

will not have economic impact on a substantial number of small entities.

Collection of Information

This action contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not raise sufficient federalism concern to warrant the preparation of a Federalism Assessment.

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2, Figure 2-1, (32), (a) of the National Environmental Policy Act Implementing Procedures, Commandant Instruction M16475.1C.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulation

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.225 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Effective 8 a.m. on December 28, 1998, through 8 a.m. on March 1, 1999, § 117.5-T-08-077 is added to read as follows:

§ 117.5-T-08-077 Upper Mississippi River.

Rock Island Railroad & Highway Drawbridge, Mile 482.9, Upper Mississippi River. From 8 a.m. on December 28, 1998, through 8 a.m. on March 1, 1999, the drawspan may be maintained in the closed to navigation position and need not open for vessel traffic.

Dated: December 16, 1998.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 98-34631 Filed 12-30-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-86-01-9830a; FRL-6207-3]

Approval and Promulgation of Implementation Plans State of North Carolina: Approval of Miscellaneous Revisions to the Forsyth County Air Quality Control Ordinance and Technical Code

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 10, 1997, the North Carolina Department of Environment and Natural Resources submitted revisions to the Forsyth County Air Quality Control Ordinance and Technical Code. These revisions include the updating of several regulations, deletion of previously referenced material, rewriting of several regulations, and the correction of several regulations. The purpose of these revisions is to make the revised regulations consistent with the North Carolina State Implementation Plan (SIP).

DATES: This direct final rule is effective on March 1, 1999 without further notice, unless EPA receives adverse comment by February 1, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Randy Terry at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the locations below. 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 file NC086-01-9830. 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 Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

North Carolina Department of Environment and Natural Resources,

512 North Salisbury Street, Raleigh, North Carolina 27604.

Forsyth County Environmental Affairs Department, 537 North Spruce Street, Winston-Salem, NC 27101-1362.

FOR FURTHER INFORMATION CONTACT:

Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is (404) 562-9032.

SUPPLEMENTARY INFORMATION: On October 10, 1997, the State of North Carolina Department of Environment and Natural Resources submitted revisions to amend or repeal multiple sections in the Forsyth County Technical Code. These amendments address Subchapters 3A-Air Quality Control, 3D-Air Pollution Control Requirements, and 3Q-Air Quality Permits. The amendments are as follows:

Subchapter 3A—Air Quality Control

.0110 *CFR Dates and .0112 ASTM Dates*

These regulations were updated to reference the Federal regulations in effect on May 20, 1997.

Subchapter 3D—Air Pollution Control Requirements

.0512 *Particulates From Wood Products Finishing Plants*

This regulation was amended to change a reference from commission to Director.

.0518 *Miscellaneous Volatile Organic Compound Emissions*

This regulation was amended to change a rule citation within this rule from .0902 (d), (e) or (f) to .0902 (e), (f) or (g).

The original rule included the following language.

"This paragraph shall not apply to sources subject to the requirements of Section .0900 of this Subchapter because of Rule .0902 (d), (e) or (f)."

The language in the revised rule is as follows.

"This paragraph shall not apply to sources subject to the requirements of Section .0900 of this Subchapter because of Rule .0902 (e), (f) or (g)."

.0530 *Prevention of Significant Deterioration*

This regulation was amended to incorporate the most recent version of 40 CFR 51.166. The rule was revised to reference the 40 CFR 51.166 rule effective on March 15, 1996.

.0902 Applicability

Paragraph (a) was rewritten to list all of the Regulations in Section .0900 Volatile Organic Compounds that apply in Forsyth County.

Paragraph (b) was revised to add the title (Vapor Return Piping System for Vapor Recovery) of rule .0953 alongside a citation of that rule number.

Paragraph (c) is a new section created and is reserved.

The paragraph originally listed as (c) has been recodified as (d). This section also changes a reference from paragraph (g) of this rule to paragraphs (a), (b), (c), or (h).

The original rule included the following language.

"With the exceptions stated in Paragraph (g) of this Rule"

The revised rule includes the following language.

"With the exceptions stated in Paragraphs (a), (b), (c), or (h) of this Rule"

The paragraph originally listed as (d) was deleted.

The language originally listed as in paragraph (f) was deleted and new language was adopted. The new language describes the procedure the Director of the North Carolina Division of Air Quality must follow if a violation of the ambient air quality standard is measured in Forsyth County.

Paragraphs (g) and (h) were recodified as paragraphs (h) and (i) respectively and a new paragraph (g) was created and reserved.

.0907 Compliance Schedules for Sources in Nonattainment Areas

.0910 Alternative Compliance Schedules, .0911 Exception From Compliance Schedules

These regulations were repealed because they were no longer applicable to any areas within Forsyth County.

.0909 Compliance Schedules for Sources in New Nonattainment Areas

This regulation was amended to change a specific rule citation from .0902 (d), or (e) to .0902 (e), (f) or (g) in order to remain consistent with the most recent revisions to rule .0902.

Subparagraph (1) under paragraph (b) was deleted and reserved.

Subparagraph (2) under paragraph (b) was revised to change previous references of rule .0946; Compliance Schedule: Gasoline Service Stations Stage I to now reference rules .0953; Vapor Return Piping for Stage II Vapor Recovery or .0954; Stage II Vapor Recovery.

Subparagraph (3) under paragraph (b) was adopted and exempts sources

required to comply with the requirements of Section .0900 under rule .0902(a).

.0954 Stage II Vapor Recovery

This regulation was amended to change a specific rule citation from .0902 (d), or (e) to .0902 (e), (f) or (g) in order to remain consistent with the most recent revisions to rule .0902.

.1903 Permissible Open Burning

This regulation is amended to clarify that material shall not be taken off-site for open burning at another location without a permit.

Subchapter 3Q—Air Quality Permits

.0102 Activities Exempt From Permit Requirements

.0102(a)(1)(A) is being adopted and states that although 40 CFR Part 60 Subpart Dc, industrial, commercial, and institutional steam generating units may be located at a facility that is not required to be permitted under Subchapter 3Q .0500, the units are not exempt from permit requirements.

.0102(a)(1)(B) is adopted and states that although 40 CFR Part 60 Subpart Kb, volatile organic liquid storage vessels may be located at a facility that is not required to be permitted under Subchapter 3Q, .0500, the units are not exempt from permit requirements.

.0102(a)(1)(C) is adopted and states that 40 CFR Part 60 Subpart AAA, new residential wood heaters are not exempt from permit requirements.

Subparagraph (2) under paragraph (a) is revised to reflect that national emission standards for hazardous air pollutants have been moved from Subchapter .0525 to .1110.

The language in subparagraph (5) under paragraph (a) has been deleted and subparagraph (5) has been reserved.

.0104 Where to Obtain and File Permit Applications

This regulation was amended to change a rule citation from .0602 to .0603 to correctly refer customers to the regulation that lists the number of copies of applications to be filed.

.0107 Confidential Information

This regulation was amended to make it clearer by changing wording but not intent.

.0307 Public Participation Procedures

This regulation was amended to correct a clerical error and change a specific rules citation from .0307(b)(4) to .0037(c)(4). This change now correctly refers customers to the list of information that must be identified in the public notice.

.0312 Application Processing Schedule

This regulation was amended to include language for renewals of permits. A paragraph was added that requires the Director to issue or deny the permit within 90 days of receipt of a complete application, or 10 days after receipt of requested additional information, or by the expiration date of the permit, whichever is later.

.803 Coating, Solvent Cleaning, Graphic Arts Operations

This regulation was amended to change all references from average method to total. For reporting purposes, all information on emissions of volatile organic compounds of hazardous air pollutants is now to be submitted as a twelve month rolling total. The twelve month rolling average method is no longer acceptable.

Final Action

EPA is approving the aforementioned changes to the SIP because the Agency has determined that this action conforms with requirements of the Clean Air Act and EPA guidance.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However in the proposed rule section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision, should relevant adverse comments be filed. This rule will be effective without further notice unless the Agency receives relevant adverse comments by February 1, 1999.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 1, 1999 and no further action will be taken on the proposed rule.

I. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review".

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance

costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electronic Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandates that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, or \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local laws, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 1, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this Act 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 28, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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 *et seq.*

Subpart—II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(96) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(96) The miscellaneous revisions to the North Carolina State Implementation Plan, which were submitted on October 10, 1997.

(i) Incorporation by reference.

Subchapter 31A—Air Quality Control

.0110 CFR Dates and .0112 ASTM Dates effective on July 28, 1997.

Subchapter 3D—Air Pollution Control Requirements

.0501(g); Compliance With Emission Control Standards .0512 Particulate From Wood Products Finishing Plants, .0518(e) and (g); Miscellaneous Volatile Organic Compound Emissions, .0530(a), (1), (o), and (s); Prevention of Significant Deterioration, .0902(a) through (i); Applicability, .0907 Compliance Schedules for Sources in Nonattainment Areas, .0909(a) through (c), (g) and (h); Compliance Schedules for Sources in New Nonattainment Areas, .0910 Alternative Compliance Schedules, .0911 Exception From Compliance Schedules, .0954(a) and (f) Stage II Vapor Recovery, and .1903(b)(2)(E); Permissible Open Burning effective on July 28, 1997.

Subchapter 3Q—Air Quality Permits

.0102(a) through (e); Activities Exempt From Permit Requirements, .0104(b); Where to Obtain and File

Permit Applications, .0107(b); Confidential Information, .0307(i); Public Participation Procedures, .0312(a)(1)(C); Application Processing Schedule, .0603(e); Transportation Facility Procedures .803(f)(2) (A) through (C) Coating, Solvent Cleaning, and Graphic Arts Operations effective on July 28, 1997.

(ii) Other material. None.

[FR Doc. 98-34311 Filed 12-30-98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-191-9827a; FRL-6208-5]

Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to the Nashville/Davidson County Portion of the Tennessee SIP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville/Davidson County portion of Tennessee's State Implementation Plan (SIP) concerning air pollution control regulations by the Metropolitan Nashville/Davidson County government. This regulatory revision to the SIP amends various definitions in Section 10.56, "Air Pollution Control," of the Metropolitan Code of Laws. The revisions were submitted to EPA on April 7, 1997, by the State of Tennessee through the Tennessee Department of Air Pollution Control (TDAPC).

DATES: This direct final rule will become effective March 1, 1999 without further notice, unless EPA receives relevant adverse comments by February 1, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to Gregory O. Crawford at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

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 file TN-191-01-9827. 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 Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, Gregory O. Crawford, (404) 562-9046.

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.

Metropolitan Government of Nashville and Davidson County, Metropolitan Health Department, 311 23rd Avenue, North, Nashville, Tennessee 37203, (615) 340-5653.

FOR FURTHER INFORMATION CONTACT: Gregory O. Crawford at (404) 562-9046 or E-mail (crawford.gregory@epamail.epa.gov).

SUPPLEMENTARY INFORMATION: On April 7, 1997, the State of Tennessee, through the TDAPC, submitted revisions to amend Chapter 10.56, "Air Pollution Control," of the Metropolitan Code of Laws. To be consistent with federal requirements, the State of Tennessee amended the definition of volatile organic compounds (VOCs) and deleted various words in Chapter 10.56, "Air Pollution Control," of the Metropolitan Code of Laws.

EPA is approving rule revisions to Sections 10.56.010, 10.56.080(B), 10.56.160 and 10.56.280(D). The revisions are consistent with EPA guidance and are therefore being approved. The following is a description of the revisions. The regulations are discussed in more detail in the official SIP submittal that is available at the Region 4 office listed under the **ADDRESSES** section of this notice.

Section 10.56.010 deletes the definition of volatile organic compounds and references the definition in Title 40, Code of Federal Regulation, Part 51, Subpart F.

Section 10.56.080(B) deletes the words "construction permit and."

Section 10.56.160 deletes the section containing "Primary Standards of Gaseous Fluorides" from Table 10.56.160. The Primary Standards of Gaseous Fluorides are being deleted from the table because these compounds are not regulated under the SIP.

Section 10.56.280(D) deletes the words "located in a nonattainment area or." This deletion removes redundancy in the rule located in the section.