

Coast Guard Captain of the Port or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 27, 1996.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 96-22839 Filed 9-5-96; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA43-7116; FRL-5605-8]

State Implementation Plan: Washington; Withdrawal

AGENCY: Environmental Protection Agency.

ACTION: Final rule; withdrawal.

SUMMARY: Due to an adverse comment, EPA is withdrawing the effective date for the approval of the Inspection and Maintenance (I/M) State Implementation Plan (SIP) for Washington State, submitted by the Washington Department of Ecology to satisfy the requirements of sections 182(b)(4) and 182(c)(3) of the Clean Air Act as amended and Federal I/M rule 40 CFR part 51, subpart S. The original action was published in the Federal Register on July 23, 1996, as a direct final rule, 61 FR 38086. As stated in the Federal Register document, if adverse or critical comments were received by August 22, 1996, the effective date would be delayed and timely notice would be published in the Federal Register. Therefore, due to receiving an adverse comment within the comment period, EPA is withdrawing the final rule and will address the comments received in a subsequent final rule based on the proposed rule also published on July 23, 1996, 61 FR 38129. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This withdrawal is effective on September 6, 1996.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-0180.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the July 23, 1996 Federal Register, and

in the short informational document located in the proposed rule section of the July 23, 1996 Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by Reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 27, 1996.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 96-22655 Filed 9-5-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WA47-7120; FRL-5605-7]

State Implementation Plan: Washington; Withdrawal

AGENCY: Environmental Protection Agency.

ACTION: Final rule; withdrawal.

SUMMARY: Due to an adverse comment, EPA is withdrawing the effective date for the approval of the attainment demonstration portion of the Puget Sound carbon monoxide (CO) State Implementation Plan (SIP) for Washington State, submitted by the Washington Department of Ecology for the purpose of documenting attainment of the national ambient air quality standards (NAAQS) for CO to satisfy certain federal requirements for an approvable nonattainment area CO SIP for the Puget Sound nonattainment area. The original action was published in the Federal Register on July 25, 1996, as a direct final rule, 61 FR 38597. As stated in the Federal Register document, if adverse or critical comments were received by August 26, 1996, the effective date would be delayed and timely notice would be published in the Federal Register. Therefore, due to receiving an adverse comment within the comment period, EPA is withdrawing the final rule and will address the comments received in a subsequent final rule based on the proposed rule also published on July 25, 1996, 61 FR 38683. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This withdrawal is effective on September 6, 1996.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-0180.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of

the July 25, 1996 Federal Register, and in the short informational document located in the proposed rule section of the July 25, 1996 Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 27, 1996.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 96-22656 Filed 9-5-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN-146-2-9608a; FRL-5554-6]

Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions To Permit Requirements, Definitions and Administrative Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the permit requirements, definitions, and administrative requirements for the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP). On November 16, 1994, the State submitted revisions to the Nashville/Davidson County portion of the Tennessee SIP on behalf of Nashville/Davidson County. These were revisions to the permit requirements for major sources of air pollution, including revisions to the general definitions, permit requirements, the Board's powers and duties, the variances and hearings procedures, the measurement and reporting of emissions, and the testing procedures. At this time, EPA is acting on revisions submitted on November 16, 1994. EPA is approving all of the submitted revisions except those which were submitted to meet the requirements for enhanced monitoring. These will not be acted on at this time.

DATES: This final rule is effective November 5, 1996 unless adverse or critical comments are received by October 7, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Karen C. Borel, 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), 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

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311—23rd Avenue, North, Nashville, Tennessee 37203

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1531.

FOR FURTHER INFORMATION CONTACT:

Karen C. Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. The telephone number is 404/347-3555 x4197. Reference file TN-146-2-9608a.

SUPPLEMENTARY INFORMATION: The State of Tennessee submitted revisions to the Nashville/Davidson County portion of the Tennessee SIP to EPA on November 16, 1994. EPA found these submittals to be complete on December 21, 1994. EPA approved several portions of this submittal on July 28, 1995 (60 FR 38712), which were required for Nashville/Davidson County's Federally enforceable local operating permit (FELOP) program. At that time, EPA also approved Nashville/Davidson County's FELOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA).

A. SIP Revisions

The Nashville/Davidson County Board of Health, officially adopted proposed amendments to the Chapter 10.56, "Air Pollution Control" of the Metropolitan Code of Laws on October 6, 1994. These regulatory revisions to their Chapter 10.56 make changes to some definitions, to their requirements for public hearings, and to some testing procedure requirements. These revisions are the remainder of their plan to bring the SIP into accordance with title I requirements and to support their title V program. EPA is approving all of the following revisions except where it is specifically noted that the proposed revisions are not receiving action.

Section 10.56.010—Definitions

Definitions of "Legally Enforceable" and "Uniform Administrative Procedures Act" were added. The definition of legally enforceable states that "all limitations and conditions which are enforceable by the Director or the Administrator * * *" in accordance with the requirements of the CAA. The Uniform Administrative Procedures Act is defined as the Tennessee Code Annotated Title 4, Chapter 5.

Section 10.56.020—Construction Permits

Paragraph (A)(2) was revised to require that all hearings now be conducted in accordance with the Uniform Administrative Procedures Act. This formerly stated that the hearing would simply be conducted before the Nashville/Davidson County Metropolitan Board of Health.

Paragraph (N) was added to this section. This paragraph adds the requirement for monthly notification of the public, through newspaper advertisements, of the applicants seeking to obtain construction or modification permits of air pollution sources.

Section 10.56.090.C.4—Board—Powers and Duties

This paragraph has been revised to change the appeal process for civil penalties. This process was formerly conducted in accordance with the provisions of another section in the SIP (10.56.020). This will now be done according to the Uniform Administrative Procedures Act.

Section 10.56.110—Rules and Regulations—Hearing Procedures

Paragraph (A) has been revised to allow the Board to conduct a hearing in accordance with the Uniform Administrative Procedures Act.

In paragraphs (B) and (B)(2), references to "by the Board" have been deleted. This was done because of the new requirements to do hearings in accordance with the Uniform Administrative Procedures Act, as were previously discussed in the above paragraphs.

Section 10.56.120.B—Complaint Notice—Hearings Procedure

These hearings will now be conducted in accordance with the contested cases provisions in the Uniform Administrative Procedures Act, as previously defined. The specific requirements for conducting a complaint hearing, as defined in subparagraphs (1) through (7) have been

deleted. These are now defined in the Uniform Administrative Procedures Act.

Section 10.56.130.D.2—Variances—Hearings Procedure

These public hearings will now be conducted in accordance with the Uniform Administrative Procedures Act.

Section 10.56.290.D and E—Measurement and Reporting of Emissions

The revisions to Section 10.56.290 for enhanced monitoring are in response to a May 21, 1994, SIP call from EPA Region 4 which was based on a proposed rule. However, the EPA is taking no action on revisions to Section 10.56.290 of the Nashville/Davidson County SIP at this time because the federal requirement to which the revision pertains is not yet final.

Section 10.56.300.B—Testing Procedures

This paragraph addresses the requirements for demonstrating compliance with emission standards. The phrase "The determination of" has been deleted and replaced with "Source testing conducted for the purpose of demonstrating."

Final Action

EPA is fully approving the submitted revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP) with the exception of the enhanced monitoring provisions in Section 10.56.290, which are not being acted on in this rulemaking.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on November 5, 1996 unless, by October 7, 1996, adverse or critical comments are received.

If the 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 rule. The EPA will not institute a second comment period on this action. 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 on November 5, 1996.

Under section 307(b)(1) of the Act, 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 [insert date 60 days from date of publication]. 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) 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 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 any SIP 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 economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and subchapter I, part D of the 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, 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act 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 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

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 165 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has determined that the rules being approved by this action will impose no new requirements, since 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.

Under 5 U.S.C. 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 the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 18, 1996.

A. Stanley Meiburg,
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 RR—[Amended]

2. Section 52.2220 is amended by adding paragraph (c)(141) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(141) On November 16, 1994, the State submitted revisions to the Nashville/Davidson portion of the Tennessee State Implementation Plan (SIP) on behalf of Nashville/Davidson County. These were revisions to the permit requirements for major sources of air pollution, including revisions to the general definitions, permit requirements, the Board's powers and duties, the variances and hearings procedures, the measurement and reporting of emissions, and the testing procedures. These revisions incorporate changes to Nashville's Chapter 10.56 which are required in the Clean Air Act as amended in 1990 and 40 CFR part 51, subpart I.

(i) Incorporation by reference.

(A) Code of Laws of the Metropolitan Government of Nashville and Davidson County, Tennessee, Chapter 10.56, except Section 10.56.290, Air Pollution Control, approved on October 6, 1994, except Section 10.56.010, definition of "Regulated Pollutant"; Section 10.56.050, paragraphs (C), (D), and (E); Section 10.56.080.

(ii) Other material. None.

[FR Doc. 96-22807 Filed 9-5-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN 167-1-9627a; FRL-5606-9]

Control Strategy: Ozone (O₃); Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal.

SUMMARY: Due to adverse comments, EPA is withdrawing the approval of an exemption request from the oxides of nitrogen (NO_x) reasonably available control technology (RACT) and conformity requirements of the Clean Air Act as amended in 1990 (CAA) for the five county Middle Tennessee (Nashville) moderate ozone (O₃) nonattainment area. The original action was published in the Federal Register on July 11, 1996, as a direct final rule. As stated in the Federal Register document, if adverse or critical comments were received by August 12, 1996, the effective date would be delayed and timely notice would be published in the Federal Register. Therefore, due to receiving adverse comments within the comment period, EPA is withdrawing the final rule and will address all public comments received in a subsequent final rule based on the proposed rule also