

Wisconsin. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules set forth at 40 CFR part 93, subpart B. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision. Because EPA considers this action to be noncontroversial and routine, EPA is approving it without prior proposal. This action will become effective on September 27, 1996. However, if EPA receives adverse comments by August 28, 1996, EPA will publish a document that withdraws this action.

V. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The 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.

B. Executive Order 12866

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 has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *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.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic

reasonableness of the State action. The Act 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 (1976).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the 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 the 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 today does not include a Federal mandate that may result in estimated 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure 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 this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

F. 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 September 27, 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 may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Ozone, Volatile organic compounds.

Dated: June 24, 1996.

David A. Ullrich,

Acting Regional Administrator.

40 CFR part 52, 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 YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(92) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(92) On October 18, 1995, the Wisconsin Department of Natural Resources submitted a revision to the State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Wisconsin to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) NR 489, as created and published in the (Wisconsin) Register, September, 1995, number 477, effective October 1, 1995.

[FR Doc. 96-19141 Filed 7-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MI47-01-7250; FRL-5541-1]

Approval and Promulgation to State Implementation Plan; Michigan; 182(f) SIP Revision

AGENCY: Environmental Protection Agency.

ACTION: Technical amendment.

SUMMARY: The Environmental Protection Agency (EPA) is revising the Code of Federal Regulations to acknowledge the fact that on the date that the Detroit-Ann Arbor area was redesignated to attainment for ozone, the NO_x requirements found in the area's maintenance plan would now apply and the NO_x exemption that was granted on March 7, 1995 no longer applies.

DATES: This final rule is effective on August 28, 1996.

ADDRESSES: Copies of the Detroit-Ann Arbor area NO_x exemption request and the Detroit-Ann Arbor redesignation request, public comments and EPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, Telephone Number (312) 353-6960.

SUPPLEMENTARY INFORMATION:

I. Action

On November 12, 1993 the State of Michigan submitted a petition to the U.S. EPA requesting that the Detroit-Ann Arbor ozone nonattainment area be exempted from the requirement to implement NO_x controls pursuant to section 182(f) of the Act. The exemption request was based on monitoring data which demonstrate that the average number of exceedances of the ozone standard in the Detroit-Ann Arbor area during the most recent 3 year period, 1991 through 1993, was fewer than one.

On March 7, 1995, a final rule was published in the Federal Register approving Michigan's request for a NO_x waiver for the Detroit-Ann Arbor area. This final rule stated that on November 12, 1993, the State of Michigan also submitted an ozone redesignation request for the Detroit-Ann Arbor area. Section 107(d)(3)(E) of the Act requires submittal and full approval of a section 175(A) maintenance plan for areas that are redesignating to attainment. This maintenance plan must contain contingency measures that would be implemented if a violation of the ozone standard were to occur. Consequently, if the State's redesignation request is approved, the NO_x requirements found in the maintenance plan for that area would thereafter apply as long as the area continues to be designated attainment for ozone.

On March 7, 1995, EPA approved in final Michigan's request for redesignation to attainment. Because the Detroit-Ann Arbor area was redesignated to attainment, the NO_x waiver no longer applies and was replaced by the NO_x requirements found in the area's maintenance plan.

This document serves to revise the Code of Federal Regulations to acknowledge that on March 7, 1995, the NO_x requirements found in the maintenance plan for Detroit-Ann area became effective and that the NO_x waiver granted to the Detroit-Ann Arbor ozone nonattainment area no longer applies. The NO_x requirements in the area's maintenance plan are applicable as long as the area continues to be designated attainment for ozone.

II. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The 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.

B. Executive Order 12866

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), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *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.

This technical amendment does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the

regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (1976).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the 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 the 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 this action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action serves only as a public notification. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure 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 this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

F. 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 September 27, 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 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, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

Dated: July 2, 1996.

Valdas V. Adamkus,
Regional Administrator.

For the reasons stated in the preamble, 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. 7401–7671q.

Subpart X—Michigan

§ 52.1174 [Amended]

2. Section 52.1174 is amended by removing and reserving paragraph (j).

[FR Doc. 96–19140 Filed 7–26–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TN 119–1–6379a; TN 172–1–9639a; FRL–5539–9]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan Regarding Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee on September 1, 1993, and June 10, 1996. These revisions pertain to the Construction Permit chapter. The purpose of these revisions is to correct certain deficiencies to satisfy the requirements of the Clean Air Act (CAA) concerning Prevention of Significant Deterioration (PSD).

DATES: This final rule is effective September 12, 1996 unless notice is received by August 28, 1996 that someone wishes to submit adverse or

critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the 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 appropriate office at least 24 hours before the visiting day.

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.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On September 1, 1993, and June 10, 1996, the State of Tennessee submitted revisions to chapter 1200–3–9-.01 “Construction Permits” of the Tennessee SIP to correct certain deficiencies to satisfy the requirements of the CAA concerning PSD.

The revisions to chapter 1200–3–9-.01 “Construction Permits” contained in the September 1, 1993, submittal are as follows:

1. Subparagraphs (c), (d), (e), (f), (g), and (h) were added to paragraph (1) “Application for Construction Permit.” These subparagraphs were added to incorporate the requirements of Subpart I—Review of New Sources and Modifications as published in the Code of Federal Regulations (40 CFR part 51) specifically addressing legally enforceable procedures and the public availability of information on permit applications.

2. Paragraph (2) “Definitions” was amended to add definitions for the

terms “Control strategy,” “National ambient air quality standard,” “Best available control technology (BACT),” and “Lowest achievable emission rate (LAER).” These definitions are consistent with requirements of 40 CFR part 51, Subpart I—Review of New Sources and Modifications.

3. Paragraph (4) “Prevention of Significant Air Quality Deterioration” was amended to clarify applicability.

The following definitions were amended:

“Major stationary source”;
“Major modification”;
“Net emission increases”;
“Building, structure, facility, or installation”;
“Pollutant”;
“Baseline area”;
“Baseline date”;
“Baseline concentration”;
“Secondary emissions”;
“Innovative control technology”;
“Fugitive emissions”; and
“Significant”.

The following definitions were added:
“Volatile Organic Compound (VOC)”;
“Dispersion technique”; and
“Good engineering practice (GEP).”

These definitions are consistent with requirements of 40 CFR part 51, Subpart I—Review of New Sources and Modifications. Requirements relating to the control of nitrogen oxides (NO_x) emissions as well as requirements which were necessary to maintain delegation of authority of the PSD programs were added.

The revisions to chapter 1200–3–9-.01 “Construction Permits” contained in the June 10, 1996, submittal are as follows:

1. Subparagraph (f) of paragraph (4) was amended by deleting standards for Total Suspended Particulates (TSP) and replacing them with standards for PM₁₀.

2. Subparagraph (b) of paragraph (2) was amended by adding language to the definition of “Control Strategy” stating that a prohibition of a fuel or fuel additive used in motor vehicles may be implemented if necessary to achieve a primary or secondary air standard.

3. Subparagraph (e) of paragraph (2) was amended by deleting the terms “major” and “or major modifications” from the definition of “Lowest achievable emission rate (LAER).”

4. Part 1. of subparagraph (a) of paragraph (4) was amended by changing the phrase “shall be constructed” to “shall begin actual construction.”

5. Subparagraph (b) of paragraph (4) was amended by adding the definition for “Welfare.”

6. Part 7. of subparagraph (b) of paragraph (4) was amended by adding the phrase “except the activities of any