporates the Federal Amendments.

The following sections were amended to correct minor typographical errors—

.3 Section I, Air Pollution Episodes Numbers 2,3,4

.5 Standard 4 Emissions From Process Industries

Section V, and Section VIII

.5 Standard 5 Volatile Organic Compounds

Section I, Part D; Section I, Part E(1); Section I, Part F(3); Section II, Part F(2); and Section II, Part N(4).

.6 Standard, Alternative Emission Limitation Options  
Title, Section IV and Part A.2

## III. Final Action

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory 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 July 8, 2002 without further notice unless the Agency receives adverse comments by June 6, 2002.

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 July 8, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the 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 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 July 8, 2002. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 8, 2002.  
A. Stanley Meiburg,  
Acting Regional Administrator, Region 4.

Chapter I, title 40 of the 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 II—South Carolina

2. Section 52.2120(c) is amended by revising:

a. Regulation No. 62.1, entries for “Section I” and “Section II”;

b. Regulation No. 62.3 entry for “Section I”;

c. Regulation No. 62.5 Standard No. 1 entry for “Section I”;

d. Regulation No. 62.5 Standard No. 4 entries for “Section V”, “Section VIII”, and “Section XI”;

e. Regulation No. 62.5 Standard No. 5 entries for “Section I” and “Section II, Part A, Part E, Part F and Part N”;

f. Regulation No. 62.5 Standard No. 6 title and entry, and “Section II, Part A”;

and  
g. Regulation No. 62.5 Standard No. 7 entire entry, to read as follows:

#### § 52.2120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Regulation No. 62.1 .....	Definitions, Permits Requirements, and Emissions Inventory			
Section I .....	Definitions .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
Section II .....	Permit requirements .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
Regulation No. 62.3 .....	Air Pollution Episodes			
Section I .....	Episode Criteria .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
Regulation No. 62.5 .....	Air Pollution Control Standards			
<b>Standard No. 1 Emissions from Fuel Burning Operations</b>				
Section I .....	Visible Emissions .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
<b>Standard No. 4 Emissions from Process Industries</b>				
* .....	* .....	*	*	*
Section V .....	Cotton Gins .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
Section VIII .....	Other Manufacturing .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
Section XI .....	Total Reduced Sulfur Emissions of Kraft Pulp Mills.	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*
<b>Standard No. 5 Volatile Organic Compounds</b>				
Section I .....	General Provisions .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
<b>Section II Provisions for Specific Sources</b>				
Part A .....	Surface Coating of Cans .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
* .....	* .....	*	*	*

## AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
Part E .....	Surface Coating of Magnet Wire .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
Part F .....	Surface Coating Miscellaneous Metal Parts & Products.	10/26/01	May 7, 2002 .....	[Insert citation of publication].
*	*	*	*	*
Part N .....	Solvent Metal Cleaning .....	10/26/01	May 7, 2002 .....	[Insert citation of publication].
*	*	*	*	*
<b>Standard No. 6 Alternative Emissions Limitation Options ("Bubble")</b>				
		10/26/01	May 7, 2002 .....	[Insert citation of publication].
*	*	*	*	*
<b>Section II Conditions for Approval</b>				
Part A .....	Emissions of Total Suspended Particulate or Sulfur Dioxide.	10/26/01	May 7, 2002 .....	[Insert citation of publication].
*	*	*	*	*
<b>Section III Enforceability</b>				
<b>Standard No. 7 Prevention of Significant Deterioration</b>				
		10/26/01	May 7, 2002 .....	[Insert citation of publication].
*	*	*	*	*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 228**

[FRL-7207-5]

**Ocean Dumping; Site Modification****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA today modifies the designation of an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Charleston, South Carolina. The modification is to amend the restriction on use and shorten the site's name. This action is necessary to allow for disposal activities to continue as previously planned by the site's Task Force for management and monitoring.

**EFFECTIVE DATE:** This final rule is effective on June 6, 2002.

**ADDRESSES:** Send comments to: Wesley B. Crum, Chief, Coastal Section, Water

Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Gary W. Collins, 404/562-9395.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to the Regional Administrator of the Region in which sites are located. The EPA Ocean Dumping Regulations promulgated under MPRSA (40 CFR chapter I, subchapter H, § 228.11) state that use of disposal sites may be modified.

Two ODMDS's were ultimately designated for Charleston in 1987. One was a 12-square mile site for deepening material. The second site was 3-square miles and was placed within the 12-square mile site. During the 1980's, additional benthic and sedimentological

studies were conducted by the South Carolina Department of Natural Resources (SCDNR). In 1987, live bottoms were identified in the western portion of the 12-square mile site. Concerns regarding impacts to the living resources at the ODMDS encouraged EPA to place a restriction on the use of the 12-square mile site. The Final Rule regarding this restriction was published in the **Federal Register** March 5, 1991 stating, "Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged material, except entrance channel material, shall be limited to that part of the site east of the line between coordinates 32°39'04" N, 79°44'25" W and 32°37'24" N, 79°45'30" W unless the materials can be shown by sufficient testing to contain 10% or less of fine material (grain size of less than 0.074mm) by weight and shown to be suitable for ocean disposal." This bisecting line was an immediate effort by EPA to protect live bottom resources initially reported by fishermen. The line was set with limited knowledge of the exact location and extent of those resources, and was set in a location that was believed to be as protective as possible at that time.