

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

[NC 98-200237a; FRL-7377-8]

**Approval and Promulgation of Implementation Plans; North Carolina: Approval of Miscellaneous Revisions to The Mecklenburg County Local Implementation Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** On May 25, 2001, the Mecklenburg County Department of Environmental Protection, through the North Carolina Department of Environment and Natural Resources, submitted revisions to the Mecklenburg County Local Implementation Plan (LIP). These revisions include the amending of volatile organic compound (VOC) emissions and other miscellaneous revisions. Additionally, Mecklenburg County Air Pollution Control Ordinance (MCAPCO) 2.0950 Interim Standards For Certain Source Categories is being repealed. The purpose of these revisions is to make the revised regulations consistent with the State Implementation Plan for North Carolina and the requirements of the Clean Air Act as amended in 1990. The EPA is approving these revisions.

**DATES:** This direct final rule is effective December 23, 2002 without further notice, unless EPA receives adverse comment by November 21, 2002. 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: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. Randy Terry, 404/562-  
9032.

North Carolina Department of  
Environment and Natural Resources,  
512 North Salisbury Street, Raleigh,  
North Carolina 27604.

Mecklenburg County Department of  
Environmental Protection, 700 North  
Tryon Street, Charlotte, North  
Carolina 28202-2236.

**FOR FURTHER INFORMATION CONTACT:**  
Randy B. Terry at 404/562-9032, or by  
electronic mail at [terry.randy@epa.gov](mailto:terry.randy@epa.gov).  
**SUPPLEMENTARY INFORMATION:**

**I. Background**

On May 25, 2001, the Mecklenburg County Department of Environmental Protection, through the North Carolina Department of Environment and Natural Resources, submitted revisions to the Mecklenburg county LIP. These revisions include definitions, VOC emissions, transportation conformity, and general provisions regulations. A detailed analysis of each of the major revisions submitted is listed below.

**II. Analysis of Mecklenburg County's Submittal***MCAPCO 1.5102 Definition of Terms*

This rule was revised to remove the definition of "irrevocable contract."

*MCAPCO 1.5211 Applicability*

This rule was amended to remove language that prohibited permits for sources listed in paragraph (c), of this regulation, to contain construction and operating conditions which allow minor equipment and product additions/substitutions and/or minor increases in emissions of certain air pollutants.

*MCAPCO 2.0518 Miscellaneous Volatile Organic Compounds Emissions*

This rule has been amended to add language that explains facilities do not need to comply with the requirements of paragraph (d) of this regulation if they comply with MCAPCO regulation 2.0958. This amendments make it the facilities responsibility to notify MCDEP prior to choosing compliance with MCAPCO 2.0958 and to modify the permit to construct and operate issued in accordance with MCAPCO Section 1.5200.

The following rules from the North Carolina SIP are being adopted in full by reference into the Mecklenburg county LIP.

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- .0523 Control of Conical Incinerators (MCAPCO 2.0523)
- .0610 Delegation Federal Monitoring Requirements (MCAPCO 2.0610)
- .0902 Applicability (MCAPCO 2.0902)
- .0951 Miscellaneous Volatile Organic Compounds Emissions (MCAPCO 2.0951)
- .0958 Work Practices for Sources of Volatile Organic Compounds (MCAPCO 2.0958)

The following rule was repealed previously in the North Carolina SIP and is now being repealed in the Mecklenburg LIP.

.0950 Interim Standards for Certain Source Categories (MCAPCO 2.0950)

**III. Final Action**

EPA is approving the aforementioned changes to the SIP because the revisions are consistent with Clean Air Act and EPA regulatory 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 December 23, 2002 without further notice unless the Agency receives adverse comments by November 21, 2002.

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 December 23, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**IV. 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 (Public Law 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 December 23, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 14, 2002.

**A. Stanley Meiburg,**  
Acting Regional Administrator, Region 4.

**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 II—North Carolina**

2. Section 52.1770(c) is amended by adding a new table 3 to read as follows:

**§ 52.1770 Identification of plan.**

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

TABLE 3.—EPA APPROVED MECKLENBURG COUNTY REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
<b>Article 1.000 Permitting Provisions For Air Pollution Sources, Rules and Operating Regulations For Acid Rain Sources, Title V and Toxic Air Pollutants</b>				
<b>Section 1.5100 General Provisions and Administrations</b>				
1.5102	Definition of Terms	11/21/00	10/22/02, [FR cite]	
<b>Section 1.5200 Air Quality Permits</b>				
1.5211	Applicability	11/21/00	10/22/02, [FR cite]	
<b>Article 2.0000 Air Pollution Control Regulations and Procedures</b>				
<b>Section 2.0500 Emission Control Standards</b>				
2.0518	Miscellaneous Volatile Organic Compounds Emissions.	11/21/00	10/22/02, [FR cite]	
2.0523	Control of Conical Incinerators	11/21/00	10/22/02, [FR cite]	
<b>Section 2.0600 Air Pollutants: Monitoring: Reporting</b>				
2.0610	Delegation Federal Monitoring Requirements	11/21/00	10/22/02, [FR cite]	
<b>Section 2.0900 Volatile Organic Compounds</b>				
2.0902	Applicability	11/21/00	10/22/02, [FR cite]	
2.0950	Interim Standards for Certain Source Categories	11/21/00	10/22/02, [FR cite]	

TABLE 3.—EPA APPROVED MECKLENBURG COUNTY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
2.0951 .....	Miscellaneous Volatile Organic Compounds Emissions.	11/21/00	10/22/02, [FR cite] .....	
2.0958 .....	Work Practices for Sources of Volatile Organic Compounds.	11/21/00	10/22/02, [FR cite] .....	

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