

publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 12, 2002.

**Oscar Morales,**

*Director, Collection Strategies Division, Office of Information Collection.*

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

#### PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding a new heading and new entries in numerical order to read as follows:

#### § 9.1 OMB approvals under the Paperwork Reduction Act.

\* \* \* \* \*

40 CFR citation	OMB control No.
* * * * *	
Ambient Air Monitoring Reference and Equivalent Methods	
53.4 .....	2080–0005
53.9(f), (h), (i) .....	2080–0005
53.14 .....	2080–0005
53.15 .....	2080–0005
53.16(a)–(d), (f) .....	2080–0005
* * * * *	

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[SC–037; SC–040; SC–044–200226; FRL–7238–6]

#### Approval and Promulgation of Implementation Plans: South Carolina: Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of South Carolina on October 30, 2000, and revised on July 30, 2001. This revision was submitted to satisfy EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call." This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating units (EGUs) and industrial units (non-electric generating units, or non-EGUs), and reductions for cement kilns, beginning in 2004. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. On December 26, 2000, EPA determined that South Carolina had failed to submit a SIP in response to the NO<sub>x</sub> SIP Call, thus starting an 18 month clock for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP) within 24 months. On May 28, 2002, South Carolina submitted a NO<sub>x</sub> SIP and EPA found that SIP submission complete on June 4, 2002, stopping the sanctions clock. Through this **Federal Register** rule, both the sanctions clock and EPA's FIP obligation are terminated.

**EFFECTIVE DATE:** This final rule is effective on July 29, 2002.

**ADDRESSES:** Copies of documents relative to this action are available at the following addresses for inspection during normal business hours: EPA, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201. The interested persons wanting to examine these documents should make an appointment at least 24 hours before

the visiting day and reference file SC–037.

#### FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 30, 2000, the South Carolina Department of Health and Environmental Control (DHEC) submitted a draft NO<sub>x</sub> emission control rule to the EPA for pre-adoption review. Also, DHEC requested that EPA parallel process the submittal concurrent with the development of the final State rule and included a schedule for development and adoption of the rule by the State. On July 30, 2001, DHEC submitted adopted revisions to its SIP to meet the requirements of the Phase I NO<sub>x</sub> SIP Call. After the rules are adopted by the South Carolina Board of Health and Environmental Control, the revisions must be reviewed and approved by the South Carolina General Assembly. After approval by the General Assembly, the rules become state-effective upon publication in the South Carolina State Register. On April 10, 2002, (67 FR 17317) EPA published a notice of proposed rulemaking (NPR) to approve the July 30, 2001 SIP revision. That NPR provided for a public comment period ending on May 10, 2002. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the proposed notice and will not be restated here. No significant or adverse comments were received on EPA's proposal. However, two sections require further clarification. First, in the proposed rule (67 FR 17317, April 10, 2002), EPA referred to section 96.4(b)(iv) of South Carolina's rule; the provision referenced is actually section 96.4(b)(4). Further, EPA stated that it interpreted South Carolina's rule to provide that a unit will lose its exemption "if the unit fails to comply with the restrictions on fuel use or NO<sub>x</sub> emissions." 67 FR 17319; *see also* 67 FR 17320 (referring to fuel use and "the emissions limitation" or "emissions limitations"). EPA is clarifying in today's notice that in this context the phrase "NO<sub>x</sub> emissions" or "emissions limitation" refers to the restriction under section 96.4(b)(4) on a unit's

“hours of operation.” EPA notes that emissions limitations under this provision are implemented through an operating hours limitation. South Carolina’s rule uses the phrase “fuel use and unit operating hours” in section 96.4(b)(4)(vi) when that language should read “fuel use or operating hours,” which is what EPA intended to clarify.

Second, in section 96.4(a)(1)(i), South Carolina addresses applicability of its NO<sub>x</sub> trading program to existing units, and references SIC codes (in the phrase, “excluding SIC codes 4911 or 4931”). While the NO<sub>x</sub> SIP Call does not use SIC codes in stating what existing units are subject to the NO<sub>x</sub> trading program, South Carolina has submitted a list of affected large EGUs and large and small non-EGUs, explaining how the State interprets section 96.4(a)(1)(i). EPA is approving South Carolina’s rule based on the State’s interpretation that every source on this list is an affected unit under this section.

On May 24, 2002, DHEC submitted the State-effective rule (no changes were made to the July 30, 2001 submittal). South Carolina’s SIP revision consists of a new rule for the “NO<sub>x</sub> Budget Trading Program” (regulation 61–62.96) and a new rule for “Nitrogen Oxides (NO<sub>x</sub>) Budget Program Requirements for Stationary Sources Not in the Trading Program” (regulation 61–62.99). The requirements under 61–62.96 affect EGUs and non-EGUs. Regulation 61–62.96 “NO<sub>x</sub> Budget Trading Program” adds nine new subparts: Subpart A—NO<sub>x</sub> Budget Trading Program General Provisions; Subpart B—Authorized Account Representative for NO<sub>x</sub> Budget Sources; Subpart C—Permits; Subpart D—Compliance Certification; Subpart E—NO<sub>x</sub> Allowance Allocations; Subpart F—NO<sub>x</sub> Allowance Tracking System; Subpart G—NO<sub>x</sub> Allowance Transfers; Subpart H—Monitoring and Reporting; Subpart I—Individual Unit Opt-ins.

## II. Final Action

EPA is approving South Carolina’s SIP revision, including its NO<sub>x</sub> Reduction and Trading Program and cement kiln rule, which was submitted on May 28, 2002. EPA finds that South Carolina’s submittal is fully approvable because it meets the requirements of the NO<sub>x</sub> SIP Call.

## III. 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 (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 August 27, 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 19, 2002.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Accordingly, 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 PP—South Carolina

2. Section 52.2120(c) is amended by adding 2 new entries “Regulation No. 62.96” and “Regulation No. 62.99” at the end of the table to read as follows:

## § 52.2120 Identification of plan

(c) \* \* \*

\* \* \* \* \*

## AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
Regulation No. 62.96 .....	NO <sub>x</sub> Budget Trading Program.	05/24/02	June 28, 2002 .....	[Insert citation of publication]
Regulation No. 62.99 .....	Nitrogen Oxides (NO <sub>x</sub> ) Budget Program Requirements for Stationary Sources Not in the Trading Program.	05/24/02	June 28, 2002 .....	[Insert citation of publication]

\* \* \* \* \*

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

[MI78-01-7287a, FRL-7226-6]

**Approval and Promulgation of Air Quality Implementation Plans; Michigan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving several rule revisions and rescissions for incorporation into Michigan's State Implementation Plan (SIP). The Michigan Department of Environmental Quality (MDEQ) submitted these revisions on July 7, 2000 and supplemented them with letters dated January 29, 2001, and February 6, 2002. They include revisions to definitions, open burning rules, general volatile organic compound (VOC) provisions, and administrative procedures, and the rescission of two obsolete rules.

**DATES:** This rule is effective on August 27, 2002, unless EPA receives adverse written comments by July 29, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You may inspect copies of the documents relevant to this action during normal business hours at the following location:

Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 office.

Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. What Did Michigan Submit?
- II. What Action is EPA Taking?
- III. Is this Action Final, or May I Still Submit Comments?
- IV. What Administrative Requirements Did EPA Consider?

**I. What Did Michigan Submit?**

On July 7, 2000, MDEQ submitted revisions to Michigan's SIP. This submittal was supplemented with letters dated January 29, 2001, and February 6, 2002. The state has requested that we act on the following Michigan Administrative Code rule revisions and rescissions:

*R 336.1104 Definitions; D*—Michigan added (d), (e), (f), and (g), which are definitions for "demolition waste material," "department," "difficult-to-monitor component," and "dry organic resin," respectively. The state also renumbered the definition for "dispensing facility" from (d) to (h).

*R 336.1310 Open burning*—Minor wording changes were made to this section that do not change the substance of the rule. For example, "commission" was changed to "department." The only substantive change removes the requirement that MDEQ give prior

approval to a source burning structures exclusively for fire prevention training.

*R 336.1320*—This rule required existing sources to submit, by January 18, 1981, a compliance program which would show compliance with the requirements of rule R 336.1331, emission of particulate matter. The state is rescinding this rule because it is obsolete. The dates for required action have passed and sources covered by the rule are already in compliance.

*R 336.1602*—General provisions for existing sources of volatile organic compound emissions—The state has revised this rule to add a renewable operating permit as one of the legal documents that can limit emissions.

*R 336.2701 and R 336.2702*—These rules referenced the "Air Pollution Act, Act 348 of the Public Acts of 1965, as amended." This act has been replaced by the "Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended." Part of the changes in these rules are to reference the proper act and remove conflicting dates between the rules and the Natural Resources and Environmental Protection Act. In addition, rule 336.2702 adds a definition for "authorized agent."

*R 336.2703*—This rule addresses some functions of the Air Pollution Control Commission and some provisions of Public Act 348 of 1965, as amended. The Public Act and the Commission referred to in this rule are not in existence or effect. The rule was rescinded because it is obsolete.

EPA is approving revisions to Michigan's regulations to definitions, open burning rules, general volatile organic compound provisions, and administrative procedures, and the rescission of two obsolete rules.

**II. What Action Is EPA Taking?**

All of these revisions and rescissions are consistent with the Clean Air Act and are approvable. Therefore, we are