

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, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

Dated: July 2, 1996.

Valdas V. Adamkus,
Regional Administrator.

For the reasons stated in the preamble, 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 X—Michigan

§ 52.1174 [Amended]

2. Section 52.1174 is amended by removing and reserving paragraph (j).

[FR Doc. 96–19140 Filed 7–26–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TN 119–1–6379a; TN 172–1–9639a; FRL–5539–9]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan Regarding Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee on September 1, 1993, and June 10, 1996. These revisions pertain to the Construction Permit chapter. The purpose of these revisions is to correct certain deficiencies to satisfy the requirements of the Clean Air Act (CAA) concerning Prevention of Significant Deterioration (PSD).

DATES: This final rule is effective September 12, 1996 unless notice is received by August 28, 1996 that someone wishes to submit adverse or

critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On September 1, 1993, and June 10, 1996, the State of Tennessee submitted revisions to chapter 1200–3–9–.01 “Construction Permits” of the Tennessee SIP to correct certain deficiencies to satisfy the requirements of the CAA concerning PSD.

The revisions to chapter 1200–3–9–.01 “Construction Permits” contained in the September 1, 1993, submittal are as follows:

1. Subparagraphs (c), (d), (e), (f), (g), and (h) were added to paragraph (1) “Application for Construction Permit.” These subparagraphs were added to incorporate the requirements of Subpart I—Review of New Sources and Modifications as published in the Code of Federal Regulations (40 CFR part 51) specifically addressing legally enforceable procedures and the public availability of information on permit applications.

2. Paragraph (2) “Definitions” was amended to add definitions for the

terms “Control strategy,” “National ambient air quality standard,” “Best available control technology (BACT),” and “Lowest achievable emission rate (LAER).” These definitions are consistent with requirements of 40 CFR part 51, Subpart I—Review of New Sources and Modifications.

3. Paragraph (4) “Prevention of Significant Air Quality Deterioration” was amended to clarify applicability.

The following definitions were amended:

“Major stationary source”;
“Major modification”;
“Net emission increases”;
“Building, structure, facility, or installation”;
“Pollutant”;
“Baseline area”;
“Baseline date”;
“Baseline concentration”;
“Secondary emissions”;
“Innovative control technology”;
“Fugitive emissions”; and
“Significant”.

The following definitions were added: “Volatile Organic Compound (VOC);” “Dispersion technique”; and “Good engineering practice (GEP).”

These definitions are consistent with requirements of 40 CFR part 51, Subpart I—Review of New Sources and Modifications. Requirements relating to the control of nitrogen oxides (NO_x) emissions as well as requirements which were necessary to maintain delegation of authority of the PSD programs were added.

The revisions to chapter 1200–3–9–.01 “Construction Permits” contained in the June 10, 1996, submittal are as follows:

1. Subparagraph (f) of paragraph (4) was amended by deleting standards for Total Suspended Particulates (TSP) and replacing them with standards for PM₁₀.

2. Subparagraph (b) of paragraph (2) was amended by adding language to the definition of “Control Strategy” stating that a prohibition of a fuel or fuel additive used in motor vehicles may be implemented if necessary to achieve a primary or secondary air standard.

3. Subparagraph (e) of paragraph (2) was amended by deleting the terms “major” and “or major modifications” from the definition of “Lowest achievable emission rate (LAER).”

4. Part 1. of subparagraph (a) of paragraph (4) was amended by changing the phrase “shall be constructed” to “shall begin actual construction.”

5. Subparagraph (b) of paragraph (4) was amended by adding the definition for “Welfare.”

6. Part 7. of subparagraph (b) of paragraph (4) was amended by adding the phrase “except the activities of any

vessel" to the first line in the definition of "Building, structure, facility, or installation."

7. Subparts (iii), (vi), and (vii) of Part 7. of subparagraph (e) of paragraph (4) were amended by inserting the phrase "the Technical Secretary determines" to replace the words "it is determined" or "it can be determined."

8. Part 1. of subparagraph (n) of paragraph (4) was amended by deleting the word "significantly" from the second sentence.

9. Part 2. of subparagraph (o) of paragraph (4) was amended by making corrections to the introductory paragraph to be consistent with the Federal rule.

10. Miscellaneous typographical errors were corrected throughout the chapter.

Final Action

EPA is approving the above referenced revisions to the Tennessee SIP because they meet the requirements of 40 CFR part 51, subpart I—Review of New Sources and Modifications. This action is being taken without prior proposal because the EPA 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 on September 12, 1996 unless, by August 28, 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 September 27, 1996.

Under Section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2)).

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 E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *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 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 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. Section 7410(a)(2) and 7410(k)(3).

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 section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's 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. Therefore, 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.

Under section 801(a)(1)(A) of the Administrative Procedure Act (APAA) as amended 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 today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 2, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *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.

Subject RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(137) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(137) Revisions to the State of Tennessee Air Pollution Control Regulations submitted by the Tennessee Department of Environment and Conservation on September 1, 1993, and June 10, 1996. These consist of revisions to Chapter 1200-3-9-.01 CONSTRUCTION PERMITS.

(i) Incorporation by reference.

(A) Chapter 1200-3-9-.01 CONSTRUCTION PERMITS of the Tennessee Department of Environment and Conservation which became state effective August 18, 1996.

(ii) Other material. None.

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BILLING CODE 6560-50-P

40 CFR Part 52

[MO-006-1006(a); FRL-5542-6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document takes final action to correct a previous action published on February 29, 1996, that approved and incorporated multiple amendments to Missouri rule 10 CSR 10-6.110 into the State Implementation Plan (SIP) (see 61 FR 7714). Specifically, this action corrects the EPA's inadvertent approval of section 5 (Emission Fees) of Missouri rule 10 CSR 10-6.110 entitled, "Submission of Emission Data, Emission Fees, and Process Information" as a SIP revision.

DATES: This action is effective September 27, 1996 unless by August 28, 1996 adverse or critical comments are received.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551-7606.

SUPPLEMENTARY INFORMATION: On March 31, 1994, the state of Missouri submitted

multiple amendments to rule 10 CSR 10-6.110. These amendments pertained to the submission of emission data and emission fees. The amendments pertaining to the submission of emission data are approvable as a revision to the SIP under section 110 of the Clean Air Act (CAA). However, the emission fee provisions of section 5 were designed to meet the requirements of section 502(b)(3) of the CAA, relating to requirements for state operating permits programs, rather than the requirements of section 110. Consequently, section 5 of Missouri rule 10 CSR 10-6.110 should not have been approved as a SIP revision. However, rule 10 CSR 10-6.110, including section 5, was approved as an integral part of the Missouri operating permit program on April 11, 1996 (see 61 FR 16063).

Under section 110(k)(6) of the CAA, the EPA may revise a previous SIP approval action when it determines that the action was in error. The EPA has determined that its approval of section 5 of 10 CSR 10-6.110 was in error, for the reasons stated in this document.

EPA Action

Pursuant to section 110(k)(6) of the CAA, this is a direct final action correcting the February 29, 1996, SIP approval, and clarifying that section 5 of Missouri rule 10 CSR 10-6.110 is not approved as a part of the Missouri SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

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.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, the 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 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, the EPA 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 CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the 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)).

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.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the 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. The Missouri revisions have no impact on tribal governments.

Through submission of this plan revision, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. The 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 or local governments in the aggregate or to the private sector.

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as