

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[NC 106–200336(a); FRL–7558–9]

**Approval and Promulgation of Implementation Plans North Carolina: Miscellaneous Revisions to the North Carolina State Implementation Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of North Carolina on April 4, 2003, for the purpose of establishing revisions to Volatile Organic Compounds and other miscellaneous revisions.

**DATES:** This direct final rule is effective November 17, 2003, without further notice, unless EPA receives adverse comment by October 17, 2003. 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:** Comments may be submitted by mail to: Rosymar De La Torre Colón, 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. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections I.B.1.i. through iii. of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Rosymar De La Torre Colón, 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. The telephone number is (404) 562–8965. Ms. De La Torre Colón can also be reached via electronic mail at [delatorre.rosymar@epa.gov](mailto:delatorre.rosymar@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. How Can I Get Copies of This Document and Other Related Information?*

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official

public rulemaking file for this action under NC–106. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the 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. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency, North Carolina Department of Environmental and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

*B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking NC–106" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [delatorre.rosymar@epa.gov](mailto:delatorre.rosymar@epa.gov), please including the text "Public comment on proposed rulemaking NC–106" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulation.gov.* Your use of [Regulation.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to [Regulations.gov](http://www.regulations.gov) at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for

submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Rosymar De La Torre Colón, 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. Please include the text "Public comment on proposed rulemaking NC-106" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Rosymar De La Torre Colón; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division 12th floor; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

### C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in

the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## II. Background

On April 4, 2003, the North Carolina Department of Environmental and Natural Resources submitted revisions to the North Carolina SIP. This submittal includes revisions to the Volatile Organic Compound chapter and other miscellaneous revisions. A detailed analysis of the major revisions are listed below.

## III. Analysis of North Carolina's State Submittal, Subchapter 2D—Air Pollution Control Requirements

### Section .0100 Definitions and References

#### .0105 Mailing List

This rule was recodified to reference paragraph (d) and provides the new mailing address.

### Section .0500 Emission Control Standards

#### .0507 Particulates From Chemical Fertilizer Manufacturing Plants

This rule provides the definition for discharge from stacks or chimneys.

#### .0509 Particulates From Mica or Feldspar Processing Plants

This rule is being revised to clarify that "E" is equal to the maximum allowable emission rate for particulate matter in pounds per hour and "P" equals the process weight in tons per hour.

#### .0515 Particulates From Miscellaneous Industrial Processes

This rule changes industrial processing rates from 60,000 pounds per hour to 30 tons per hour.

#### .0516 Sulfur Dioxide Emissions From Combustion Sources

This rule is proposed to exclude 15A NCAC 2D .1205, .1206, and .1210 from the Rule. These three incinerator rules must meet MACT standards for sulfur dioxide.

### Section .0900 Volatile Organic Compounds

#### .0912 General Provisions on Test Methods and Procedures

This rule is being revised to correct the name Division of Air Quality Environmental Management to Division of Air Quality.

#### .0927 Bulk Gasoline Terminals

This rule defines degassing, liquid balancing, and liquid displacement in terms of cleaning, inspection and repair. The owner of such gas terminals shall also have copies on file of certification test. Bulk gasoline storage tanks less than 138 gallons of liquid gas are exempt from degassing requirements if vented in less than 24 hours.

#### .0932 Gasoline Truck Tanks and Vapor Collection Systems

This rule defines certified facility and its use.

#### .0952 Petition for Alternative Controls For RACT

This rule edits the owner or operator requirements.

#### .0954 Stage II Vapor Recovery

This rule revises the name, North Carolina Department of Environment and Natural Resources from North Carolina Department of Environment, Health, Environment and Natural Resources.

#### .0959 Petition for Superior Alternative Controls

This rule applies to all owners and operators of any volatile organic compound source. By proving that alternative operational or equipment controls can further reduce emissions superior to the required controls, these

owners and operators may petition for the use of the alternative control. Particular petition requirements are provided.

#### IV. Final Action

EPA is approving the aforementioned changes to the SIP. 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 November 17, 2003, without further notice unless the Agency receives adverse comments by October 17, 2003.

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 November 17, 2003, 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.

#### V. Statutory and Executive Order Reviews

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 (Pub. L. 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. 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. 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 November 17, 2003. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 28, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 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 II—North Carolina

■ 2. In § 52.1770(c), table 1 is amended under subchapter 2D by revising entries for: .0105, .0507, .0509, .0515, .0516, .0521, .0912, .0927, .0932, .0952, .0954, and .0959 to read as follows:

#### § 52.1770 Identification of plan.

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

EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Subchapter 2D—Air Pollution Control Requirements</b>				
<b>Section .0100—Definitions and References</b>				
* Section .0105	* Mailing List	* 7/01/02	* 9/17/03 [Insert citation of publication]	* 
<b>Section .0500—Emission Control Standards</b>				
* Section 0507	* Particulates From Chemical Fertilizer Manufacturing Plants.	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0509	* Particulates From Mica or Feldspar Processing Plants	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0515	* Particulates From Miscellaneous Industrial Processes	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0516	* Sulfur Dioxide Emissions From Combustion Sources	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
<b>Section .0900—Volatile Organic Compounds</b>				
* Section .0912	* General Provisions on Test Methods and Procedures	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0927	* Bulk Gasoline Terminals	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0932	* Gasoline Truck Tanks and Vapor Collection Systems	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0952	* Petition for Alternative Controls <i>For RACT</i>	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0954	* Stage II Vapor Recovery	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 
* Section .0959	* Petition for Alternative Controls	* 4/01/03	* 9/17/03 [Insert citation of publication]	* 

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[FR Doc. 03-23580 Filed 9-16-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 70**

[MO 195-1195a; FRL-7559-9]

**Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing approval of revisions to the Missouri State Implementation Plan (SIP) and Operating Permit Program. The changes, which include revisions to definitions, permit modification procedures, and reporting requirements, were made to correct the operating permit program deficiencies listed in the Notice of Deficiency (NOD) published by EPA in the **Federal Register** on March 25, 2002. These revisions are necessary to ensure consistency between the state and federally approved rules. This rule finds that Missouri has cured all deficiencies noticed on March 25, 2002, and permanently suspends any resulting consequences, including sanctions, with respect to those specific deficiencies.

**DATES:** This direct final rule will be effective November 17, 2003, unless EPA receives adverse comments by October 17, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be submitted to Harriett Jones, Environmental Protection Agency, Air Permitting and Compliance Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to [jones.harriett@epa.gov](mailto:jones.harriett@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents

should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Harriett Jones at (913) 551-7730, or by e-mail at [jones.harriett@epa.gov](mailto:jones.harriett@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal approval process for a SIP?

What does Federal approval of a state regulation mean to me?

What is the Part 70 Operating Permits Program?

What is being addressed in this document?

Have the requirements for approval of a SIP revision and Part 70 program revision been met?

What action is EPA taking?

**What Is a SIP?**

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally-enforceable SIP.

Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

**What Is the Federal Approval Process for a SIP?**

In order for state regulations to be incorporated into the federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action

on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

**What Does Federal Approval of a State Regulation Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the federally-approved SIP is primarily a state responsibility. However, after the regulation is federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

**What Is the Part 70 Operating Permits Program?**

The CAA Amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the part 70 operating permits program is to improve compliance by issuing each source a single permit that consolidates all of the applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include "major" sources of air pollution and certain other sources specified in the CAA or in our implementing regulations. For example, all sources regulated under the acid rain program, regardless of size must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM<sub>10</sub>; those that