

State	Subject matter	Date of submission	Date of approval
WA ...	Amendment to SIP incorporating guidelines for evaluating toxic air contaminant emissions into the regulations.	9-7-95	10-23-95
AK	Amendment to SIP adding a carbon monoxide contingency measure for Fairbanks.	7-12-95	9-7-95

EPA has determined that each of these SIP revisions complies with all applicable requirements of the Act and EPA policy and regulations concerning such revisions. Due to the minor nature of these revisions, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revisions would have been "unnecessary and contrary to the public interest," and hence, was not required by the Administrative Procedure Act, 5 U.S.C. 553(b). Each of these SIP approvals became final and effective on the date of EPA approval as listed in the chart above.

The Office of Management and Budget has exempted all SIP approvals from the requirements of section 3 of Executive Order 12866.

Under 5 U.S.C. 605(b), I certify that these SIP revisions will not have a significant impact on a substantial number of small entities. See 46 FR 8709.

Under section 307(b)(1) of the Act, as amended, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit by April 15, 1996. These actions may not be challenged later in proceedings to enforce their requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plans for the States of Washington and Alaska were approved by

the Director of the Office of Federal Register on July 1, 1982.
 Dated: November 14, 1995.
 Chuck Clarke,
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 C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(26) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(26) Submittal to EPA from the ADEC of CO contingency measure for Fairbanks, AK.

(i) Incorporation by reference.

(A) Letter dated July 12, 1995 from the Commissioner of the ADEC to the EPA Regional Administrator submitting its repair technician and certification program element found in State regulation 18 AAC 52.400-410, effective June 24, 1994.

Subpart WW—Washington

3. Section 52.2470 is amended by adding paragraph (c)(59) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(59) Various minor revisions consisting of amended regulations affecting a local air agency, PSAPCA, were submitted to EPA from the WDOE for inclusion into the Washington SIP.

(i) Incorporation by reference.

(A) Letters dated May 17, and September 7, 1995 from the Director of the WDOE to the EPA Regional Administrator submitting minor revisions to PSAPCA's regulations for inclusion into the SIP: PSAPCA, Regulation I adopted on May 22, 1995; PSAPCA, Regulation III adopted on September 11, 1995.

[FR Doc. 96-3230 Filed 2-13-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[TN-NASH-96-01; FRL-5422-4]

Clean Air Act Final Full Approval of Operating Permits Program; Metropolitan Health Department, Metropolitan Government of Nashville and Davidson County, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permits Program submitted by the State of Tennessee on behalf of the Metropolitan Health Department ("Nashville-Davidson County" or "the County"), located in the geographic area of Nashville-Davidson County. The County's program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: March 15, 1996.

ADDRESSES: Copies of the Nashville-Davidson County submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number TN-NASH-96-01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-3555, Ext. 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act ("the Act")), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one

year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal program.

On October 11, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for Nashville-Davidson County. See 60 FR 52890. The October 11, 1995, notice also proposed approval of the County's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. On December 28, 1995, the State of Tennessee submitted on behalf of Nashville-Davidson County a package containing revisions to the operating permits program, which addressed the deficiency discussed in the full/interim approval notice. As required by 40 CFR 70.5(c), the County adopted revisions to M.C.L. section 10.56.050 to ensure that information needed to determine the applicability of, or to impose, any applicable requirement, or to collect any permit fees is not excluded from the application. Specifically the new provision, M.C.L. section 10.56.050(F), reads as follows: "Notwithstanding any exemptions in this Section, any application submitted in accordance with Section 10.56.020 and Section 10.50.040 of this Chapter shall include all emission sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAPS, or MACT standard, etc., or in [the] calculation [of] permit fees in accordance with Section 10.56.080." This change became locally effective on December 14, 1995.

In this action, EPA is promulgating full approval of the Nashville-Davidson County operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating full approval of the operating permits program submitted by the State of Tennessee, on behalf of Nashville-Davidson County, on November 13,

1993, and supplemented on April 19, 1994; September 27, 1994; December 28, 1994; and December 28, 1995. The October 11, 1995, notice established that the County would receive full approval of its program if changes to M.C.L. section 10.56.050 were adopted prior to final promulgation. Such changes became locally effective on December 14, 1995. Nashville-Davidson County has demonstrated that the program will be adequate to meet the minimum elements of a state or local operating permits program as specified in 40 CFR part 70.

The scope of the County's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within Nashville-Davidson County, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the County's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by Nashville-Davidson County to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide the County with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the County's

program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of Nashville-Davidson County's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the Nashville-Davidson County submittal and other information relied upon for the final full approval are contained in docket number TN-NASH-96-01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 1, 1996.

Phyllis P. Harris,
Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Tennessee in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Tennessee

(a) (Reserved)

(b) The Metropolitan Health Department, Metropolitan Government of Nashville-Davidson County; submitted on November 13, 1993, and supplemented on April 19, 1994; September 27, 1994; December 28, 1994; and December 28, 1995; full approval effective on March 15, 1996.

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[FR Doc. 96-3283 Filed 2-13-96; 8:45 am]

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40 CFR Part 81

[MI39-03-7248; FRL-5421-9]

Designation of Areas for Air Quality Planning Purposes; Correction of Designation of Nonclassified Ozone Nonattainment Areas; State of Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On August 8, 1995 the USEPA simultaneously published a direct final notice of rulemaking and notice of proposed rulemaking in which USEPA published its decision to correct erroneous ozone designations made in 1980 for the Allegan County, Barry County, Battle Creek (Calhoun County), Benton Harbor (Berrien County), Branch County, Cass County, Gratiot County, Hillsdale County, Huron County, Ionia County, Jackson (Jackson County), Kalamazoo (Kalamazoo County), Lapeer County, Lenawee County, Montcalm (Montcalm County), Sanilac County, Shiawassee County, St. Joseph County, Tuscola County, and Van Buren County nonattainment nonclassified/incomplete data areas and the Lansing-East Lansing (Clinton County, Eaton County, and Ingham County) nonattainment nonclassified/transitional area. Pursuant to section 110(k)(6) of the Act, the USEPA published the designation correction of these areas to attainment/unclassifiable for ozone. The 30-day comment period concluded on September 7, 1995. During this comment period, the USEPA received two comment letters in response to the August 8, 1995, rulemaking. This final rule summarizes comments and USEPA's responses, and finalizes the USEPA's decision to correct the

designations of 20 of these areas to attainment/unclassifiable for ozone. The USEPA will respond to comments relevant to Allegan County, Michigan and publish a final rulemaking on this area in a separate rulemaking action in a future Federal Register.

EFFECTIVE DATE: This action will be effective March 15, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for inspection at the following address: (It is recommended that you telephone Jacqueline Nwia at (312) 886-6081 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:

Jacqueline Nwia, 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) 886-6081.

SUPPLEMENTARY INFORMATION:

I. Background Information

On August 8, 1995, the USEPA published a direct final rulemaking (60 FR 40297) correcting the designation for 21 of 23 ozone nonattainment nonclassified incomplete/no data and transitional areas in Michigan to attainment/unclassifiable due to the lack of in-county ozone monitoring data showing violations of the 0.12 parts per million (ppm) National Ambient Air Quality Standard (NAAQS).

At the same time that the USEPA published the direct final rule, a separate notice of proposed rulemaking was published in the Federal Register (60 FR 40338). This proposed rulemaking specified that USEPA would withdraw the direct final rule if adverse or critical comments were filed on the rulemaking. The USEPA received two letters containing adverse comments regarding the direct final rule within 30 days of publication of the proposed rule and withdrew the direct final rule on October 2, 1995 (60 FR 51360).

The specific rationale the USEPA used to correct certain ozone nonattainment nonclassified areas to attainment is explained in the direct final rule and will not be restated here.

This final rule contained in this Federal Register addresses the comments which were received during the public comment period and announces USEPA's final action regarding these determinations, with the exception of comments relevant to and

a final determination regarding Allegan County.

II. Public Comments and USEPA Responses

Two letters were received in response to the August 8, 1995, direct final rulemaking. One was a letter from the Citizens Commission for Clean Air in the Lake Michigan Basin (Citizens Commission) and the other from the New York State Department of Environmental Conservation (NYSDEC). The following discussion summarizes and responds to the comments received, with the exception of those relevant to Allegan County. Comments received relevant to and a final action on Allegan County will be published in a future rulemaking action.

Citizens Commission Comment

The commenter states that the rulemaking is improper and an abuse of the Administrator's authority to correct errors in designation of areas pursuant to Clean Air Act (Act) section 110(k)(6). The commenter restates section 110(k)(6) emphasizing the provision that determinations pursuant to 110(k)(6) and their basis must be provided to the State and public. The commenter further states that the basis of the direct final rule, the lack of air quality data in the affected areas during the 1970s and 1980s, is insufficient grounds for changing the designation of the affected areas under the Act.

USEPA Response

The USEPA disagrees with the commenter's contention that the rulemaking is an improper use and/or abuse of section 110(k)(6). The commenter doesn't provide information or a rationale for this comment. Consistent with section 110(k)(6), the USEPA determined that the designations of these 21 nonattainment nonclassified areas were in error based on the lack of in county monitoring data and, consequently, acted to correct the designation in the same manner as the original designation¹ without requiring any further submission from the State. The determination and its basis were provided to the State and the public through the publication of the direct final and proposed rulemaking actions in the Federal Register.

The commenter does not explain why they believe that the basis of the correction is insufficient grounds for changing the designation of the affected

¹ The original designations were processed in a proposal and subsequent final Federal Register document. The direct final process used in this instance requires a simultaneous proposal and thus, affords the public the opportunity to comment.