

requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

#### F. 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 annual 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 annual 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.

#### G. Submission to Congress and the Comptroller General

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### H. 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 August 30, 1999. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 8, 1999.

**Nora L. McGee,**

*Acting Regional Administrator, Region IX.*

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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(179)(i)(G), (182)(i)(F)(3) and (G)(2), and (184)(i)(F) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(179) \* \* \*  
(i) \* \* \*

(G) Tuolumne County Air Pollution Control District.

(I) Rules 101, 102, and Rule 300, adopted November 22, 1988.

\* \* \* \* \*

(182) \* \* \*  
(i) \* \* \*  
(F) \* \* \*

(3) Rule 1.2 and Rule 7.1, adopted May 1, 1989.

(G) \* \* \*

(2) Rule 7.1, adopted July 11, 1989.

\* \* \* \* \*

(184) \* \* \*

(i) \* \* \*

(F) Tehama County Air Pollution Control District.

(I) Rule 1.2, adopted April 25, 1989.

\* \* \* \* \*

[FR Doc. 99-16374 Filed 6-29-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MS9921: FRL-6348-4]

### Approval and Promulgation of Air Quality Implementation Plans; Mississippi Update to Materials Incorporated by Reference

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by Mississippi that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office.

**EFFECTIVE DATE:** This action is effective June 30, 1999.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303; Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michele Notarianni at the above Region 4 address or at (404) 562-9031.

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions

containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968) EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

On July 1, 1997, EPA published a document in the **Federal Register** (62 FR 35441) beginning the new IBR procedure for Mississippi. In this document EPA is doing the first update to the material being IBRed. On July 15, 1997, (62 FR 37724) EPA published a direct final approval document approving revisions to the Mississippi SIP for open burning and prevention of significant deterioration. In that document EPA also updated the Identification of plan section for the Code of Federal Regulations.

In this document EPA is updating the SIP compilation that is incorporated by reference. EPA took notice and public comment on this rulemaking in July 1997. No comments were received and the rule became effective September 15, 1997.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

## I. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by

statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation.

This action is not subject to E.O. 13045 because it approves a state rule implementing a previously promulgated health or safety-based Federal standard, and preserves the existing level of pollution control for the affected areas.

### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that

imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

### F. 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 annual 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 annual 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.

#### G. Submission to Congress and the Comptroller General

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 rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### H. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Mississippi SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no

need in this action to reopen the 60-day period for filing such petitions for judicial review.

#### 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 29, 1999.

#### A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

#### PART 52—[AMENDED]

1. The authority for citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart Z—Mississippi

2. Section 52.1270 paragraph (b) is revised to read as follows:

#### § 52.1270 Identification of plan.

\* \* \* \* \*

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to July 1, 1999, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after July 1, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of July 1, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information

Center, Air Docket (6102), 401 M Street, SW., Washington, DC. 20460.

\* \* \* \* \*

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TN-9922; FRL-6367-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revised Format for Materials Being Incorporated by Reference

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is revising the format of 40 CFR part 52 for materials submitted by the State of Tennessee that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this format change have all been previously submitted by the State agency and approved by EPA.

This format revision will affect the "Identification of plan" sections of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review remain unchanged.

**EFFECTIVE DATE:** This action is effective June 30, 1999.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations:

Environmental Protection Agency,  
Region 4, 61 Forsyth Street, SW,  
Atlanta, GA 30303;

Office of Air and Radiation, Docket and Information Center (Air Docket), EPA,  
401 M Street, SW, Room M1500,  
Washington, DC 20460; and

Office of the Federal Register, 800 North Capitol Street, NW, Suite 700,  
Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Steven M. Scofield at the above Region 4 address or at (404) 562-9034.