

tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 13, 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 S—Kentucky

2. Section 52.920, is amended by adding paragraph (c) (83) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(83) Revisions to the Kentucky State Implementation Plan submitted by the Natural Resources and Environmental Protection Cabinet on June 15, 1983.

(i) Incorporation by reference.

401 KAR 50:025 Classification of Counties, and 401 KAR 61:015 Existing Indirect Heat Exchangers, effective June 1, 1983.

(ii) Additional material. None.

[FR Doc. 96–7908 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TN–140–01–6910a; FRL–5443–2]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to New Source Review, Construction and Operating Permit Requirements for Nashville/Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation on September 27, 1994. The submittal included revisions to Nashville/Davidson County's Regulation

Three, New Source Review (NSR), Sections 3–1, 3–2 and 3–3, which were made to bring the Nashville/Davidson County regulations into compliance with the 1990 amendments to the Clean Air Act (the Act) and the Federal regulations. EPA finds that the revised rules meet the Federal nonattainment NSR permitting requirements of the Act for the State's ozone nonattainment areas.

On April 15, 1994, EPA granted limited approval of revisions to the Nashville/Davidson County portion of the Tennessee SIP. At that time several deficiencies were identified which had to be corrected for Nashville/Davidson County's NSR SIP to fully meet the requirements of the CAA. EPA finds that this submittal corrects those previous deficiencies in Nashville/Davidson County's Regulation Three, New Source Review.

DATES: This final rule is effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Ms. Karen Borel, at the Regional Office Address listed below.

Copies of the material submitted by the State of Tennessee 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.

Tennessee Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531

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

FOR FURTHER INFORMATION CONTACT:

Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen C. Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555

extension 4197. Reference file TN140–01–6910.

SUPPLEMENTARY INFORMATION: On September 27, 1994, Nashville/Davidson County submitted revisions to their portion of the Tennessee SIP in order to correct deficiencies previously identified on April 15, 1994, (59 FR 17398) and to fully satisfy the NSR and PSD requirements of the 1990 CAA. Previously, on July 13, 1990, and February 26, 1993, Nashville/Davidson County, through the State of Tennessee Department of Environment and Conservation, submitted various revisions to the Nashville/Davidson County portion of the Tennessee SIP. These earlier submittals included revisions to Regulation Three, New Source Review, and were intended to bring Nashville/Davidson County's regulations into conformity with EPA's Prevention of Significant Deterioration (PSD) increments for Nitrogen dioxides (NO₂) and the EPA's current NSR requirements. Nashville/Davidson County was granted limited approval on the earlier submittals on April 15, 1994, (59 FR 17398) because those submittals as a whole substantially strengthened the Nashville/Davidson County portion of the Tennessee SIP. On September 27, 1994, Nashville/Davidson County submitted additional revisions to Regulation Three, Sections 3–1, 3–2 and 3–3. These revisions to their NSR regulations were made to correct the deficiencies identified in the April 15, 1994, Federal Register (59 FR 17938) and to bring Nashville/Davidson County's rules into compliance with the Act, as amended in 1990, and revised Federal regulations.

The current SIP revision was reviewed by EPA to determine completeness, and a letter of completeness dated November 17, 1994, was sent to the State of Tennessee. EPA finds that the revisions provide for consistency with the Act and corresponding Federal regulations, that the revisions meet the new nonattainment NSR provisions for nonattainment areas, and that the revisions correct the previously identified deficiencies. EPA is approving the following revisions to the Nashville/Davidson County portion of the Tennessee SIP.

Regulation Three, New Source Review

(A) Section 3–1 Definitions

Section 3–1(i): The definition of “commenced” has been modified by adding “has all necessary preconstruction approvals or permits and” between the words “operator” and “has”.

Section 3-1(l): The definition of "emission offset" has been modified by adding "actual" between the words "of" and "emissions".

Section 3-1(s): The definition of "lowest achievable emission rate (LAER)" has been deleted in its entirety and replaced with the following definition:

"(s) Lowest Achievable Emission Rate (LAER)—means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance."

Section 3-1(t): The definition for "major modification" has been modified by replacing "new" with "net".

Section 3-1(u)(2): The definition for "major stationary source" has been modified by adding "or" after "1,000 lbs/day" and before "100 lbs/hour".

Section 3-1(bb): The definition for "reasonable further progress" has been deleted in its entirety and replaced with the following definition:

"(bb) Reasonable Further Progress—Means such annual incremental reductions in emissions of the relevant air pollutant as are required by the Clean Air Act or may reasonably be required by the Director for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date."

Section 3-1: The following definition for "legally enforceable" has been added:

"Legally Enforceable—means all limitations and conditions which are enforceable by the Director and Administrator, which includes all provisions of Chapter 10.56 "Air Pollution Control" of the Metropolitan Code of Law, this Regulation, any provisions of the State Implementation Plan, and any permit conditions."

Section 3-1: This section has also been recodified to allow the new

definitions to be added in alphabetical order.

(B) Section 3-2 Registration and Permits

Section 3-2(b)(2)(ii): This subparagraph was modified by replacing "request" with "represent" between the words "to" and "reasonable".

Section 3-2(b)(3): This paragraph was modified by replacing the phrase "A major volatile organic compound stationary source" with the new phrase "A stationary source of modification that is major due to volatile organic compound or nitrogen oxide emissions".

Section 3-2(d): This paragraph was modified by adding "as though construction had not yet commenced on the source or modification" at the end of the sentence.

Section 3-2(e): This paragraph was modified by adding "the Administrator and" between the words "notify" and "the".

(C) Section 3-3 Prevention of Significant Deterioration (PSD) Review

Section 3-3(e)(2)(i): This subparagraph was deleted in its entirety and replaced with the following:

"(i) Particulate Matter—PM10:
Annual Arithmetic Mean 17 $\mu\text{g}/\text{m}^3$
24-Hour maximum 30 $\mu\text{g}/\text{m}^3$ "

These limits are being revised appropriately to replace the former limits for total suspended particulates (TSP), in accordance with the requirements of the 1990 CAA.

Section 3-3(f): This paragraph was deleted in its entirety and replaced with the following paragraph:

"(f) All applications of air quality modeling required under this Section shall be based on the applicable models data bases and all other requirements specified in Appendix W of 40 CFR Part 51 ("Guideline on Air Quality Models (Revised)" (1986), Supplement A (1987) and Supplement B (1993)). Where an air quality model specified in Appendix W of 40 CFR Part 51 is inappropriate, the model may be modified or another model substituted on a case-by-case basis provided that written approval is obtained from the Director for any such modification or substitution. Furthermore, the use of a modified or substitute model will be subject to notice and opportunity for public comment under the provisions set forth in 40 CFR Part 51, Subpart 51.102."

This new paragraph meets the requirements set forth in 40 CFR Part 51.160(f)(1) and (2). New sources in the Nashville/Davidson County area must now base their application of air quality modeling on the requirements of 40 CFR Part 51, Appendix W, which is the most

up-to-date guidance. If this model is not appropriate, a different air quality model may be substituted, but only with written approval of their Director.

Final Action

EPA is approving revisions to the Nashville/Davidson County Regulation Number Three New Source Review. Specifically, EPA is approving Nashville/Davidson County's submittal as meeting the NSR requirements of the 1990 amendments to the Act for the State's ozone nonattainment areas. EPA is also rescinding the previous limited approval [59 FR 17938].

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 June 3, 1996, by May 2, 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 June 3, 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 June 3, 1996. 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 section 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, 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 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 examined whether 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, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 4, 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 RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(133) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(133) On September 27, 1994, the State submitted revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP) on behalf of Nashville/Davidson County. These were revisions to the new source review requirements in the Nashville/Davidson County regulations. These revisions incorporate changes to Regulation Number Three, Sections 3-1, 3-2 and 3-3 of the Nashville/Davidson County portion of the Tennessee SIP which bring this into conformance with the new requirements which are required in 40 CFR part 52, subpart I.

(i) Incorporation by reference.

Metropolitan Health Department Division of Pollution Control Regulation Number 3 New Source Review, as amended on August 9, 1994.

(ii) Other material. None.

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[FR Doc. 96-7911 Filed 4-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[PA028-5913a; FRL-5427-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania-Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the Allegheny County portion of the SIP. This revision consists of an emission statement program for stationary sources that emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels. The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_x within the county of Allegheny in accordance with the 1990 Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This action is effective June 3, 1996 unless notice is received on or before May 2, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments must be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597-3164, at the EPA Region III address above. Information can also be requested via E-mail (Quinto.rose@epamail.epa.gov); however, comments must still be submitted in writing.

SUPPLEMENTARY INFORMATION: On December 31, 1992, the Commonwealth