

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]

BILLING CODE 6560-50-M

#### 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.

**I. Final Action**

EPA is approving the aforementioned changes to the SIP.

The 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 rules 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 March 1, 1999 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 document withdrawing the final rule and informing the public that the rule will not take effect. 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. Only parties interested in commenting 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.

**II. Administrative Requirements****A. Executive Order 12866**

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

**B. Executive Order 12875**

Under Executive Order 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 Executive Order 12875 do not apply to this rule.

**C. Executive Order 13084**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

**D. 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.

**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 a 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 Electric 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 mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$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 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 law, 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 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).)

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 30, 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 RR—Tennessee**

2. Section 52.2220, is amended by adding paragraph (c)(164) to read as follows:

##### **§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(164) Revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan submitted to EPA by the State of Tennessee on April 7, 1997.

(i) Incorporation by reference. Chapter 10.56, Sections 10.56.010, 10.56.080(B), 10.56.160, 10.56.280(D), effective March 12, 1997.

(ii) Other material. None.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[CA 207-0108a; FRL-6203-7]

#### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Monterey Bay Unified Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the California State Implementation Plan (SIP). The revision concerns Monterey Bay Unified Air Pollution Control District's (MBUAPCD) Rule 431. This rule controls emissions of oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO) from electric power boilers. This action will incorporate the rule into the Federally approved SIP. The intended effect of approving this rule is to regulate emissions of NO<sub>x</sub> and CO in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, and SIPs for national primary and secondary ambient air quality standards.

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

**ADDRESSES:** Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revision and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Monterey Bay Unified Air Pollution Control District, Rule Development, 24580 Silver Cloud Ct., Monterey, CA 93940-6536.

#### **FOR FURTHER INFORMATION CONTACT:**

Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1191.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Applicability**

The rule being approved into the California SIP includes MBUAPCD's Rule 431, Emissions from Electric Power Boilers. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 10, 1998.

##### **II. Background**

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA or the Act) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. 40 CFR 81.305 provides the attainment status designations for air districts in California. MBUAPCD is listed as being in attainment for the National Ambient Air Quality Standards (NAAQS) for ozone, NO<sub>2</sub>, and CO; therefore stationary sources in the air district are not subject to the Reasonably Available Control Technology (RACT) requirements of section 182(b)(2).

On March 10, 1998, the State of California submitted to EPA MBUAPCD's Rule 431, Emissions from Electric Power Boilers which was amended by MBUAPCD on December 17, 1997. This submitted rule was found to be complete on May 21, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51