

will request that the claimant obtain the records and provide them to VA.

(Authority: 38 U.S.C. 5103A(b)(2))

(f) For the purpose of the notice requirements in paragraphs (b) and (e) of this section, notice to the claimant means notice to the claimant or his or her fiduciary, if any, as well as to his or her representative, if any.

(Authority: 38 U.S.C. 5102(b), 5103(a))

### **§ 3.326 [Amended]**

5. In § 3.326(a), the first sentence is amended by removing “well-grounded”.

[FR Doc. 01-21802 Filed 8-28-01; 8:45 am]

**BILLING CODE 8320-01-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[TN-232-200118(a); FRL-7044-4]

#### **Approval and Promulgation of Implementation Plans: State of Tennessee**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the State of Tennessee's rules submitted on February 14, 2000. The State of Tennessee is amending Chapter 1200-3-22—Lead Emissions Standards—to require EPA approval of changes to Reasonably Available Control Technology (RACT) emission limitations in permits for specific lead sources.

**DATES:** This direct final rule is effective October 29, 2001 without further notice, unless EPA receives adverse comment by September 28, 2001. 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 concerning this action 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.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L&C

Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

#### **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 of Submittal Background**

Section 107(d)(5) of the Clean Air Act (CAA) provides for areas to be designated as attainment, nonattainment, or unclassifiable with respect to the lead national ambient air quality standard (NAAQS). States are required to submit recommended designations for areas within their states. When an area is designated nonattainment, the state must prepare and submit a state implementation plan (SIP) pursuant to sections 110(a)(2) and 172(c) of the CAA showing how the area will be brought into attainment. The requirements for all SIPs are contained in section 110(a)(2) of the CAA. Section 172(c) of the CAA specifies the provisions applicable to areas designated as nonattainment for any of the NAAQS. EPA has also issued a General Preamble describing how EPA will review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing lead nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

One of the specific requirements of section 172(c) is that states include in their lead nonattainment SIPs reasonably available control technology (RACT) emission limitations for existing sources. The EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. When a state submits a lead nonattainment SIP that includes specific RACT emission limits for specific sources in the lead nonattainment area and these requirements are federally approved by EPA into Tennessee's SIP, any changes to those source-specific RACT emission limits require Tennessee to submit a revision to the SIP to EPA for approval.

#### **Chapter 1200-3-22—Lead Emission Standards**

The State of Tennessee had language included in this chapter of their SIP that granted the Tennessee Air Director the ability to change the RACT emission limits for sources specified in the SIP at any given time without prior approval from EPA. Region 4 requested that the State of Tennessee revise their SIP to provide that any changes to the source-specific RACT emissions limits would require EPA approval. In response to this request, the State of Tennessee submitted the following rule revision:

Paragraph (1) of rule 1200-3-22-03 Specific Emission Standards for Existing Sources of Lead was amended by adding the following language: “The RACT emission level specified as permit conditions on the operating permit(s) must be submitted, reviewed and approved by the Administrator of the Environmental Protection Agency or his designee.”

##### **II. Final Action**

EPA is approving the aforementioned rule revision submitted by the State of Tennessee, because it meets all CAA requirements. 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 October 29, 2001 without further notice unless the Agency receives adverse comments by September 28, 2001.

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 October 29, 2001 and no further action will be taken on the proposed rule.

##### **III. 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 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), nor will it 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 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.

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 October 29, 2001. 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, Lead, Intergovernmental relation, Reporting and recordkeeping requirements.

Dated: July 24, 2001.

**Russell Wright,**  
*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 RR—Tennessee

2. Section 52.2220(c) is amended by revising the entries for Section 1200-3-22-03 to read as follows:

##### § 52.2220 Identification of plan.

\* \* \* \* \*

(e) EPA approved regulations.

#### EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	Adoption date	EPA approval date	Federal Register notice
*	*	*	*	*
<b>Chapter 1200-3-22 Lead Emission Standards</b>				
*	*	*	*	*
Section 1200-3-22-03 .....	Specific Emission Standards for Existing Sources of Lead.	January 26, 2000 .....	October 29, 2001 .....	66 FR 45633
*	*	*	*	*

[FR Doc. 01-21700 Filed 8-28-01; 8:45 am]

**BILLING CODE 6560-50-P****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-7045-2]

**National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List Update****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of deletion of the Western Pacific Railroad Superfund site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 9 announces the deletion of the Western Pacific Railroad Site in Oroville, Butte County, California, from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of California, through the Department of Toxic Substances Control, have determined that the site poses no significant threat to public health or the environment and, therefore, no further remedial measures pursuant to CERCLA are appropriate.

**EFFECTIVE DATE:** August 29, 2001.**FOR FURTHER INFORMATION CONTACT:** Holly Hadlock, Project Manager, U.S. EPA, Region 9, 75 Hawthorne Street, SFD-7-1, San Francisco, CA 94105, (415) 744-2244.**SUPPLEMENTARY INFORMATION:** The site to be deleted from the NPL is the Western Pacific Railroad Site, Oroville, Butte County, California.

A Notice of Intent to Delete for this site was published in the **Federal Register** on July 18, 2001 (66 FR 37439). The closing date for comments on the Notice of Intent to Delete was August 17, 2001. No comments were received, therefore, EPA has not prepared a Responsiveness Summary. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at

sites deleted from the NPL. 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 record keeping requirements, Superfund, Water pollution control, and Water supply.

Dated: August 17, 2001.

**Laura Yoshii,**  
*Acting Regional Administrator, Region 9.*

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

**Authority:** 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

**Appendix B—[Amended]**

2. Table 1 of Appendix B to part 300 is amended by removing the entry for the “Western Pacific Railroad Co.” in Oroville, California.

[FR Doc. 01-21702 Filed 8-28-01; 8:45 am]

**BILLING CODE 6560-50-P****DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 010502110-1110-01; I.D. 081601B]

**Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure and Inseason Adjustments for the Recreational and Commercial Salmon Seasons from Queets River, WA, to Humbug Mountain, OR****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Inseason closure, and adjustments to the 2001 annual management measures for the ocean salmon fishery; request for comments.**SUMMARY:** NMFS announces the following inseason actions for the ocean salmon fisheries: Closure of the

recreational selective fishery for marked hatchery coho in the area from Cape Falcon, OR, to Humbug Mountain, OR, on July 19, 2001, at 2359 hours local time (l.t.); reopening of the recreational fishery for all salmon except coho on July 20, 2001; and modification of the weekly opening period and addition of a limited retention regulation for the commercial fishery from the Queets River, WA, to Cape Falcon, OR, to follow a cycle of 4 days open/3 days closed, and a limit of 65 chinook per open period per boat. These actions are necessary to conform to the 2001 annual management measures for ocean salmon fisheries.

**DATES:** Closure in the area from Cape Falcon, OR, to Humbug Mountain, OR—effective 2359 hours l.t., July 19, 2001. Reopening in the area from Cape Falcon, OR, to Humbug Mountain, OR—effective 0001 hours l.t., July 20, 2001. Adjustments in the area from Queets River, WA, to Cape Falcon, OR—effective 0001 hours l.t., July 20, 2001. All of the above inseason actions will remain effective until the effective date of the 2002 management measures, as published in the **Federal Register**, or until further inseason actions are announced in the **Federal Register**. Comments will be accepted through September 13, 2001.

**ADDRESSES:** Submit written comments to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070; fax 206-526-6376; or Rebecca Lent, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132; fax 562-980-4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

**FOR FURTHER INFORMATION CONTACT:** Christopher Wright, 206-526-6140, Northwest Region, NMFS, NOAA.**SUPPLEMENTARY INFORMATION:****Closure From Cape Falcon to Humbug Mountain, OR**

The Northwest Regional Administrator, NMFS (Regional Administrator), determined that the recreational quota of 55,000 marked coho salmon for the area from Cape Falcon to Humbug Mountain had been reached, and closed the fishery for all salmon at midnight on July 19, 2001. Regulations governing the ocean salmon fisheries at 50 CFR 660.409 (a)(1) state