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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[AL-051-200026(a); FRL-6872-4]

Approval and Promulgation of Implementation Plans: Revision to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The EPA is approving revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on January 10, 2000, by the State of Alabama. The revisions comply with the regulations set forth in the Clean Air Act (CAA). Included in this document are revisions to Chapter 335-3-14—Air Permits. ADEM is revising this rule to delete outdated accommodative state implementation plan (SIP) rules.

DATES: This direct final rule is effective November 20, 2000 without further notice, unless EPA receives adverse comment by October 20, 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: Kimberly Bingham at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management

Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is (404) 562-9038. Ms. Bingham can also be reached via electronic mail at bingham.kimberly@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Analysis of State's Submittal**

On January 10, 2000, the State of Alabama through ADEM submitted revisions to Chapter 335-3-14—Air Permits. Rule 335-3-14.05(4) was amended to remove outdated nonattainment new source review rules also referred to as "accommodative SIP" language. An accommodative SIP provides for new source growth without emission offsets by requiring reasonably available control technologies on existing 100 ton per year Group I and Group II sources that emit volatile organic compounds in areas not normally required to have controls (*i.e.*, attainment and unclassified areas). ADEM removed most of the accommodative language in a previous SIP which was approved by EPA on December 19, 1986 (see 51 FR 45469, December 19, 1986 for a more detailed discussion).

ADEM deleted the following subparagraphs under rule 335-3-14-.05(4) which were a part of the accommodative SIP language:

- Subparagraphs (a), (b), and (e) were marked reserved.
- Subparagraph (c)(1) contained the following language, "A person proposing to construct or make a major modification to a major facility subject to the provisions of this Rule, located in a nonurban nonattainment area (less than 200,000 population), shall be required to install LAER but shall not be required to obtain emission offsets as specified herein."
- Subparagraph (c)(2) contained the following language, "The provisions of subparagraph (c) of this paragraph are applicable to volatile organic compound sources only."

These revisions comply with CAA requirements.

II. Final Action

EPA is approving the aforementioned change to the State of Alabama's SIP because it is consistent with the CAA and EPA policy. The EPA is publishing this rule without a 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 if adverse comments are filed. This rule will be effective November 20, 2000 without further notice unless the Agency receives adverse comments by October 20, 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 November 20, 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 November 20, 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 will 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, Intergovernmental relation, Lead, Reporting and recordkeeping requirements.

Dated: September 5, 2000.

Mike V. Peyton,

Acting Regional Administrator, Region 4.

Chapter I, title 40, *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 B—Alabama

2. Section 52.50 is revising the entry for section 335-3-14.05 in the table in paragraph (c) to read as follows:

§ 52.50 Identification of plan.

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(c) EPA approved regulations.

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
(1) Chapter No. 335-3-14 * * * *	(2) Air Permit. * * * *	* * * *	* * * *	* * * *
Section 335-3-1-14-05 * * * *	Air Permits Authorizing Construction in or Near Non-Attainment Areas. * * * *	December 7, 1999	September 20, 2000	65 FR 56798 * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 260, 261, 264, 265, 266, 270, and 271

[FRL-6870-8]

Hazardous Waste Combustion National Emission Standards for Hazardous Air Pollutants (NESHAP) Toolkit; Notice of Availability

AGENCY: Environmental Protection Agency.

ACTION: Availability of new implementation toolkit related to final regulations.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the August 10, 2000 release of the Hazardous Waste Combustion NESHAP Toolkit on the Internet. The Toolkit provides implementation guidance and other materials related to the final regulation NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (64 FR 52828, September 30, 1999). The purpose of the Toolkit is to assist all interested stakeholders, including the general public, regulators and industry, in understanding the implementation aspects of the new standards and our new approach to permitting the facilities or sources subject to them. The Toolkit's primary focus is on general and process-oriented information and includes: descriptions of Resource Conservation and Recovery Act (RCRA)

and Clean Air Act (CAA) permitting requirements and policies, a time line of important compliance dates, a list of affected facilities or sources, links to related websites, a list of RCRA and CAA regulatory contacts, and commonly used acronyms. The Toolkit does not provide guidance on any technical requirements associated with the rule (*e.g.*, test methods, monitoring techniques, etc.).

FOR FURTHER INFORMATION CONTACT: For general information, you can contact the RCRA Hotline at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). In the Washington, D.C. metropolitan area, call 703-412-9810 or TDD 703-412-3323. The RCRA Hotline is open Monday through Friday from 9 a.m. to 6 p.m. Eastern Standard Time. To access the Toolkit, please see our Internet page: <http://www.epa.gov/>