in BARCT rules that establish ''interim RACT'' by May 1995, and require emission limitations based on advanced control technologies such as BARCT be met after May 1995. Rule 425 and Rule 413 require final compliance with BARCT limits by January 1997 and May 1997 respectively. The rules also require that interim measures (submission of compliance plans, and applying for authority to construct) be met by May 31, 1995 to ensure progress toward the final compliance. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Documents (TSDs) for Rule 425 and Rule 413, dated November 28, 1995.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, KCAPCD's Rule 425, Cogeneration Gas Turbine Engines (Oxide of Nitrogen), and SMAQMD's Rule 413, Stationary Gas Turbines are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble. Furthermore, EPA is removing applicable Rule 425 consistent with the requirements of sections 110 (l) and 193.

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

EPA is publishing this document 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 April 30, 1996, unless, by April 1, 1996, 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If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action.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 April 30, 1996.

Regulatory Process

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 affected 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).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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 Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: January 30, 1996.

Felicia Marcus,

Regional Administrator.

Subpart F of 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(B) (*2*) and (*3*) and (222)(i)(C)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(194)* * *

(i) * * *

(B) * * *

(*2*) Rule 425, adopted on August 16, 1993.

(*3*) Previously submitted to EPA on June 28, 1982 and approved in the Federal Register on May 3, 1984 and now removed without replacement, Rule 425.

* * * * *

(222) * * *

(i) * * *

(C) * * *

(*2*) Rule 413, adopted on April 6, 1995.

* * * * *

[FR Doc. 96–4571 Filed 2–29–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI44–01–7147a; FRL–5408–5]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the State of Michigan's revision to its State Implementation Plan (SIP) for the Wayne County particulate matter (PM) nonattainment area. The State of Michigan submitted this revision, dated July 18, 1995 to satisfy the contingency measures requirements of section 172(c)(9) of the Clean Air Act (Act). Section 172(c)(9) of the Act requires that States with initial moderate PM nonattainment areas submit contingency measures consisting of specific measures that are not part of the area's control strategy which must take effect without further action by the State or USEPA, upon a determination by USEPA that the area has failed to achieve Reasonable Further Progress (RFP) or attain the PM National Ambient Air Quality Standards (NAAQS) by the applicable statutory deadline.

DATES: This ''direct final'' is effective April 30, 1996, unless USEPA receives adverse or critical comments by April 1, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: (It is recommended that you telephone Christos Panos at (312) 353–8328, before visiting the Region 5 office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Toxics and Radiation Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 353–8328.

SUPPLEMENTARY INFORMATION:

Background

A portion of Wayne County, Michigan, was designated as a moderate PM nonattainment area upon enactment of the 1990 Amendments to the Act (November 15, 1990). 56 FR 56694, 56705–706, 56779 (November 6, 1991). Among other things, the amended Act made significant changes to the PM air quality planning requirements for certain areas. The USEPA has issued detailed guidance that describes USEPA's preliminary interpretations regarding moderate PM nonattainment area SIP requirements; 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). States containing initial moderate PM nonattainment areas were required to submit a SIP by November 15, 1991, which implemented reasonably available control measures by December 10, 1993, and demonstrated attainment of the PM NAAQS by December 31, 1994. On January 17, 1995 (60 FR 3346), USEPA approved the Wayne County PM nonattainment area SIP originally submitted by the Michigan Department of Natural Resources (MDNR) on June 11, 1993 and revised on October 14, 1994.

As provided in section 172(c)(9) of the Act, States with initial moderate PM nonattainment areas were also required to submit contingency measures by November 15, 1993. See generally 57 FR 13543–13544. These measures should consist of other available measures that are not part of the area's control strategy which must take effect without further action by the State or USEPA, upon a determination by USEPA that the area has failed to achieve RFP or attain the PM NAAQS by the applicable statutory deadline. On January 21, 1994, USEPA sent a letter to the State of Michigan notifying them that a finding of failure to submit had been made, thus starting the process to impose sanctions and promulgate a Federal Implementation Plan (FIP).

Completeness Determination

States are required to observe certain procedural requirements in developing implementation plans and plan revisions for submission to USEPA. The Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. The USEPA also must determine whether a submittal is complete and therefore warrants further USEPA review and action. The USEPA's completeness criteria for SIP submittals are set out at 40 CFR Part 51, Appendix V (1991).

The State of Michigan held a public hearing on March 2, 1995 to receive public comment on the contingency measures plan for the Wayne County PM nonattainment area. Following the public hearing, the plan was adopted by the State, signed by the Governor's designee on July 13, 1995 and submitted to USEPA as a proposed revision to the SIP.

The SIP revision was reviewed by USEPA to determine completeness and was found to be complete. The USEPA sent a letter dated July 17, 1995 to the Director, MDNR, indicating the completeness of the submittal and the next steps to be taken in the review process. This finding of completeness stopped the sanctions process which was started on January 21, 1994.

Review of Contingency Measures Rule

The Michigan SIP submittal consists of the new State Administrative Rule 374 (R 336.1374), effective July 26, 1995, which was designed to satisfy the contingency measures requirement of section 172(c)(9) of the Act. The SIP provides that the measures contained in the rule must take effect without further action by the State or USEPA should USEPA determine that the Wayne County nonattainment area has failed to achieve RFP or to attain the PM standard. Within 60 days of notification by MDNR or USEPA of a violation of the PM NAAQS, companies located within a one mile radius centered around the monitor which recorded the violation must be in compliance with the opacity limit, implement the fugitive dust control strategies, or commence the schedule to implement the process or combustion source control strategies described in the rule. The October 24, 1995 Technical Support Document contains a more detailed explanation of the rule's requirements.

Final Action

In this action, USEPA is approving the SIP revision submitted to USEPA by the State of Michigan on July 13, 1995 for the Wayne County PM nonattainment area. Specifically, USEPA is approving State Administrative Rule 374 (R 336.1374), effective July 26, 1995, as intended to satisfy the contingency measures requirement specified in section 172(c)(9) of the Act.

Miscellaneous

Comment and Approval Procedure

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments

are filed. The ''direct final'' approval shall be effective on April 30, 1996, unless USEPA receives adverse or critical comments by April 1, 1996.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent document.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 30, 1996.

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. Each request for a 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.

Executive Order 12866

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 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 Executive Order 12866 review.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. Section 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. Sections 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. EPA*, 427 U.S. 246, 256–66 (1976).

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, 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, 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 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.

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 April 30, 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 a rule. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the SIP for the State of Michigan was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 14, 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 X—Michigan

2. 52.1170 is amended by adding paragraph (c)(104) to read as follows:

* * * * *

(c) * * *

(104) On July 13, 1995, the Michigan Department of Natural Resources (MDNR) submitted a contingency measures plan for the Wayne County particulate matter nonattainment area.

(i) Incorporation by reference.

(A) State of Michigan Administrative Rule 374 (R 336.1374), effective July 26, 1995.

[FR Doc. 96–4848 Filed 2–29–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5431–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Arkansas City Dump Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Arkansas City Dump Site in Arkansas City, Kansas from the Superfund National Priorities List (NPL). The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERLCA), as amended. In consultation with the state of Kansas, EPA has determined that the necessary Fund-financed response actions under CERCLA have been implemented. The EPA has concluded that this remedial action is protective of human health, and the environment. The State of Kansas has concurred on the deletion of this site from the NPL.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: David V. Crawford, Remedial Project Manager, Superfund Division,