

§ 52.2585 Control strategy: Ozone.

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(j) Approval—On June 14, 1995, the Wisconsin Department of Natural Resources submitted a revision to the ozone State Implementation Plan. The submittal pertained to a plan for the implementation and enforcement of the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act.

[FR Doc. 96-21696 Filed 8-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN-176-1-9641a; TN-177-1-9642a; FRL-5547-1]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee SIP Regarding Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is acting on revisions to the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), to amend the Tennessee chapter regulating volatile organic compounds (VOC). The revisions amending the TDAPC's VOC chapter were submitted on June 3, 1996, and June 4, 1996, and add rules which regulate surface coating of plastic parts operations, commercial and motor vehicle and mobile equipment refinishing operations, and volatile organic liquid storage tanks. Additionally, the State submitted revisions to the existing definition for exempt VOCs and to the existing chapter regulating handling, storage, use and disposal of volatile organic compounds. These revisions provide emission reductions for maintenance of the ozone standard in the Nashville ozone nonattainment area.

DATES: This final rule is effective October 11, 1996, unless adverse or critical comments are received by September 26, 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 William

Denman at the Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365. Copies of 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. Reference files TN-176-1-9641a and TN-177-1-9642a. The Region 4 office may have additional background documents not available at the other 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, William Denman, 404/347-3555 extension 4208.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531, 615/532-0554.

FOR FURTHER INFORMATION CONTACT:

William Denman, 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 extension 4208. Reference files TN-176-1-9641a and TN-177-1-9642a.

SUPPLEMENTARY INFORMATION: On June 3, 1996, the Tennessee Department of Air Pollution Control (TDAPC) submitted a request to the EPA to incorporate revisions to section 1200-3-18-.01 "Definitions" into the Tennessee SIP. Paragraph 26 of this rule contains the definition of exempt compounds and was revised to correct typographical errors and add the recently exempted compounds acetone, parachlorobenzotrifluoride (PCBTF), and cyclic, branched or linear completely methylated siloxanes (VMS). Paragraph 87 of this rule contains the definition of volatile organic compounds and was also revised as described above.

On June 4, 1996, the TDAPC submitted a new rule 1200-3-18-.06 "Handling, Storage, Use, and Disposal of Volatile Organic Compounds (VOCs)" to replace the current rule 1200-3-18-.06. The new rule was expanded to

cover the use of VOCs as well as handling, storage and disposal.

On June 3, 1996, the TDAPC submitted three new VOC rules; 1200-3-18-.44 "Surface Coating of Plastic Parts", 1200-3-18-.45 "Standards of Performance for Commercial Motor Vehicle and Mobile Equipment Refinishing Operations", and 1200-3-18-.48 "Volatile Organic Liquid Storage Tanks". Rules 1200-3-18-.44 and 1200-3-18-.45 were submitted to obtain VOC reductions for which credit was taken in the ozone redesignation maintenance plan for the Nashville ozone nonattainment area. Rule 1200-3-18-.44 "Surface Coating of Plastic Parts" applies to sources with potential emissions greater than 25 tons per year (tpy) in the Nashville ozone nonattainment area. Rule 1200-3-18-.45 "Standards of Performance for Commercial Motor Vehicle and Mobile Equipment Refinishing Operations" applies to sources whose potential emissions are greater than 15 pounds per day. Rule 1200-3-18-.48 "Volatile Organic Liquid Storage Tanks" applies to sources with potential emissions greater than 100 tpy.

Final Action

The EPA is approving these revisions to the Tennessee SIP as measures for maintenance of the ozone standard in the Nashville nonattainment area. This rulemaking is being published without a prior proposal for approval because the Agency views this as a noncontroversial amendment 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 October 11, 1996, unless, by September 26, 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 separate 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 [Insert date 45 days from date of publication].

Under section 307(b)(1) of the Clean Air Act (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 October 11, 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 CAA, 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. 601 *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 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, 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) 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 182 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 examined whether the rules being approved by this action will impose any new requirements. Since such sources are already subject to these regulations under State law, no new requirements are imposed by this approval. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended 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 section 804(2) of the APA as amended.

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: July 22, 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—Tennessee

2. Section 52.2220 is amended by adding (c)(143) to read as follows:

§ 52.2220 Identification of plan.

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(c) * * *

(143) Revisions to chapter 1200-3-18 "Volatile Organic Compounds" were submitted by the Tennessee Department of Air Pollution Control (TDAPC) to EPA on June 3, 1996, and June 4, 1996.

(i) Incorporation by reference.

(A) Rule 1200-3-18-.01, paragraphs (26) and (87), effective on August 10, 1996.

(B) Rule 1200-3-18-.06 "Handling, Storage, Use, and Disposal of Volatile Organic Compounds (VOCs)", effective on August 11, 1996.

(C) Rule 1200-3-18-.44 "Surface Coating of Plastic Parts", effective on August 10, 1996.

(D) Rule 1200-3-18-.45 "Standards of Performance for Commercial Motor Vehicle and Mobile Equipment Refinishing Operations", effective on January 17, 1996.

(E) Rule 1200-3-18-.48 "Volatile Organic Liquid Storage Tanks", effective on August 2, 1996.

(ii) Other material. None.

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40 CFR Part 52

[MA-46-1-7194a; A-1-FRL-5552-9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Marine Vessel Transfer Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is conditionally approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision contains a regulation to reduce volatile organic compound (VOC) emissions from marine vessel loading operations. The intended effect of this action is to conditionally approve this regulation into the Massachusetts SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This action will become effective October 28, 1996, unless notice is received by September 26, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.