

**§ 3.358 Determinations for disability or death from hospitalization, medical or surgical treatment, examinations or vocational rehabilitation training (§ 3.800).**

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(Authority: 38 U.S.C. 1151, 1720.)

[FR Doc. 96-12924 Filed 5-22-96; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[NC-80-1-9619a & 81-1-9620a; FRL-5505-4]****Approval and Promulgation of Implementation Plans North Carolina: Approval of Revisions to the Forsyth County Local Implementation Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** On November 29, 1995, the Forsyth County Board of Commissioners, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the Forsyth County Local Implementation Plan (LIP). These revisions include the adoption of new air quality rules and amendments to existing air quality rules that were the subject of public hearings held on May 16, 1995. A second submittal concerning these revisions was forwarded to EPA on December 28, 1995. This second submittal was the subject of a public hearing on September 26, 1995.

These revisions adopt three source-specific volatile organic compound rules; Thread Bonding Manufacturing, Glass Christmas Ornament Manufacturing, Commercial Bakeries, delete textile coating, Christmas ornament manufacturing, and bakeries from the list of sources that must follow interim standards, define diacetone alcohol as a non-photochemically reactive solvent, and place statutory requirements for adoption by reference for referenced ASTM methods into a single rule rather than each individual rule that references ASTM methods.

**DATES:** This action is effective July 22, 1996 unless notice is received by June 24, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to:

Randy Terry, Regulatory Planning and Development Section, Air Programs

Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604

**FOR FURTHER INFORMATION CONTACT:**

Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555 ex 4212.

**SUPPLEMENTARY INFORMATION:** On November 29, and December 28, 1995, the Forsyth County Board of Commissioners, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the Forsyth County Local Implementation Plan (LIP). These revisions were approved into the North Carolina State Implementation Plan (SIP) in a previous document (61 FR 3588) and have been adopted by the Forsyth County Board of Commissioners. These revisions affect several sections in the ozone regulations. EPA is approving the revisions to sections Subchapter 3D .0104 Incorporation by Reference, .0501 Compliance With Emission Control Standards, .0516 Sulfur Dioxide Emissions From Combustion Sources, .0518 Miscellaneous Volatile Organic Compound Emissions, .0530 Prevention of Significant Deterioration, .0531 Sources in Nonattainment Areas, .0902 Applicability, .0907 Compliance Schedules for Sources in Nonattainment Areas, .0909 Compliance Schedules for Sources in New Nonattainment Areas, .0910 Alternative Compliance Schedules, .0911 Exception from Compliance Schedules, .0950 Interim Standards for Certain Source Categories, .0952 Petition for Alternative Controls, .0954 Stage II Vapor Recovery, .0955 Thread Bonding Manufacturing, .0956 Glass Christmas Ornament

Manufacturing, and .0957 Commercial Bakeries because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

EPA is approving the following new rules and revisions of existing rules in the Forsyth County LIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

**.0104, Incorporation by Reference**

These amendments involve the placement of statutory requirements for adoption by reference for referenced American Society for Testing and Materials methods (ASTM) into a single rule rather than each individual rule that references ASTM methods.

**.0501 Compliance With Emission Control Standards**

This rule was amended to clarify the appropriate compliance methodology.

**.0516 Sulfur Dioxide Emissions From Combustion Sources**

This rule was amended to include an additional reference rule number.

**.0518 Miscellaneous Volatile Organic Compounds Emissions**

This rule was amended to clarify that diacetone alcohol and perchloroethylene are not considered to be photochemically reactive and to delete a repeated phrase.

**.0530 Prevention of Significant Deterioration**

This rule was amended to update the latest date of amendment of the CFR references.

**.0531 Sources in Nonattainment Areas**

This rule has been amended to add paragraph (k), which requires using the UAM model, by new or major modifications, at sources to predict effect on the ozone level and attainment status.

**.0902 Applicability**

Forsyth County did not adopt paragraph (e), which pertains to other counties in North Carolina, of the State rule because those areas are not in Forsyth County's jurisdiction.

**.0909 Compliance Schedules for Sources in New Attainment Areas**

This rule has been amended to correctly identify the appropriate paragraph references.

**.0950 Interim Standards for Certain Source Categories**

This section, is being revised to delete textile coating, bakeries and Christmas ornament manufacturing from the list of

sources that are required to follow the interim standards. The sources removed have had permanent rules adopted and are now subject to those requirements. The final revision in this section adds a sentence that defines di-acetone alcohol and perchloroethylene as a non-photochemically reactive solvent for these interim standards.

The permanent rules adopted were *SUBCHAPTER 3D .0955 THREAD BONDING MANUFACTURING*, *.0956 GLASS CHRISTMAS ORNAMENT MANUFACTURING*, and *.0957 COMMERCIAL BAKERIES*. These sections adopted rules to reduce the emission level by requiring at least a 95% reduction by weight and/or by installing a thermal incinerator with a temperature of at least 1600 F and a residence time of at least 0.75 seconds.

In addition to the above revisions EPA is approving a revision applicable to the following Sections: Subchapter 3D .0907, .0910, .0911, .0952, and .0954. This revision is an adjustment of the final compliance dates for VOC's from May 15, 1995 to May 15, 1997.

The submitted revisions also included amendments to Subchapter 3D .1401-.1415; Reasonably Available Control Technology for Sources of Nitrogen Oxides (Nox RACT); .1501-.1504 Transportation Conformity; and .1601-.1603; General Conformity. These revisions are being addressed in separate Federal Register documents.

#### Final Action

In this document, EPA is approving the revisions to the Forsyth County regulations listed above. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective on July 22, 1996. However, if notice is received by June 24, 1996 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 22, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 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 a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify 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 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, I certify 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 regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2).

#### Unfunded Mandates

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 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's 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.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and Recordkeeping requirements, Sulfur oxides.

Dated: March 21, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 52 of 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. 7401-7671q.

#### Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(90) to read as follows:

#### § 52.1770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(90) The VOC regulations and other miscellaneous revisions to the Forsyth County Local Implementation Plan which were submitted on December 28, 1995, and November 29, 1995.

(i) Incorporation by reference.

(A) Amendments to Forsyth County regulations Subchapter 3D .0104(a), .0531 (e)–(k), .0902 (a)–(h), .0907 (a)–(c), .0909 (a, c, d, e, and g), .0910 (a)–(d), .0911, .0950 (a and b), .0952 (a)–(c) and .0954 (f, h, k) adopted into the Air Quality Control Technical Code on November 13, 1995.

(B) Amendments to Forsyth County regulations Subchapter 3D .0501 (a)–(h), .0516 (a and b), .0518 (a)–(g), and .0530 (a)–(s), adopted into the Air Quality Control Technical Code on August 14, 1995.

(C) Subchapter 3D .0955, .0956, and .0957 adopted into the Air Quality Control Technical Code on August 14, 1995.

(ii) Other material. None.

[FR Doc. 96–12890 Filed 5–22–96; 8:45 am]

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## 40 CFR Part 52

[WA48–7121a; FRL–5506–3]

### Approval and Promulgation of Implementation Plans: Washington

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving in part, and disapproving in part, the Energy Facility Site Evaluation Council Regulations (EFSEC) as revisions to the Washington State Implementation Plan (SIP). These revisions were submitted to EPA by the Director of the Washington Department of Ecology (WDOE) on November 29, 1995 and in accordance with the requirements of Title I Section 110 and part D of the Clean Air Act (hereinafter referred to as the Act). EPA is taking no action on a number of the submitted provisions which are unrelated to the purposes of the implementation plan.

**DATES:** This action is effective on July 22, 1996 unless adverse or critical comments are received by June 24, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

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, D.C. 20460. Copies of material submitted to EPA may be examined during normal

business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101; and, the State of Washington, Department of Ecology, 4550 Third Avenue SE, Lacey, Washington 98504.

**FOR FURTHER INFORMATION CONTACT:** Ed Jones, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–1743.

### SUPPLEMENTARY INFORMATION

#### I. Background

The Energy Facility Site Evaluation Council (EFSEC) amended Chapter 463–39 of the Washington Administrative Code (WAC) on September 21, 1995. The Washington Department of Ecology (WDOE), on behalf of the Governor, submitted the amended regulations to EPA on November 29, 1995 as a revision to the Washington SIP. The amended regulations pertain to General and Operating Permit Regulations for Air Pollution Sources administered by EFSEC, and adopt by reference various other state regulations. Some of the regulations adopted by reference have been the subject of previous EPA actions on the SIP.

#### II. This Action

The state of Washington's November 29, 1995 request for SIP revision included fifteen regulations contained in Chapter 463–39 of the WAC. Certain of these regulations are amendments to those currently contained in the SIP; others are entirely new additions. As part of the submittal the state also requested that particular outdated WAC 463–39 regulations, currently in the approved SIP, be removed.

A. *Unchanged.* EPA approves two Chapter 463–39 regulations currently in the SIP, and unchanged by the November 29, 1995 revisions. These are WAC 463–39–135 and –170.

B. *Modifications.* EPA approves, with minor exception, the modification of five amended Chapter 463–39 regulations currently in the SIP. These are: WAC 463–39–010, –020, –030, –100, and –120. The language in three of these regulations—WAC 463–39–010 “Purpose,” 463–39–020 “Applicability,” and 463–39–100 “Registration”—has been modified only slightly over that used in versions currently in the SIP.

WAC 463–39–030 “Additional Definitions” has been modified to eliminate the listing of specific terms and their regulatory meanings. The modified regulation is brief and states that in addition to the definitions provided in WAC 173–400–030, 173–

401–200, and 173–406–101, “ecology” and “authority” shall be synonymous with EFSEC. WAC 173–400–030 has been previously approved for inclusion in the SIP, and EPA approves the use of these definitions for the purposes of defining terms in Chapter 463–39.

WAC 463–39–120 “Monitoring and Special Report” modifies language contained in the regulation so that: (a) Ecology may authorize a designee for operating its surveillance program; (b) the surveillance program must be in accord with Chapter 173–400 regulations; and, (c) subparts 2–7 of the previous regulation (concerning “investigation of conditions”, “source testing”, etc.) are removed. Although these six subparts are removed, however, they are substantively found in WAC 173–400–105 and –107, both of which are contained in the approved SIP, and adopted by reference in 463–39–005.

In approving the modifications noted above, it must be noted that reference to Chapter 173–401 is made in four of the amended regulations: WAC 463–39–020, –030, –100, and –120. Chapter 173–401 concerns Title V “Operating Permit Regulation” and regulations in this Chapter have not been included in the SIP. In addition, reference is made to: Chapter 173–406 “Acid Rain Regulation” in WAC 463–39–020, –030, and –120; and, Chapter 173–460 “Controls for New Sources of Toxic Air Pollutants” in WAC 463–39–020 and –120. These regulations are also not a part of the approved SIP. As a consequence, EPA is not taking action on the particular Chapter 173–401, 173–406, and 173–460 references embodied within the four regulations noted.

C. *Additions.* The state of Washington has requested that eight new Chapter 463–39 regulations be added to the SIP. These are: WAC 463–39–005, –070, –090, –095, –105, –115, –140, and –230.

New regulation WAC 463–39–005 “Adoption by Reference” adopts twenty-four of the state's Chapter 173–400 regulations. On June 2, 1995 EPA approved, disapproved, and took no action on various state regulations contained in Chapter 173–400, submitted by the state for the purpose of inclusion in the implementation plan (60 FR 28726). The rationale for EPA's decisions on these regulations is described in the February 22, 1995 Federal Register (60 FR 9802) proposing the rulemaking. Of the twenty-four Chapter 173–400 regulations referenced in WAC 463–39–005, thirteen are presently contained, in whole, in the approved SIP. These are: WAC 173–400–030 “Definitions,” –060 “Emission Standards for General Process Units,”