[FR Doc. 01–30895 Filed 12–13–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI109–01–7339a, FRL–7115–7]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Automobile Refinishing Operations

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a February 1, 2001, request from Wisconsin to revise its State Implementation Plan (SIP) for ozone. This rule revises Wisconsin's regulations to control volatile organic compound emissions from automobile refinishing operations. In addition, on July 31, 2001, Wisconsin submitted a SIP revision that, among other things, renumbers a portion of the regulations submitted on February 1, 2001. EPA acted on the majority of the July 31, 2001 submittal in our approval of the state's one-hour ozone attainment demonstration. We are addressing the renumbering portion of that submittal with this action.

DATES: This rule is effective on February 12, 2002, unless EPA receives adverse written comments by January 14, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767.

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I. What Action Is EPA Taking?

EPA is approving revisions to Wisconsin's regulations to control volatile organic compound (VOC) emissions from automobile refinishing operations.

II. Why Did Wisconsin Adopt Regulations for Automobile Refinishing Operations?

Section 182(b)(1)(A) of the Clean Air Act (the Act) required states with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from 1990 baseline levels. As part of Wisconsin's 15 percent plan, the state chose to adopt rules to reduce VOC emissions from automobile refinishing operations. EPA approved Wisconsin's rules in a February 12, 1996 **Federal Register** document (61 FR 5306). Subsequently, EPA promulgated National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (40 CFR part 59, subpart B) in a September 11, 1998 **Federal Register** document (63 FR 48806).

Wisconsin's February 1, 2001 submittal revises the state's automobile refinishing regulations to ensure consistency with the Federal rules. In addition, Wisconsin's revisions exempt automobile refinishing sources from permitting requirements, if they emit less than 1,666 pounds of VOC per month, prior to entering any control equipment (slightly less than 10 tons per year). This is lower than the threshold of 40 tons per year for VOCs set by Federal permitting requirements.[1] Wisconsin has also repealed the emission limitation for cleanup solvents for non-plastic substrates. The low VOC solvent required to comply with Wisconsin's original rule did not allow a source to clean or prepare the surface adequately to accept a primer coating. As a result, vehicles needed to be repainted to achieve an acceptable finish.

III. Why Is EPA Taking This Action?

EPA is approving Wisconsin's rule revisions because they are consistent with the Act and consistent with EPA's national rule for automobile refinish coatings, as promulgated on September 11, 1998. EPA's rule does not contain an emission limit for cleanup solvent for non-plastic substrates, and repainting inadequately prepared surfaces is counterproductive. The emission level used to exempt automobile refinishing operations from permitting requirements is consistent with other VOC source category exemption levels, and nothing the state is proposing is less stringent than Federal permitting requirements. EPA is incorporating a section of the automobile refinishing regulations that became effective on September 1, 2001, because portions of that rule had to be renumbered.

IV. Is This Action Final, or May I Still Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comments by January 14, 2002. Should the Agency receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on February 12, 2002.

V. What Administrative Requirements Did EPA Consider?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic

[1] Alternately, if a VOC is listed as a hazardous air pollutant (HAP) under section 112 of the Act, Federal permitting requirements set a threshold of 25 tons per year for any combination of two or more of these listed HAPs and 10 tons per year of a single listed HAP.

impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications, because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that is both economically significant, as defined under Executive Order 12866, and concerns an environmental health or safety risk that EPA has reson to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 February 12, 2002. 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, Ozone, Volatile organic compounds.

Authority: 42 U.S.C.7401–7671q.

Dated: November 28, 2001.

Bertram C. Frey,

Acting Regional Administrator, Region 5.

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 *et seq.*

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(104) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(104) A revision to the Wisconsin State Implementation Plan for ozone was submitted on February 1, 2001. It contained revisions to the state's regulations that control volatile organic compound emissions from automobile refinishing operations. A portion of these regulations were renumbered and submitted on July 21, 2001.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative code are incorporated by reference.

(A) NR 406.04 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(B) NR 407.03 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(C) NR 419.02 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(D) NR 422.095 as published in the (Wisconsin) Register August, 2001, No. 548, effective September 1, 2001.

(E) NR 484.10 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

[FR Doc. 01–30814 Filed 12–13–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0045; CO–001–0046; CO–001–0047; CO–001–0052; CO–001–0053; CO49–1–7187; CO–001–0061; CO–001–0062; CO–001–0064 FRL–7117–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 22, 2001, EPA published a notice of proposed rulemaking (NPR) to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (hereafter, Denver) ''serious'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the CO maintenance plan for the Denver area and the additional State Implementation