

a hunt and every half hour thereafter until hunting activities are concluded. This broadcast shall be made on channel 16 VHF-FM and state:

A whale hunt is proceeding today within the Regulated Navigation Area established for Makah whaling activities. The (name of vessel) is a (color and description of vessel) and will be flying international numeral pennant five (5) while engaged in whaling operations. This pennant is yellow and blue in color. Mariners are required by federal regulation to stay 500 yards away from (name of vessel), and are strongly urged to remain even further away from whale hunt activities as an additional safety measure.

* * * * *

Dated: November 1, 1999.

James C. Olson,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 99-29365 Filed 11-9-99; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-087-1-9939a; FRL-6463-6]

Approval and Promulgation of Implementation Plans: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 29, 1998, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR) submitted miscellaneous revisions to the North Carolina State Implementation Plan (SIP). These revisions include but are not limited to, clarifying rules for the control of particulate emissions, adding requirements for expedited permit processing, revising the Division name and address, and amending case-by-case MACT language. EPA is approving these revisions because they are consistent with the requirements set forth in the Clean Air Act (CAA) amendments of 1990.

DATES: This direct final rule is effective January 10, 2000, without further notice, unless EPA receives adverse comment by December 10, 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: Gregory Crawford at the

U.S. Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Copies of documents relative to this action 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.

North Carolina Department of Environment and Natural Resources, Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina 27699.

FOR FURTHER INFORMATION CONTACT:

Gregory Crawford, Regulatory Planning Section, Air Planning Branch, Air Pesticides and Toxics Management Division at 404/562-9046.

SUPPLEMENTARY INFORMATION:

I. Background

On July 29, 1998, the State of North Carolina Department of Environment and Natural Resources submitted revisions to amend, adopt, and repeal multiple sections in the North Carolina Administrative Code. These amendments address Subchapters 2D—Air Pollution Control Requirements and 2Q—Air Quality Permits Requirements. Detailed descriptions of the amendments are listed under “Analysis of the State’s Submittal.”

II. Analysis of State’s Submittal

15 A NCAC 2D .0101—Definitions, .0104—Incorporation by Reference, .0105—Mailing List, .0202—Registration of Air Pollution Sources, .0302—Episode Criteria, .0531—Sources in Nonattainment Areas, .0953—Vapor Return Piping for Stage II Vapor Recovery, .1902—Definitions, .1903—Permissible Open Burning Without a Permit, 15 A NCAC 2Q .0103—Definitions, .0108—Delegation of Authority, .0307—Public Participation Procedures

These regulations were amended to change the Division’s name from Division of Environmental Management to the Air Quality Division, due to restructure of the organization.

15A NCAC 2Q .0207—Annual Emissions Reporting

This regulation was amended to add perchloroethylene to the list of compounds in 15A NCAC 2Q .0207,

since annual reporting of emissions is required.

15A NCAC 2Q .0805—Grain Elevators, .0806—Cotton Gins, .0807—Emergency Generators

These regulations were amended to revise the exclusionary levels for permit fee purposes for both grain elevators and cotton gins and to clarify that storage tanks that store fuel for an emergency generator would not disqualify the generator from exclusionary rules.

15A NCAC 2D .0506—Particulates from Hot Mix Asphalt Plants, .0507—Particulates From Chemical Fertilizer Manufacturing Plants, .0508—Particulates From Pulp and Paper Mills, .0509—Particulates from Mica or Feldspar Processing Plants, .0510—Particulates From Sand, Gravel, or Crushed Stone Operations, .0511—Particulates From Lightweight Aggregate Processes, .0513—Particulates From Portland Cement Plants, .0514—Particulates From Ferrous Jobbing Foundries, .0515—Particulates From Miscellaneous Industrial Processes, .0540—Particulates From Fugitive Non-Process Dust Emission Sources

These regulations were adopted to clarify existing and adopt new rules for the control of particulate emissions. The allowable emission rates for the sections were simplified from a table format to a bullet listing of emission rates for each section.

15A NCAC 2D .0521—Control of Visible Emissions

This regulation amends language to use consistent terminology in the visible emissions rule.

15A NCAC 2D .0914—Determination of VOC Emission Control System Efficiency

This regulation was amended to correct a deficiency identified by the EPA in the procedures for determining capture efficiency. EPA recommends capture efficiency protocols and test methods be determined as described in the EPA document, EMTIC GD-035, “Guidelines for Determining Capture Efficiency.” The State is incorporating this rule by reference.

15A NCAC 2D .0927—Bulk Gasoline Terminals

This regulation was amended to require bulk gasoline terminals to weld or gasket deck seams on contact decks.

15A NCAC 2D .0953—Vapor Return Piping for Stage II Vapor Recovery

This regulation was amended to require affected facilities (any gasoline

service station or gasoline service station dispensing facility) to install necessary piping for installation of the California Air Resource Board certified Stage II vapor recovery systems.

15A NCAC 2Q .0101—Required Air Quality Permits, .0306—Permits Requiring Public Participation, .0312—Application Processing Schedule

These regulations amend the case-by-case Maximum Achievable Control Technology rules by incorporating details of the final federal requirements into the existing State rules requiring and specifying procedures for such determinations.

15A NCAC 2D .0938—Perchloroethylene Dry Cleaning System

This regulation was amended to remove an unnecessary rule since perchloroethylene is no longer considered a volatile organic compound for the formation of ozone.

15A NCAC 2Q .0312—Application Processing Schedule, .0313—Expedited Processing Schedule, .0607 Application Processing Schedule

These regulations adopt rules for the implementation of expedited permit processing procedures and amend the application processing schedule rules.

III. Final Action

EPA is approving the aforementioned changes to the SIP because they are consistent with the Clean Air Act and EPA requirements.

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 10, 2000 without further notice unless the Agency receives adverse comments by December 10, 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 do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 10, 2000 and no further action will be taken on the proposed rule.

IV. 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 Orders on Federalism

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.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999),) which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987),) on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only one State and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

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.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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." Today's 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.

Under Executive Order 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, Executive Order 12875 requires EPA to 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 any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 Executive Order 12875 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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing

programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 January 10, 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 5, 1999.

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. Section 52.1770(c) is amended by revising the entries for Sections 2D Air Pollution Control Requirements: .0101, .0104, .0105, .0202, .0302, .0506, .0507, .0508, .0509, .0510, .0511, .0513, .0514, .0515, .0521, .0531, .0540, .0914, .0927, .0938, .0953, .1902, .1903 and Subchapter 2Q Air Quality Permits Requirements: .0101, .0103, .0108, .0207, .0306, .0307, .0312, .0313, .0607, .0805, .0806, .0807, to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
* * * * *			*	*
Section .0101	Definitions	1/15/98	11/10/99	
Subchapter 2D Air Pollution Control Requirements				
* * * * *			*	*
Section .0105	Mailing List	1/15/98	11/10/99	
* * * * *			*	*
Section .0202	Registration of Air Pollution Sources	1/15/98	11/10/99	
* * * * *			*	*
Section .0302	Episode Criteria	1/15/98	11/10/99	
* * * * *			*	*
Section .0506	Particulates from Hot Mix Asphalt Plants	3/20/98	11/10/99	
Section .0507	Particulates from Chemical Fertilizer	3/20/98	11/10/99	
Subchapter 2D Air Pollution Control Requirements				
Section .0508	Particulates from Pulp and Paper Mills	3/20/98	11/10/99	
Section .0509	Particulates from Mica or Feldspar Processing	3/20/98	11/10/99	
Section .0510	Particulates from Sand, Gravel, or Crushed Stone Operations.	3/20/98	11/10/99	
Section . 0511	Particulates from Lightweight Aggregate	3/20/98	11/10/99	
* * * * *			*	*
Section .0513	Particulates from Portland Cement Plants	3/20/98	11/10/99	
Section .0514	Particulates from Ferrous Jobbing Foundries	3/20/98	11/10/99	
Subchapter 2D Air Pollution Control Requirements				
Section .0521	Control of Visible Emissions	3/20/98	11/10/99	
* * * * *			*	*
Section .0531	Sources in Nonattainment Areas	1/15/98	11/10/99	
* * * * *			*	*
Section .0540	Particulates from Fugitive Non-Process Dust Emission Sources.	3/20/98	11/10/99	
* * * * *			*	*
Section .0914	Determination of VOC Emission Control System Efficiency.	3/20/98	11/10/99	
* * * * *			*	*
Section .0927	Bulk Gasoline Terminals	3/20/98	11/10/99	
Subchapter 2D Air Pollution Control Requirements				
* * * * *			*	*
Section .0953	Vapor Return Piping for Stage II Vapor Recovery.	1/15/98	11/10/99	
Section .0953	Vapor Return Piping for Stage II Vapor Recovery.	3/20/98	11/10/99	
* * * * *			*	*
Section .1902	Definitions	1/15/98	11/10/99	
Section .1903	Permissible Open Burning Without a Permit ...	1/15/98	11/10/99	
Subchapter 2Q Air Quality Permits Requirements				
Section .0101	Required Air Quality Permits	3/20/98	11/10/99	

EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Subchapter 2Q Air Quality Permits Requirements				
Section .0103	Definitions	1/15/98	11/10/99	
*	*	*	*	*
Section .0207	Annual Emissions Reporting	1/15/98	11/10/99	
*	*	*	*	*
Section .0306	Permits Requiring Public Participation	3/20/98	11/10/99	
Section .0307	Public Participation Procedures	1/15/98	11/10/99	
*	*	*	*	*
Section .0312	Application Processing Schedule	3/20/98	11/10/99	
Subchapter 2Q Air Quality Permits Requirements				
*	*	*	*	*
Section .0805	Grain Elevators	1/15/98	11/10/99	
Section .0806	Cotton Gins	1/15/98	11/10/99	
Section .0807	Emergency Generators	1/15/98	11/10/99	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-6471-6]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Amendments to Air Pollution Control Regulation Number 9; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On June 2, 1999 (64 FR 29563), EPA promulgated amendments to Rhode Island's Air Pollution Control Regulation Number 9. The document correctly identified the changes in the

Regulation. However, the table incorrectly implied that the entire regulation had been changed.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Ian D. Cohen, Air Permits Program, U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023; (617) 918-1655.

SUPPLEMENTARY INFORMATION: In the document published on June 2, 1999, the revision to Table 52.2081 is incorrect. This final rule corrects the table to incorporate only the changes submitted by Rhode Island DEM on August 6, 1996.

The EPA regrets any inconvenience the earlier information has caused.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Prevention of

significant deterioration, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 28, 1999.

John P. DeVillars,
Regional Administrator, Region I.

Part 52, 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 OO—Rhode Island

2. In § 52.2081, Table 52.2081 is amended by adding a new entry to the existing state citation for Air Pollution Control Regulation No. 9.

§ 52.2081 EPA-approved Rhode Island State regulations.

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TABLE 52.2081—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Changes/Unapproved sections
*	*	*	*	*	*	*
Air Pollution control Regulation No. 9.	Air Pollution Control Permits.	30 July 1996.	2 June 1999.	64 FR 29563	(c)(54)	Changes in 9.1.7, 9.1.18, and 9.5.1(c) to add Dual Source Definition. Changes in 9.1.24(b)(3), 9.5.2(b)(2)d(i), 9.5.1(d) and 9.5.1(f) to change Particulate Increment. Changes in 9.1.6 to revise BACT definition.
*	*	*	*	*	*	*