

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

Under sections 202, 203, and 205, of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 182 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has

exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action approving Delaware's regulation on Bulk Gasoline Marine Tank Vessel Loading Facilities, must be filed in the United States Court of Appeals for the appropriate circuit by September 26, 1995. 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 52

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

Dated: April 13, 1995.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart I of chapter I, title 40 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 I—Delaware

2. Section 52.420 is amended by adding paragraph (c)(53) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(53) Revisions to the Delaware Regulations on the control of volatile organic compound emissions from marine vessel transfer operations submitted on August 26, 1994 by the Delaware Department of Natural Resources & Environmental Control:

(i) Incorporation by reference.

(A) Letter of August 26, 1994 from the Delaware Department of Natural Resources & Environmental Control transmitting Regulation 24, "Control of Volatile Organic Compound Emissions", by renumbering existing Section 43, "Other Facilities that Emit Volatile Organic Compounds," to Section 50 and adding a new Section 43, "Bulk Gasoline Marine Tank Vessel Loading Facilities".

(B) Administrative changes to Section 50: renumbering existing Section 43 to Section 50, and Section 50(a)(1): renumbering 42 to 43; and the new Section 43, effective August 26, 1994.

(ii) Additional material.

(A) Remainder of August 26, 1994 State submittal pertaining to Regulation 24 referenced in paragraph (c)(53)(i) of this section.

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40 CFR Part 52

[TN-146-1-7039a; FRL-5226-1]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Nashville-Davidson County Construction and Operation Permit Regulations for Minor Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville-Davidson County portion of the Tennessee State Implementation Plan (SIP) to allow Nashville-Davidson County to issue Federally enforceable local operating permits (FELOP). On November 16, 1994, Nashville-Davidson County through the Tennessee Department of Environment and Conservation (TDEC) submitted a SIP revision fulfilling the requirements necessary for a FELOP program to become Federally enforceable. In order to extend the Federal enforceability of the Nashville-Davidson County FELOP program to hazardous air pollutants (HAP), EPA is also approving the County's FELOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that the County may issue FELOP for HAP.

DATES: This final rule will be effective September 26, 1995 unless adverse or critical comments are received by August 28, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Gracy R. Danois, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Air and Radiation Docket and Information Center (Air Docket 6102),