

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 12, 1993. 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

Air pollution control, Ozone, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: April 13, 1993.

John C. Wise,
Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, 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 F—California

2. Section 52.220 is amended by adding paragraphs (c) (183)(i)(A)(3) and (185)(i)(A)(6) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(183) * * *

(i) * * *

(A) * * *

(3) Revised Rule 67.3, adopted on October 16, 1990.

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(185) * * *

(i) * * *

(A) * * *

(6) Revised Rule 410.4, adopted on May 6, 1991.

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BILLING CODE 6560-50-P

40 CFR Part 52

[MI-5286; FRL-4519-9]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving portions of the State of Michigan's local Wayne County Air Pollution Control Division (WCAPCD) regulations, submitted as a revision to the federally approved Michigan State Implementation Plan (SIP) for Wayne County. In addition, USEPA is taking Direct Final rulemaking action approving the portions of chapter 5 of the WCAPCD regulations that were submitted as a revision to the federally approved SIP for Wayne County. The WCAPCD's regulations of 1965, as amended, and submitted to USEPA in 1972, then resubmitted as part of the Appendix to the State of Michigan's April 25, 1979, SIP submittal, are part of the Michigan federally approved SIP. The subject of this action is a set of revisions to those WCAPCD regulations which was submitted to USEPA to be incorporated into the Michigan SIP. These revised WCAPCD regulations were adopted as Wayne County Law on November 18, 1985, and submitted to USEPA by the State of Michigan on October 10, 1986. On January 28, 1993, the State, at the request of Wayne County, withdrew portions of the Wayne County ordinance from the SIP submittal. USEPA is approving portions of these WCAPCD regulations as a supplement to the current federally approved Michigan SIP and is taking Direct Final rulemaking action on one other portion of the submittal. USEPA reviewed this submittal for conformance with the provisions of the Clean Air Act, as amended. USEPA has determined that this action conforms with those requirements even though that submittal preceded the date of enactment.

EFFECTIVE DATE: This final rulemaking becomes effective June 14, 1993 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of this revision of the Michigan SIP are available for inspection at: U.S. Environmental Protection Agency, Jerry A. Kurtzweg, ANR-443, 401 M Street SW., Washington, DC 20460.

Copies of the SIP revision and other materials relating to this rulemaking are

available for inspection at the following addresses: (It is recommended that you telephone John Mooney, at (312) 886-6043, before visiting the Region 5 office).

U.S. Environmental Protection Agency, Region 5, Air Toxics and Radiation Branch, 77 West Jackson, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, Stevens T. Mason Building, 530 West Allegan, Lansing, Michigan 48909. Wayne County Health Department, Air Pollution Control Division, 2211 East Jefferson, Detroit, Michigan 48207.

FOR FURTHER INFORMATION CONTACT: John Mooney, (312) 886-6043.

SUPPLEMENTARY INFORMATION: What follows is a summary of USEPA's March 26, 1990 (55 FR 11029), proposed actions. A more detailed account of USEPA's action can be found in the proposed rule.

On March 26, 1990, USEPA proposed the following actions and solicited public comment on them:

1. Approval:
 - A. Chapter 1—Definitions
 - B. Chapter 2—General Provisions
 - C. Chapter 3—Enforcement
 - D. Chapter 5—Emission Limitations and Prohibitions: Particulate Matter, sections 503 and 504
 - E. Chapter 8—Emission Limitations and Prohibitions: Miscellaneous
 - E. Chapter 9—Sealing of Emissions Sources
 - F. Chapter 10—Variances
 - G. Chapter 11—Testing and Sampling
 - H. Chapter 12—Continuous Emission Monitoring and Recording
 - I. Chapter 13—Air Pollution Episodes
2. No Action:
 - A. Chapter 6—Emission Limitations and Prohibitions (which was not submitted to USEPA by the State)
 - B. Chapter 4—Air Use Approval and Permits
3. Disapproval:
 - A. Chapter 5—Emission Limitations and Prohibitions (proposed disapproval except for sections 503 and 504)
 - B. Chapter 7—Emission Limitations and Prohibitions: Existing and New Sources of Volatile Organic Compounds (VOCs)

Comments and Responses:

Only one set of comments was received, submitted by WCAPCD on May 25, 1990. WCAPCD's comments were limited to USEPA's proposed actions on Chapters 4, 5, and 7 of the Ordinance. WCAPCD requested, and was granted, an extension of the comment period in order to submit

more detailed comments following review of USEPA's technical support documents. However, no further comments were received. As noted above, on January 28, 1993, at the request of Wayne County, the State withdrew Chapters 4, 7, and 10 of the Ordinance from its submittal. In addition, at the request of Wayne County, the State is withdrawing portions of Chapter 5, section 501, of the Wayne County Ordinance which incorporate by reference the following parts of the State rules: (1) The quench tower limit in Rule 336.1331, Table 31, Section C.8, (2) the deletion of the limit in Rule 336.1331 for coke oven coal preheater equipment, and (3) Rule 336.1355. In addition, the County identified that in the notice of proposed rulemaking, USEPA mistakenly acted on sections 504 and 505 which were never adopted by the county and, therefore, were not included in the State's submittal. The following comment was submitted regarding chapter 5 of the ordinance.

Comment: "No reasons for [proposed disapproval of sections 501 and 502] were given. In light of the fact that section 501 incorporates by reference a number of State rules, [WCAPCD] is at a loss to understand why this section should not be approved."

Response: The technical support document of February 23, 1987, states that Michigan's Rules 301 and 331 (i.e. those used as the basis for sections 501 and 502 of the Wayne County rules), "have been determined by USEPA to be unapprovable." A fuller discussion of these State rules was provided in separate technical support documents located in the docket. The proposal to disapprove section 501 of the Wayne County Ordinance was based on this evaluation of the State rules being incorporated. Since the time of proposed rulemaking on the Wayne County Ordinance, the State rules have been further evaluated. Although technical support documents of 1986 and 1987 recommended, and a Notice of Proposed Rulemaking of 1989 proposed disapproval of some of the incorporated State rules, the reevaluation recommends approving most of these rules. As noted above, the State is withdrawing portions of section 501 of the Wayne County Ordinance. As a result, the remaining parts of Chapter 5 of the Wayne County Ordinance are now approvable. These issues are discussed in more detail in the rulemaking portion of this notice.

USEPA's Final Rulemaking Actions

Based on USEPA's proposed actions on March 26, 1990, USEPA is taking

final action on the following regulations.

1. Approval:

- A. Chapter 1
- B. Chapter 2
- C. Chapter 3
- D. Chapter 5—section 503
- E. Chapter 8—except section 802
- F. Chapter 9
- G. Chapter 11
- H. Chapter 12
- I. Chapter 13

2. No Action:

A. Chapter 8—Section 802—USEPA is not taking action on this Section at this time because the Clean Air Act does not contain provisions for the regulation of odor and there are no National Ambient Air Quality Standards which regulate odor.

In addition, USEPA is taking final approval action, as described below, for two other parts of the State's submittal.

3. Direct Final Rulemaking—Chapter 5

A. Sections 501 and 502—USEPA expects no adverse public or congressional reaction resulting from approval of this portion of the SIP revision. The State of Michigan is aware that USEPA plans to approve this portion of the revision and process it under the Direct Final procedures. The State of Michigan concurs with this decision. USEPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. These same provisions have been previously approved by USEPA as revisions to Michigan's State Implementation Plan. This portion of USEPA's rulemaking action will be effective July 12, 1993, unless, within 30 days of publication, notice is received that adverse or critical comments will be submitted bearing solely on this finding that Chapter 5 satisfies the 1981 federally enforced criteria for TSP Part D SIP requirements. If such notice is received, the action on section 501 and 502 of Chapter 5 of this submittal will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal for the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective July 12, 1993.

4. Final Approval Action on

- Appendices
- A. Appendices A and D—USEPA's

notice of proposed rulemaking did not directly specify rulemaking action for the appendices, however, action was proposed indirectly by proposing action on the chapters that incorporate the appendices by reference. The appendices were also discussed more explicitly in the technical support documents for the proposal. USEPA did not directly specify any rulemaking action with regard to appendices A, B, C, D, and E, which were part of the original State submittal. Since the time of the original submittal, the State has withdrawn those Chapters that referenced appendices B, C, and E. The Agency's action on a SIP submittal is rulemaking that is subject to the procedural requirements of the Administrative Procedures Act (APA). Under the good cause exception to the rulemaking requirement, section 553(b)(B), however, the Agency need not provide notice and an opportunity for comment if the Agency for good cause determines that notice and comment are "impracticable, unnecessary, or contrary to the public interest."

Notice and comment are impracticable and unnecessary in the present circumstance. Although USEPA did not directly propose approval of the appendices, USEPA proposed action on the rules that incorporate these appendices by reference.

Therefore, since USEPA did indirectly propose action on these appendices, and any review of the effect of the proposed rules would necessarily involve review of the appendices, USEPA believes that it is unnecessary to propose separate action on the appendices. In addition, it is impracticable for the Agency to take such action because, in light of the statutory time constraints on acting on SIPs, such a process would divert valuable agency resources from action on the large number of SIPs on which USEPA has not had an opportunity to propose and take final action. Therefore, USEPA is taking final action on these appendices in this action. In this manner, USEPA is approving appendices A and D.

This action has been classified as a Table One action by the Regional Administrator, under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214-2225).

The Office of Management and Budget has exempted this rule from the

requirements of section 3 of Executive Order 12291.

Pursuant to the provision of 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities because it merely approves or disapproves for Federal purposes rules that are already in effect and enforceable at the county level.

The Agency has reviewed this request for the revision of the Federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment due to the fact that the WCAPCD ordinance does not constitute a relaxation of the existing local or State rules.

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 July 12, 1993. 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

Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Sulfur dioxide.

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

Dated: April 26, 1993.

Carol Browner,
Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as follows.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(92) to read as follows:

§ 52.1170. Identification of plan.

* * * * *

(c) * * *

(92) On October 10, 1986, the State of Michigan supported portions of the revised Wayne County Air Pollution Control Division Air Pollution Control Ordinance as approved by Wayne County on September 19, 1985, as a revision to the Michigan State Implementation Plan.

(i) Incorporation by reference.

(A) Chapters 1, 2, 3, 5 (except for the portions of Chapter 5, section 501, of the Wayne County Ordinance which incorporate by reference the following parts of the State rules: The quench tower limit in Rule 336.1331, Table 31, Section C.8; the deletion of the limit in Rule 336.1331 for coke oven coal preheater equipment; and Rule 336.1355), 8 (except section 802), 9, 11, 12, 13 and appendices A and D of the Wayne County Air Pollution Control Division (WCAPCD) Air Pollution Control Ordinance as approved by WCAPCD on September 19, 1985.

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40 CFR Part 52

[WI 13-2-5841; FRL-4654-6]

Approval and Promulgation of Implementation Plans; Wisconsin; Rhinelander Sulfur Dioxide Attainment and Maintenance Plan

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On January 5, 1993, USEPA proposed to disapprove Wisconsin rule NR 418.07 as a revision to Wisconsin's State Implementation Plan (SIP) for sulfur dioxide (SO₂). This SIP revision request, submitted by the State on April 28, 1989, to satisfy the requirements of the Clean Air Act (CAA), regulates certain sources of SO₂ in Rhinelander, Wisconsin. No public comments were received on USEPA's proposed action. USEPA is disapproving this revision request in this action.

EFFECTIVE DATE: This final rulemaking becomes effective on June 14, 1993.

ADDRESSES: Copies of the SIP revisions and USEPA's analysis are available for inspection during normal business hours at the following address: (It is recommended that you telephone Sheila Breen at (312) 886-6053, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Section, Air

Toxics and Radiation Branch (AT-18)), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sheila Breen, Air Toxics and Radiation Branch (AT-18)), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6053.

SUPPLEMENTARY INFORMATION:

I. Summary

On January 5, 1993, USEPA proposed to disapprove Wisconsin rule NR 418.07 as a revision to Wisconsin's SO₂ SIP (58 FR 326). This revised rule, submitted by Wisconsin to USEPA on April 28, 1989, regulates certain sources of SO₂ constructed before April 1, 1985, located within the corporate boundaries of Rhinelander, Wisconsin. A paper mill (Rhinelander Paper Company) is the only source presently affected by the rule's limits. The limits for each SO₂ source in the proposed SIP revision are summarized in NR 418.07 and were detailed in USEPA's January 5, 1993, Notice of Proposed Rulemaking (NPR). Background information for USEPA's NPR is contained in the January 5, 1993, Federal Register and will not be repeated here.

II. Analysis of State Submittal

USEPA has reviewed the technical analyses that were submitted in conjunction with the Rhinelander SO₂ rule and is disapproving the SIP revision for two reasons. First, the Industrial Source Complex (ISC) model used by WDNR has been shown to underpredict ambient SO₂ concentrations in the Rhinelander area. Second, the USEPA has determined that the rollback analysis used by WDNR to technically support all of the limits in section NR 418.07 (except those in subsection (1)(a)(1)) does not adequately ensure that the NAAQS will be attained at these emission limitations. A more detailed account of these two deficiencies is provided in the November 16, 1989, and October 11, 1990, technical support documents for the NPR and in the January 5, 1993, NPR.

III. Public Comments

On January 5, 1993, USEPA proposed disapproval of this SIP submittal and requested public comment. The public comment period closed on February 4, 1993, and no comments were received.

IV. Rulemaking Action

USEPA is disapproving section NR 418.07: Rhinelander RACT Sulfur Limitations as a revision to Wisconsin's