

the **Federal Register** a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to December 1, 1997, to the most recent Index published prior to December 1, 1998.

\* \* \* \* \*

Dated: January 6, 1998.

**David O. Carson,**  
General Counsel.

Approved by:

**James H. Billington,**  
The Librarian of Congress.

[FR Doc. 98-819 Filed 1-13-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN80-1a; FRL-5929-5]

### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This action approves a State Implementation Plan (SIP) revision for the State of Indiana which was submitted January 23, 1997, pursuant to the Environmental Protection Agency (EPA) general conformity rules set forth at 40 Code of Federal Regulations (CFR) part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Section 51.851(a) of the general conformity rules requires each State to submit to EPA a revision to its applicable SIP which contains criteria and procedures for assessing conformity of Federal actions to applicable SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. Indiana's SIP submission incorporates by reference the criteria and procedures set forth at 40 CFR part 51, subpart W. This general conformity SIP revision will enable the State of Indiana to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level.

This approval is limited only to the general conformity SIP revision submitted pursuant to 40 CFR part 51, subpart W. Indiana submitted additional rules under 40 CFR part 51, subpart T, relating to conformity of Federal transportation actions funded or

approved under Title 23 U.S.C. or the Federal Transit Act, which will be addressed in a separate notice. This action provides the rationale for today's approval.

**DATES:** The "direct final" is effective on March 16, 1998, unless EPA receives written adverse or critical comments by February 13, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the revision request are available for inspection at the following address:

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Ryan Bahr, Environmental Engineer, at (312) 353-4366 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.  
**FOR FURTHER INFORMATION CONTACT:** Ryan Bahr, Environmental Engineer, at (312) 353-4366.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 176(c) of the Clean Air Act (Act), 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 that has been approved or promulgated pursuant to the Act. "Conformity" is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. Section 176(c) further states 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 Act requires EPA to promulgate criteria and procedures for determining conformity of all Federal actions to applicable SIPs. Criteria and procedures for determining conformity of Federal actions related to transportation projects funded or approved under Title 23 U.S.C. or the

Federal Transit Act are set forth at 40 CFR part 93, subpart A. The criteria and procedures for determining conformity of other Federal actions, the "general conformity" rules, were published in the November 30, 1993, **Federal Register** and codified at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

##### II. Evaluation of the State's Submittal

Pursuant to the requirements under section 176(c)(4)(C) of the Act, the Indiana Department of Environmental Management (IDEM) submitted its general conformity SIP revision to the EPA on January 23, 1997. In its submittal, the State provided rules codified at 326 Indiana Administrative Code (IAC) 16-3 which incorporated the Federal general conformity requirements by reference (40 CFR part 51, subpart W). EPA found the submittal complete in a letter dated June 24, 1997. Under 40 CFR 51.853 (b), general conformity is required for all areas which are designated nonattainment or maintenance for any NAAQS criteria pollutant. The Indiana area designations are listed in 40 CFR 81.315.

IDEM gave public notice and opportunity for comment on the general conformity submittal on January 11, 1996, February 7, 1996, and April 3, 1996. No adverse comments were received on this rule.

##### III. EPA Criteria for General Conformity Submittal

The State's SIP revision must contain criteria and procedures that are no less stringent than the Federal rule. The revision incorporated the provisions of the entire Federal general conformity rule, Subpart W: 40 CFR 51.850 to 51.860 with the exception of § 51.851. Section 51.851 requires that the State incorporate the provisions of the Federal rule into the State code and, therefore, does not need to be incorporated into the State Code.

##### IV. EPA Rulemaking Action

The EPA is approving the general conformity SIP revision for the State of Indiana. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules set forth at 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations were undertaken during development and adoption of this SIP revision. Because EPA considers this action to be noncontroversial and routine, EPA is approving it without prior proposal. This action will become

effective on March 16, 1998. However, if EPA receives adverse written comments by February 13, 1998, EPA will publish a document that withdraws this action.

## V. Miscellaneous

### A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from executive order 12866 review.

### B. Regulatory Flexibility Act

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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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, the Administrator certifies 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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 private sector, of \$100 million or more. Under section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### E. Petitions for Judicial 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 March 16, 1998. 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, Carbon monoxide, General conformity, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen Oxides, Ozone, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: November 14, 1997.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

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 *et seq.*

### Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(121) to read as follows:

#### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(121) On January 23, 1997, the Indiana Department of Environmental Management submitted a revision to the State Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revision enables the State of Indiana to implement and enforce the Federal general conformity requirements in the nonattainment and maintenance areas at the State and local level in accordance with 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 16-3: General Conformity, Section 1: Applicability; incorporation by reference of Federal standards. Adopted by the Indiana Air Pollution Control Board April 3, 1996. Filed with the Secretary of State June 6, 1996. Published at the Indiana Register, Volume 19, Number 11, August 1, 1996 (19 IR 3050). Effective July 6, 1996.

[FR Doc. 98-932 Filed 1-13-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 098-4055; FRL -5946-7]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 15 Percent Plan and 1990 VOC Emission Inventory for the Pittsburgh-Beaver Valley Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is granting conditional interim approval of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania, for the Pittsburgh-Beaver Valley moderate ozone nonattainment area (the Pittsburgh area), to meet the 15 percent rate-of-progress (the 15% plan), requirements of the Clean Air Act. EPA is granting conditional interim approval because the 15% plan submitted by Pennsylvania for the Pittsburgh area relies on an enhanced motor vehicle inspection and maintenance (I/M) program, for which EPA has granted