

## § 52.2220 Identification of plan.

(c) \* \* \*

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## EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	Adoption date	EPA approval date	Federal Register Notice
Chapter 1200-3-2 .....	DEFINITIONS .....	06/26/93	9/16/02	[Insert citation of publication]
Section 1200-3-2- .....	General Definitions .....			
Chapter 1200-3-5- .....	VISIBLE EMISSION REGULATIONS .....			
Section 1200-3-5-.09 .....	Kraft Mill and Soda Mill Recovery .....	04/06/98	9/16/02	[Insert citation of publication]
Section 1200-3-5-.11 .....	Repealed .....	04/06/98	9/16/02	[Insert citation of publication]

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[FR Doc. 02-17701 Filed 7-15-02; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA 264-0350a; FRL-7231-8]

**Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from soil decontamination operations. We are approving the local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on September 16, 2002, without further notice, unless EPA receives adverse comments by August 15, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.  
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812.  
Ventura County Air Pollution Control District, 669 County Square Dr., 2nd FL., Ventura CA 93003.

**FOR FURTHER INFORMATION CONTACT:**

Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3960.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal***A. What Rule Did the State Submit?*

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
VCAPCD .....	74.29	Soil Decontamination Operations .....	01/08/02	03/15/02

On May 7, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of This Rule?*

On May 22, 2001, EPA finalized limited approval and limited disapproval of a previous version of this

rule which was adopted on October 10, 1995.

*C. What is the purpose of the submitted rule?*

Rule 74.29 controls the emissions of VOCs from the clean-up of soils contaminated with gasoline, jet fuel, or diesel fuel. The TSD has more information about this rule.

## II. EPA's Evaluation and Action

### A. How Is EPA Evaluating This Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 74.29 must fulfill RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following: Issue Relating to VOC Regulation, Cut Points, Deficiencies, and Deviations (the "Blue Book"), U.S. EPA, May 25, 1988.

### B. Does This Rule Meet the Evaluation Criteria?

We believe this rule is consistent with relevant policy and guidance regarding enforceability, RACT and SIP relaxations. The TSD has more information on our evaluation. In particular, the revisions to this rule adequately address the deficiencies identified in our May 22, 2001 limited disapproval by removing director's discretion formally contained in section C.4 of this rule. The revisions also contain other minor rule improvements and clarifications.

### C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval and we therefore are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by August 15, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect, and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 16, 2002. This action will incorporate this

rule into the federally enforceable SIP and will terminate all sanctions and sanction clocks associated with our May 22, 2001 limited disapproval.

## III. Background Information

### Why Was This Rule Submitted?

NO<sub>x</sub> and VOC help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO<sub>x</sub> emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency NO<sub>x</sub> rule.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978.	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988.	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990.	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.
May 15, 1991.	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

## 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 32111, "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 the state rules 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 September 16, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 30, 2002.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

Accordingly, 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)(297) (i)(A)(2) to read as follows:

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

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(c) \* \* \*

(297) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 74.29 adopted on October 10, 1995, and amended on January 8, 2002.

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[FR Doc. 02-17696 Filed 7-15-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Region 2 Docket No. PR10-244, FRL-7246-7]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Commonwealth of Puerto Rico: Control of Emissions From Existing Municipal Solid Waste Landfills

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the section 111(d) plan submitted by the Commonwealth of Puerto Rico, for the purpose of implementing and enforcing the emission guidelines for existing municipal solid waste landfills. The plan was submitted to fulfill the requirements of the Clean Air Act (the Act). The intended effect of this action is to approve a plan required by the Act which establishes emission limits for existing municipal solid waste landfills, and provides for the implementation and enforcement of those limits.

**EFFECTIVE DATE:** This rule will be effective August 15, 2002.

**ADDRESSES:** Copies of the Commonwealth submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region II Office, Air Programs Branch,  
290 Broadway, 25th Floor, New York,  
New York 10007-1866

Environmental Protection Agency,  
Caribbean Environmental Protection  
Division, 1492 Ponce De Leon  
Avenue, Centro Europa Building,  
Suite 417, Stop 22, Santurce, Puerto  
Rico 00907-4127

Puerto Rico Environmental Quality  
Board, National Plaza Building, 431  
Ponce De Leon Avenue, Hato Rey,  
Puerto Rico

Environmental Protection Agency, Air  
and Radiation Docket and Information  
Center, Air Docket, 401 M Street, SW,  
Washington, DC 20460

#### FOR FURTHER INFORMATION CONTACT:

Demian P. Ellis, Air Programs Branch,  
Environmental Protection Agency, 290  
Broadway, 25th Floor, New York, New  
York 10007-1866, (212) 637-3713.

#### SUPPLEMENTARY INFORMATION:

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II. What are the details of EPA's action?

III. What comments were received on the proposed approval and how has EPA responded to them?

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#### I. What Action Is EPA Taking Today?

EPA is approving the Puerto Rico plan, and the elements therein, as submitted on February 20, 2001, for the control of air emissions from Municipal Solid Waste (MSW) landfills. When EPA developed the New Source Performance Standards (NSPS) (subpart WWW) for MSW landfills on March 12, 1996, it concurrently promulgated Emission Guidelines (subpart Cc) to control air emissions from existing MSW landfills. The EPA amended these rules on June 16, 1998 and February 24, 1999.

The Puerto Rico Environmental Quality Board (EQB) developed a plan, as required by section 111(d) of the Clean Air Act, 42 U.S.C. 7411(d), to adopt the Emission Guidelines into its body of regulations, and EPA is acting today to approve that plan.

#### II. What Are the Details of EPA's Specific Action?

On February 20, 2001, Puerto Rico submitted a plan for implementing and enforcing EPA's emission guidelines for existing MSW landfills. The plan contained several elements including: (1) A demonstration of Puerto Rico's legal authority to implement the section 111(d) MSW landfill plan; (2) identification of a mechanism to enforce the emission guidelines; (3) a list of known MSW landfills including their nonmethane organic compound emissions rate estimates; (4) a regulation requiring the installation of emission collection and control equipment which is no less stringent than the requirements in subpart Cc; (5) a description of the process Puerto Rico will use to review and approve site-specific gas collection and control design plans; (6) compliance schedules for each source that require final compliance no later than the dates required in EPA's November 8, 1999 Federal 111(d) plan (64 FR 60703), to which Puerto Rico is currently subject; (7) requirements for sources to test, monitor, keep records, and report to Puerto Rico; (8) records of the public hearings on the Commonwealth's Plan; and (9) a provision for the Commonwealth's submittal to EPA of annual reports on Puerto Rico's progress in the enforcement of its plan.

#### III. What Comments Were Received on the Proposed Approval and How Has EPA Responded to Them?

There were no comments received on EPA's proposed rulemaking (67 FR