

year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA. The North Carolina submittal waives the emission statement requirement for sources with less than 25 tons per year combined of actual plant-wide NO_x and VOC emissions and has included calculations of these emissions in their 1990 Base Year Emission Inventory.

Final Action

In this action, EPA is approving the Emission Statement SIP revision submitted by the State of North Carolina through the NCDEHNR on August 15, 1994. 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 July 5, 1995 unless, by June 5, 1995, 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 If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action.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 July 5, 1995.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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, 42 U.S.C. 7607 (b)(2).)

The OMB has exempted this action from review under Executive Order 12866.

Nothing in this action shall be construed as permitting, 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.

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 economic 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 small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory 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. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Emission statements, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Oxides of nitrogen, Reporting and recordkeeping requirements, SIP requirements, Volatile organic compounds.

Dated: March 28, 1995.

Patrick M. Tobin,

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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(73) to read as follows:

§ 52.1770 Identification of plan.

* * * * *
(c) * * *

(73) Revisions to the State of North Carolina State Implementation Plan (SIP) concerning emission statements were submitted on August 15, 1994, by the North Carolina Department of Environment, Health and Natural Resources.

(i) Incorporation by reference. Revisions to North Carolina Regulation 15A NCAC 2Q .0207, effective July 1, 1994.

(ii) Other material. None.

[FR Doc. 95-10823 Filed 5-4-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WI45-01-6501; FRL-5203-1]

Approval of the State Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On January 10, 1995, the United States Environmental Protection Agency (USEPA) proposed approval of the State Implementation Plan (SIP) revision request for the Milwaukee ozone nonattainment area (Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties), as submitted by the State of Wisconsin. The purpose of the revision is to offset any growth in emissions from growth in vehicle miles traveled (VMT), or number of vehicle trips, and to attain reduction in motor vehicle emissions, in combination with other measures, as needed to comply with Reasonable Further Progress (RFP) milestones of the Clean Air Act (Act). Wisconsin submitted the implementation plan revision to satisfy the statutory mandates, found in section 182 of the Act, which requires the State to submit a SIP revision that identifies and adopts specific enforceable Transportation Control Measures (TCM) to offset any growth in emissions from growth in VMT, or number of vehicle trips, in severe ozone nonattainment areas. The USEPA received no public comments on the above proposed approval. This rule finalizes the approval of the first element of the VMT offset program for the Milwaukee area.

EFFECTIVE DATE: This action will be effective June 5, 1995.

ADDRESSES: Copies of the SIP revision, public comments and USEPA's responses are available for inspection at the following address: (It is recommended that you telephone Michael Leslie at (312) 353-6680 before visiting the Region 5 Office.) United

States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

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 Information

Section 182(d)(1)(A) of the Act requires States that contain severe ozone nonattainment areas to adopt transportation control measures and transportation control strategies to offset growth in emissions from growth in VMT or number of vehicle trips and to attain reductions in motor vehicle emissions (in combination with other measures) as needed to comply with the Act's RFP milestones and attainment requirements. The requirements for establishing a VMT Offset program are set forth in 182(d)(1)(A) and discussed in the General Preamble to Title I of the Act (57 FR 13498 April 16, 1992).

As described in the proposal, section 182(d)(1)(A) sets forth three elements that must be met by a VMT Offset SIP. Under USEPA's alternative interpretation, the three required elements of section 182(d)(1)(A) are separable, and can be divided into three separate submissions that could be submitted on different dates. Section 179(a) of the Act, in establishing how USEPA would be required to apply mandatory sanctions if a State fails to submit a full SIP, also provides that the sanctions clock starts if a State fails to submit one or more SIP elements, as determined by the Administrator. The USEPA believes that this language provides USEPA the authority to determine that the different elements of the SIP submissions are separable. Moreover, given the continued timing problems addressed above, USEPA believes it is appropriate to allow States to separate the VMT Offset SIP into three elements, each to be submitted at different times: (1) The initial requirement to submit TCMs that offset growth in emissions; (2) the requirement

to comply with the 15 percent periodic reduction requirement of the Act; and (3) the requirement to comply with the post-1996 periodic reduction and attainment requirements of the Act.

II. Final Rulemaking Action

In this action, USEPA is approving the first element of the VMT offset SIP revision submitted by the State of Wisconsin. As noted in the January 10, 1995, proposal, the USEPA will not take final action on the second element until the State has submitted a complete 15 percent ROP plan. The third element of the Wisconsin VMT offset SIP will also be the subject of a future rulemaking.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 economic 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.

The SIP approvals under section 110 and subchapter I, part D, of the 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, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds.

Union Electric Co. v. USEPA, 427 U.S. 246, 256-66 (1976).

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 July 5, 1995. 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, Ozone.

Dated: April 20, 1995.

Valdas V. Adamkus,

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 (g) to read as follows:

§ 52.2585 Control strategy: Ozone.

* * * * *

(g) Approval—On November 15, 1993, the Wisconsin Department of Natural Resources submitted a revision to the ozone State Implementation Plan. The submittal pertained to a plan for forecasting VMT in the severe ozone nonattainment area of southeastern Wisconsin and demonstrated that Transportation Control Measures would not be necessary to offset growth in emissions.

[FR Doc. 95-11046 Filed 5-4-95; 8:45 am]

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40 CFR Part 52

[WA 32-1-6894a; FRL-5192-1]

Approval and Promulgation of State Implementation Plan: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State of Washington's contingency measure plan as a revision to Washington's State Implementation Plan (SIP) for carbon