

e. Unfunded Mandates Act

This rulemaking does not impose an enforceable duty among the private sector and therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Navigation (water), Transportation.

For the reasons set out in the preamble, 33 CFR Part 334 is amended as follows:

PART 334—DANGER ZONE AND RESTRICTED REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.420 is amended by revising the first sentence of paragraph (a)(2), removing paragraph (b)(1)(ii), redesignating paragraphs (b)(1)(iii), (iv) and (v) as (b)(1)(ii), (iii) and (iv), respectively, and revising paragraph (b)(2) to read as follows:

§ 334.420 Pamlico Sound and adjacent waters, N.C.; danger zones for Marine Corps operations.

(a) * * *

(2) *The regulations.* The area shall be closed to navigation and personnel at all times except for vessels engaged in operational and maintenance work as directed by the enforcing agency. * * *

(b) *Bombing, rocket firing, and strafing areas in Pamlico Sound and Neuse River—(1) The areas.* * * *

(2) *The regulations.* (i) The area described in paragraph (b)(1) of this section will be used as bombing, rocket firing, and strafing areas. Live and dummy ammunition will be used. The area shall be closed to navigation and all persons at all times except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The area will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the area. Vessels or personnel which have inadvertently entered the danger zone shall leave the area immediately upon being so warned.

(ii) The areas described in paragraphs (b)(1)(ii), (iii) and (iv) of this section shall be used for bombing, rocket firing, and strafing areas. Practice and dummy ammunition will be used. All operations will be conducted during daylight hours, and the areas will be open to

navigation at night. No vessel or person shall enter these areas during the hours of daylight without special permission from the enforcing agency. The areas will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the areas. Vessels or personnel which have inadvertently entered the danger zones shall leave the area immediately upon being warned.

* * * * *

3. Section 334.760 is amended by revising paragraph (b)(1) to read as follows:

§ 334.760 Alligator Bayou, a tributary of St. Andrew Bay, Fla.; restricted area.

* * * * *

(b) *The regulations.* (1) No vessel or person shall enter the area or navigate therein without permission of the Commanding Officer, Naval Ship Research and Development Laboratory, Panama City, Fla., or her/his authorized representative.

* * * * *

4. Section 334.1110 is amended by revising the heading for paragraph (a); revising the paragraph (a)(1) designation and heading; and redesignating paragraph (a)(2) as (b), and revising it to read as follows:

§ 334.1110 Suisun Bay at Naval Weapons Station, Concord; restricted area.

(a) *The area.* * * *

(b) *The regulations.* (1) No person, vessel, watercraft, conveyance or device shall enter or cause to enter or remain in this area. No person shall refuse or fail to remove any person or property in his custody or under his control from this area upon the request of the Commanding Officer of the Naval Weapons Station Concord or his/her authorized representative.

(2) The regulations in this section shall be enforced by the Commanding Officer, Naval Weapons Station Concord, and such agencies as he/she shall designate.

Dated: August 2, 1996.

Stanley G. Genega,

Major General, U.S. Army, Director of Civil Works.

[FR Doc. 96-21841 Filed 8-26-96; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[W167-01-7276; FRL-5550-6]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 10, 1996, the Environmental Protection Agency (EPA) proposed approval of a Wisconsin State Implementation Plan (SIP) revision. The purpose of the revision was to meet the requirements of the EPA transportation conformity rule set forth at 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. Conformity is the process, defined in the Clean Air Act, used to assure that transportation planning activities meet 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. The proposed approval was subject to a 30 day public comment period during which no comments were received.

EFFECTIVE DATE: This final rule will be effective on September 26, 1996.

ADDRESSES: Copies of the SIP revision 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 which has been approved or promulgated pursuant to the Act. Conformity is defined 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.

Section 176(c)(4)(A) of the Act requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions (transportation and general) to applicable SIPs. The EPA published the final transportation conformity rules in the November 24, 1993, Federal Register and codified them at 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 conformity rules require States and local agencies to adopt and submit to the EPA a transportation conformity SIP revision not later than November 24, 1994. The State of Wisconsin submitted a SIP revision to EPA on November 23, 1994, and supplemented this submittal on June 14, 1995.

II. EPA Action

The EPA is approving the transportation conformity SIP revision for the State of Wisconsin. The EPA has previously evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal transportation conformity rules in accordance with 40 CFR part 51, subpart T. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision.

III. 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 Clean Air 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, the Administrator certifies 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 Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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 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, 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 October 28, 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, Hydrocarbons, Intergovernmental relations, Ozone, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Dated: July 24, 1996.

Barry C. Degraff,
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 52.2585 is amended by adding paragraph (j) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(j) Approval—On June 14, 1995, the Wisconsin Department of Natural Resources submitted a revision to the ozone State Implementation Plan. The submittal pertained to a plan for the implementation and enforcement of the Federal transportation conformity requirements at the State or local level in accordance with 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.

[FR Doc. 96-21696 Filed 8-26-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN-176-1-9641a; TN-177-1-9642a; FRL-5547-1]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee SIP Regarding Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is acting on revisions to the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), to amend the Tennessee chapter regulating volatile organic compounds (VOC). The revisions amending the TDAPC's VOC chapter were submitted on June 3, 1996, and June 4, 1996, and add rules which regulate surface coating of plastic parts operations, commercial and motor vehicle and mobile equipment refinishing operations, and volatile organic liquid storage tanks. Additionally, the State submitted revisions to the existing definition for exempt VOCs and to the existing chapter regulating handling, storage, use and disposal of volatile organic compounds. These revisions provide emission reductions for maintenance of the ozone standard in the Nashville ozone nonattainment area.

DATES: This final rule is effective October 11, 1996, unless adverse or critical comments are received by September 26, 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 files TN-176-1-9641a and TN-177-1-9642a. 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, 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 4208. Reference files TN-176-1-9641a and TN-177-1-9642a.

SUPPLEMENTARY INFORMATION: On June 3, 1996, the Tennessee Department of Air Pollution Control (TDAPC) submitted a request to the EPA to incorporate revisions to section 1200-3-18-.01 "Definitions" into the Tennessee SIP. Paragraph 26 of this rule contains the definition of exempt compounds and was revised to correct typographical errors and add the recently exempted compounds acetone, parachlorobenzotrifluoride (PCBTF), and cyclic, branched or linear completely methylated siloxanes (VMS). Paragraph 87 of this rule contains the definition of volatile organic compounds and was also revised as described above.

On June 4, 1996, the TDAPC submitted a new rule 1200-3-18-.06 "Handling, Storage, Use, and Disposal of Volatile Organic Compounds (VOCs)" to replace the current rule 1200-3-18-.06. The new rule was expanded to

cover the use of VOCs as well as handling, storage and disposal.

On June 3, 1996, the TDAPC submitted three new VOC rules; 1200-3-18-.44 "Surface Coating of Plastic Parts", 1200-3-18-.45 "Standards of Performance for Commercial Motor Vehicle and Mobile Equipment Refinishing Operations", and 1200-3-18-.48 "Volatile Organic Liquid Storage Tanks". Rules 1200-3-18-.44 and 1200-3-18-.45 were submitted to obtain VOC reductions for which credit was taken in the ozone redesignation maintenance plan for the Nashville ozone nonattainment area. Rule 1200-3-18-.44 "Surface Coating of Plastic Parts" applies to sources with potential emissions greater than 25 tons per year (tpy) in the Nashville ozone nonattainment area. Rule 1200-3-18-.45 "Standards of Performance for Commercial Motor Vehicle and Mobile Equipment Refinishing Operations" applies to sources whose potential emissions are greater than 15 pounds per day. Rule 1200-3-18-.48 "Volatile Organic Liquid Storage Tanks" applies to sources with potential emissions greater than 100 tpy.

Final Action

The EPA is approving these revisions to the Tennessee SIP as measures for maintenance of the ozone standard in the Nashville nonattainment area. This rulemaking 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 October 11, 1996, unless, by September 26, 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 [Insert date 45 days from date of publication].

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