

with modifications described in the final rule, will achieve the design objectives set forth in the proposal. Accordingly, EPA has adopted the sampler and other method requirements specified in the revised Appendix L as the reference method for measuring PM<sub>2.5</sub> in the ambient air. As discussed in the preamble to the final rule, a series of field tests were performed using prototype samplers manufactured in accordance with the proposed design and performance specifications. The results of these field tests confirmed that the prototype samplers perform in accordance with design expectations. Operational experience gained through these field tests did, however, identify the need for minor modifications as discussed in the preamble to the final rule. As explained in that preamble, EPA made other modifications to the proposed design and performance specification in response to public comment. As part of this process, EPA performed laboratory tests to ensure that the modifications achieved the intended objective.

While the results of the field and laboratory tests were largely confirmatory in nature and did not indicate a need to alter the basic design and performance specifications, they did identify areas that needed further refinement. Given that these tests were performed, by necessity, during and after the close of the public comment period and because the results were not available for placement in the docket until late in the rulemaking process, the preamble to the final rule announced that a supplemental comment period would be held for the limited purpose of taking comments on these field and laboratory tests results. The July 18, 1997 action announcing the supplemental comment period (62 FR 38762), identified the following documents:

1. "Adaptation of the Low-Flowrate, PM<sub>10</sub>, Dichotomous Sampler Inlet to Fine Particle Collection."
2. "Filter Temperature Specification Report."
3. "Flow Rate Specification Report."
4. "Laboratory and Field Evaluation of FRM Sampler Report."
5. "Prototype PM<sub>2.5</sub> Federal Reference Method Field Studies Report."

The July 18, 1997 action emphasized that the supplemental comment period was for the limited purpose of taking comment on the documents specified in the July 18, 1997 action only. Comments on the reference method for PM<sub>2.5</sub> that go beyond the scope of these specific documents would not be considered. The July 18, 1997 action indicated that upon close of the supplemental

comment period, EPA would consider the comments received and decide whether any further action is appropriate.

Since the supplemental comment period was announced, EPA has identified errors in the "Prototype PM<sub>2.5</sub> Federal Reference Method Field Studies Report". As a result, EPA has prepared three correction pages and has entered them into Docket No. A-95-54 and they are available for inspection and copying at the Office of Air and Radiation Docket and Information Office at the address in ADDRESSES at the beginning of this document. Copies may also be obtained by contacting Neil H. Frank at the address in FOR FURTHER INFORMATION CONTACT. In order to provide opportunity for the public to review and comment on these corrected pages, and to permit additional time for interested parties that could not immediately obtain copies of the five documents, EPA is extending the supplemental comment period until September 8, 1997.

#### List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

(Authority: Secs. 108 and 109, Clean Air Act, as amended (42 U.S.C. 7408, 7409)).

Dated: August 7, 1997.

**Mary Nichols,**  
Assistant Administrator for Air and Radiation.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TN-142-9727(a); FRL-5872-9]

#### Approval and Promulgation of Revisions to Tennessee SIP Chapter 1200-3-5 Visible Emissions

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

**ACTION:** Direct final rule.

**SUMMARY:** On October 4, 1994, Tennessee submitted, through the Department of Environment and Conservation, a new chapter 1200-3-5 Visible Emissions to replace the existing chapter 1200-3-5 Visible Emissions in the Tennessee State Implementation Plan (SIP). These revisions include amendments and repeals of existing rules. EPA is approving these amendments and repeals as they conform to the requirements of the SIP

as set out in the Clean Air Act (CAA) as amended in 1990.

**DATES:** This final rule is effective October 14, 1997 unless adverse or critical comments are received by September 15, 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, 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 TN 142-01-9727. 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.

Department of Environment and Conservation, 9th Floor L & C Annex, 401 Church St, Nashville, TN 37243-1531.

**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 October 4, 1994, Tennessee submitted, through the Department of Environment and Conservation, revisions to the Tennessee SIP. Tennessee submitted a new chapter 1200-3-5 Visible Emissions to replace the existing chapter. This new chapter contains all of the changes made to the chapter. In this document, the specific changes to each regulation will be independently addressed.

#### Chapter 1200-3-5-.01 General Standard

This rule was amended to incorporate paragraphs (2) and (3) which require that all sources identified in chapter 1200-3-19 must comply with this rule. This rule also allows for an emission limit to be set that is more restrictive than that otherwise specified in this

chapter if there is mutual agreement between any air contaminant source and the Technical Secretary.

#### **Chapter 1200-3-5-.02 Exceptions**

This rule was amended to adopt language that allows for the Technical Secretary to conduct an Administrative Hearing in the event of a dispute between the owner or operator of an air contaminant source and the Tennessee Air Pollution Control Division.

#### **Chapter 1200-3-5-.03 Methods of Evaluation and Recording**

This rule was amended to set forth the provisions in which a determination of visible emissions can be made and specifies that a certified evaluator (evaluator must be certified by criteria approved by the board) must make the determination. This rule specifies that obscuration of vision caused by water droplets shall not be considered a violation of this rule and that all new and/or modified sources on or after July 7, 1992, subject to the provisions in this chapter shall utilize six-minute averaging. Visible emissions determinations for roads and parking lots shall utilize two-minute averaging.

#### **Chapter 1200-3-5-.04 Exemption**

This rule was amended to clarify the restrictions on when the exemption to visible emissions can be applied. The rule allows for exemptions from fuel-burning equipment used exclusively to provide space heating in a building containing not more than two (2) dwelling units. In addition this rule also exempts all sources that have an applicable visible emissions standard under chapter 1200-3-16.

#### **Chapter 1200-3-5-.05 Standard for Certain Existing Sources**

This rule was adopted to set the emission standards that certain sources must meet. This rule applies to all sources meeting the conditions in paragraphs (2) and (3) of this rule and for which a certificate of validation has been issued by the Technical Secretary indicating that the conditions in paragraph (2) are met. The selected sources must have no visible emissions in excess of forty percent opacity for an aggregate of more than five minutes in any one hour or more than twenty minutes in any twenty four hour period.

The Technical Secretary must issue a certificate of validation if the owner or operator of the air contaminant source demonstrates to the satisfaction of the Technical Secretary that certain conditions are met. The conditions include but are not limited to the air contaminant source being subject to the

rules contained in either Chapter 1200-3-6 or Chapter 1200-3-7 and meeting the appropriate emission standard contained in those chapters.

#### **Chapter 1200-3-5-.07 Certain Wood Fired Fuel Burning Equipment**

This rule was repealed.

#### **Chapter 1200-3-5-.06 Wood-Fired Fuel Burning Equipment, Chapter 1200-3-5-.08 Titanium Dioxide (TiO<sub>2</sub>) Manufacturing, 1200-3-5.10 Choice of Visible Emission Standards for Certain Fuel Burning Equipment and 1200-3-5.11 Soda Recovery Boilers**

These rules were not revised.

#### **Chapter 1200-3-5-.09 Kraft Mill Recovery Furnaces**

This rule was amended to include a section that specifies that the proper procedure for a source to obtain the applicable opacity de minimus level is to monitor the opacity emissions as described in Rule 1200-3-5-.02.

#### **Chapter 1200-3-5-.12 Coke Battery Underfire (Combustion) Stacks**

This rule was added to set provisions that would allow an owner or operator of a coke battery underfire stack to elect within 30 days of notification of violation to conduct particulate emissions testing in accordance with the provisions of this chapter. The particulate emissions testing would be done to demonstrate compliance with the applicable particulate mass limitation within 45 days of the election. In the event that this testing demonstrates compliance with the mass emission limitation and visible emissions are in excess of the opacity limitation during this testing, the opacity observed during such testing shall become the alternate opacity limitation for that emission point. This rule also sets forth the appropriate methods to be used to determine an alternate opacity limitation.

#### **Final Action**

EPA is approving Tennessee's revisions submitted on October 6, 1994, for incorporation into the Tennessee SIP. 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 October 14, 1997 unless, by September 15, 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 October 14, 1997.

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 October 14, 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,

Reporting and recordkeeping requirements.

Dated: July 9, 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 RR—Tennessee**

2. Section 52.2220 is amended by adding paragraph (c)(157) to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(157) The visible emission chapter revisions to the Tennessee SIP which were submitted on October 6, 1994.

(i) Incorporation by reference.

(A) Chapter 1200-3-5 Visible Emissions effective on June 7, 1992.

(ii) Other material. None.

\* \* \* \* \*

[FR Doc. 97-21699 Filed 8-14-97; 8:45 am]

BILLING CODE 6560-50-F

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 128-0043; FRL-5875-9]

**Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern negative declarations from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) for five source categories that emit oxides of nitrogen (NO<sub>x</sub>): Nitric and Adipic Acid Manufacturing Plants, Cement Manufacturing Plants, Asphalt Batch Plants, Iron and Steel Manufacturing Plants, and Driers. The SJVUAPCD has certified that these source categories are not present in the District and this information is being added to the federally approved State Implementation Plan. The intended

effect of approving these negative declarations is to meet the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

**DATES:** This action is effective on October 14, 1997 unless adverse or critical comments are received by September 15, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments must be submitted to Julie Rose at the Region IX office listed below. Copies of the submitted negative declarations are available for public inspection at EPA's Region IX office and also at the following locations during normal business hours.

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

Air Docket (6102), U.S. Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460  
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 92123-1095  
San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Fresno, CA 93721

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1184.

**SUPPLEMENTARY INFORMATION:**

**I. Applicability**

The revisions being approved as additional information for the California SIP include five negative declarations from the SJVUAPCD regarding the following source categories: (1) Nitric and Adipic Acid Manufacturing Plants, (2) Cement Manufacturing Plants, (3) Asphalt Batch Plants, (4) Iron and Steel Manufacturing Plants, and (5) Driers. These negative declarations were submitted by the California Air Resources Board (CARB) to EPA on October 17, 1994.

**II. Background**

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101-549, 104 Stat.