

percent of all exposed workers (58 FR 15583). The targeted glycol ethers also had been discontinued in construction paints and were being replaced in surface coatings, printing inks, and in the semiconductor industry (Exs. 28, 48, 11–18, 19–B). (More recent public information confirms this downward trend in the production and use of these glycol ethers. Environmental Protection Agency Toxic Release Inventory, <http://www.epa.gov/opptintr/tri>.)

OSHA has decided to re-open the rulemaking record, which is now 9½ years old, to seek up-to-date information about the extent to which 2–ME, 2–EE, 2–MEA and 2–EEA are currently used. OSHA requests comments and data from interested persons about whether the four glycol ethers are still in use, including information about the level of production, the industries and processes in which they are still used, and employee exposure levels.

OSHA also requests information on substitutes for these glycol ethers that are currently used, including information on the volume of usage, levels of employee exposure to the substitutes, and toxicity of the substitutes. As noted in the proposal, the four glycol ethers have been shown to be potent reproductive and developmental toxins. The Agency is interested in information related to the types of risks that any substitutes may pose to workers. OSHA will use the information gathered during this re-opening to make determinations about how to proceed with the Glycol Ethers rulemaking.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655), 29 CFR 1911.18, and Secretary's Order 3–2000.

Signed at Washington, DC, this 2nd day of August, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–20001 Filed 8–7–02; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL–7256–9]

Amendment to State Implementation Plan (SIP) Procedural Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to amend its procedural regulations regarding State Implementation Plans under the Clean Air Act (CAA) to clarify that such plans, when approved by EPA, are fully enforceable and binding upon all entities affected by the plans, and that any interpretations of relevant law or application of law to specific facts contained in EPA's rulemaking action on such plans shall have full force and effect of law as precedent for any future EPA rulemaking action on similar plans. Further, EPA proposes to clarify that the agency will apply the CAA and implementing regulations in like manner to like situations, and will explain any deviations from past practice based upon factual differences in different areas or developing interpretations of applicable law in future plan approval or disapproval actions, through notice-and-comment rulemaking.

DATES: Comments must be received on or before September 9, 2002.

ADDRESSES: All comments should be submitted to Docket #A–2002–10, Office of Air and Radiation Docket and Information Center, 1200 Pennsylvania Avenue, NW., Mail Code 6102, Washington, DC 20460, phone number (202) 260–7548. The normal business hours are 7:30 a.m. to 5:30 p.m. Comments can either be submitted to the address above, by fax (202) 260–4400, or by e-mail to *A-and-R-Docket@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Denise M. Gerth, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C–539–02, Research Triangle Park, NC 27711, phone number (919) 541–5550 or by e-mail at: *gerth.denise@epa.gov*.

SUPPLEMENTARY INFORMATION: States adopt SIPs under section 110 of the CAA providing for implementation of national ambient air quality standards (NAAQS) within their boundaries. Such SIPs are subsequently approved or disapproved by EPA pursuant to notice-and-comment rulemaking under the

Administrative Procedure Act. *Buckeye Power, Inc. v. EPA*, 481 F.2d 162 (6th Cir. 1973). Under clearly established case law, once approved by EPA, these SIPs have full force and effect of law and are fully enforceable and binding upon all entities affected by the plans. *Union Electric Co. v. EPA*, 515 F.2d, 206 (8th Cir. 1975).

For a number of years, EPA had included certain language in the preambles to its rulemaking actions approving or disapproving submitted SIPs indicating that “[n]othing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. U.S. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.” (58 FR 48312, September 15, 1993). By this language, EPA had intended to convey to States contemplating prospective SIP revisions that EPA's approval or disapproval of any SIP would depend on the specific facts and law applicable to the SIP revision at issue, and that States could not be guaranteed an identical result to that reached in any prior SIP action. The purpose of this language was not to leave the approved SIPs without the force and effect of law as to regulated parties, nor to deprive the rulemaking actions regarding SIP submissions of the precedential effect they necessarily have regarding subsequent EPA rulemaking actions. In fact, although EPA certainly has the ability to adjust its policies and rulings in light of experience and to announce new principles through rulemaking procedures, EPA may not depart from its prior rules of decision to reach a different result in future cases without fully explaining such discrepancies and taking comment on the appropriateness of the resulting action. *Western States Petroleum Association, et al., v. EPA, et al.*, 87 F.3d 280 (9th Cir. 1996).

In a recent decision concerning a SIP revision in Nevada, the Court of Appeals for the Ninth Circuit, while acknowledging that SIPs are enforceable against regulated parties, interpreted the language EPA had included in the SIP warning States that they could not be guaranteed a given result in future SIP revision requests as limiting the binding precedential effect of EPA's action approving the SIP. *Hall v. EPA*, 273 F.3d 1146 (9th Circuit 2001). As noted above, EPA did not intend this result, and further the agency believes that in light of existing law concerning Agency rulemaking, EPA could not impose such a restriction on its actions in any event.

Thus, EPA is proposing to amend its regulations to clarify that all EPA actions on SIPs do have full force and effect of law and binding precedential effect.

Under the proposed rule, all approved SIPs are fully enforceable, and all EPA actions approving or disapproving SIPs have binding precedential effect. Where EPA proposes in any future SIP action to make any deviations from past practice based upon factual differences in different areas or developing interpretations of applicable law, EPA will do so through full notice-and-comment rulemaking in future plan approval or disapproval actions.

Administrative Requirements

A. Office of Management and Budget (OMB) Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. It has been determined that this is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Federalism

This proposed rule does not have federalism implications. It will 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. This proposed rule is procedural in nature. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

C. Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 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 Executive Order 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 rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

D. Consultation and Coordination with Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175; thus the Order does not apply to this rule.

E. Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act

This rule contains no Federal mandates (under the provisions of Title II of the Unfunded Mandates Reform Act) for State, local, or tribal governments or the private sector because this rule imposes no enforceable duty on any State, local or tribal governments or the private sector.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not subject to the RFA, which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice-and-comment under the Administrative Procedures Act (APA) or any other statute. While this action is subject to notice-and-comment under the APA, a RFA is not necessary because this action does not impose any significant impacts on a substantial number of small entities. This rule doesn't impose any obligations on such

entities; it just recognizes the precedential impact of SIP approvals.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Paperwork Reduction Act

Today's action does not establish any new information collection requirements beyond those which are currently required under the Ambient Air Quality Surveillance Regulations in 40 CFR part 58 (OMB #2060-0084, EPA ICR No. 0940.15). Therefore, the requirements of the Paperwork Reduction Act do not apply to today's action.

Dated: August 1, 2002.

Elizabeth Craig,

Acting Assistant Administrator for Air and Radiation.

Part 51, subpart F, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows: 42 U.S.C. 7401-7671q.

§ 51.105 [Amended]

2. Section 51.105 is amended by redesignating the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

(b) All plans, or any portions thereof or revisions thereto, that have been approved by EPA shall be fully enforceable and binding upon all entities affected by the plans or revisions, and any interpretations of relevant law or application of law to

specific facts contained in EPA's rulemaking action approving or disapproving such plans and revisions shall have full force and effect of law as precedent for any future EPA rulemaking action on similar plans and revisions under applicable provisions of the Clean Air Act and EPA's implementing regulations. The EPA shall apply the Act and implementing regulations in like manner to like situations, and will explain any deviations from past practice based upon factual differences in different areas or developing interpretations of applicable law in future SIP approval or disapproval actions through notice-and-comment rulemaking.

[FR Doc. 02-20097 Filed 8-7-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-96; 97-200231(b); FRL-7254-1]

Approval and Promulgation of Implementation Plans: North Carolina: Permitting Rules and Other Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), on April 16, 2001. These revisions include the adoption of rules 15A NCAC 2D .0611 through .0615, the amending of .0501, .0903 and multiple rules within Chapter .0600 Monitoring; Recordkeeping; Reporting, the adoption of rules 15A NCAC 2Q .0316 and .0317 and the amending of rules .0109, .0803 and .0805 through .0808. In the Final Rules Section of this **Federal Register**, the EPA is approving the North Carolina SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant material and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second

comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before September 9, 2002.

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 documents relative to this action 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.

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

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9032. Mr. Terry can also be reached via electronic mail at terry.randy@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: July 10, 2002.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.
[FR Doc. 02-19436 Filed 8-7-02; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 450

[FRL-7257-1]

RIN 2040-AD42

Effluent Limitation Guidelines and New Source Performance Standards for the Construction and Development Category; Public Meetings and Change of Location for Water Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is announcing public information meetings and a change in the location of the Water Docket.

DATES: The public meetings will be held on Thursday, September 5, 2002 and

September 18, 2002. The Water Docket will be closed during August 12 to 26, 2002 and will open at a new location on August 27, 2002. See "Supplementary Information" for detailed information.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, EPA, e-mail strassler.eric@epa.gov or telephone 202-566-1026.

SUPPLEMENTARY INFORMATION: EPA published a proposed rule for the Construction and Development Category on June 24, 2002 (67 FR 42644) and is conducting public meetings. No registration is required for these meetings. Seating will be provided on a first-come, first-served basis.

- Thursday, September 5, 2002. 9 a.m.-noon. Sheraton Atlanta Hotel, 165 Courtland St., Atlanta, GA. Phone 404-659-6500.

- Wednesday, September 18, 2002. 9 a.m.-noon. EPA East Building, Room 1153, 1201 Constitution Avenue, NW., Washington, DC. Please note that parking is very limited in downtown Washington and use of public transit is recommended. The EPA Headquarters complex is located near the Federal Triangle Metro subway station. Upon exiting the Metro station, walk on 12th Street to Constitution Avenue, and turn right to proceed to the EPA East Building entrance.

Meeting Access: If you need special accommodations at these meetings, including wheelchair access, please contact the Eastern Research Group Conference Registration Line at 781-674-7374, at least five business days before the meeting so that appropriate arrangements can be made.

During the meetings, EPA will present information on the applicability of the proposed regulation, the technology options selected as the basis for the proposed limitations and standards, and the compliance costs and pollutant reductions. EPA will also allow time for questions and answers during these sessions. These meetings are not public hearings for the purpose of obtaining comment on the proposal. EPA will not generate a transcript of the meetings. The public may submit written comments by mail or electronically as described in the June 24, 2002 proposal. Instructions for hand delivery of written comments is provided below.

The public record for the proposed rule is available for review in EPA's Water Docket, under Docket No. W-02-06. The Water Docket will close temporarily to prepare for moving to a new location. The closure dates are August 12 to 26, 2002. The new Water Docket address is EPA West Building, Room B135, 1301 Constitution Avenue,