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) and 7410(k)(3).

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. It imposes no additional requirements. The Office of Management and Budget has exempted this action rule from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen Oxide, Ozone, Volatile Organic Compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 29, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–11758 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WI67–01–7276; FRL–5501–5]

Approval and Promulgation of Implementation Plan; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of a revision to the Wisconsin State Implementation Plan (SIP) to meet the requirements of the EPA transportation conformity rule set forth at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The transportation conformity SIP revision will enable the State of Wisconsin to implement and enforce the Federal transportation conformity requirements at the State or local level in accordance with 40 CFR 51.396(b). This notice of approval is limited only to 40 CFR part 51, subpart T (transportation conformity). SIP revisions submitted under 40 CFR part 51, subpart W, relating to conformity of general Federal actions, will be addressed in a separate EPA notice. This notice provides the rationale for the proposed approval and other information.

DATES: Comments on this proposed action must be received by June 10, 1996.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Copies of the SIP revision, public comments and EPA'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 (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) 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 which has been approved or promulgated pursuant to the CAA. Conformity is defined as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards 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 EPA to promulgate criteria and procedures for determining conformity of all Federal actions (transportation and general) to applicable SIPs. The EPA published the final transportation conformity rules in the November 24, 1993, Federal Register and codified them at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The conformity rules require States and local agencies to adopt and submit to the EPA a transportation conformity SIP revision not later than November 24, 1994. This notice does not address the conformity requirements applicable to general Federal actions which are set forth at 40 CFR part 51 subpart W. The EPA will take action on SIP revisions

relating to those requirements in a separate notice.

II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the CAA, the Wisconsin Department of Natural Resources (WDNR) submitted a SIP revision to the EPA on November 23, 1994, and supplemented this submittal on June 14, 1995. In its submittal, the State included provisions required by the EPA transportation conformity rule (40 CFR part 51, subpart T), and Memoranda of Agreements (MOA) between the affected agencies.

Transportation conformity is required for all areas which are designated nonattainment or maintenance for any transportation related criteria pollutants. The State of Wisconsin currently has 11 counties designated as nonattainment for ozone. The areas for which transportation conformity determinations are required and which are included as part of Wisconsin's submittal include the following nonurbanized counties: Door, Keewaunee, and Manitowoc. The urbanized areas include: Milwaukee-Racine Consolidated Metropolitan Statistical Area (MSA) (Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha Counties), and Sheboygan MSA (Sheboygan County).

The WDNR held a public hearing on its transportation conformity submittal on January 11 and 12, 1995. Minor modifications were made in response to the comments and addressed in the final submittal.

The consultation section of the EPA transportation conformity rule (40 CFR 51.402) requires that the SIP revision include procedures for interagency consultation among the Federal, State, and local agencies and for resolution of conflicts in accordance with the criteria set forth in 40 CFR 51.402. Specifically, the SIP revision must include processes and procedures to be undertaken by Metropolitan Planning Organizations (MPO), State departments of transportation, and the United States Department of Transportation (USDOT) with State and local air quality agencies and EPA before making a conformity determination, and by State and local air quality agencies and EPA with MPOs, State departments of transportation, and USDOT in developing applicable SIPs.

In order to satisfy these requirements, the WDNR developed an ad hoc multi-agency committee, which included representatives from the WDNR, Wisconsin Department of Transportation (WDOT), USDOT, and MPOs. This group developed the final consultation rule by integrating the requirements of 40 CFR 51.402 and 23 CFR part 450 with the local procedures and processes. Wisconsin's final consultation rule outlines the roles and responsibilities of each of the affected agencies for the process for determining conformity. The consultation rule further outline the procedures for conflict resolution in the transportation conformity process, for implementation of the public participation process, and for the submission of documentation relating to a conformity determination. The conformity SIP revision submitted by Wisconsin has adequately addressed all provisions of 40 CFR 51.402 and thus meets the EPA SIP requirements.

Section 51.396(c) of the transportation conformity rule states that to be approvable by the EPA, the SIP revision submitted to EPA must address all requirements of the transportation conformity rule in a manner which gives them full legal effect. In particular, the revision must incorporate the provisions of the following sections of the rule in verbatim form, except insofar as needed to give effect to a stated intent in the revision to establish criteria and procedure more stringent than the requirements stated in these sections: 51.392, 51.394, 51.398, 51.400, 51.404, 51.410, 51.412, 51.414, 51.416, 51.418, 51.420, 51.422, 51.424, 51.426, 51.428, 51.430, 51.432, 51.434, 51.436, 51.438, 51.440, 51.442, 51.444, 51.446, 51.448, 51.450, 51.460, and 51.462. The State of Wisconsin submittal incorporated all of the above sections in verbatim form, except for §§ 51.424, 51.434, 51.442, 51.444, and 51.446. The omitted sections apply only to criteria and procedures for localized Carbon Monoxide hot spots, Particulate Matter areas, and Nitrogen Dioxide areas. Noting this, these sections of the transportation conformity rule are not applicable to the State of Wisconsin, which contains nonattainment areas for ozone.

On August 7, 1995, EPA finalized an amendment to section 51.448. It should be noted that additional sections of the conformity rule are scheduled to be amended. The EPA cannot approve sections into the SIP where inconsistencies exist between the submittal and the final rule. After EPA further amends the conformity rule, the State of Wisconsin will be required to update the SIP to address the rule changes.

The WDNR and the WDOT concluded that this SIP revision in the form of a MOA will be enforceable through section 144.31(1)(e) and section 144.371, Wis. Stats. The MOA, which is a binding agreement among the affected agencies, outlined each agency's roles and responsibilities in the transportation conformity process. A total of three MOA were included in the SIP revision; two MOAs between the local MPO, MDOT and MDNR for the two metropolitan areas, and one MOA between WDOT and WDNR for the remaining rural areas.

Section 85.02, Wis. Stats. requires all agencies involved in transportation related activities to follow the recommendations of the WDOT. The WDOT has the authority over the approval of all Transportation Improvement Programs (TIP) and the approval of Federal and State funds for transportation projects, programs, or plans. The WDOT will not approve any MPO TIP that contains a nonconforming project in the State TIP. Furthermore, the WDOT will not approve Federal or State funding for any nonconforming projects, programs, or plans and may withhold moneys for failure to follow conformity procedures.

Section 30.12(4), Wis. Stats., gives the transportation conformity agreements between WDNR and WDOT full legal effect in Wisconsin. This law requires WDOT to follow its agreement with WDNR or be subject to the prohibitions or permit or approval requirements under sections 29.29, 30.11, 30.12, 30.123, 30.195, 30.20, 59.971, 61.351, 62.231, 87.30 and chapters 144 and 147, Wis. Stats.

Section 1.11, Wis. Stats., the Wisconsin Environmental Policy Act, may be enforced by citizens with regard to activities of WDNR and WDOT.

III. EPA Action

The EPA is proposing approval the transportation conformity SIP revision for the State of Wisconsin. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal transportation conformity rules in accordance with 40 CFR part 51 subpart T. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision.

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 EPA 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.*, 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 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 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 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA 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 EPA 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA 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 July 9, 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Transportation conformity, Transportation-air quality planning, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 26, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–11759 Filed 5–9–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[AD–FRL–5503–2]

Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 20, 1994, the Agency promulgated a rule in the Federal Register (59 FR 26429) governing the establishment of equivalent emission limitations by permit, pursuant to section 112(j) of the Clean Air Act (Act). After the effective date of a Title V permit program in a State, each owner or operator of a major source in a source category for which the EPA was scheduled to, but failed to promulgate a section 112(d) emission standard will be required to obtain an equivalent emission limitation by permit. The permit application must be submitted to the Title V permitting authority 18 months after the EPA's missed promulgation date. This action proposes to amend the original Regulations Governing Equivalent Emission Limitations by Permit rule to delay the section 112(j) permit application deadline for all 4-year source categories listed in the regulatory schedule by 180 days until November 15, 1996. This action is needed to alleviate unnecessary paperwork for both major source owners or operators and permitting agencies. Because the changes are merely to delay the permit application deadline for all 4 year source categories, the EPA does not anticipate receiving adverse comments. Consequently the revisions are also being issued as a direct final rule in the final rules section of this Federal Register. If no significant adverse comments are timely received, no further action will be taken with respect to this proposal, and the direct final rule will become final on the date provided in that action.

DATES: *Comments.* Comments must be received on or before June 10, 1996, unless a hearing is requested by May 20, 1996. If a hearing is requested, written comments must be received by June 24, 1996.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than May 20, 1996. If a hearing is held, it will take place on May 28, 1996, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–93–32 (see docket section below), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Yvonne Chandler, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5627.

Docket. Docket No. A–93–32, containing the supporting information for the original Regulations Governing Equivalent Emission Limitations by Permit rule is available for public inspection and copying between 8:00