

Dated: February 3, 2000.

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. 7401–7642.

Subpart RR—Tennessee

2. Section 62.10626, is amended by adding paragraph (b)(4) to read as follows:

§ 62.10626 Identification of plan.

* * * * *

(b) * * *

(4) Knox County Department of Air Quality Management Implementation Plan: Federal Emission Guidelines Municipal Solid Waste Landfills, submitted on July 29, 1999, by the State of Tennessee Department of Environment and Conservation.

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[FR Doc. 00–4041 Filed 2–22–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TN–219–2–200008a; FRL–6539–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Tennessee: Approval of 111(d) Plan for Municipal Solid Waste Landfills in Chattanooga-Hamilton County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the section 111(d) Plan for Chattanooga-Hamilton County submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (DEC) on April 26, 1999, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Municipal Solid Waste (MSW) Landfills. The Plan meets all requirements applicable to such plans.

DATES: This direct final rule is effective April 24, 2000 without further notice, unless EPA receives adverse comment by March 24, 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: Allison Humphris at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal 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. Allison Humphris, 404/562–9030. Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531. 615/532–0554. Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee, 37407–2495. 423/867–4321.

FOR FURTHER INFORMATION CONTACT:

Allison Humphris at 404/562–9030 (email address: humphris.allison@epa.gov).

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 was involved in litigation over the requirements of the MSW landfill EG and NSPS beginning in 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 settlement did not vacate or void the existing MSW landfill EG or NSPS. Pursuant to the settlement agreement, EPA published a direct final rulemaking on June 16, 1998, in which EPA amended 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. The Chattanooga-Hamilton County Air Pollution Control Bureau (APCB) has amended their rules for MSW landfills in the Chattanooga City Code, Part II, Section 4–41, Rule 15.3 (effective date of October 21, 1998), to

reflect the June 16, 1998, amendments to subparts Cc and WWW. Accordingly, the MSW landfill EG published on March 12, 1996, and amended on June 16, 1998, was used as the basis by EPA for review of this section 111(d) Plan submittal.

This action approves the section 111(d) Plan submitted by the State of Tennessee for the Chattanooga-Hamilton County APCB to implement and enforce subpart Cc.

II. Analysis of State's Submittal

The State of Tennessee, on behalf of the Chattanooga-Hamilton County APCB, submitted to EPA on April 26, 1999, the following in their section 111(d) Plan for implementing and enforcing the emission guidelines for existing MSW landfills in Chattanooga-Hamilton County, Tennessee: Enforceable Mechanisms; Legal Authority; Emission Limits; Review and Approval Process for Collection and Control System Design Plans; Compliance Schedules; MSW Landfill Source and Emission Inventory; Test Methods and Procedures; Source Surveillance, Compliance Assurance, and Enforcement; Demonstration That the Public Had Adequate Notice and Public Hearing Record; Submittal of Progress Reports to EPA; and applicable statutes and rules of the State of Tennessee and ordinances of the Chattanooga-Hamilton County APCB.

The approval of the Chattanooga-Hamilton County APCB Plan is based on finding that: (1) the Chattanooga-Hamilton County APCB provided adequate public notice of public hearings for the proposed rulemaking which allows the Chattanooga-Hamilton County APCB to implement and enforce the EG for MSW landfills; and (2) the Chattanooga-Hamilton County APCB 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 submittal, the Chattanooga-Hamilton County APCB cites the following references for the legal authority: the State of Tennessee Air Quality Act (Tennessee Code Annotated 68-210-115, "Local Pollution Control Programs"); Chattanooga-Hamilton County Ordinance No. 10786; and the

Tennessee Certificate of Exemption for Chattanooga-Hamilton County. On the basis of these statutes and rules for Tennessee and Chattanooga-Hamilton County, the Plan is approved as being at least as protective as the Federal requirements for existing MSW landfills.

In the Plan submittal, the Chattanooga-Hamilton County APCB cites the enforceable mechanism for implementing the EG for existing MSW landfills. The enforceable mechanisms are the regulations adopted by the Chattanooga-Hamilton County APCB in the Chattanooga City Code, Part II, Chapter 4, Section 4-41, Rule 15.3, "Emissions Standards for Municipal Solid Waste Landfills." The County'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 submittal, the Chattanooga-Hamilton County APCB cites all emission limitations for the major pollutant categories related to the designated sites and facilities. These limitations in Rule 15.3 are approved as being at least as protective as the Federal requirements contained in Subpart Cc for existing MSW landfills.

In the Plan submittal, the Chattanooga-Hamilton County APCB included a source and emission inventory of all designated pollutants for each MSW landfill in Chattanooga-Hamilton County. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing MSW landfills.

The Plan submittal describes the process the Chattanooga-Hamilton County APCB 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 submittal, the Chattanooga-Hamilton County APCB cites the compliance schedule adopted in Rule 15.3 for each existing MSW landfill to be in compliance by December 12, 1997. 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.

The Chattanooga-Hamilton County APCB Plan submittal includes its 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 the agency to judge the compliance status of the facilities. The Chattanooga-Hamilton County APCB 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. The State of Tennessee, on behalf of the Chattanooga-Hamilton County APCB, submitted regulations to support the requirements of monitoring, recordkeeping, reporting, and compliance assurance in the Plan submittal. These Chattanooga-Hamilton County regulations in Rule 15.3 have been reviewed and approved as being at least as protective as Federal requirements for existing MSW landfills.

The Plan submittal outlines how the Chattanooga-Hamilton County APCB will provide progress reports of Plan implementation 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 Chattanooga-Hamilton County APCB Plan meets all of the requirements applicable to such plans in 40 CFR part 60, subparts B and Cc. The State of Tennessee, on behalf of Chattanooga-Hamilton County APCB, 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 Chattanooga-Hamilton County APCB section 111(d) Plan, submitted by the State of Tennessee on April 26, 1999, for implementing and enforcing the EG applicable to existing MSW landfills, except for those existing MSW landfills located in Indian Country. MSW landfills located in other Tennessee counties are addressed in separate rulemakings. As provided by 40 CFR 60.28(c), any revisions to the State Plan or associated regulations will not be considered part of the applicable plan until submitted by the State 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.

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 April 24, 2000 without further notice unless the Agency receives adverse comments by March 24, 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. 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 April 24, 2000 and no further action will be taken on the proposed rule.

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. 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 April 24, 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 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: February 3, 2000.

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. 7401–7642.

Subpart RR—Tennessee

2. Section 62.10626, is amended by adding paragraph (b)(5) to read as follows:

§ 62.10626 Identification of plan.

* * * * *

(b) * * *

(5) Chattanooga-Hamilton County Air Pollution Control Bureau Clean Air Act Section 111(d) Plan for Municipal Solid Waste Landfills, submitted on April 26, 1999, by the State of Tennessee Department of Environment and Conservation.

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[FR Doc. 00-4043 Filed 2-22-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300968; FRL-6490-3]

RIN 2070-AB78

Furilazole; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the inert ingredient (herbicide safener)