received during the comment period or at any hearing, whichever is later. Even so, if it becomes apparent that the State's review of the application will not be complete within 90 days, responsibility for processing the application will be turned back to EPA at the end of 70 days of the 90-day period, and the source will not be allowed to construct until it receives a PSD permit from EPA.

Action. EPA approves North Carolina's PSD regulation. This action is effective on March 25, 1982. On that date, the State of North Carolina will have authority to issue and enforce PSD permits for sources locating in the State.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 26, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 161, Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart II—North Carolina

1. In § 52.1770, paragraph (c) is amended by adding subparagraph (30) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(30) Regulation 2D.0530, providing for prevention of significant deterioration, submitted on April 16, 1981, by the North Carolina Department of Natural Resources and Community Development.

§ 52.1778 [Amended]

2. In § 52.1778, Significant deterioration of air quality, paragraphs (a) and (b) are removed.

[FR Doc. 82-4816 Filed 2-22-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[FRL 1929-1]

Approval and Promulgation of Implementation Plans; Revision to Washington Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice constitutes final approval of the portion of the Washington State Implementation Plan (SIP) dealing with the preconstruction review of energy facilities as required by section 110 of the Clean Air Act (hereafter referred to as the Act) as amended in 1977 (42 U.S.C. 1857 et seq.). This final approval will authorize the Energy Facility Site and Evaluation Council (EFSEC) to conduct basic preconstruction reviews for new and modified energy facilities in accordance with the provisions of section 110 of the Act. Authority to issue new energy source permits under Part C and Part D of the Act is not approved and is retained by EPA until EFSEC revises its SIP to properly include these provisions.

EFFECTIVE DATE: February 23, 1982.

ADDRESSES: Copies of material submitted may be examined during normal business hours at:

Central Docket Section, (10A-79-9), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224-Sixth Ave. SE, Lacey, Washington 98503

The Office of Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Clark Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 629, Seattle, Washington 98101, Telephone: (206) 442-1230, FTS: 399-1230.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Format

The information in this notice is divided into two sections entitled "Background" and "Plan Review." The "Plan Review" section is divided into three sub-sections which discuss: (1) The adequacy of the EFSEC legal authority with respect to Section 110 of the Act, (2) the EFSEC regulations in terms of their consistency with similar regulations previously approved by EPA and currently implemented by the DOE for all sources except those under the jurisdiction of EFSEC, and (3) the "Memorandum of Agreement" between EFSEC and DOE as a means of implementing the EFSEC regulations. Any deficienices which would affect approval of the SIP are summarized at the end of each topical discussion.

II. Background

On August 17, 1979 the Governor submitted general air pollution control regulations for sources falling under the jurisdiction of EFSEC, but no plan or program describing how the regulations would be implemented. On May 28, 1980 DOE submitted drafts of additional constituents of the EFSEC SIP—the legal authority and a Memorandum of Agreement between DOE and EFSEC. A package containing these three elements of the EFSEC SIP was officially submitted by the Governor on July 30, 1980. On April 10, 1981 (46 FR 21391) EPA published proposed approval of the EFSEC SIP.

III. Plan Review

The following discussion describes the provisions of the EFSEC SIP for energy sources.

A. Legal Authority—Chapter 80.50 RCW

The State Attorney General's opinion of May 28, 1981 states that EFSEC's enabling legislation (RCW 80.50) is adequate to satisfy the requirements of Section 110 of the Act and evidences an intent that energy facilities be controlled so that compliance with the Federal Clean Air Act is achieved. EPA agrees and is, therefore, approving the legal authority for EFSEC as adequate.

B. Regulations—WAC 463-39

The air pollution control regulations for sources under the jurisdiction of

EFSEC (WAC 463-39) are patterned after the DOE General Regulations for Air Pollution Sources (WAC 173-400). The provisions governing implementation of Section 110 of the Act are similar to and consistent with comparable provisions contained in WAC 173-400 (formerly WAC 18-04). In fact, the EFSEC regulations were purposely developed to parallel the DOE regulations so that the Statewide air pollution control effort would be carried out in a consistent manner.

EPA is today approving only those portions of WAC 463-39 dealing with the basic preconstruction review requirements of Section 110 of the Act. This will allow EFSEC to conduct the required preconstruction review for new and modified energy sources. EPA will retain the authority to issue permits under Part C and Part D of the Act until a revised EFSEC SIP, containing these provisions, is approved. (A new source review program for major sources in nonattainment areas and a PSD program for major sources locating in attainment areas must be developed in accordance with EPA requirements resulting from a court ruling in "Alabama Power v. Costle," 13 ERC 1973 (D.C. Air., Dec. 14, 1979). Today's action does not consider the requirements imposed by that ruling.

The following discussion will identify each section of WAC 463-39 and describe EPA's final action with regard to the preconstruction review requirements of Section 110 of the Act. EPA will further identify those sections dealing with Part C (Prevention of Significant Deterioration) or Part D (nonattainment area plans) of the Act and indicate that no action will be taken.

WAC 463-39—
a. 010—Purpose: Approval
b. 020—Applicability: Approval
c. 030—Definitions.
i. The following definitions are approved:
(1) Abnormal Operation.
(2) Air Contaminant.
(3) Air Pollution.
(5) Ambient Air.
(6) Ambient Air Quality Standard.
(8) Capacity Factor.
(9) Combustion and Incineration Sources.
(11) Compliance Schedule.
(12) Concealment.
(13) Council.
(14) Chairman.
(15) Emission.
(16) Emission Standard.
(17) Excess Emissions.
(18) Facility.
(19) Fossil Fuel—Fired Steam Generator.
(20) Fugitive Dust.
(21) Fugitive Emissions.
(22) General Process Source.
(23) Incinerator.
(26) Masking.
(27) Materials Handling.
(28) New Source.
(29) New Source Performance Standards (NSPS).
(31) Opacity.
(32) Open Burning.
(33) Particulate Matter.
(34) Person.
(37) Source.
(38) Source Category.
(39) Standard conditions.
(40) Upset.

ii. No action is being taken on the following definitions:

(4) Allowable Emissions: Part D Provision.
(7) Best Available Control Technology: Part C Provision.
(10) Commenced Construction: Part D Provision.
(24) Lowest Achievable Emission Rate (LAER): Part D Provision.
(25) Major Source: Part D/C Provision.
(30) Nonattainment Area: Part D Provision.
(35) Potential Emissions: Part D Provision.
(36) Reasonably Available Control Technology (RACT): Part D Provision.
d. 040—General Standards for Maximum Permissible Emissions: Approval, except for introductory portion dealing with RACT, which is a Part D provision.
e. 050—Minimum Emission Standards for Combustion and Incineration Sources: Approval
f. 060—Minimum Emission Standards for General Process Sources: Approval
g. 080—Compliance Schedules: Approval.
h. 100—Registration: Approval
i. 110—New Source Review
(1)—110(1)(a) Variance—related exemption: Disapproval. This section improperly exempts from pre-construction review certain source modifications which occur in conjunction with a previously approved variance.
(2)—110 (Introduction), 110(1)(b) and (1)(c): No Action. These provisions describe Part D and Part C requirements.
(3)—110(2)—Submittal of Review Material: Approval
(4)—110(3)(a) and 110(6)—Adoption of DOE rules by reference: Approval. The reference in WAC 463-39 to 70.94 RCW and the applicable rules and regulations in force pursuant to that statute results in an adoption by EFSEC of the provisions referenced. EPA finds that this is an acceptable method for incorporation of rules and regulations.
(5)—110(3)(b)—Portion referring to Federal NSPS and National Emission Standards For Hazardous Air Pollutants (NESHAPS) Requirements: Approval
(6)—Remainder of 110(3)(b), (c), (d) and (e)—PSD, LAER and Reasonable Further Progress requirements: No Action, Parts C and D Provisions.
(7)—110(4) thru (8)—New Source Review administrative procedure: Approval
j. 115—Standards of Performance for New Stationary Sources: No Action. This section outlines DOE's program for administering the provisions of Section 111 of the Act and must be separately delegated by EPA.
k. 120—Monitoring and Special Report: Approval with the following clarification:
120(3) Source Testing: EPA is approving this Section with the understanding that source testing will be done in accordance with methods described in the DOE Source Test Manual and contained in Part III of the Washington SIP.
l. 130—Regulatory Actions: Approval
m. 135—Criminal Penalties: Approval
n. 150—Variances, Approval with the following clarification: No variances from new source review are allowed. All variances from emission limitations for existing sources are to be adopted in accordance with Section 150(8) and submitted as SIP revisions.
0. 170—Requirements for Boards and Director: Approval

C. Memorandum of Agreement Between EFSEC and DOE To Describe Program Implementation and Resources

EPA is approving the Memorandum of Agreement between EFSEC and DOE as a means of conducting an effective air pollution control program for energy sources in the State of Washington. Pursuant to RCW 80.50, EFSEC is given full authority to establish construction requirements and conditions of operation for energy facilities, but lacks the staff for in-depth technical air quality control analysis and for field work to evaluate operational performance. Therefore, DOE has entered into an agreement with EFSEC to undertake these functions, while leaving the statutory authority of EFSEC intact. This agreement provides for a division of functions of the two agencies so that both the establishment of emission limitations and their enforcement can be effectively implemented in conformity with the requirements of the Federal Clean Air Act.

EFSEC, through its rulemaking and permit writing functions, intends to impose substantive standards on energy facilities which are consistent with the limitations imposed on other air contaminant sources and which meet the relevant level of technical control dictated by Federal and State law. DOE will assist in developing these limitations and will perform the data gathering function necessary for their enforcement. The general air pollution regulation dealing with EFSEC sources (Chapter 463-39 WAC) is in most major respects, the same as DOE's General Regulation for Air Pollution Sources (Chapter 173-400 WAC).

Comments

One commenter pointed out that EPA proposed "no action" on certain definitions which are included in WAC 463-39-110 (3)(b), which was proposed for approval as part of the new source review administrative procedure.

EPA agrees that this is inconsistent and has corrected the final rulemaking

to indicate that no action will be taken on Section 110(3)(b), except for the last sentence which requires sources to meet Federal standards for new sources and sources emitting hazardous air pollutants. The portions of 110(3)(b) on which no action will be taken deal with Part C and Part D of the Act. In addition, because of this clarification the definition for NSPS (Section 030(29)) will be approved.

The same commenter pointed out that EPA's proposed disapproval of Section 150—Variances was inconsistent with the earlier approval of the same provision in the DOE regulation WAC 173-400-150. EPA agrees that the provisions are the same and can be approved in relation to existing sources. Therefore, instead of a general disapproval of Section 150, EPA will approve it with the understanding that variances from new source review cannot be issued. Variances to existing sources may be issued only in accordance with Section 150(8) which reads "No variance or renewal shall be construed to set aside or delay any requirement of the Federal Clean Air Act except with the approval and written concurrence of the federal Environmental Protection Agency."

Another commenter representing the Colville Confederated Tribes and the Makah Indian Tribe raised several points as follows:

1. EPA has not provided the Tribes with a meaningful opportunity for involvement in this proposed rulemaking process.

EPA has provided an adequate opportunity for involvement to all concerned including the Tribes. EPA published advance notice of the receipt of regulations on September 26, 1979 (44 FR 55396), requesting comments and pointing out that further rulemaking would be forthcoming. On April 10, 1981 the Notice proposing approval of the EFSEC SIP was published (46 FR 21391). In the meantime, both Tribes were notified of public hearings held by DOE on July 15, 1980 to consider inclusion of the EFSEC SIP as part of the state-wide SIP. The Tribes did not provide testimony. Neither the statutory authority nor the regulations have been changed since the original notification in 1979.

2. The Memorandum of Understanding (MOU) between EFSEC and DOE is not consistent with requirements of Section 110 of the Act in that DOE is preempted by State law from participation in EFSEC air permit and enforcement matters.

EPA considers the MOU as merely a mechanism by which DOE provides information to EFSEC, which EFSEC will then use in carrying out its permitting and enforcement process. The preemptive language in the EFSEC statute does not apply to data gathering activities, only to the actual permitting and enforcement powers granted to EFSEC.

3. APA should not have proposed approval without first receiving an Attorney General's opinion describing the adequacy of the legal authority to meet the requirements of Section 110 of the Act.

EPA proposed approval based on an internal legal review of the EFSEC enabling authority (RCW 80.50), which found that the Section 110 requirements appeared to be satisfied. However, EPA noted that final action to approve the SIP was contingent upon receiving a State Attorney General's opinion on this matter. That opinion was submitted to EPA on May 28, 1981 with the conclusion that RCW 80.50 satisfies the requirements for a SIP as described in Section 110 of the Act.

EPA recognizes that prior access to the Attorney General's opinion may have been helpful in reviewing the question of authority. However, since EPA's preliminary conclusion was that the authority was adequate, comment on any inadequacies could have been submitted absent review of a specific Attorney General's opinion. Since the Attorney General has concluded, along with EPA, that the EFSEC enabling authority is adequate, there is no need to delay the final action for further review of the legal opinion on the adequacy of RCW 80.50.

4. EPA should have waited for the State to submit revisions designed to conform the regulations (WAC 173-400 and 463-39) to EPA requirements resulting from "Alabama Power Co. v. Costle."

The State has not yet submitted a revised SIP to meet the EPA requirements. Once a SIP is submitted, EPA has six months to act on that submittal. Therefore, EPA sees no reason to delay this action until an unspecified future date.

5. EPA should have questioned EFSEC's ability to incorporate by reference the State Clean Air Act and regulations promulgated thereunder and had the Attorney General's opinion address the question.

EPA did review this aspect of the EFSEC regulation and concluded that referencing the State Clean Air Act and applicable rules and regulations promulgated thereunder was acceptable. This incorporation by reference is further evidence of EFSEC's intent, as set forth in the Memorandum of Agreement, to conduct an air program which parallels the DOE air program. This will ensure that the pre-emptive jurisdiction of EFSEC does not result in the application of a separate and less stringent set of air pollution control standards than would apply if EFSEC did not exist. EPA does not see the need to have the Attorney General's opinion specifically address this question in light of the conclusions that the statutory authority is adequate and the Memorandum of Agreement is an acceptable means of conducting the program.

6. EPA should require that each site certification agreement be submitted as a SIP revision.

EPA's approval of the EFSEC SIP will make the EFSEC emission standards federally enforceable. Any provision of a site certification that would result in a deviation from those standards would have to be submitted as a SIP revision in order to be federally enforceable. This also applies to future variances which may be granted to existing EFSEC sources under WAC 463-39-150.

7. EFSEC compliance with the substantive standards of the Washington SIP is discretionary.

EPA feels the commenter is misreading the language describing how the program will operate. As stated in the Notice, EFSEC intends to impose substantive standards on energy facilities which are consistent with limitations imposed on other air contaminant sources. In addition, sources will be required to meet the relevant level of technical control required by federal and state law. EPA fails to see a discretionary aspect to the program. The regulatory provisions are clear in their operation and effect; no deviation from the substantive provisions is intended.

8. EPA's thirty-day comment period was inadequate because (a) the information being acted upon by EPA now is different from that described in the original notification of receipt and advance notification of proposed rulemaking (44 FR 55396, September 26, 1979) and (b) impact of the regulation is clearly not limited to the State of Washington.

(a) The action being taken today is based upon the materials which were described in the April 10, 1981 Notice of Proposed Rulemaking (46 FR 21391). The 1979 Notice announced receipt of the regulations, described the intent to propose further rulemaking and requested comments. Thus, the only additional material is the statutory authority (which existed at the time of the original submittal) and the Memorandum of Agreement. All these

materials were the subject of the State hearing held on July 15, 1980, which the Tribes were notified of and given an opportunity to provide comment. In light of the time which has already passed and the fact that no new information is available, extending the comment period and/or publishing supplemental notices is unnecessary. (b) The impact which EPA refers to as limited to Washington is not environmental, but regulatory. Environmental impacts beyond the geographical boundaries of the state are considered during the review of specific projects. EPA's action only approves existing state actions without imposing new regulatory requirements. Again, EPA believes no additional comment period is necessary.

9. Because the construction and modification of energy sources within the State of Washington is currently prohibited under the SIP, EPA action to approve the EFSEC SIP is of major significance and should be the subject of a public hearing.

EPA believes this is a normal SIP approval action. The construction prohibition was in effect because EFSEC did not have EPA approval of its new source review regulations. It is true that EPA's action today will lift the construction prohibition for major energy sources in attainment areas and minor energy sources in any area. (As required by § 110(a)(2)(I) of the Clean Air Act the prohibition remains in effect for major energy sources proposing to locate in an area designated nonattainment for a pollutant which the source will emit.) However, the basic question of whether or not the prohibition should be lifted is not an issue for discussion. If EPA did not approve EFSEC's SIP, EPA itself would be required to promulgate a regulatory program to allow construction. Also, a public hearing has already been held at the state level. EPA's action is not of major significance and does not require a public hearing in addition to the one held previously by the State.

10. EPA should have conducted a review under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because of significant impact of the rulemaking on the Tribes as small governmental jurisdictions.

SIP approvals do not create any requirements not already contained in state law and for this reason do not have a significant impact.

An additional comment, received after the close of the comment period, included a brief filed before EFSEC entitled "Brief of the Department of Transportation Preemption by EFSEC of Oversize Vehicle Permits." The comment and Brief merely emphasizes the preemption aspects of EFSEC which EPA is fully aware of in taking this action. EFSEC's permitting and enforcement authority remains intact, as discussed in the answer to comment 2. above.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of regulatory impact analysis. This regulation is not major because EPA is approving an action taken by the State and, therefore, not establishing new requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State actions and imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceeding brought by EPA to enforce these requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This notice of final rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act as amended (42 U.S.C. 7410(a) and 7502).

Note.—Incorporation by reference of the State Implementation Plan for the State of Washington was approved by the Director of the Office of the Federal Register on July 1, 1981.

Dated: February 12, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATON OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart WW—Washington

1. In § 52.2470 paragraph (c)(25) is added as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(25) On July 30, 1980 the State submitted revisions to the SIP to cover energy sources (superseding the submission of August 17, 1979). The major elements of the "energy" SIP include:

1. Legal Authority—Chapter 80.50 RCW
2. Regulations—Chapter 463–39 WAC dated
3. A Memorandum of Agreement between the Energy Facility Site Evaluation Council (EFSEC) and the Washington Department of Ecology (DOE) describing program implementation.

On May 28, 1981, the State submitted an Attorney General's opinion certifying that the enabling authority (80.50 RCW) was sufficient to meet the requirements of Section 110 of the Clean Air Act. On February 23, 1982, EPA approved the EFSEC SIP as it pertains to non-Part C pre-construction review in attainment areas. Part C and Part D requirements will be considered at a later date. Portions of the SIP approved are as follows:

1. Legal Authority—Chapter 80.50 RCW
2. Memorandum of Agreement between DOE and EFSEC.
3. Regulations—WAC 463–39, except Sections 030(4), (7), (10), (24), (25), (30), (35) and (36); (040) (introduction); 110 (introduction), (1)(b), (1)(c); 110(3)(b) (except portion dealing with Federal NSPS and NESHAPS requirements), (3)(c), (3)(d) and (3)(e), 115; upon which no action was taken and Section 110(1)(a) which was disapproved.

2. Section 52.2470 is revised by adding the following information to Table 52.2470:

Citation: WAC 463–39
Title: General Regulations for Air Pollution Sources
Date of Regulation: August 6, 1979
Date of EPA Approval: February 23, 1982.
Federal Register Citation: (as published)
Applicable Sections: All Sections, *except* 030(4), (7), (10), (24), (25), (30), (35), and (36); 040 (introduction); 110 (introduction), (1)(a), (1)(b), (1)(c), 110(3)(b) (except portion dealing with Federal NSPS and NESHAPS requirements), (3)(c), (3)(d), (3)(e); and 115.

3. Section 52.2479 is revised to add paragraph (b) as follows:

§ 52.2479 Rules and Regulations.

* * * * *

(b) Preconstruction Review under Section 110 of the Clean Air Act—Approval. (1) (WAC 463–39 is approved as satisfying the provisions for preconstruction review under Section 110 of the Act except as follows:

(i) WAC 463–39–110(1)(a) is disapproved.

§ 52.2473 Approval status [Corrected].

4. Correct § 52.2473 as follows:

In the second sentence of this section the citation of the plan identification

should be corrected to read "§ 52.2470" instead of "§ 52.247."

[FR Doc. 82-4797 Filed 2-22-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Parts 262, 264, and 265

[SW-FRL 2041-5]

Hazardous Waste Management System: Standards Applicable to Generators of Hazardous Waste and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Delayed Compliance Dates.

SUMMARY: The Environmental Protection Agency (EPA) is today delaying the compliance dates for three requirements of its hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) until August 1, 1982. The three requirements concern: (1) The submission of annual reports by hazardous waste generators and owners and operators of treatment, storage, and disposal facilities, under 40 CFR 262.41, 264.75, and 265.75; (2) the submission of initial-year quarterly groundwater monitoring parameter readings by treatment, storage, and disposal facilities, under 40 CFR 265.94(a)(2)(i); and, (3) the preparation of groundwater quality assessment program outlines by treatment, storage, and disposal facilities, under 40 CFR 265.93(a).

EPA is taking these actions because it is currently developing formal proposals to substantially streamline or eliminate these requirements, and the Agency wishes to prevent the regulated community from expending resources toward complying with them in their present form.

DATE: Effective February 23, 1982.

ADDRESSES: The Docket Clerk (Docket 3002/3004—Annual Survey/RCRA Burden Reduction), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: Michael E. Burns, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 755-9158.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, EPA promulgated regulations establishing a comprehensive regulatory program for the management and control of hazardous waste (40 CFR Parts 260–267 and 122–124). As part of the regulations, generators of hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal (TSD) facilities are required to prepare annual reports on their hazardous waste management activities and submit them to the EPA Regional Administrator by March 1 of the following year (40 CFR 262.41, 264.75, and 265.75). Annual reports covering the 1981 calendar year are required to be submitted to EPA Regional Administrators by March 1, 1982.

In addition, the regulations require owners and operators of certain hazardous waste TSD facilities to implement a groundwater monitoring program by November 19, 1981, unless an appropriate waiver is prepared and maintained at the facility (40 CFR 265.90). Unless an alternate groundwater monitoring system is implemented at the facility, as provided under 40 CFR 265.90(d), owners and operators are required during the initial year of their monitoring programs to conduct quarterly analyses (40 CFR 265.92(c)), to, among other things, characterize the suitability of the groundwater in the uppermost aquifer as a drinking water supply (265.92(b)(1)). Within 15 days after the completion of each quarterly analysis, owners and operators are required to report to EPA Regional Administrators the concentrations or values of the observed parameters specified in the EPA Interim Primary Drinking Water Standards (see Appendix III to 40 CFR Part 265) for each groundwater monitoring well (40 CFR 265.94(a)(2)(i)). As part of these reports, owners and operators must separately identify for each monitoring well any parameter whose concentration or value has been found to exceed the maximum contaminant levels listed in the EPA Interim Primary Drinking Water Standards.

Finally, as part of the groundwater monitoring regulations, owners and operators of certain TSD facilities that have not implemented an alternate groundwater monitoring program are required to prepare an outline of a groundwater quality assessment program by November 19, 1981 (40 CFR 265.93(a)).

II. Description of Today's Actions and Rationales

A. Annual Reports

EPA is today delaying the compliance date for submission of 1981 generator and TSD facility annual reports from March 1, 1982, to August 1, 1982. The Agency is taking this action for two primary reasons. First, as announced on July 31, 1981 (46 FR 39426), EPA now believes that it can meet its annual data needs through surveying small samples of the generator and TSD facility populations instead of requiring annual reports from all generators and TSD facilities. Furthermore, EPA believes that this sampling approach is less costly and burdensome to both the Agency and the regulated community. EPA is therefore developing a **Federal Register** notice to propose replacing the annual reporting requirements with annual surveys. However, final promulgation of this proposed amendment is not expected until this summer, by which time the 1981 annual reports will have already been prepared and submitted. Extending the compliance deadline until August 1, 1982, will allow the Agency sufficient time to issue its proposal, review public comments, and come to a final determination regarding the ultimate status of the annual reporting requirements prior to preparation and submission of the 1981 reports by the regulated community.

EPA's second reason is that it will conduct an extensive survey of the regulated populations of hazardous waste generators and TSD facilities this Spring in support of its Regulatory Impact Analyses (RIAs) on several components of its RCRA regulations. Since this survey will obtain data substantially equivalent to that to be submitted in annual reports, EPA believes that requiring submission of annual reports at this time will be duplicative for those handlers surveyed and unwarranted because the Agency intends to meet its current information needs through the survey.

B. Quarterly Groundwater Reporting

EPA also is today delaying, until August 1, 1982, the compliance dates for submission of the first two quarterly groundwater monitoring parameter readings (now required to be submitted by or before March 6 and June 3, 1982, under 40 CFR 265.94(a)(2)(i)), except where parameters are observed whose concentration or value is found to exceed the maximum contaminant levels listed in the EPA Interim Primary Drinking Water Standards (see Appendix III to 40 CFR Part 265). Where concentrations or values exceed the maximum contaminant levels, owners and operators must report their quarterly parameter readings to EPA Regional Administrators within 15 days after completing each quarterly analysis.