

disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements and impose any new Federal requirements.

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 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 September 23, 1996. 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 to approve Virginia's air quality provisions governing confidentiality of information requirements, as well as to partially approve and partially disapprove Virginia's air quality provisions governing minor new source permitting, 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, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: June 21, 1996.

Stanley L. Laskowski,
Acting Regional Administrator, Region III.

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. 7401-7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(108) and (c)(109) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(108) Revisions to the Virginia Regulations for the Control and Abatement of Air Pollution submitted on March 18, 1993 by the Virginia Department of Air Pollution Control:

(i) Incorporation by reference.

(A) Letter of March 18, 1993 from the Virginia Department of Air Pollution Control transmitting revisions governing confidentiality of information.

(B) Revisions to Virginia regulations sections 120-01-02C. (definition of "confidential information") and 120-02-30 (revisions to paragraphs 30A. and 30B.; addition of paragraphs 120-02-30C. through 30E.), adopted October 30, 1992 and effective February 1, 1993.

(ii) Additional material.

(A) Remainder of the March 18, 1993 State submittal pertaining to both the definition of "confidential information" and the revised provisions to Section 120-02-30.

(109) Revisions to the Virginia Regulations for the Control and Abatement of Air Pollution submitted on March 29, 1993 by the Virginia Department of Air Pollution Control:

(i) Incorporation by reference.

(A) Letter of March 29, 1993 from the Virginia Department of Air Pollution Control transmitting revisions governing confidentiality of information.

(B) The following provisions of the Virginia regulations, adopted October 30, 1992 and effective January 1, 1993.

(1) Revisions to Sections 120-08-01A.; 120-08-01C.4; 120-08-01D.; 120-08-01F. [former SIP Section 120-08-01G.]; 120-08-01G. (except for paragraphs .01G.1, .01G.4.a, and .01G.4.b); 120-08-01H. (except for paragraph .01H.1) [former SIP Section 120-08-01F, except for paragraph .01F.2]; 120-08-01I. (except for paragraph .01I.2) [former SIP Section 120-08-01L., except for paragraph .01L.2]; 120-08-01J. [former SIP Section 120-08-01H.]; 120-08-01K.; 120-08-01L. [former SIP Section 120-08-01J.]; 120-08-01M. [former SIP Section 120-08-01K.]; 120-08-01P. [former SIP Section 120-08-01M.]; Addition of Sections 120-08-01N and 120-08-01O.

(2) Revisions to to following definitions in Section 120-08-01B.: "allowable emissions," "commence," "federally enforceable," "modification," "potential to emit," "secondary emissions" and "stationary source."

(3) Revisions to Appendix R, Sections I (title only), II.A, II.P, II.Q (added), II.R (added), III.A, III.C, III.E, III.G, III.I, III.L, III.T, III.U, IV., V., and VIII.

(ii) Additional material.

(A) Remainder of the March 29, 1993 State submittal pertaining to the revisions to Section 120-08-01 (except for paragraphs .01G.1, .01G.4.a, .01G.4.b, .01H.1, .01I.2, and .01J.2) and Appendix R listed in paragraphs (c)(109)(i)(B) (1) through (3) of this section.

(B) Letter of March 18, 1996 from the Virginia Department of Environmental Quality, Air Division, clarifying the effect of the exemption of wood sawmills from the provisions of Section 120-08-01 (Appendix R, Section II.R).

* * * * *

3. Section 52.2423 is amended by adding paragraphs (o) and (p) to read as follows:

§ 52.2423 Approval status.

* * * * *

(o) EPA approves the revised confidentiality of information provisions of Sections 120-02-30, submitted by the Virginia Department of Air Pollution Control on March 18, 1993, as revisions to the Virginia SIP. However, should Virginia submit a SIP revision request on behalf of a source, which contains information that has been judged confidential under the provisions of Section 120-02-30, Virginia must request EPA to consider confidentiality according to the provisions of 40 CFR part 2. EPA is obligated to keep such information confidential only if the criteria of 40 CFR part 2 are met.

(p) EPA disapproves the revised public participation provisions of Sections 120-08-01G.1 and 120-08-01G.4.b, submitted by the Virginia Department of Air Pollution Control on March 29, 1993, as revisions to the Virginia SIP. These revised provisions do not meet the requirements of 40 CFR 51.160 and 51.161. In its place, EPA retains the SIP provisions of Section 120-08-01C.1.a and 01C.4.b through d. as originally approved at §§ 52.2420(c)(69) [SIP section 2.33(a)(5)(ii)] and subsequently revised, due to format changes, at §§ 52.2420(c)(89)(i)(B)(7) [SIP section 120-08-01C.4.b].

[FR Doc. 96-18645 Filed 7-23-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN-173-9637a; FRL-5538-2]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Source Specific Nitrogen Oxide Permits Into the Tennessee State Implementation Plan**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: In this action, EPA is approving two source specific permits into the Tennessee State Implementation Plan (SIP) submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC) which limit nitrogen oxide (NO_x) emissions for certain engines at the Tenneco Energy Portland facility located in Sumner County, Tennessee. These permits are necessary because NO_x reductions from the Tenneco Energy Portland facility were used in calculating the NO_x emissions projections in the maintenance plan for the Middle Tennessee ozone nonattainment area. EPA is proposing approval of the ozone redesignation request in a separate action.

DATES: This final rule is effective September 23, 1996 unless adverse or critical comments are received by August 23, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN173-01-9637. The Region 4 office may have additional background documents not available at the other locations.

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 Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365, William Denman, 404/347-3555 extension 4208.
Tennessee Department of Environment and Conservation, Division of Air

Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531, 615/532-0554.

FOR FURTHER INFORMATION CONTACT: William Denman 404/347-3555 extension 4208.

SUPPLEMENTARY INFORMATION: On May 31, 1996, Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), submitted to EPA for incorporation into the SIP, two permits which limit nitrogen oxide (NO_x) emissions for certain engines at the Tenneco Energy Portland facility located in Sumner County, Tennessee. The permits contain requirements and emission limits for reciprocating engines and auxiliary generators which are used for the purpose of pumping natural gas.

The first permit (#045022F) was issued to the Midwestern Gas Transmission Company, Compressor Station 2101 which operates 3 Ingersoll Rand KVS-412 (2000 horsepower [hp]), 1 Ingersoll Rand KVT-512 (3000 hp), and 1 Cooper-Bessemer 8V-250 (2700 hp) reciprocating engines at the Portland facility. This operating permit contains a provision which requires clean-burn retrofit to be utilized on Ingersoll-Rand KVS-412 engine 1A and Cooper-Bessemer 8V-250 engine 5A. Engine 1A is required to have an emission rate not exceeding 18.01 grams per hp-hour and engine 5A is required to have an emission rate not exceeding 8.55 grams per hp-hour.

The second permit (#045025F) was issued to Tennessee Gas Pipeline which operates 33 Cooper-Bessemer two-cycle reciprocating engines with a total of 49,700 hp and 7 Ingersoll Rand four-cycle auxiliary generators with a total of 2,704 hp. This permit prohibits engine number three (Cooper-Bessemer 16V-250 rated at 550 hp) from operating without installing a clean-burn retrofit modification and limits the emission rate to not exceed 3.6 grams per hp-hour. Also, this permit requires that parametric controls be used on engines 1 and 2 (Cooper-Bessemer GMWC-10 rated at 3400 hp each) and limits the emission rate of these engines to 37.3 grams per hp-hour.

The NO_x controls and limits in these two permits must be approved into the Tennessee SIP prior to the approval of the Middle Tennessee ozone redesignation request because NO_x reductions from the Tenneco Energy Portland facility were used in calculating the NO_x emissions projections in the maintenance plan for the Middle Tennessee ozone nonattainment area.

These permits, which provide NO_x emission controls, are not being approved as meeting the NO_x Reasonably Available Control Technology (RACT) requirements of the Clean Air Act (CAA) because EPA is granting a NO_x RACT exemption for the Middle Tennessee ozone nonattainment area under 182(f) of the CAA in a separate action. If the Middle Tennessee ozone nonattainment area violates the ozone standard prior to the final approval of the ozone redesignation request, the NO_x RACT exemption will become void and all major NO_x sources located in the nonattainment area will be subject to the federal NO_x RACT requirements of the CAA.

Final Action

The EPA is approving the aforementioned permits into the Tennessee SIP because they are consistent with the CAA and EPA policy. This rule making is being published without a prior proposal for approval because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective September 23, 1996 unless, by August 23, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective September 23, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose any new requirements. Since such sources are already subject to these regulations under State law, no new requirements are imposed by this approval. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: July 2, 1996.

A. Stanley Meiburg,
Acting Regional Administrator.

Part 52 of 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. 7401-7671q.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(142) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(142) Addition of two source specific nitrogen oxide (NOx) permits for certain engines at Tenneco Energy's Portland facility located in Sumner County, Tennessee, submitted by the Tennessee Department of Air Pollution Control (TDAPC) to EPA on May 31, 1996.

(i) Incorporation by reference.

(A) Operating Permit number 045022F, approved on May 31, 1996, except conditions 2, 3, 6, and 7.

(B) Operating Permit number 045025F, approved on May 31, 1996, except conditions 2, 4, and 5.

(ii) Other material. None.

[FR Doc. 96-18646 Filed 7-23-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 271

[FRL-5534-2]

South Dakota: Final/Interim Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule on application of South Dakota for program revision.

SUMMARY: South Dakota has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed South Dakota's application and has reached a decision that South Dakota's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to South Dakota to operate its expanded program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for South Dakota shall be effective at 1:00 p.m. on September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Kris Shurr (8P2-SA), State Assistance Program, 999 18th Street, Ste 500, Denver, Colorado 80202-2466, Phone: 303/312-6139.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes