

provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since August 25, 1997, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the August 25, 1997, **Federal Register** should be penalized if they were complying with the rule as promulgated.

## II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the August 25, 1997, **Federal Register** document.

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

will submit 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; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 10, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought within 60 days of publication of the amendment.

Dated: January 30, 1998.

**Carol Browner,**  
*Administrator.*

[FR Doc. 98-3015 Filed 2-9-98; 8:45 am]

BILLING CODE 6560-50-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MI56-01-7264a; FRL-5961-8]

### Approval and Promulgation of State Implementation Plan; Michigan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** On May 16, 1996, and September 23, 1997, the Michigan Department of Environmental Quality (MDEQ) submitted a revision to the Michigan State Implementation Plan (SIP) that included Part 55 of Act 451 of 1994, the Natural Resources and Environmental Protection Act (Part 55). Part 55 is a recodification of the Air Pollution Control Act, 1965 Public Act 348. On December 30, 1997, MDEQ withdrew most of Part 55. In this action, the United States Environmental Protection Agency (USEPA) is approving sections 324.5524 and 324.5525 which contain control requirements and applicable definitions for fugitive dust sources.

In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related

proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference.

**DATES:** The "direct final" is effective on April 13, 1998, unless USEPA receives adverse or critical comments by March 12, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and USEPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:** On May 16, 1996, the Michigan Department of Environmental Quality (MDEQ) submitted a revision to the Michigan State Implementation Plan for New Source Review (NSR). Included in this submittal was Part 55 of Act 451 of 1994, the Natural Resources and Environmental Protection Act (Part 55), which recodifies the Air Pollution Control Act, 1965 Public Act 348. Part 55 in the May 16, 1996 submittal was incomplete in that the copy submitted had only the odd pages. On September 23, 1997, the State supplemented its original submittal with a complete copy of Part 55. On December 30, 1997, MDEQ withdrew all of Part 55 except for sections 324.5505, 324.5510, 324.5511, 324.5524 and 324.5525 and reaffirmed that Part 55 replaces the Air Pollution Control Act, 1965 Public Act 348, as the enabling legislation for Michigan's air pollution control program. This action only addresses those sections 324.5524 and 324.5525. Sections 324.5505, 324.5510 and 324.5511 pertain to New Source Review (NSR) and will be addressed when

USEPA takes action on the State's NSR SIP.

Sections 324.5524 and 324.5525 contain control requirements and applicable definitions for fugitive dust sources. These control requirements and definitions are very similar to those included in rules approved by USEPA in the State's particulate matter SIP. These sections are acceptable and USEPA is approving sections 324.5524 and 324.5525 for incorporation into the SIP.

Because the USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 13, 1998. However, if we receive adverse comments by March 12, 1998, USEPA will publish a document that withdraws this action.

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

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.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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 USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. USEPA*, 427 U.S. 246, 256-66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the USEPA 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 USEPA 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 USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA 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 into the SIP requirements already existing 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.

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

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 April 13, 1998. 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, Incorporation by reference, Intergovernmental relations, Ozone,

Reporting and recordkeeping requirements.

Dated: January 12, 1998.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

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 *et seq.*

#### Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(110) to read as follows:

#### § 52.1170 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(110) A revision to Michigan's State Implementation Plan (SIP), containing part of Michigan's Natural Resources and Environmental Protection Act, was submitted by the Michigan Department of Environmental Quality (MDEQ) on May 16, 1996, and supplemented on September 23, 1997. On December 30, 1997, MDEQ withdrew much of the original submittal. The revision incorporated below contains control requirements and applicable definitions for fugitive dust sources.

(i) Incorporation by reference. The following sections of Part 55 of Act 451 of 1994, the Natural Resources and Environmental Protection Act are incorporated by reference.

(A) 324.5524 Fugitive dust sources or emissions, effective March 30, 1995.

(B) 324.5525 Definitions, effective March 30, 1995.

[FR Doc. 98-3177 Filed 2-9-98; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[TX35-1-6168; FRL-5962-3]

#### Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas; Disapproval of Revisions to the State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking final action on disapproval of SIP revisions Texas submitted for Regulation IV, 30 TAC Chapter 114, sections 114.1 "Maintenance and Operation of Air Pollution Control Systems or Devices