

products subject to the January 1, 2008, compliance date must comply with the appropriate regulations when initially introduced into interstate commerce on or after January 1, 2008. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2008, the agency will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

Dated: March 8, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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BILLING CODE 4160-01-S

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-05-003]

RIN 1625-AA87

#### Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement.

**SUMMARY:** The Captain of the Port Puget Sound will begin enforcing the Budd Inlet security zone in West Bay, Olympia, WA, on Friday, March 11, 2005 at 8 a.m. Pacific Standard Time. The security zone provides for the security of Department of Defense assets and military cargo in the navigable waters of Puget Sound and adjacent waters. The security zone will be enforced until Tuesday, March 15, 2005 at 11:59 p.m. Pacific Standard Time.

**DATES:** The Budd Inlet security zone set forth in 33 CFR 165.1321 will be enforced from Friday, March 11, 2005 at 8 a.m. to Tuesday, March 15, 2005 at 11:59 p.m. Pacific Standard Time, at which time enforcement will be suspended.

**FOR FURTHER INFORMATION CONTACT:** Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134 at (206) 217-6200 or (800) 688-6664 to obtain information concerning enforcement of 33 CFR 165.1321.

**SUPPLEMENTARY INFORMATION:** On August 27, 2004, the Coast Guard published a final rule (69 FR 52603) establishing regulations, in 33 CFR 165.1321, for the security of Department of Defense assets and military cargo in the navigable waters of Puget Sound and adjacent

waters. On December 10, 2004, the Coast Guard published a final rule (69 FR 71711), which amended 33 CFR 165.1321 by adding Budd Inlet, Olympia, WA as a permanent security zone. These security zones provide for the regulation of vessel traffic in the vicinity of military cargo loading facilities in the navigable waters of the United States. These security zones also exclude persons and vessels from the immediate vicinity of these facilities during military cargo loading and unloading operations. In addition, the regulation establishes requirements for all vessels to obtain permission of the COTP or the COTP's designated representative, including the Vessel Traffic Service Puget Sound (VTS) to enter, move within, or exit these security zones when they are enforced. Entry into these zones is prohibited unless otherwise exempted or excluded under 33 CFR 165.1321 or unless authorized by the Captain of the Port or his designee.

The Captain of the Port Puget Sound will begin enforcing the Budd Inlet security zone established by 33 CFR 165.1321 on Friday, March 11, 2005 at 8 a.m. Pacific Standard Time. The security zone will be enforced until Tuesday, March 15, 2005 at 11:59 p.m. Pacific Standard Time. All persons and vessels are authorized to enter, move within, and exit the security zone on or after Tuesday, March 15, 2005 at 11:59 p.m. Pacific Standard Time unless a new notice of enforcement is issued before then.

Dated: March 3, 2005.

**Danny Ellis,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 05-4965 Filed 3-11-05; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05-OAR-2004-OH-0003; FRL-7883-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Withdrawal of Direct Final Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to the receipt of adverse comments the EPA is withdrawing the January 19, 2005 (70 FR 2954), direct final rule approving a revision to Ohio's Oxides of Nitrogen (NO<sub>x</sub>) State Implementation Plan (SIP). The State of

Ohio submitted this revision as a change to the SIP for NO<sub>x</sub> on June 28, 2004. In the direct final rule, EPA stated that if adverse comments were submitted by February 19, 2005, the rule would be withdrawn and not take effect. On February 18, 2005, EPA received a comment from a citizen and from the State of Ohio. EPA believes the comments are adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comments in a subsequent final action based upon the proposed action also published on January 19, 2005 (70 FR 2992). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 70 FR 2954 on January 19, 2005, is withdrawn as of March 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6084. e-mail address: [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 1, 2005.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

### PART 52—[AMENDED]

■ Accordingly, the amendment to 40 CFR 52.1870 published in the **Federal Register** on January 19, 2005 (70 FR 2954) on pages 2954–2959 are withdrawn as of March 14, 2005.

[FR Doc. 05-4899 Filed 3-11-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7883-5]

#### Tennessee: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Tennessee has applied to EPA for Final authorization of the changes to its hazardous waste program under the

Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Tennessee's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on May 13, 2005, unless EPA receives adverse written comments by April 13, 2005. If EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [gleaton.gwen@epa.gov](mailto:gleaton.gwen@epa.gov)
- Fax: (404) 562-8439 (prior to faxing, please notify the EPA contact listed below)
- Mail: Send written comments to Gwen Gleaton at the address listed below.

**Instructions:** Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit.

You can view and copy Tennessee's applications from 8 a.m. to 4:30 p.m. at the following addresses: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1535; and EPA, Region 4, Library, 9th Floor, The Sam Nunn

Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

**FOR FURTHER INFORMATION CONTACT:**

Gwen Gleaton, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8500.

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Rule?**

We conclude that Tennessee's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Tennessee Final authorization to operate its hazardous waste program with the changes described in the authorization application. Tennessee has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Tennessee, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Tennessee subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Tennessee has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Tennessee are being authorized by today's action are already effective, and are not changed by today's action.

**D. Why Wasn't There a Proposed Rule Before Today's Rule?**

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

**E. What Happens if EPA Receives Comments That Oppose This Action?**

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal**

Register withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

#### F. What Has Tennessee Previously Been Authorized for?

Tennessee initially received final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement the RCRA hazardous waste management program. We granted authorization for changes to Tennessee's program on December 8, 2004, effective February 7, 2005 (69 FR 70898), April 11, 2003, effective June 10, 2003 (68 FR

17748), December 26, 2001, effective February 25, 2002 (66 FR 66342), October 26, 2000, effective December 26, 2000 (65 FR 64161), September 15, 1999, effective November 15, 1999 (64 FR 49998), January 30, 1998, effective March 31, 1998 (63 FR 45870), on May 23, 1996, effective July 22, 1996 (61 FR 25796), on August 24, 1995, effective October 23, 1995 (60 FR 43979), on May 8, 1995, effective July 7, 1995 (60 FR 22524), on June 1, 1992, effective July 31, 1992 (57 FR 23063), and on June 12, 1987, effective August 11, 1987 (52 FR 22443).

#### G. What Changes Are We Authorizing With Today's Action?

On December 27, 2004, Tennessee submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of comments that oppose this action, that Tennessee's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant final authorization for the following program changes:

Description of federal requirement	Federal Register date and page	Analogous state authority <sup>1</sup>
200—Zinc Fertilizer Rule .....	67 FR 48393 ..... 07/24/02 .....	Tennessee Revised Code 1200–1–11–.02(1)(d), .02(1)(d)1(xxii), .02(1)(d)1(xxii)(I) & (II), .02(1)(d)1(xxii)(II)I & II, .02(1)(d)1(xxii)(II)II.A–II.C, .02(1)(d)1(xxii)(II)III–IV, .02(1)(d)1(xxii)(II)IV.A–IV.C, .02(1)(d)1(xxii)(III), .02(1)(d)1(xxii)(III)I–IV, .02(1)(d)1(xxii)(IV)–(V), .02(1)(d)1(xxiii), .02(1)(d)1(xxiii)I–II, .02(1)(d)1(xxiii)(II)–(III), .02(1)(d)1(xxiii)(III)I–VI, .09(3)(a)2 & 4, .09(3)(a)4(i) & (ii), .10(3)(a)9.
201—Treatment Variance for Radioactively Contaminated Batteries.	67 FR 62618 ..... 10/07/02 .....	Tennessee Revised Code 1200–1–11–.10(3)(a)Table.
202—Hazardous Air Pollutant Standards for Combustors—Corrections 2.	67 FR 77687 ..... 12/19/02 .....	Tennessee Revised Code 1200–1–11–.07(5)(b)5(v), .07(5)(b)8, .07(1)(e), .07(1)(j).

<sup>1</sup> The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective September 6, 2004.

#### H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

#### I. Who Handles Permits After the Authorization Takes Effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not yet authorized.

#### J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Tennessee?

The State of Tennessee's Hazardous Waste Program is not being authorized to operate in Indian Country.

#### K. What Is Codification and Is EPA Codifying Tennessee's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart RR for this authorization of Tennessee's program changes until a later date.

#### L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes 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 action 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 action 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 authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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 document 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 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). This action will be effective May 13, 2005.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 25, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-4952 Filed 3-11-05; 8:45 am]

**BILLING CODE 6560-50-P**