

[FR Doc. 99-27195 Filed 11-2-99; 8:45 am]  
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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OK-8-1-5772a; FRL-6457-7]

### Approval and Promulgation of Implementation Plans; Oklahoma; Recodification of Regulations

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action approving into the Oklahoma State Implementation Plan (SIP), subchapters of the Oklahoma Department of Environmental Quality (ODEQ) Air Pollution Control Rules adopted by the State Legislature on March 30, 1994. These Rules, submitted by the Governor to EPA on May 16, 1994, replace most of the existing ODEQ regulations in the Oklahoma SIP. The EPA is taking no action on subchapters of the submittal that are either not equivalent to, or are not in, the current Oklahoma SIP-approved regulations. Approval of this action will make the numbering format and administrative terms of the subchapters being approved consistent with that of the current ODEQ air quality control regulations. The changes are administrative in nature and do not substantively revise the current SIP.

**DATES:** This rule is effective on January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 1999. If EPA receive such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency,  
Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677,

Oklahoma City, Oklahoma 73101-1677

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Bill Deese of the EPA Region 6 Air Planning Section at (214) 665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we" is used, we mean EPA.

### I. What Is the Purpose of This Action?

This action approves a recodification of the ODEQ regulations in the Oklahoma SIP adopted by the Oklahoma Legislature on March 30, 1994, and submitted by the Governor of Oklahoma on May 16, 1994, as a revision to the Oklahoma SIP. The EPA is approving subchapters of the submittal that are equivalent to the current SIP-approved regulations replaced. The EPA is taking no action on subchapters that have not previously been approved into the Oklahoma SIP or are not equivalent to the existing SIP-approved regulations.

### II. Why Is EPA Taking This Action?

The ODEQ has used four different numbering systems for its air quality control regulations since the original Oklahoma SIP was approved by EPA on May 31, 1972 (37 FR 10887). Regulations in the current Oklahoma SIP have been approved under three of these numbering systems.

The ODEQ air quality control regulations approved with the original Oklahoma SIP were numbered with a one or two digit number such as Regulation Number 4 and Regulation Number 15. Regulations approved by EPA under this numbering system were approved in 40 CFR part 52, §§ 52.1920(b) to 52.1920(c)(21). Some ODEQ regulations approved under this system are still in the Oklahoma SIP.

Between 1981 and 1991, the ODEQ used a numbering system such as Regulation 1.1, Regulation 1.4.4, and Regulation 4.1 for its air quality control regulations. Regulations were approved by EPA under this numbering system at 40 CFR 52.1920(c)(24) to 52.1920(c)(41) and 52.1920(c)(47).

In 1990 the Oklahoma State Legislature passed the Oklahoma Administrative Procedures Act which mandated a common format for all Oklahoma rules and regulations. To meet the requirements of the Administrative Procedures Act, the Air Quality Service of the Oklahoma State Department of Health recodified the

Oklahoma air pollution control regulations into the Oklahoma Administrative Code, Title 310, Chapter 200 (OAC:310:200), Oklahoma Air Pollution Control Rules. As required by the Oklahoma Administrative Procedures Act, the Oklahoma Air Pollution Control Rules contained no substantive changes, but was a change in format only. The Governor of Oklahoma submitted the recodified regulations to EPA on July 1, 1992, as a revision to the Oklahoma SIP.

The EPA has approved two revisions to the ODEQ regulations in the Oklahoma SIP in this numbering system submitted after the July 1, 1992, submittal. The revisions were submitted to EPA on December 10, 1992, and May 16, 1994. Subchapter 31 (OAC:310:200-31), Control of Emissions of Sulfur Compounds, adopted by the State March 24, 1993, and submitted by the Governor on December 10, 1992, was approved by EPA on July 15, 1993 (58 FR 38060), at 40 CFR 52.1920(c)(43). Subchapter 23 (OAC:310:200-23), Control of Emissions from Cotton Gins, adopted by the State on March 24, 1993, and submitted by the Governor on May 16, 1994, was approved by EPA on May 14, 1997 (62 FR 26393), at 40 CFR 52.1920(c)(44).

(**Note:** The May 16, 1994, submittal of Subchapter 23 (OAC:310:200-23) was a completely separate submittal from the May 16, 1994, submittal being acted upon in this action.)

Before EPA could take action on the recodified regulations submitted July 1, 1992, the Air Quality Service, in 1993, became the Air Quality Division of the newly created ODEQ. This necessitated the transfer of the Air Pollution Control Rules from OAC:310:200 to new OAC:252:100. The recodification of the regulations to OAC:252:100 was adopted by the Oklahoma Legislature on March 30, 1994, published in the *Oklahoma Register* on May 16, 1994, effective May 26, 1994, and submitted by the Governor of Oklahoma to EPA as a revision to the Oklahoma SIP on May 16, 1994. There were no substantive changes in the regulations. No regulations or revisions to regulations in the Oklahoma SIP have been approved under this numbering system.

The intent of this **Federal Register** action is to approve the regulations in the May 16, 1994, submittal that are equivalent to the current SIP-approved regulations. The EPA is taking no action on subchapters of the submittal that are not equivalent to the current SIP-approved regulations being replaced, or on subchapters that have not previously been approved into the SIP.

### III. What Regulations in the May 16, 1994, Submittal Are Not Being Acted Upon in This Action?

Subchapter 8 (Operating Permits), subchapter 11 (Alternative Emissions Reduction Permits), subchapter 21 (Particulate Matter Emissions from Wood-Waste Burning Equipment), and appendix D (Particulate Matter Emission Limits for Wood Waste Burning Equipment) are not being acted upon in this action because equivalent regulations are not in the current Oklahoma SIP.

Subchapter 7 (Permits) is not being approved in this recodification because it is a substantial revision to the current SIP-approved regulation. As a result, the following ODEQ regulation remains in the Oklahoma SIP: Regulation 1.4 (Air Resources Management Permits Required) as approved by EPA on

August 25, 1983 (48 FR 38636), at § 52.1920(c)(26); January 31, 1991 (56 FR 03781), at § 52.1920(c)(38); and July 23, 1991 (56 FR 33717), at § 52.1920(c)(41). This subchapter will be addressed in a future rulemaking.

Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) is not being acted on in this rulemaking because it is not equivalent to the current SIP-approved regulations. As a result, the following ODEQ regulation remains in the Oklahoma SIP: Regulation 3.8, (Control of Emission of Hazardous Air Contaminants), as approved by EPA on August 15, 1983 (48 FR 36819), at § 52.1920(c)(27).

### IV. What Oklahoma SIP Regulations Are Being Replaced by This Action?

The table below cross-references subchapters in the May 16, 1994,

submittal of OAC:252:100 that EPA is approving in this action with previous citations of the regulations. The third (1992) codification is not shown because it is identical to the current codification except that "252:100" in the current codification was "310:200" in the third codification. The titles shown are the proposed new SIP titles. In some cases these titles are different from the current SIP-approved titles. The current SIP-approved regulations are shown with an "\*" following the regulation numbers. In some cases, such as new subchapter 1, parts of two former codifications are in the current SIP. An "\*" in the first column means the current SIP regulations were approved under the 1992 "310-200" codification.

Proposed New SIP Citation, (Subchapter of 252:100)	Proposed New SIP Title	1982 to 1991 State Citation (Regulation)	Before 1982 State Citation (Regulation No.)
1. ....	General Provisions .....	1.1* .....	3*
3. ....	Air Quality Standards and Increments .....	1.2* .....	3
5. ....	Registration of Air Contaminant Sources .....	1.3 .....	4*
9. ....	Excess Emission and Malfunction Reporting Requirements .....	1.5* .....	11
13. ....	Prohibition of Open Burning .....	2.1 .....	1
15. ....	Motor Vehicle Pollution Control Devices .....	2.2 .....	2*
17. ....	Incinerators .....	2.3 .....	5*
19. ....	Particulate Matter Emissions from Fuel-Burning Equipment .....	2.4 .....	6*
23.* .....	Control of Emissions from Cotton Gins .....	Did not exist .....	Did not exist
25. ....	Smoke, Visible Emissions and Particulates .....	3.1* .....	7
27. ....	Particulate matter Emissions from Industrial and Other Processes and Operations.	3.2 .....	8*
29. ....	Control of Fugitive Dust .....	3.3 .....	9*
31.* .....	Control of Emissions of Sulfur Compounds .....	3.4 .....	16
33. ....	Control of Emissions of Nitrogen Oxides .....	3.5 .....	18*
35. ....	Control of Emission of Carbon Monoxide .....	3.6 .....	17*
37. ....	Control of Emission of Organic Materials .....	3.7* .....	15*
39. ....	Control of Emission of Organic Materials in Nonattainment Areas .....	3.7* .....	15*
43. ....	Sampling and Testing Methods .....	4.1* .....	12*
45. ....	Monitoring of Emissions .....	5.1 .....	13*
Appendix A. (Cited in Subchapter 17).	Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr	2.3 Figure 1 .....	5 Figure 1*
Appendix B. (Cited in Subchapter 17).	Allowable Emissions for Incinerators with Capacities Less Than 100 lbs/hr ...	2.3 Figure 1 .....	5 Figure 1*
Appendix C. (Cited in Subchapter 19).	Particulate Matter Emission Limits for Fuel-Burning Equipment .....	2.4 Figure 1 .....	6 Figure 1*
Appendix E. (Cited in Subchapter 3).	Primary Ambient Air Quality Standards .....	1.2(1) Table 1* .....	3, Table 1a
Appendix F. (Cited in Subchapter 3).	Secondary Ambient Air Quality Standards .....	1.2(1) Table 2* .....	3, Table 1b
Appendix G. (Cited in Subchapter 27).	Allowable Rate of Emissions .....	3.2 Table 1 .....	8 Table 1*

### V. What Changes Have Been Made to the Regulations?

This section summarizes changes to the regulations initially made in OAC:300:200 and carried over into OAC:252:100.

#### A. Format Changes

The new numbering system is considerably different from the first two

numbering systems. A subchapter number has been assigned to the group of rules previously identified by regulation numbers. Some subchapters are further divided into parts. The numbers initially assigned to subchapters and parts are all odd numbers to allow for future expansions of the rules.

Subchapters and parts are divided into groups of related sections. A section may be further subdivided into subsections, paragraphs, subparagraphs, units, and subunits.

#### B. Administrative Wording Changes

The regulations also underwent administrative wording changes necessitated by the transfer of the

administration of the regulations to the newly created ODEQ and the resultant transfer of the Oklahoma Air Pollution Control Regulations to OAC:252:100 as well as style changes to be consistent with that preferred by the State. For example, the term "Executive Director" replaced the word "Commissioner" and the terms "Chapter" and "Subchapter" replaced the word "Regulation." Two tables in the support document for this action show the administrative wording changes versus the terms replaced.

### C. Changes to Definition Sections

Subchapter 1, General Provisions, contains definitions for Chapter 100. Almost all definitions previously approved by EPA in other ODEQ SIP-approved regulations are included in subchapter 1, section 1-3, Definitions, as well as in the subchapter, part, or section they apply to. Some individual terms and terms with more than one definition in section 1-3 are restricted to specific subchapters, parts, or sections.

All definitions in Chapter 100 have a standard introductory paragraph which gives the part or section the definitions pertain to. All defined terms are in double quotes followed by the word "means" followed by the definition of the term. Terms within each definitions section have been placed in alphabetical order. Definitions not previously approved by EPA in the State General Definitions section were approved into the SIP in the Regulations they apply to.

### D. Other Changes

A Purpose section is the first section of each subchapter. Some regulations in the earlier codifications did not have a Purpose section.

Most sections and subsections and some paragraphs and subparagraphs formerly without titles have been given titles.

Most of the tables in the old regulations are in appendices at the end of Chapter 100. New sections in the subchapters reference the tables in the appendices.

### VI. Final Action

The EPA is approving ODEQ Air Pollution Control Rules (OAC:252:100) adopted by the State on March 30, 1994, and submitted by the Governor on May 16, 1994, except for subchapters 7, 8, 11, 21, 41, and appendix D. The regulations being approved replace the current ODEQ regulations in the Oklahoma SIP except for Regulation 1.4 (Air Resources Management Permits Required) and Regulation 3.8 (Control of Emission of Hazardous Air Contaminants). The changes are administrative in nature

and do not substantively revise the current SIP.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on January 3, 2000 without further notice unless we receive adverse comment by December 3, 1999. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

### VII. Administrative Requirements

#### A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from 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, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB 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 any 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 rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the

requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### C. Executive Order 13045

Executive Order 13045, entitled "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.

The 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 final rule is not subject to E.O. 13045 because it approves a State program.

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, 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 officials 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."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. 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, 5 U.S.C. 600 *et seq.*, 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 Federal Clear Air Act (the 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *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, 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.

The 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. The 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). This rule will be effective January 3, 2000.

#### *H. Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 3, 2000. 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, Volatile organic compounds.

Dated: September 23, 1999.

**Jerry Clifford,**

*Acting Regional Administrator, Region 6.*

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 LL—Oklahoma**

2. Section 52.1920 is amended by adding paragraph (c)(48) to read as follows:

#### **§ 52.1920 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(48) Revisions to Oklahoma Department of Environmental Quality (ODEQ) regulations in the Oklahoma SIP adopted by the Oklahoma Legislature on March 30, 1994, effective May 26, 1994, and submitted by the Governor on May 16, 1994.

(i) Incorporation by reference.

(A) *Oklahoma Register*, May 16, 1994, pages 2031 and 2032, approving the transfer of the Oklahoma Air Quality Control Rules into Title 252, Chapter 100, of the Oklahoma Administrative Code.

(B) Oklahoma Administrative Code, Title 252, Chapter 100 (OAC:252:100), Oklahoma Air Quality Control Rules, adopted by the Oklahoma Legislature on March 30, 1994, effective May 26, 1994.

(1) Subchapter 1, General Provisions.

(2) Subchapter 3, Air Quality Standards and Increments.

(3) Subchapter 5, Registration of Air Contaminant Sources.

(4) Subchapter 9, Excess Emissions and Reporting Requirements.

(5) Subchapter 13, Prohibition of Open Burning.

(6) Subchapter 15, Motor Vehicle Pollution Control Devices.

(7) Subchapter 17, Incinerators.

(8) Subchapter 19, Particulate Matter Emissions from Fuel-Burning Equipment.

(9) Subchapter 23, Control of Emissions from Cotton Gins.

(10) Subchapter 25, Smoke, Visible Emissions and Particulates.

(11) Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes and Operations.

(12) Subchapter 29, Control of Fugitive Dust.

(13) Subchapter 31, Control of Emission of Sulfur Compounds.

(14) Subchapter 33, Control of Emission of Nitrogen Oxides.

(15) Subchapter 35, Control of Emission of Carbon Monoxide.

(16) Subchapter 37, Control of Emissions of Organic Materials.

(17) Subchapter 39, Control of Emission of Organic Materials in Nonattainment Areas

(18) Subchapter 43, Sampling and Testing Methods.

(19) Subchapter 45, Monitoring of Emissions.

(20) Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr.

(21) Appendix B, Allowable Emissions for Incinerators with Capacities Less Than 100 lbs/hr.

(22) Appendix C, Particulate Matter Emission Limits for Fuel-Burning Equipment.

(23) Appendix E, Primary Ambient Air Quality Standards.

(24) Appendix F, Secondary Ambient Air Quality Standards.

(25) Appendix G, Allowable Rate of Emissions.

(ii) The following previously approved ODEQ regulations remain in the Oklahoma SIP:

(A) Regulation 1.4, "Air Resources Management Permits Required," as approved by EPA on: August 25, 1983 (48 FR 38636), at 52.1920(c)(26); April 2, 1984 (49 FR 13039), at 52.1920(c)(29); July 27, 1984 (49 FR 30185), at 52.1920(c)(31); August 20, 1990 (55 FR 33907), at 52.1920(c)(34); February 12, 1991 (56 FR 5655), at 52.1920(c)(38); and July 23, 1991 (56 FR 33717), at 52.1920(c)(41).

(B) Regulation 3.8, "Control of Emission of Hazardous Air Contaminants," approved by EPA on August 15, 1983 (48 FR 36819), at 52.1920(c)(27).

(iii) Additional materials—None.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AL-050-9953(a); FRL-6461-8]

#### Approval and Promulgation of Implementation Plans: Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on April 22, 1999, by the State of Alabama. These revisions were made to comply with the regulations set forth in the Clean Air Act (CAA). Included in this document are revisions to Chapter 335-3-1—General Provisions which establishes Credible Evidence regulations and Chapter 335-3-14—Air Permits which allows

exemptions for projects which are found to be beneficial to the environment.

**DATES:** This direct final rule is effective January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 1999. 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: Kimberly Bingham at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal(s) 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.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

#### FOR FURTHER INFORMATION CONTACT:

Kimberly Bingham of the EPA Region 4, Air Planning Branch at (404) 562-9038 and at the above address.

#### SUPPLEMENTARY INFORMATION:

##### I. Analysis of State's Submittal

Listed below is a summary of the revisions to the Alabama State implementation plan (SIP) on which EPA is taking action in this document.

##### Chapter 335-3-1—General Provisions

##### Rule 335-3-1-.13—Credible Evidence

On February 24, 1997, EPA promulgated regulations under sections 113(a) and 113(e)(1) of the CAA that gave EPA the authority to use all available data to prove CAA violations (See 62 FR 8314-8328). EPA required states to incorporate provisions into their SIPs to ensure that the states have the ability to use any available data or "credible evidence" to determine violations. To comply, the ADEM submitted rule 335-3-1-.13 to EPA Region 4 for approval. This new rule allows the use of any credible evidence that is both reference test data and comparable non-reference test data. The data will be used to prove or disprove violations of the State of Alabama's regulations in enforcement actions.

##### Chapter 335-3-14—Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]

##### Rule 335-3-14.04(2)(ff)

ADEM is revising its PSD rules to allow an exemption for modifications or projects that are proven to be beneficial to the environment. These regulations would require that an ambient air quality analysis be completed before the project can be approved. Class 1 areas must also not be affected by the new project. Moreover, the public notification requirements of the PSD regulations would also have to be met.

##### Rule 335-3-14.04(2)(gg)

The rule was revised to include a definition for Pollution Prevention Projects that can also be exempted if proven to be environmentally beneficial. ADEM defines Pollution Prevention Projects as any activity that through process changes, product reformulation or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal. It does not mean recycling (other than certain "in process recycling" practices), energy recovery, treatment, or disposal.

##### Rule 335-3-14-.04(8)(m)

This rule lists the PSD exemptions for projects that are environmentally beneficial.

##### II. Final Action

EPA is approving the aforementioned changes to the State of Alabama's 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 January 3, 2000 without further notice unless the Agency receives adverse comments by December 3, 1999.

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