

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

**Subpart TT—Utah**

2. Section 52.2320 is amended by adding paragraph (c)(28) to read as follows:

**§ 52.2320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(28) On November 12, 1993, the Governor of Utah submitted revisions to its permitting requirements to satisfy the nonattainment new source review provisions in the amended Clean Air Act for all of its nonattainment areas. On May 20, 1994, the Governor of Utah submitted a revision to Utah's definition of volatile organic compounds.

(i) Incorporation by reference.

(A) Utah Air Conservation Regulations, R307-1-1, the forward and the following definitions: "air contaminant," "air contaminant source," "air pollution," "allowable emissions," "ambient air," "best available control technology (BACT)," "board," "department," "dispersion technique," "emission limitation," "executive director," "executive secretary," "major modification," "major source," "PM-10 precursor," "person," "temporary," and "volatile organic compound (VOC)," effective November 15, 1993, printed June 24, 1994.

(B) Utah Air Conservation Regulations, R307-1-3.1.8, R307-1-3.1.10, and R307-1-3.3; effective August 16, 1993, printed May 26, 1994.

(ii) Additional material.

(A) Letter dated October 18, 1994 from Russell A. Roberts to Douglas M. Skie clarifying applicability of Utah's nonattainment new source review permitting requirements.

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**40 CFR Part 52**

[NC70-2-6861a: NC63-1-6394a; FRL-5189-3]

**Clean Air Act Approval and Promulgation of Emission Statement Implementation Plan for North Carolina**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the State Implementation

Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environment, Health and Natural Resources (NCDEHNR) for the purpose of implementing an emission statement program for stationary sources within the North Carolina ozone nonattainment/maintenance areas: Davidson County, Durham County, Forsyth County, Gaston County, Guilford County, Mecklenburg County, Wake County, the Dutchville Township portion of Granville County, and that part of Davie County bounded by the Yadkin River, Dutchman's Creek, North Carolina Highway 801, Fulton Creek, and back to the Yadkin River. The SIP was submitted on August 15, 1994, by the State to satisfy the Federal requirements for an emission statement program as part of the SIP for North Carolina.

**DATES:** This final rule is effective July 5, 1995, unless someone submits adverse or critical comments by June 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to: Joey LeVasseur, 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.

Copies of the material submitted by the State of North Carolina 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.

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

**FOR FURTHER INFORMATION CONTACT:** Joey LeVasseur, 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 ext. 4215. Reference file NC70-2-6861.

**SUPPLEMENTARY INFORMATION:** A SIP revision was submitted by the State of North Carolina on December 17, 1993, to satisfy the requirements of section

182(a)(B) of the Clean Air Act Amendments of 1990 (CAA) (November 15, 1990). This revision was submitted as a temporary rule and EPA held off action until the State submitted a permanent rule on August 15, 1994. The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated December 5, 1994, addressed to Mr. A. Preston Howard, Director, NCDEHNR, was sent to NCDEHNR indicating the submittal was administratively complete.

There are several key general and specific components of an acceptable emission statement program. Specifically, the state must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting. In general, the program must include, at a minimum, provisions for applicability, compliance, and specific source requirements detailed below.

**A. SIP Revision Submission**

The NCDEHNR submitted the North Carolina emission statement regulation on August 15, 1994, which meets the emission statement requirement.

**B. Program Elements**

The State emission statement program must, at a minimum, include provisions covering applicability of the regulations, a compliance schedule for sources covered by the regulations, and the specific reporting requirements for sources. The emission statement submitted by the source should contain, at a minimum, a certification that the information is accurate to the best knowledge of the individual certifying the statement. The North Carolina submittal meets these requirements.

**C. Applicability**

Section 182(a)(3)(B) requires that states with areas designated as nonattainment for ozone require emission statement data from sources of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) in the nonattainment areas. This requirement applies to all ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.).

The states may waive, with EPA approval, the requirement for emission statements for classes or categories of sources with less than 25 tons per year of actual plant-wide NO<sub>x</sub> or VOC emissions in nonattainment areas if the class or category is included in the base

year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA. The North Carolina submittal waives the emission statement requirement for sources with less than 25 tons per year combined of actual plant-wide NO<sub>x</sub> and VOC emissions and has included calculations of these emissions in their 1990 Base Year Emission Inventory.

### Final Action

In this action, EPA is approving the Emission Statement SIP revision submitted by the State of North Carolina through the NCDEHNR on August 15, 1994. The EPA is publishing this action without prior proposal 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 July 5, 1995 unless, by June 5, 1995, 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 this action serving as a 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 July 5, 1995.

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 July 5, 1995. 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 Act, 42 U.S.C. 7607 (b)(2).)

The OMB has exempted this action from review under Executive Order 12866.

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each

request for revision to the 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 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 small entities. 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. 7410 (a)(2).

### List of Subjects in 40 CFR Part 52

Environmental protection, Emission statements, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Oxides of nitrogen, Reporting and recordkeeping requirements, SIP requirements, Volatile organic compounds.

Dated: March 28, 1995.

**Patrick M. Tobin,**

*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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(73) to read as follows:

#### § 52.1770 Identification of plan.

\* \* \* \* \*  
(c) \* \* \*

(73) Revisions to the State of North Carolina State Implementation Plan (SIP) concerning emission statements were submitted on August 15, 1994, by the North Carolina Department of Environment, Health and Natural Resources.

(i) Incorporation by reference. Revisions to North Carolina Regulation 15A NCAC 2Q .0207, effective July 1, 1994.

(ii) Other material. None.

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### 40 CFR Part 52

[WI45-01-6501; FRL-5203-1]

### Approval of the State Implementation Plan; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On January 10, 1995, the United States Environmental Protection Agency (USEPA) proposed approval of the State Implementation Plan (SIP) revision request for the Milwaukee ozone nonattainment area (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties), as submitted by the State of Wisconsin. The purpose of the revision is to offset any growth in emissions from growth in vehicle miles traveled (VMT), or number of vehicle trips, and to attain reduction in motor vehicle emissions, in combination with other measures, as needed to comply with Reasonable Further Progress (RFP) milestones of the Clean Air Act (Act). Wisconsin submitted the implementation plan revision to satisfy the statutory mandates, found in section 182 of the Act, which requires the State to submit a SIP revision that identifies and adopts specific enforceable Transportation Control Measures (TCM) to offset any growth in emissions from growth in VMT, or number of vehicle trips, in severe ozone nonattainment areas. The USEPA received no public comments on the above proposed approval. This rule finalizes the approval of the first element of the VMT offset program for the Milwaukee area.

**EFFECTIVE DATE:** This action will be effective June 5, 1995.

**ADDRESSES:** Copies of the SIP revision, public comments and USEPA's responses are available for inspection at the following address: (It is recommended that you telephone Michael Leslie at (312) 353-6680 before visiting the Region 5 Office.) United