

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 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 any small entities affected. 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).

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If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action.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 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 July 5, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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 the SIP shall be considered separately 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 2 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 OMB has exempted this regulatory action from E.O. 12866 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 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), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: April 7, 1995.

Chuck Clarke,
Regional Administrator.

Part 52, chapter I, title 40 of the 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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(52) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(52) On December 6, 1994, the Director of WDOE submitted to EPA a contingency measure SIP revision for the Puget Sound Carbon Monoxide Nonattainment Area to satisfy certain applicable requirements of the Act.

(i) Incorporation by reference.

(A) Letter dated November 30, 1994 from WDOE to EPA submitting the CO revision for the Puget Sound area and, "A Plan for Attaining and Maintaining National Ambient Air Quality Standards for the Puget Sound Carbon Monoxide Nonattainment Area," replacement pages 10-1 through 10-3, dated November 16, 1994, adopted November 29, 1994, and Attachment B of Addendum E, "Contingency Measure Plan Element for the Central Puget Sound Region Carbon Monoxide State Implementation Plan—Final Plan," pages 1-15, dated May 26, 1994, and adopted November 29, 1994.

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40 CFR Part 52

[MS-19-1-6758a; FRL-5195-1]

Mississippi: Revisions to Prevention of Significant Deterioration of Air Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) to include modifications of the state prevention of significant deterioration (PSD) of air quality regulation to update the adoption by reference in Regulation APC-S-5, of the amendments and revisions to the Federal regulations promulgated in 40 CFR 52.21 and 51.166 as of the date of adoption of this revision. This plan revision provides for inclusion of particulate matter increment requirements measured as PM₁₀ (particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers) and incorporation of revisions to the Guideline on Air Quality Models (including Supplement B) as promulgated by EPA in 40 CFR 51.166(l) and 40 CFR part 51, appendix W. This plan revision further provides for inclusion of amendments and revisions to definitions and any other sections of 40 CFR 52.21 and 51.166 as promulgated by EPA. The revision and associated regulation amendments were adopted on December 9, 1993, by the Mississippi Commission on Environmental Quality and became state effective on January 9, 1994.

DATES: This action will be effective July 5, 1995 unless adverse or critical comments are received by June 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Kimberly Bingham at EPA Region 4 address listed below. Copies of the material submitted by the State of Mississippi may be examined during normal business hours at the following 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.

Mississippi Department of Environmental Quality, P.O. Box 10385, Jackson, Mississippi 39289-0385.

FOR FURTHER INFORMATION CONTACT:

Kimberly Bingham, 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, (404) 347-3555 ext. 4195.

SUPPLEMENTARY INFORMATION: On January 26, 1994, the State of Mississippi through the Department of Environmental Quality, submitted a SIP revision.

The SIP, which was adopted on December 9, 1993, and became State effective on January 9, 1994, updates the adoption by reference in Regulation APC-S-5 of the Federal regulations for PSD of air quality as promulgated in 40 CFR 52.21 and 51.166 as of December 9, 1993. Changes were made to paragraphs one and two of Regulation APC-S-5, which updated the promulgation date to December 9, 1993, and deleted the phrase "the date of adoption of this regulation" in paragraph one. The sentence now reads, "40 CFR 52.21 and 51.166 as used in this regulation refer to the federal regulations as promulgated by December 9, 1993." The phrases in paragraph two "hereby adopted and" and "by reference" were deleted and replaced with "adopted by reference." The sentence now reads, "All of the subsections of 40 CFR 52.21 other than subsections (a) [Plan disapproval], (q) [public participation], (s) [Environmental impact statement], and (u) [Delegation of authority] are incorporated herein and adopted by reference by the Mississippi Commission on Environmental Quality as official regulations of the State of Mississippi and shall hereafter be enforceable as such except for the changes set forth in Section 3. of this regulation."

The purpose of this revised submittal is that it provides for the inclusion of the revised PM₁₀ increments and the Guideline on Air Quality Models (including Supplement B) as promulgated by EPA (See *e.g.*, 40 CFR 51.166(c), 51.166(l) and part 51, App. W). The submittal also provides for inclusion of amendments and revisions to definitions and any other sections of the above referenced Federal regulations as promulgated by EPA.

The SIP revision affects all sources of air emissions that are subject to 40 CFR 52.21, PSD, and satisfies the applicable requirements of the Clean Air Act (CAA) and 40 CFR 51.166. The revision includes provisions for emission limitations, all PSD increments that are applicable, and the protection of visibility as provided in 40 CFR 52.21.

The EPA is currently developing proposed rules to implement statutory revisions made to the nonattainment new source review and PSD programs in 1990 amendments to the CAA. The EPA expects that the proposed rules will be published within the next few months. The EPA also expects to issue in the Spring of 1995, proposed rules to reform and improve the PSD program. Additional PSD SIP changes may be necessary, depending upon the contents of the revisions to the PSD program rules.

Revised section 302(z) of the CAA sets forth a new definition of "stationary source" reflecting Congressional intent that certain stationary internal combustion engines are subject to State regulation under stationary source permitting programs, while certain "nonroad engines," defined in section 216(10) of the CAA, are generally excluded. On June 17, 1994, the EPA published regulations in 40 CFR part 89 regarding new nonroad engines and vehicles, including a definition of nonroad engine (59 FR 31306). In this action, EPA approval of this SIP revision is limited in that it does not include the regulation of nonroad engines in a manner inconsistent with section 209 of the CAA and EPA regulations implementing section 209.

Final Action

In this action, EPA is approving the aforementioned revisions in this submittal because they are consistent with the applicable requirements of the CAA, implementing regulations and EPA policy. 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 CAA, 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 [60 days from date of publication]. 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 CAA, 42 U.S.C. 7607(b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or 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 Regulator 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 any 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

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: April 12, 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 Z—Mississippi

2. Section 52.1270 is amended by adding paragraph (c)(26) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(26) The Mississippi Department of Environmental Quality has submitted revision to Regulation APC-S-5. The purpose of this regulation is to adopt by reference Federal regulations for the prevention of significant deterioration of air quality as required by 40 CFR 51.166 and 52.21.

(i) Incorporation by reference.

(A) Regulations of the prevention of significant deterioration of air quality—Regulation APC-S-5 effective January 9, 1994.

(ii) Additional information—None.

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40 CFR Parts 52 and 81

[OH54-1-6164a; FRL-5201-2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving, through "direct final" procedure, a redesignation request and maintenance plan for the Dayton-Springfield, Ohio area as a revision to Ohio's State Implementation Plan (SIP) for ozone. The revision is based on a request from the State of Ohio to redesignate Montgomery, Greene, Clark, and Miami Counties from nonattainment to attainment for ozone, and to approve the maintenance plan for the area. The State has met the requirements for redesignation contained in the Clean Air Act (CAA), as amended in 1990. The redesignation request is based on ambient monitoring data that show no violations of the ozone National Ambient Air Quality Standard (NAAQS) during the three-year period from 1990 through 1992. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of this requested redesignation and SIP revision, and is now soliciting public comments on this action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

DATES: This final rule is effective July 5, 1995 unless adverse or critical comments are received by June 5, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Angela Lee at (312) 353-5142 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments can be mailed to: William MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Angela Lee, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5142.

SUPPLEMENTARY INFORMATION: On November 8, 1993, Ohio submitted a redesignation request and section 175A maintenance plan for Montgomery, Greene, Miami, and Clark Counties. The USEPA reviewed these submittals against the redesignation criteria set forth by section 107(d)(3)(E) of the Act,

which are discussed in a September 4, 1992, memorandum from John Calcagni, Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions, entitled, "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni Memorandum). A second memorandum dated September 17, 1993, signed by Michael Shapiro, Acting Assistant Administrator for Air and Radiation, entitled, "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide NAAQS on or after November 15, 1992" was also used to evaluate Ohio's request. An analysis of these submittals is contained in a Technical Support Document (TSD), dated January 17, 1995.

I. Background

The 1977 Act required areas that were designated nonattainment based on a failure to meet the ozone NAAQS, to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. For Ohio, Montgomery, Greene, Miami and Clark Counties were designated nonattainment for ozone, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR part 81.

After enactment of the amended Act on November 15, 1990, the nonattainment designation of the Dayton-Springfield area continued by operation of law according to section 107(d)(1)(C)(i) of the Act; furthermore, it was classified by operation of law as moderate for ozone pursuant to section 181(a)(1) (56 FR 56694, November 6, 1991), codified at 40 CFR 81.336.

More recently, ambient monitoring data show no violations of the ozone NAAQS in the Dayton-Springfield area during the period from 1990 through 1992. Therefore, the area became eligible for redesignation from nonattainment to attainment consistent with the amended Act. To ensure continued attainment of the ozone standard, Ohio submitted an ozone maintenance SIP for the Dayton Springfield area to USEPA on November 8, 1993. On November 8, 1993 Ohio requested redesignation of the area to attainment with respect to the ozone NAAQS. On December 20, 1993, Ohio held a public hearing on the maintenance plan and redesignation request.

II. Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must