

(k)(5) may be exempt from the following subsections (c)(3); (d)(1) through (d)(5); (e)(1); (e)(4)(G), (H), and (I); and (f).

(3) *Authority.* 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5).

(4) *Reasons.* From subsection (c)(3) because giving the individual access to the disclosure accounting could alert the subject of an investigation to the existence and nature of the investigation and reveal investigative or prosecutive interest by other agencies, particularly in a joint-investigation situation. This would seriously impede or compromise the investigation and case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate with the investigators; lead to suppression, alteration, fabrication, or destruction of evidence; and endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families.

From subsection (d) because the application of these provisions could impede or compromise an investigation or prosecution if the subject of an investigation had access to the records or were able to use such rules to learn of the existence of an investigation before it would be completed. In addition, the mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony.

From subsection (e)(1) because during an investigation it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation. In addition, during the course of an investigation, the investigator may obtain information that related primarily to matters under the investigative jurisdiction of another agency, and that information may not be reasonably segregated. In the interest of effective law enforcement, DIS investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

From subsections (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) because this system is exempt from subsection (d) of the Act, concerning access to records. These requirements are inapplicable to the extent that these records will be exempt from these subsections. However, DIS has published information concerning its notification and access procedures, and the records source categories because under certain circumstances, DIS could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

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Dated: January 29, 1996.

Patricia L. Toppings,
*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*
[FR Doc. 96-2256 Filed 2-1-96; 8:45 am]
BILLING CODE 5000-04-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI41-1-6999a; FRL-5407-5]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: This document approves a State Implementation Plan (SIP) revision for the State of Michigan which was submitted pursuant to the USEPA general conformity rules set forth at 40 ozone maintenance 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 USEPA 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. Michigan'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 Michigan to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level.

This document of 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 document provides the rationale for the proposed approval and other information.

DATES: This "direct final" rule is effective April 2, 1996 unless USEPA receives adverse or critical comments by March 4, 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 USEPA'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 (AT-18J), Air Toxics and Radiation 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 (CAA), 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 CAA. Conformity is defined in section 176(c) of the CAA 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 CAA requires USEPA 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 USEPA 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 CAA the Michigan Department of Natural Resources (MDNR) submitted a SIP revision to the USEPA on November 29, 1994. The USEPA found this submittal to be complete on April 13, 1995. In its submittal, the State adopted the USEPA general conformity rule (40 CFR part 93, subpart B) verbatim.

General conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The State of Michigan currently has 25 areas designated ozone nonattainment, and one ozone maintenance area. The areas for which conformity determinations are required and which are included as part of this submittal include the following nonurbanized counties: Allegan, Barry, Branch, Cass, Gratiot, Hillsdale, Huron, Ionia, Lenawee, Lapeer, Montcalm, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren. Urbanized areas include: Battle Creek Metropolitan Statistical Area (MSA) (Calhoun County), Benton Harbor MSA (Berrien County), Detroit-Ann Arbor Consolidated MSA area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties which are ozone maintenance), Flint MSA (Genesee County), Grand Rapids MSA (Kent and Ottawa Counties), Jackson MSA (Jackson County), Kalamazoo MSA (Kalamazoo County), Lansing-East

Lansing MSA (Clinton, Eaton, and Ingham Counties), Muskegon MSA (Muskegon County), and Saginaw-Bay City-Midland MSA (Bay, Midland, and Saginaw Counties). Portions of three counties (Wayne, Oakland, and Macomb) are designated carbon monoxide nonattainment. A portion of Wayne county is nonattainment for Particulate Matter-10. The State of Michigan is currently attaining the NAAQS for Nitrogen Dioxide and Sulfur Dioxide, and has not been designated nonattainment for lead.

The MDNR held a public hearing on the transportation conformity submittal on November 16, 1994. One comment was received by MDNR during the public comment period and that comment was addressed in the submittal.

III. USEPA Criteria on Submittal

The revision incorporated the provisions of the following sections of 40 CFR part 93, subpart B in verbatim form: §§ 93.150, 93.151, 93.152, 93.153, 93.154, 93.155, 93.156, 93.157, 93.158, 93.159, 93.160.

The MDNR, after consulting with the Michigan Attorney General, correctly concluded that this SIP revision will be enforceable pursuant to Michigan statutory law. Section 336.15 of the Michigan Compiled Laws (MCL), MSA § 14.58(5) (1965 Mich. Pub. Acts 348), authorizes MDNR: to promulgate rules to establish standards for ambient air quality and for emissions (including SIPs); to institute a civil action to compel compliance with such rules; to cooperate with USEPA with respect to the control of air pollution; and to take other actions necessary to enforce such rules. Section 336.26d of MCL, MSA § 14.58(16d) (1965 Mich. Pub. Acts 348), provides for the assessment of penalties by MDNR for SIP violations and Section 336.26e of MCL, MSA § 14.58(16e) (1965 Mich. Pub. Acts 348), authorizes the attorney general to seek both penalties and injunctive relief for such violations.

Additional enforcement authority is found in MCL § 691.1202, MSA § 14.528(202) (1970 PA 127), which authorizes the attorney general, any political subdivision of the State, any instrumentality or agency of the State, or any person or legal entity to bring a civil action for declaratory and equitable relief for the protection of the air from pollution, impairment or destruction. In determining whether a violation has occurred or is likely to occur, the court may adopt standards set forth in a SIP or may adopt another standard.

IV. USEPA Action

The USEPA is approving the general conformity SIP revision for the State of Michigan. The USEPA 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 USEPA considers this action to be noncontroversial and routine, USEPA is approving it without prior proposal. This action will become effective on April 2, 1996. However, if USEPA receives adverse comments by March 4, 1996, USEPA will publish a document that withdraws this action.

IV. 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 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.

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.*, 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.E.P.A.*, 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 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.

D. 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 April 2, 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 CAA).

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: December 13, 1995.
Gail Ginsberg,
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 X—Michigan

2. Section 52.1173 is amended by adding paragraph (e) to read as follows:

§ 52.1173 Control strategy: Particulates.

* * * * *

(e) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the particulate State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan 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.

3. Section 52.1174 is amended by adding paragraph (n) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(n) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the ozone State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan 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.

4. Section 52.1185 is added to read as follows:

§ 52.1185 Control strategy: Carbon Monoxide.

(a) Approval—On November 29, 1994, the Michigan Department of Natural Resources submitted a revision to the carbon monoxide State Implementation Plan for general conformity rules. The general conformity SIP revisions enable the State of Michigan 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.

(b) Reserved.

[FR Doc. 96-1850 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[GA-28-1-6955a; GA-30-1-7009a; FRL-5318-3]

Approval and Promulgation of Implementation Plans; State: Georgia; Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves revisions to the Georgia State Implementation Plan (SIP) submitted by the Georgia Department of Natural Resources, Environmental Protection Division (GA EPD) on June 24 and November 15, 1994, for the purpose of realphabetizing and updating definitions, updating volatile organic compounds (VOCs) reasonably available control technology (RACT) rules, stationary source monitoring and testing procedures, and regulations for the prevention of significant deterioration of air quality (PSD). The SIP revisions are consistent with requirements of the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective April 2, 1996, unless adverse or critical comments are received by March 4, 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 Laura Thielking 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 Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.
Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural