

Temporary Regulation

In consideration of the foregoing, Title 33, Code of Federal Regulations, Part 165, Subpart C is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new § 165.T07–065 is added to read as follows:

§ 165.T07–065 Safety Zone: The Port of Guanica, Guanica, Pureto Rico.

(a) *Regulated Area.* The following area is designated a safety zone: All navigable waters of Guanica Bay, Guanica, Puerto Rico.

(b) *Regulations:* (1) The waters in Guanica Bay are closed to vessel traffic.

(2) In accordance with the general regulations in § 165.23 of this part, all vessels are prohibited from anchoring in or transiting the waters or channels of Guanica Bay unless specifically authorized by the Captain of the Port San Juan, PR.

(3) This section does not apply to authorized law enforcement or search and rescue vessels operating within the safety zone.

(4) The Captain of the Port San Juan, PR will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and the restrictions imposed. A BNTM will notify the maritime community when the safety zone is no longer in effect.

(c) *Effective Dates.* This section becomes effective at 3 pm on October 7, 1998 for the port of Guanica, Puerto Rico, and will be terminate at 6 pm on October 21, 1998.

Dated: October 7, 1998.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, San Juan, PR.

[FR Doc. 98–28147 Filed 10–20–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[TX90–1–7360a; FRL–6160–2]

Approval and Promulgation of State Implementation Plan, Texas: Recodification of Regulations to Control Lead Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, the EPA is approving the recodification of the Texas State Implementation Plan (SIP) regulations controlling emissions of lead from stationary sources. The recodification consists of a renumbering of the sections and administrative changes to the rules. There are no substantive changes to the rules.

If relevant adverse comments are received on this approval, the EPA will publish a document informing the public that the direct final rule will not take effect, and address the relevant comments received in a subsequent final rule, based on the related proposed rule. No additional opportunity for public comment will be provided.

DATES: This action is effective on December 21, 1998 unless adverse or critical comments are received by November 20, 1998. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** to inform the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an

appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission (TNRCC), 12100 Park 35 Circle, Building F, Austin, Texas 78753.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Region 6 Air Planning Section at the above address, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:**I. Background**

In a letter dated August 21, 1997, the Governor of Texas submitted a recodification of the Texas SIP rules controlling emissions of lead from stationary sources. The current 30 Texas Administrative Code (TAC), Chapter 113, Subchapter B, Section citations and the corresponding recodified citations are listed below.

There have been no substantive changes made to the rules. Administrative changes have been made which update the name of the agency and reflect that the original compliance dates were long passed for facilities affected at the time of the original adoption of the rules.

The Texas lead regulations were previously approved on August 13, 1984, in 49 FR 32184; and August 15, 1984, in 49 FR 32577. At that time, no action was taken on 30 TAC Chapter 113, Sections 111, 112, 113, and 114. The EPA is now merely approving the renumbering system submitted by the State, and continues to take no action on Section 111, 112, 113, and 114.

31 TAC CHAPTER 113 SUBCHAPTER B: LEAD FROM STATIONARY SOURCES

Current citation	Recodified citation	Title
113.41	113.31	Nonferrous Smelters in El Paso County Maintenance and Operation of Control Equipment. Areas Accessible to the General Public. Control of Fugitive Dust. Materials Handling and Transfer. Smelting of Lead. Smelting of Copper and Zinc. Lead Emissions Limits for Stacks.
113.42	113.32	
113.43	113.33	
113.51	113.34	
113.52	113.35	
113.53	113.36	
113.71	113.37	
		Lead Smelters in Dallas County.
113.81	113.41	Maintenance and Operation of Control Equipment.
113.83	113.42	Storage of Lead-Containing Materials.

31 TAC CHAPTER 113 SUBCHAPTER B: LEAD FROM STATIONARY SOURCES—Continued

Current citation	Recodified citation	Title
113.84	113.43	Transport of Materials.
113.85	113.44	Fugitive Emissions from Lead Processes.
113.87	113.45	Battery or Lead Reclaiming Operations.
113.88	113.46	Lead Emission Limits for Reverberatory Furnaces and Blast Furnaces.
113.91	113.47	Control of Fugitive Dust.
113.92	113.48	Additional Measures to Reduce Lead Emissions.
		Alternate Controls
113.111	113.51	Alternate Means of Control in El Paso County.
113.112	113.52	Alternate Emission Reductions in El Paso County.
113.113	113.53	Alternate Means of Control in Dallas County.
113.114	113.54	Alternate Emission Reductions in Dallas County.
		Compliance and Control Plan Requirements
113.121	113.61	Compliance with Other Rules in El Paso County.
113.122	113.62	Dates for Control Plan Submission and for Final Compliance in El Paso County.
113.123	311.63	Control Plan Procedure in El Paso County.
113.124	113.64	Reporting Procedure in El Paso County.
113.125	113.65	Compliance with Other Rules in Dallas County.
113.126	113.66	Dates for Control Plan Submission and for Final Compliance in Dallas County.
113.127	113.67	Control Plan Procedure in Dallas County.
113.128	113.68	Reporting Procedure in Dallas County.

II. Final Action

By this action, the EPA is approving the recodification of the Texas SIP regulations controlling emissions of lead from stationary sources.

The EPA has not reviewed the substance of these regulations at this time. These rules were approved into the SIP in previous rulemakings. The EPA is now merely approving the renumbering system submitted by the State. The EPA's approval of the renumbering system, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent the EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, the EPA will continue to require the State to correct any such rule deficiencies despite the EPA's approval of this recodification.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective December 21, 1998 without further notice unless, by November 20, 1998, relevant adverse comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be

addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 21, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements**A. Executive Orders (E.O.) 12866 and 13045**

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and

small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because conditional approvals of SIP submittals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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.

The 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 approves preexisting 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. Since this action does not impose any mandate, it is also not subject to Executive Order 12875 concerning Federal mandates.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

E. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866 entitled, "Regulatory Planning and Review."

F. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals

containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

G. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

H. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by December 21, 1998. Filing a petition for reconsideration by the Administrator of this conditional interim 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, Lead, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 2, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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. 7401-7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(114) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(114) Recodified regulations of Texas Administrative Code, Title 30, Chapter 113, Subchapter B, controlling lead emissions from stationary sources, and submitted by the Governor in a letter dated August 21, 1997.

(i) Incorporation by reference.

(A) Texas Natural Resource Conservation Commission (TNRCC) order adopting amendments to the State Implementation Plan; Docket Number 97-0143-RUL, issued July 9, 1997.

(B) Texas Administrative Code, Title 30, Chapter 113, Subchapter B, entitled "Lead from Stationary Sources," adopted by the TNRCC on July 9, 1997. Newly recodified sections 113.31, 113.32, 113.33, 113.34, 113.35, 113.36, 113.37, 113.41, 113.42, 113.43, 113.44, 113.45, 113.46, 113.47, 113.48, 113.52, 113.61, 113.62, 113.63, 113.64, 113.65, 113.66, 113.67, and 113.68.

(ii) Additional material. TNRCC certification letter dated June 25, 1997, and signed by Gloria Vasquez, Chief Clerk, TNRCC.

[FR Doc. 98-28114 Filed 10-20-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA122-4078a; FRL-6178-2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Withdrawal of Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to receipt of adverse comment, EPA is withdrawing the direct final rule for the approval of revisions to the Pennsylvania State Implementation Plan (SIP). EPA published the direct final rule on September 16, 1998 (63 FR 49436), approving revisions to supplement Pennsylvania's enhanced motor vehicle emissions inspection and maintenance (I/M) program. As stated in that **Federal Register** document, if adverse comments were received by October 16, 1998, a timely withdrawal would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action and issue a final rule based on the parallel proposal also published on September 16, 1998 (63 FR 49517). In a separate document appearing in the *Proposed Rules* section, EPA is announcing extension of the comment period on this action.

EFFECTIVE DATE: October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814-2176, or by e-mail at rehn.brian@epamail.epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 8, 1998.

W. Michael McCabe,
Regional Administrator, Region III.

[FR Doc. 98-28112 Filed 10-20-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6176-6]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Idaho has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). This authorization addresses regulations promulgated between July 1, 1993 and July 1, 1996 with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments and Containers (Subpart CC standards). The EPA has reviewed Idaho's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comment is received during the review and comment period provided in this rule, EPA's decision to authorize Idaho's hazardous waste program revision will take effect.

DATES: This Final authorization for Idaho will become effective without further notice on January 19, 1999, if the EPA receives no adverse comment by November 20, 1998. Should the EPA receive adverse written comment, the EPA will withdraw this rule before the effective date by publishing a timely withdrawal in the **Federal Register**.

ADDRESSES: Mail written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM-122, Seattle, WA 98101, phone, (206) 553-0256. Copies of the materials submitted by Idaho are available during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553-1289 and the Idaho Department of Health and Welfare, Division of Environmental Quality, Planning and Evaluation Division, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373-0502 (Refer to Docket numbers: 0105-9401, 0105-9502, 0105-9601; contact is Pam Smolczynski).

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM-122, Seattle, WA, 98101; phone (206) 553-0256.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the states must revise their programs and apply for authorization of the revisions. Revisions to state hazardous waste programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must revise their programs because of changes to the EPA's regulations in 40 Code of Federal Regulation (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

B. Idaho

Effective on April 9, 1990 (55 FR 11015, March 26, 1990), Idaho was granted final base authorization for those non-HSWA (Hazardous and Solid Waste Amendments of 1984) and HSWA requirements promulgated as of July 1, 1987, and interim authorization for the HSWA Corrective Action provisions promulgated as of July 1, 1987. Final authorization for those HSWA Corrective Action provisions was granted effective on June 5, 1992 (57 FR 11580, April 6, 1992). Effective on August 10, 1992 (57 FR 24757, June 11, 1992), Idaho was granted final authorization for those HSWA and non-HSWA provisions promulgated as of July 1, 1990. On March 30, 1995, Idaho was granted final authorization for HSWA and non-HSWA provisions promulgated as of July 1, 1993.

Through two codification actions dated December 6, 1990 (55 FR 50327), and June 11, 1992 (57 FR 24757), the EPA has codified at 40 CFR 272 Subpart N all authorization actions for the State of Idaho RCRA program, which reflect non-HSWA and HSWA requirements promulgated as of June 30, 1990.

On September 17, 1996, the Administrator of the Idaho Division of Environmental Quality submitted a revised application to obtain final authorization for those non-HSWA and HSWA requirements promulgated as of July 1, 1995. This application was determined complete on October 10, 1996. On October 11, 1996 a petition was submitted to the EPA asking that the EPA initiate withdrawal proceedings of Idaho's authorization to administer Subtitle C of RCRA. The petition claimed that Idaho's Environmental Audit Protection Act warranted program withdrawal. Idaho's Environmental