

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. § 117.317 is amended by revising paragraph (f) to read as follows:

§ 117.317 Okeechobee Waterway

* * * * *

(f) Florida East Coast Railroad bridge, mile 38.0, at Port Mayaca.

(1) The bridge is not constantly tended.

(2) The draw is normally in the fully open position displaying flashing green lights to indicate that vessels may pass.

(3) When a train approaches the bridge it will stop and a crewmember will observe the waterway for approaching vessels, which will be allowed to pass. Upon manual signal, the bridge lights will go to flashing red, and the horn will sound four blasts, pause, then repeat four blasts, then the draw will lower and lock, providing scanning equipment reveals nothing under the span.

(4) After the train has cleared, the draw will open, and the lights will return to flashing green.

* * * * *

Dated: December 11, 1995.

Roger T. Rufe, Jr.,

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

[FR Doc. 95-31218 Filed 12-22-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN-134-1-6769a; FRL-5316-9]

Approval and Promulgation of Implementation Plans; Tennessee: Revisions to Knox County Regulations for Appeals, Violations, Monitoring, Recording, and Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation on June 28, 1994. This submittal included revisions to the current regulations concerning appeals, judicial review, and violations of the air pollution regulations in Knox County. This submittal also included revisions

which added requirements for enhanced monitoring compliance certification and enforcement. However, no action is being taken on these revisions at this time, due to the preliminary nature of the proposed federal requirements for enhanced monitoring and compliance assurance monitoring.

DATES: This final rule will be effective February 26, 1996, unless adverse or critical comments are received by January 25, 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 Karen Borel at the EPA Regional Office listed below. Copies of the 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.

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

Knox County Department of Air Pollution Control, City-County Building, Suite 339, 400 West Main Street, Knoxville, Tennessee, 37902.

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 TN134-01-6769.

SUPPLEMENTARY INFORMATION: On June 28, 1994, the State of Tennessee through the Tennessee Department of Environment and Conservation submitted a revision to the Knox County portion of its SIP incorporating changes to regulations for appeals, judicial review, violations, and monitoring, recording and reporting. The SIP

revision consists of changes to sections 29.1.B, 29.3, 30.1.A, and 30.1.D, and the addition of section 26.6. EPA is not taking action on the addition of section 26.6 at this time, due to the preliminary nature of the proposed federal regulations for enhanced monitoring and compliance assurance monitoring. The revisions which are being approved are summarized as follows.

1. Section 29.1.B has been revised. This paragraph has been amended to change the phrase "citizen of Knox County" to the word "person" early in the first sentence, and to add the word "a" just prior to "public hearing" at the end of this paragraph.

2. Section 29.3 has been revised. This paragraph has been amended such that any ruling of the Air Pollution Control Board is now subject to judicial review in the State court, rather than in the Knox County Circuit Court.

3. Section 30.1.A has been revised. This paragraph now refers to "violations" rather than the singular "violation." It also calls for punishment of violations in accordance with Tennessee law, rather than the Tennessee Code Annotated.

4. Section 30.1.D has been deleted and replaced. The previous language described actual penalties for violations, such as fines or imprisonment. The replacement language states that civil penalties will be assessed as provided by Tennessee law.

Final Action

EPA is approving the aforementioned revisions contained in the State's June 28, 1994, submittal. 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 February 26 1996, unless, within 30 days of its publication, 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 February 26, 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 February 26, 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 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 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. 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 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 the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; 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. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or 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, Reporting and recordkeeping requirements.

Dated: October 2, 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 RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(132) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(132) Revisions to the Knox County Air Pollution Control Regulations

submitted by the Tennessee Department of Environment and Conservation on June 28, 1994. These consist of revisions to appeals, judicial review, and violations of the air pollution regulations in Knox County.

(i) Incorporation by reference.

Knox County Air Pollution Control Regulations, Sections 29.1.B, 29.3, 30.1.A, and 30.1.D adopted May 25, 1994.

[FR Doc. 95-31036 Filed 12-22-95; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 52

[ME26-1-7263a; FRL-5345-9]

Approval and Promulgation of Implementation Plans; Maine; NO_x Exemption Request for Northern Maine and NO_x Control Approval

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving, in final, a limited exemption request from the requirements contained in section 182(f) of the Clean Air Act (Act) for the Northern Maine area (specifically, Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo Counties). These 9 counties, as with the rest of the State of Maine, are part of the Ozone Transport Region (OTR) as provided for in section 184(a) of the Clean Air Act. Section 182(f) in combination with section 184 (relating to ozone transport regions) of the Act requires States in the OTR, such as Maine, to adopt reasonably available control technology (RACT) rules for major stationary sources of nitrogen oxides (NO_x) and to provide for nonattainment area new source review (NSR) for new sources and modifications that are major for NO_x. This exemption request, submitted by the State of Maine on September 7, 1995, is based on a demonstration that NO_x emissions in this 9 county area are not impacting Maine's moderate nonattainment areas or other nonattainment areas in the Ozone Transport Region (OTR) during times when elevated ozone levels are monitored in those areas. As such, additional reductions in NO_x emissions from these 9 counties beyond what the state regulation would provide for are not necessary for attainment in these areas currently in nonattainment, and, because they do not contribute to the ozone problem anywhere in the OTR are also not necessary for purposes of showing future attainment for any other