

House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

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 16, 2002. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 10, 2002.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, part 52, 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 *et seq.*

#### Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(146) to read as follows:

##### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(146) On October 21, 1999, Indiana submitted revised state opacity regulations. The submittal amends 326 IAC 5-1-1, 5-1-2, 5-1-3, 5-1-4(b), and 5-1-5(b). The revisions address provisions concerning the startup and shutdown of operations, averaging period terminology, temporary exemptions, alternative opacity limits, and conflicts between continuous opacity monitor and visual readings.

(i) *Incorporation by reference.* Opacity limits for Indiana contained in Indiana Administrative Code Title 326: Air

Pollution Control Board, Article 5: Opacity Regulations. Filed with the Secretary of State on October 9, 1998 and effective on November 8, 1998. Published in 22 *Indiana Register* 426 on November 1, 1998.

(ii) *Additional material.* Letter of October 10, 2001, from Janet McCabe, Indiana Department of Environmental Management, Assistant Commissioner of the Office of Air Quality, to Stephen Rothblatt, US EPA Region 5, Chief of Air Programs Branch. The letter adds the technical justification and air quality analysis required for alternate opacity limits.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[TN-121; TN-205-200206a; FRL-7245-7]

#### Approval and Promulgation of Implementation Plans; Tennessee: Approval of Revisions to Tennessee Implementation Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on September 1, 1993, and April 9, 1998. The first revision adds definitions for particulate matter based upon the measurement of particles having an aerodynamic diameter of 10 microns or less (PM<sub>10</sub>). The second revision combines the Soda Recovery Boilers rule with the Kraft Mill Recovery Furnaces rule in the Visible Emission regulations.

**DATES:** This direct final rule is effective September 16, 2002, without further notice, unless EPA receives adverse comment by August 15, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to Steven M. Scofield at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Copies of the State submittals are available at the following addresses for inspection during normal business hours: 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 30303-8960. Steven M. Scofield, 404/562-9034.

Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531. 615/532-0554.

#### FOR FURTHER INFORMATION CONTACT:

Steven M. Scofield; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960. Mr. Scofield can also be reached by phone at (404) 562-9034 or by electronic mail at *scofield.steve@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 1, 1987 (52 FR 24634), EPA revised the national ambient air quality standards (NAAQS) for particulate matter, pursuant to section 109 of the Clean Air Act (CAA). Total suspended particulate (TSP) was replaced as the indicator for the particulate matter ambient standard by a new indicator, particulate matter with a nominal aerodynamic diameter of 10 micrometers or less in size (PM<sub>10</sub>). In response, Tennessee amended its rules and regulations which dealt with particulate matter to assure compliance with the particulate NAAQS throughout Tennessee.

##### II. Analysis of State's Submittals

On September 1, 1993, the State of Tennessee, through the TDEC, submitted a revision to rule 1200-3-2-.01 General Definitions, adding definitions for (hhh) “PM<sub>10</sub> emissions” and (jjj) “Particulate Matter Emissions.” These definitions comply with EPA’s regulations for control strategies to attain and maintain the NAAQS for particulate matter and for permits to construct pursuant to parts C and D of the CAA.

On April 9, 1998, the State of Tennessee, through the TDEC, submitted revisions to Chapter 1200-3-5 Visible Emission Regulations. Rules 1200-3-5-.09 Kraft Mill Recovery Furnaces and 1200-3-5-.11 Soda Recovery Boilers are being combined into 1200-3-5-.09, with 1200-3-5-.11 being repealed. A revision to paragraph (3) of rule 1200-3-5-.09, which changes

a reference to Chapter 1200–3–20 Limits On Emissions Due to Malfunctions, Start-Ups, And Shutdowns from rule .07 to .06, is not consistent with the federally approved SIP. The revision to the codification of Chapter 1200–3–20 has not been submitted by the State to EPA. Therefore, no action is being taken by EPA on the revision to paragraph (3) of rule 1200–3–5–09.

### III. Final Action

EPA is approving the aforementioned revisions to the Tennessee SIP because they are consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective September 16, 2002, without further notice unless the Agency receives adverse comments by August 15, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 16, 2002, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory

Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

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 16, 2002. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 22, 2002.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Accordingly, 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 *et seq.*

### Subpart RR—Tennessee

2. Section 52.2220 is amended in the table in paragraph (c):

a. Under Chapter 1200–3–2 by revising the entry for “Section 1200–3–2–01.”

b. Under Chapter 1200–3–5 by revising the entries for “Section 1200–3–5–09” and “Section 1200–3–5–11.”

The revisions read as follows:

## § 52.2220 Identification of plan.

(c) \* \* \*

\* \* \* \* \*

## EPA APPROVED TENNESSEE REGULATIONS

State citation	Title/subject	Adoption date	EPA approval date	Federal Register notice
Chapter 1200-3-2 .....	DEFINITIONS .....	*	*	*
Section 1200-3-2- .....	General Definitions .....	06/26/93	9/16/02	[Insert citation of publication]
Chapter 1200-3-5- .....	VISIBLE EMISSION REGULATIONS .....	*	*	*
Section 1200-3-5-.09 .....	Kraft Mill and Soda Mill Recovery .....	04/06/98	9/16/02	[Insert citation of publication]
Section 1200-3-5-.11 .....	Repealed .....	04/06/98	9/16/02	[Insert citation of publication]
*	*	*	*	*

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

[CA 264-0350a; FRL-7231-8]

## Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from soil decontamination operations. We are approving the local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on September 16, 2002, without further notice, unless EPA receives adverse comments by August 15, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95812. Ventura County Air Pollution Control District, 669 County Square Dr., 2nd FL., Ventura CA 93003.

## FOR FURTHER INFORMATION CONTACT:

Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3960.

## SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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## I. The State's Submittal

## A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
VCAPCD .....	74.29	Soil Decontamination Operations .....	01/08/02	03/15/02

On May 7, 2002, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

## B. Are There Other Versions of This Rule?

On May 22, 2001, EPA finalized limited approval and limited disapproval of a previous version of this

rule which was adopted on October 10, 1995.