

(B) Nashville/Davidson County regulation number 14 "Regulation for the Control of Nitrogen Oxides", Section 14-1; Section 14-2 (b); Section 14-4; Section 14-5; adopted on August 10, 1993.

(ii) Other material. None.

[FR Doc. 96-19143 Filed 7-26-96; 8:45 am]

BILLING CODE 6560-50-P

## 40 CFR Part 52

[W167-01-7276a; FRL-5539-1]

### Approval and Promulgation of Implementation Plans; Wisconsin

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a State Implementation Plan (SIP) revision for the State of Wisconsin which was submitted pursuant to the EPA general conformity rules set forth at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Section 51.851(a) of the general conformity rules requires each State to submit to EPA a revision to its applicable SIP which contains criteria and procedures for assessing conformity of Federal actions to applicable SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. Wisconsin's SIP revision incorporates verbatim the criteria and procedures set forth at 40 CFR part 93, subpart B. This general conformity SIP revision will enable the State of Wisconsin to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level.

This approval is limited only to the general conformity SIP revision submitted pursuant to 40 CFR part 51, subpart W. SIP revisions submitted under 40 CFR part 51, subpart T, relating to conformity of Federal transportation actions funded or approved under Title 23 U.S.C. or the Federal Transit Act, will be addressed in a separate document. This action provides the rationale for the proposed approval and other information.

**DATES:** This "direct final" rule is effective September 27, 1996 unless EPA receives adverse or critical comments by August 28, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the SIP revision, public comments and EPA's responses are available for inspection at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Michael Leslie at (312) 353-6680 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260-7548.

**FOR FURTHER INFORMATION CONTACT:** Michael G. Leslie, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353-6680.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 176(c) of the Clean Air Act (Act), 42 U.S.C. 7506(c), provides that no Federal department, agency, or instrumentality shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to a SIP that has been approved or promulgated pursuant to the Act. Conformity is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) 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.

Section 176(c)(4)(A) of the Act requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions to applicable SIPs. Criteria and procedures for determining conformity of Federal actions related to transportation projects funded or approved under Title 23 U.S.C. or the Federal Transit Act are set forth at 40 CFR part 51, subpart T. The criteria and procedures for determining conformity of other Federal actions, the "general

conformity" rules, were published in the November 30, 1993, Federal Register and codified 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 the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the Act the Wisconsin Department of Natural Resources (WDNR) submitted a supplement to its November 30, 1994 general conformity SIP revision to the EPA on October 18, 1995. In its submittal, the State provided ch. NR 489, Wis. Adm. Code which adopts the EPA general conformity rule (40 CFR part 93, subpart B) verbatim. For the time period between the original submittal and the supplemental submittal, the State of Wisconsin was required to comply with 40 CFR part 93, subpart B.

General conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The State of Wisconsin currently has 11 counties designated ozone nonattainment: Door, Keewaunee, Manitowoc, Sheboygan, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha. The cities of Green Bay, Madison, and Milwaukee are sulfur dioxide (SO<sub>2</sub>) maintenance areas. Four other areas: Rhinelander, Rib Mountain, Rothchild, and Weston are SO<sub>2</sub> nonattainment areas.

The WDNR held a public hearing on the general conformity submittal on March 29, 1995. No substantive comments were made during the public comment period and therefore, no modifications were made to the final adopted rule.

##### III. EPA Criteria on Submittal

The State's SIP revision must contain criteria and procedures that are no less stringent than the Federal rule. The revision incorporated the provisions of the following sections of 40 CFR part 93, subpart B in essentially verbatim form: Sections 93.150, 93.152, 93.153, 93.154, 93.155, 93.156, 93.157, 93.158, 93.159, 93.160. These sections represent the Federal rule in total. Therefore the ch. NR 489, Wis. Adm. Code meets the above requirement.

##### IV. EPA Action

The EPA is approving the general conformity SIP revision for the State of

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.

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#### 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.