

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[SC33-1-9714a; FRL-5840-5]

Approval and Promulgation of State Implementation Plan, South Carolina: Adoption of General Conformity Regulations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: On November 8, 1996, the South Carolina Department of Health and Environmental Control (SCDHEC) submitted revisions to the U.S. Environmental Protection Agency (EPA) concerning the adoption of general conformity rules into the South Carolina State Implementation Plan (SIP). Since general conformity rules are required by Section 176 of the Clean Air Act (CAA) in all nonattainment and maintenance areas, these revisions are being incorporated into the Federally approved South Carolina SIP.

DATES: This final rule is effective August 15, 1997 unless adverse or critical comments are received by July 16, 1997. 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 Mr. Gregory O. Crawford at the EPA Regional Office listed below.

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 the 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 Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303, (404) 562-9042

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, (803) 734-4750.

FOR FURTHER INFORMATION CONTACT:

Gregory O. Crawford, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia, 30303. The telephone number is (404) 562-9042.

SUPPLEMENTARY INFORMATION: On November 6, 1991, EPA designated Cherokee County, South Carolina, as a nonattainment area for the ozone National Ambient Air Quality Standard (NAAQS). Cherokee County was officially redesignated to attainment and classified as a maintenance area on February 16, 1993. In the November 30, 1993, **Federal Register** (58 FR 63214), EPA issued a final rule establishing criteria and procedures for determining conformity of general Federal actions to state or Federal implementation plans. Because Cherokee County is a maintenance area, the general conformity rule is applicable. Before any industrial development requiring approval from a Federal agency can occur, a determination must be reached that such action, when taken, will conform to the South Carolina SIP to maintain the NAAQS for ozone. The State was therefore required to revise their SIP, to include general conformity criteria and procedures that are consistent with those in the Federal rule. On September 27, 1996, SCDHEC formally adopted criteria and procedures for demonstrating and assuring the "Conformity of General Federal Actions to the South Carolina Air Quality Implementation Plan." These regulations were submitted to EPA on November 8, 1996 for adoption into the Federally enforceable state implementation plan.

EPA has evaluated this SIP revision and has determined that the SCDHEC has fully adopted by reference, the provisions of the Federal general conformity rules specified in 40 CFR part 51, subpart W. Therefore, EPA believes that the State has met all applicable requirements, and is approving the SIP revision concerning the adoption of the general conformity regulations.

Final Action

EPA is approving South Carolina's general conformity rule because it meets the Agency's requirements. The EPA is publishing this action without prior proposal 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 August 15, 1997 unless, by July 16, 1997 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 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, the public is advised that this action will be effective August 15, 1997.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements.

Nothing in this action shall be construed as permitting or 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.

I. Administrative Requirements**A. 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 (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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.

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 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. EPA*, 427 U.S. 246, 256–66 1976; 42 U.S.C. 7410(a)(2) and 7410 (k)(3).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rules that include 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, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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 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 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, 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 5 U.S.C. 804(2).

E. Petitions for Judicial 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 August 15, 1997. 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 the 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides.

Dated: May 19, 1997.

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 PP—South Carolina

2. Section 52.2133 is added to read as follows:

§ 52.2133 General conformity.

The General Conformity regulations adopted into the South Carolina State Implementation Plan which were submitted on November 8, 1996. South Carolina incorporated by reference regulations 40 CFR part 51, subpart W—determining conformity of General Federal Actions to State or Federal Implementation Plans.

[FR Doc. 97–15732 Filed 6–13–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 96–52; Notice 2]

RIN 2127–AF86

Federal Motor Vehicle Safety Standards; Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), Transportation.

ACTION: Final rule.

SUMMARY: In this document, NHTSA amends the Federal Motor Vehicle

Safety Standard on motor vehicle controls and displays by removing two tables and certain regulatory text, all of which apply to motor vehicles manufactured before September 1, 1989. The agency makes no other changes to the Standard. This rulemaking action is undertaken as part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative to remove unnecessary regulatory language.

DATES: *Effective date:* This final rule is effective July 31, 1997.

Petitions for reconsideration: Any petitions for reconsideration of this final rule must be received by NHTSA no later than July 31, 1997.

ADDRESSES: Any petition for reconsideration of this final rule should refer to the docket and notice number set forth in the heading and be submitted to: Administrator, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Chris Flanigan, Office of Crash Avoidance Standards, NPS–21. Mr. Flanigan's telephone number is (202) 366–4918 and his FAX number is (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC–20, telephone (202) 366–2992, FAX (202) 366–3820.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive "Regulatory Reinvention Initiative," from the President to the heads of departments and agencies, NHTSA undertook a review of its regulations and directives. During the course of this review, NHTSA identified regulations that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application, or appropriateness. Among these regulations is Federal Motor Vehicle Safety Standard No. 101, Controls and displays (49 CFR 571.101).

Standard No. 101

Standard No. 101 was issued in 1967 (32 FR 2408) as one of the initial Federal Motor Vehicle Safety Standards (FMVSS's). The standard applies to passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses. Its purpose is to assure the accessibility and visibility of motor vehicle controls and displays under daylight and nighttime conditions. The standard is