

Air quality control region and nonattainment area	Pollutant					
	SO ₂		PM10	NO _x	CO	O ₃
	Primary	Second-ary				
AQCR 42: Hartford-New Haven-Springfield Interstate Hartford-New Britain-Middletown Area						
Hartford County (part) See 40 CFR 81.307	a	b	a	a	d	e
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
Middlesex County (part) See 40 CFR 81.307	a	b	a	a	d	e
Tolland County (part) See 40 CFR 81.307	a	b	a	a	d	e
New Haven-Meriden-Waterbury Area						
Fairfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
New Haven County						
All portions except City of New Haven	a	b	a	a	d	e
City of New Haven	a	b	g	a	d	e
AQCR 43: New York-New Jersey-Connecticut Interstate New York-N. New Jersey-Long Island Area						
Fairfield County (part) See 40 CFR 81.307	a	b	a	a	d	f
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	f
AQCR 44: Northwestern Connecticut Interstate						
Hartford County (part)	a	b	a	a	a	e
Hartford Township						
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	a	e
All portions except cities and towns in Hartford, New Haven, and New York Areas						

- a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. November 15, 1995.
d. December 31, 1995.
e. November 15, 1999.
f. November 15, 2007.
g. December 31, 1996 (two 1-year extensions granted).

[FR Doc. 97-7688 Filed 3-25-97; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 52

[NM 22-1-7103a; FRL-5709-6]

Approval and Promulgation of Implementation Plan for New Mexico: General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the New Mexico State Implementation Plan (SIP) that contains regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. Specifically, the general conformity rules enable the New Mexico Environment Department to review conformity of all Federal actions (See 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans) with the control strategy SIPs submitted for the nonattainment and maintenance areas

within the State except for actions within the boundaries of Bernalillo County. This approval action is intended to streamline the conformity process and allow direct consultation among agencies at the local levels. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The EPA will act on the New Mexico transportation conformity SIP under a separate action.

The EPA is approving this SIP revision under sections 110(k) and 176 of the Clean Air Act (the Act). The rationale for the approval and other information are provided in this document.

DATES: This action is effective on May 27, 1997, unless adverse or critical comments concerning this action are submitted and postmarked by April 25, 1997. If the effective date is delayed,

timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State general conformity SIP and other relevant information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 665-7214.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Air Quality Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, NM 87502, telephone: (505) 827-0042.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E., Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross

Avenue, Dallas, TX 75202, telephone (214) 665-7247.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity is defined in section 176(c) of the Clean Air Act, as amended in 1990, as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Act requires EPA to promulgate criteria and procedures for determining conformity of all other Federal actions in the nonattainment or maintenance areas (actions other than those under Title 23 U.S.C. or the Federal Transit Act) to a SIP. The criteria and procedures developed for this purpose are called "general conformity" rules. The rules pertaining to actions under Title 23 U.S.C. or the Federal Transit Act were published in a separate **Federal Register** notice on November 24, 1993. See 58 FR 62188. The EPA published the final general conformity rules on November 30, 1993 (58 FR 63214), and codified them at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the EPA not later than November 30, 1994.

II. Evaluation of State's Submission

In response to the **Federal Register** Action of November 30, 1993, the Governor of New Mexico submitted a SIP revision which included the general conformity rules adopted by the New Mexico Environment Department. The State general conformity rule is applicable to all nonattainment and maintenance areas in the State outside the boundaries of Bernalillo County. Bernalillo County is a "class A" county as defined by the State statute and authorized by the New Mexico Air Quality Control Act to establish its own regulatory requirements for air pollution control within the County. The EPA approved the Albuquerque/Bernalillo County general conformity SIP revision under a separate **Federal Register** action

on September 13, 1996 (61 FR 48407). The following paragraphs present the results of EPA's review and evaluation of the State's general conformity SIP revision.

On November 17, 1994, the Governor of New Mexico submitted a SIP revision in compliance with 40 CFR part 51, subpart W that contains the general conformity rules. The SIP revision was adopted by the New Mexico Environmental Improvement Board on November 10, 1994, after appropriate public participation and interagency consultation. The EPA could not approve this submittal.

Subsequently, the Governor of New Mexico submitted a completely revised SIP revision on July 18, 1996, which removed any inconsistencies and also included a complete recodified set of general conformity regulations. The revised and recodified SIP revision was adopted by the New Mexico Environmental Board on June 14, 1996. Since this 1996 action negates the earlier submittal, the EPA's action today is based on evaluation of the revised SIP submitted on July 18, 1996. The revised SIP revision adopts the Federal general conformity rules verbatim with the exception of limited changes and additional definitions, where necessary, to create consistency with the local processes, procedures, and area specific terms or names. These minor modifications and additional clarifications do not in any way alter the effect, implementation and enforcement of the Federal conformity requirements in the State outside the boundaries of Bernalillo County. The EPA has determined that the State's general conformity rule, as submitted by the Governor on July 18, 1996, meets the Federal requirements and therefore, EPA is approving this SIP revision.

III. Final Action

The EPA is approving a revision to the State of New Mexico SIP which contains general conformity regulations as submitted by the Governor of New Mexico on July 18, 1996. The State general conformity rule is applicable to all nonattainment and maintenance areas in the State outside the boundaries of Bernalillo County. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules in accordance with 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of these rules by the State Environment Department at the local level.

The EPA is publishing this final approval action without advanced notice of proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is simultaneously proposing to approve this SIP revision should adverse or critical comments be filed. This action will be effective May 27, 1997, unless adverse or critical comments concerning this action are submitted and postmarked by April 25, 1997.

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 concerning this action will then be addressed in a subsequent final rule based on this action serving as a 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 on this action, the public is advised that this action will be effective May 27, 1997.

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

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table Three 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 Ms. Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. See 46 FR 8709. Small entities include small businesses, small not-for-profit

enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the 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 impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA from basing 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. section 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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 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 preexisting requirements under State or local law, and imposes no new. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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

the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petition 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 May 27, 1997. Filing a petition for reconsideration of this final rule by the Regional Administrator 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, or postpone the effectiveness of this rule. 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, General conformity, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: March 4, 1997.

Jerry Clifford,

Acting Regional Administrator.

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 GG—New Mexico

2. Section 52.1620 is amended by adding paragraph (c)(65) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(65) A revision to the New Mexico State Implementation Plan: New Mexico Administrative Code Title 20 Chapter 2 Part 98 "Conformity of General Federal Actions to the State Implementation Plan", as adopted on June 14, 1996, by the New Mexico Environmental Board, and filed with the State Records Center on June 19, 1996, was submitted by the Governor on July 18, 1996.

(i) Incorporation by reference.

(A) New Mexico Administrative Code Title 20 Chapter 2 Part 98 "Conformity of General Federal Actions to the State Implementation Plan", as adopted on June 14, 1996, filed with the State

Records Center on June 19, 1996, and effective on August 2, 1996.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, and 178

[Docket No. HM-181H; Amdt. Nos. 172-150, 173-255, 178-117]

RIN 2137-AC80

Performance-Oriented Packaging Standards; Final Transitional Provisions; Revisions and Response to Petitions for Reconsideration

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; editorial revisions and response to petitions for reconsideration.

SUMMARY: On September 26, 1996, RSPA published a final rule which amended the Hazardous Materials Regulations to incorporate a number of changes based on rulemaking petitions from industry, RSPA initiatives and comments received at public meetings, to the classification of certain hazardous materials which are poisonous by inhalation and to provisions for the manufacture, use, and reuse of hazardous materials packagings. The intended effect of the September 26, 1996 rule is to improve safety, reduce compliance costs to offerors and transporters of hazardous materials, make the regulations easier to use and correct errors. This final rule corrects errors in the September 26, 1996 final rule and responds to petitions for reconsideration. This final rule also publishes two letters denying petitions for reconsideration of a provision in the September 26, 1996 final rule.

DATES: The amendments in this final rule are effective March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, telephone (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, Washington DC, 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 1990, RSPA published a final rule [Docket HM-181; 55 FR 52402], which comprehensively revised the HMR with respect to hazard communication, classification, and