

or critical comments be filed. This action will be effective September 30, 1997 unless adverse or critical comments are received by September 2, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action.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 on September 30, 1997.

## II. Final Action

EPA is approving the establishment of the year 2006 motor vehicle emissions budgets for the Hancock and Waldo counties ozone maintenance area at 6.44 tons per summer day of VOC, and 8.85 tons per summer day of NO<sub>x</sub>.

## III. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

### B. Regulatory Flexibility Act

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 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 impose any new requirements, the Administrator certifies 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 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).

### C. 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 proposed 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.

### D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Regulatory Flexibility Act as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2).

### E. 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 September 30, 1997. 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

### List of Subjects in 40 CFR Part 52

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

Dated: July 20, 1997.

**John P. DeVillars,**

*Regional Administrator, Region I.*

Part 52 of chapter I, title 40 of the 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 U—Maine

2. Section 52.1036 is amended by adding paragraph (e) to read as follows:

#### § 52.1036 Emission inventories.

\* \* \* \* \*

(e) On June 24, 1997 the Maine Department of Environmental Protection submitted a revision to establish explicit year 2006 motor vehicle emissions budgets [6.44 tons per summer day of VOC, and 8.85 tons per summer day of NO<sub>x</sub>] for the Hancock and Waldo counties ozone maintenance area to be used in determining transportation conformity.

[FR Doc. 97–20366 Filed 7–31–97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[NC–82–9728(a); FRL–5863–6]

### Approval and Promulgation of Revisions to North Carolina SIP Involving Open Burning and Other Miscellaneous Rules

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

**ACTION:** Direct final rule.

**SUMMARY:** On August 16, 1996, North Carolina submitted, through the Department of Environment, Health,

and Natural Resources, revisions to the North Carolina State Implementation Plan (SIP). These revisions include amendments and repeals of existing rules. The primary purpose of these revisions is to clarify the reasonably available control technology (RACT) standards and to make minor revisions to the Stage I and Stage II rules. This submittal also includes the adoption of rules governing open burning. The revisions relating to New Source Performance Standards are not being addressed in this document.

**DATES:** This final rule is effective September 30, 1997 unless adverse or critical comments are received by September 2, 1997. 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 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 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 and reference file NC82-01-9728. 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, Health, and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

**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 August 16, 1996, the State of North Carolina Department of Environment, Health, and Natural Resources submitted revisions to amend, repeal, or adopt multiple sections in their North Carolina SIP. These amendments address RACT, Stage I and II and open

burning. The amendments are as follows:

*15A NCAC 2D .0101 Definitions, 15A NCAC 2Q .0103 Definitions, 15A NCAC 2Q .0109 Compliance Schedule for Previously Exempted Activities, and 15A NCAC 2Q .0207 Annual Emissions Reporting*

These rules were amended to clarify and correct permit processing and the permit fee rules.

*15A NCAC 2D .0501 Compliance With Emission Control Standards, 15A NCAC 2D .0516 Sulfur Dioxide Emissions From Combustion Sources, 15A NCAC 2D .0518 Miscellaneous Volatile Organic Compound Emissions, 15A NCAC 2D .0521 Control of Visible Emissions, 15A NCAC 2D .0535 Excess Emissions Reporting and Malfunctions, 15A NCAC 2D .0601 Purpose and Scope, 15A NCAC 2D .0604 Sources Covered by Implementation Plan Requirements, 15A NCAC 2D .0608 Program Schedule, and 15A NCAC 2D .0902 Applicability*

These rules were amended to update cross references to the section containing National Emission Standards for Hazardous Air Pollutants now that the NESHAPS section has been recodified.

*15A NCAC 2D .0519 Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*

This rule was amended to remove the emission control standard, for Nitrogen Dioxide, of .6 pounds per million British Thermal Units (BTU) of heat input from any oil or gas-fired boiler with a capacity of 250 million BTU per hour or more and 1.3 pounds per million BTU of heat input from any coal-fired boiler with a capacity of 250 million BTU per hour or more. This change does not alter existing regulations that limit the emission control standard for Nitrogen Oxides from an oil or gas fired boiler with a capacity of 250 million BTU per hour to .8 pounds per million BTU and limits coal-fired boilers with a capacity of 250 million BTU per hour to 1.8 pounds per million BTU.

*15A NCAC 2D .0520 Control and Prohibition of Open Burning*

This rule was repealed and is being replaced by the new rules found in Section NCAC 2D .1900 Open Burning. A brief summary of this new Section is found later in this notice.

*15A NCAC 2D .0531 Sources in Nonattainment Areas and 15A NCAC 2D .0901 Definitions*

These rules were amended to reference the EPA definition for volatile

organic compound (VOC) listed under 40 CFR 51.100(s). Previously, the State's definition of VOC listed individually the VOC's with negligible photochemical reactivity. Each time EPA updated its list, the State rule had to be amended to reflect these changes. To eliminate the need to continually amend the State rule for each change of the VOC definition, the new state definition was adopted to reference the EPA definition of VOC as defined in 40 CFR 51.100(s).

*15A NCAC 2D .0804 Airport Facilities*

This rule was amended to exempt military airfields from the transportation facilities permit procedures. The majority of carbon monoxide emissions at airports is due to ground support for the aircraft. At military airports, much of the air traffic is made up of touch and go practice landings with little ground support. Therefore carbon monoxide emissions are not significant at military airports.

*15A NCAC 2D .0805 Parking Facilities*

This rule was amended to revise the definition of adjacent parking lots, debris, or garages. The former definition had caused some owners and developers of new lots not to connect them to existing lots with an internal road in order to avoid having to obtain a permit and do an analysis. To overcome this problem the internal road criterion was deleted and the rule was revised to consider parking lots as one if they are directly adjacent and they use the same public roads and traffic network.

*15A NCAC 2D .0917 Automobile and Light-Duty Truck Manufacturing, 15A NCAC 2D .0918 Can Coating, 15A NCAC 2D .0919 Coil Coating, 15A NCAC 2D .0920 Paper Coating, 15A NCAC 2D .0921 Fabric and Vinyl Coating, 15A NCAC 2D .0922 Metal Furniture Coating, 15A NCAC 2D .0923 Surface Coatings of Large Appliances, 15A NCAC 2D .0924 Magnet Wire Coating, 15A NCAC 2D .0934 Coating of Miscellaneous Metal Parts and Products, 15A NCAC 2D .0935 Factory Surface Coating of Flat Wood Paneling, 15A NCAC 2D .0937 Manufacture of Pneumatic Rubber Tires, and 15A NCAC 2D .0951 Miscellaneous Volatile Organic Compound Emissions*

These rules are coating rules that were amended to clarify the wording that limits the VOC emissions. The emission standard in each rule was changed to be read "emissions of VOC from [name of process] shall not exceed X.X pound of VOC per gallon of solids delivered to the applicator."

#### 15A NCAC 2D .0920 Paper Coating

This rule is additionally amended to eliminate exemptions for graphic arts or printing, processes in which coating is not distributed uniformly across the web, or processes where coating or printing are performed on the same machine. The graphic arts rule, 15A NCAC 2D .0936, has eliminated the need for this exemption.

#### 15A NCAC 2D .0923 Surface Coatings of Large Appliances

This rule was amended to include language that exempts the use of quick drying lacquers for repair of scratches and nicks which occur during assembly.

#### 15A NCAC 2D .0926 Bulk Gasoline Plants and 15A NCAC 2D .0927 Bulk Gasoline Terminals

These rules were amended to prohibit the owner or operator of a bulk gasoline plant from loading a gasoline truck tank or trailer that is not certified as complying with the vacuum-pressure requirements in accordance with rule 2D .0933.

#### 15A NCAC 2D .0928 Gasoline Service Stations Stage I

This rule contains several exemptions based on tank size. In order to qualify for the exemption, these tanks must be equipped with submerged fill pipe. This rule was amended to allow either permanently installed submerge fill pipe or portable submerge fill pipe for all exempted tanks. Previously, the rule only allowed the use of portable submerge fill pipe for tanks below 550 gallons installed after June 30, 1979, and for tanks below 2000 gallons used to store gasoline for farm or residential use. The rule is amended to allow portable submerge fill pipe for tanks below 2000 gallons installed before July 1, 1979.

#### 15A NCAC 2D .0929 Petroleum Refinery Sources

This rule was repealed because it was an unnecessary rule. This rule contains the RACT requirements for various types of sources at petroleum refineries. There are no sources subject to the requirements of this rule. In addition, there are no petroleum refineries currently in any of the ozone maintenance areas or even in the rest of North Carolina that could become subject to this rule.

#### 15A NCAC 2D .0953 Vapor Return Piping for Stage II Vapor Recovery

This rule was amended to clarify that the recovery risers referenced to in the original rule are recovery dispenser risers. The rule was also amended to

clarify that only with a vacuum assisted system, would the vapor return piping or manifold piping be required to enter a separated opening to the tank from that connected to the vent piping or the Stage I piping.

#### 15A NCAC 2D .0954 Stage II Vapor Recovery

This rule was amended to change the wording of the throughput exemptions to read the same as those in 15A NCAC 2D .0953.

#### 15A NCAC 2Q .0311 Permitting of Facilities at Multiple Temporary Sites

This rule was amended to remove a requirement for the permitting of facilities at multiple temporary sites.

#### 15A NCAC 2D .1901 Purpose, Scope, and Impermissible Open Burning, 15A NCAC 2D .1902 Definitions, .1903 Permissible Open Burning Without a Permit and 15A NCAC 2D .1904 Air Curtain Blowers

These rules were adopted to replace the former open burning rule, 15A NCAC 2D .0520 Control and Prohibition of Open Burning. This action was taken to add a number of amendments and clarifications to the former rule and make it less vague. The first amendment was to clarify types of open burning permissible without a permit and to clarify their requirements. Second, an additional rule was included to allow the use of air curtain blowers, which are used primarily to burn woodwaste from logging operations and land clearing activities. Third, a prohibition was added to more readily notify persons involved in the deliberate burning of structures that any asbestos-containing material needs to be removed before the structure is burned.

#### Final Action

EPA is approving the aforementioned revisions submitted on August 16, 1996, for incorporation into the North Carolina SIP. 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 September 30, 1997 unless, by September 2, 1997 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 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 September 30, 1997.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

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 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. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

**C. 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 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.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**E. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 1997. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 7, 1997.

**Michael V. Peyton,**

*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)(94) to read as follows:

**§ 52.1770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(94) The miscellaneous revisions to the North Carolina State Implementation Plan, which were submitted on August 16, 1996.

(i) Incorporation by reference. Regulations 15A NCAC 2D. 0101 Definitions, .0501 Compliance with Emission Control Standards, .0516 Sulfur Dioxide Emissions Combustion Sources, .0518 Miscellaneous Volatile Organic Compounds Emissions, .0519 Control of Nitrogen Dioxide and Nitrogen Oxides Emissions, .0520 Control and Prohibition of Open Burning, .0521 Control of Visible Emissions, .0531 sources in Nonattainment Areas, .0535 Excess Emissions Reporting and Malfunctions, .0601 Purpose and Scope, .0604 Sources Covered by Implementation Plan Requirements, .0608 Program Schedule, .0804 Airport Facilities, .0805 Parking Facilities, .0901 Definitions, .0902 Applicability, .0917 Automobile and Light-Duty Truck Manufacturing, .0918 Can Coating, .0919 Coil Coating, .0920 Paper Coating, .0921 Fabric and Vinyl Coating, .0922 Metal Furniture Coating, .0923 Surface Coating of Large Appliances, .0924 Magnet Wire Coating, .0926 Bulk Gasoline Plants, .0927 Bulk Gasoline Terminals, .0928 Gasoline Service Stations Stage 1, .0929 Petroleum Refinery Sources, .0934 Coating of miscellaneous Metal Parts and Products, .0935 Factory Surface Coating of Flat Wood Paneling, .0937 Manufacture of Pneumatic Rubber Tires, .0951 Miscellaneous Volatile Organic

Compound Emissions, .0953 Vapor Return Piping for Stage II Vapor Recovery, .0954 Stage II Vapor Recovery, .1901, Purpose, Scope, and Impermissible Open Burning, .1902 Definitions, .1903 Permissible Open Burning Without a Permit, .1904 Air Curtain Burners. 15A NCAC 2Q .0103 Definitions, .0109 Compliance Schedule for Previously Exempted Activities, .0207 Annual Emissions Reporting, and .0311 permitting of Facilities at Multiple Temporary Sites effective on July 1, 1996.

(ii) Other material. None.

[FR Doc. 97-20365 Filed 7-31-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[VT-014-01-1216(a); A-1-FRL-5860-2]

**Approval and Promulgation of Air Quality Implementation Plans; Vermont; Approval of PM<sub>10</sub> State Implementation Plan (SIP) Revisions and Designation of Areas for Air Quality Planning Purposes**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont on December 10, 1990. These revisions were submitted in response to EPA's promulgation of new ambient air quality standards which changed the total suspended particulate (TSP) standard to the particulate matter (PM<sub>10</sub>) standard. The intended effect of this action is to approve the submittal by Vermont which establishes a National Ambient Air Quality Standards (NAAQS) for PM<sub>10</sub> and other minor revisions. This action is being taken in accordance with section 110 of the Clean Air Act.

**DATES:** This action is effective September 30, 1997 unless EPA receives adverse or critical comments by September 2, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S.