

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, I certify that it does not have a significant impact on a substantial number of small entities affected. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a regulatory 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. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410 (a)(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 March 28, 1995. 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 Act, section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental Protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: December 14, 1994.

**William P. Yellowtail,**  
*Regional Administrator.*

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 BB—Montana**

2. Section 52.1370 is amended by adding paragraph (c)(37) to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(37) The Governor of Montana submitted a SIP revision meeting the requirements for the primary SO<sub>2</sub> NAAQS State Implementation Plan (SIP) for the East Helena, Montana nonattainment area with a letter dated March 30, 1994. The submittal was to satisfy those SO<sub>2</sub> nonattainment area SIP requirements due for East Helena on May 15, 1992.

(i) Incorporation by reference.

(A) Stipulation signed March 15, 1994, between the Montana Department of Health and Environmental Sciences (MDHES) and Asarco, Incorporated, which specifies SO<sub>2</sub> emission limitations and requirements for the company's primary lead smelter located in East Helena, MT.

(B) Board order issued on March 18, 1994, by the Montana Board of Health and Environmental Sciences approving and adopting the control strategy for achieving and maintaining the primary SO<sub>2</sub> NAAQS in the East Helena area.

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**40 CFR Part 52**

[IL105-1-6841a; FRL-5139-5]

**Approval and Promulgation of Implementation Plans for Ozone; Illinois**

**AGENCY:** U. S. Environmental Protection Agency (USEPA).

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (USEPA) approves the State Implementation Plan (SIP) revision request submitted by the State of Illinois on October 25, 1994, for the purpose of requiring the installation of pressure/vacuum (P/V) relief valves on storage tank vent pipes at certain gasoline dispensing operations in the Chicago and Metro-East St. Louis (Metro-East) ozone nonattainment areas. The rationale for the approval is set forth in this final rule; additional information is available at the address indicated. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this direct final rule, USEPA will withdraw this direct final rule and address the comments received in a subsequent final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. No additional opportunity for public comment will be provided. Unless this direct final rule is

withdrawn no further rulemaking will occur on this requested SIP revision.

**DATES:** This final rule is effective March 28, 1995 unless notice is received by February 27, 1995 that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Copies of the USEPA's technical analysis are available for inspection at the following address: (It is recommended that you telephone Francisco Acevedo at (312) 886-6061 before visiting the Region 5 Office.)

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

Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR-18J), Regulation Development Branch, Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the Pressure/Vacuum SIP revision is available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Francisco Acevedo (312) 886-6061.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 182(b)(1) of the Act requires all moderate and above ozone nonattainment areas to achieve a 15 percent reduction of 1990 emissions of volatile organic material by 1996. In Illinois, the Chicago and the Metro-East areas are classified as "Severe" and "Moderate" nonattainment for ozone, respectively, and as such subject to the 15 percent Rate of Progress (ROP) requirement.

The Illinois Environmental Protection Agency (IEPA) developed and submitted a plan to USEPA on November 15, 1993 outlining the VOC emission control measures which will be implemented in order to satisfy the 15 percent ROP requirements. On January 21, 1994, USEPA found the Illinois Plan incomplete because it did not contain all the necessary components necessary for approval. On November 22, 1994, IEPA resubmitted the 15 percent ROP plan and USEPA is currently reviewing the plan. One of the measures identified for both the Chicago and Metro-East plans is the introduction of storage tank breathing controls for gasoline dispensing facilities. The Chicago ozone

nonattainment area includes Cook, DuPage, Grundy (only Aux Sable and Goose Lake Townships), Kane, Kendall (Oswego Township only), Lake McHenry, and Will Counties. The Metro-East ozone nonattainment area includes Madison, Monroe, and St. Clair Counties. On April 22, 1994, IEPA filed the proposed P/V relief valves rule with the Illinois Pollution Control Board (Board). A public hearing on the rules was held on June 17, 1994, in Chicago, Illinois, and on September 5, 1994, the Board adopted a Final Opinion and Order for the proposed amendments. The rules became effective on September 21, 1994 and they were published in the Illinois State register on October 7, 1994. The IEPA formally submitted the Pressure/Vacuum Relief Valve rules to USEPA on October 25, 1994, as a revision to the Illinois SIP for ozone.

## II. Stage I/II Requirements

In 1975, the USEPA issued regulatory guidance to assist states in preparing regulations for the control of volatile organic material in ozone nonattainment areas. As a result, gasoline dispensing operations located in the Illinois nonattainment areas were required to be equipped with Stage I vapor recovery systems. The Stage I controls collect gasoline vapor losses generated during bulk gasoline delivery. These Stage I rules did not, however, include any requirement for the control of storage tank breathing loss.

The Clean Air Act Amendments of 1990 further required certain ozone nonattainment areas to implement Stage II vapor recovery. Accordingly, Stage II vapor recovery rules for the Chicago ozone nonattainment area were promulgated in 1992. The Stage II system collects gasoline vapors being expelled from vehicles during refueling. These Stage II systems are highly effective and work in conjunction with the Stage I controls. As with Stage I, Stage II rules did not directly require the control of storage tank breathing losses.

Even with the Stage I and Stage II controls, volatile organic mass (VOM) (gasoline vapor) emissions still occur as vapors are lost (pushed out) through the underground storage tank vent pipe. The vent pipe emissions result from the breathing losses which are caused by vapor and liquid expansion and contraction due to diurnal changes in temperature, barometric pressure and gasoline evaporation.

IEPA's regulations are intended to increase the effectiveness of Stage I and II controls as well as control the gasoline vapor losses being expelled through the vent pipe as stated above.

The control of these emissions will be to require that all open vent pipes at gasoline dispensing facilities with a storage tank capacity of at least 575 gallons be equipped with low pressure/vacuum (P/V) relief valves.

## III. Analysis of Rule

The P/V rule amends 35 Ill. Adm. Code Part 201 Subpart K, Part 211 Subpart B, Part 218 Subpart Y, and Part 219 Subpart Y. The P/V relief valve rule requires gasoline dispensing facilities located in the Chicago and Metro-East ozone nonattainment areas with a storage tank capacity of at least 575 gallons to install a P/V relief valve on each gasoline storage tank vent by March 15, 1995. However, tanks installed before January 1, 1979, are exempt from the rule if they have a capacity of less than 2000 gallons, as are tanks that are equipped with floating roofs or equivalent control devices that have been approved by the State and USEPA. The P/V relief valve must be capable of resisting a pressure of at least 3.5 inches water column and a vacuum of at least 6 inches water column. If a facility is subject to the Stage II vapor recovery rules, the P/V relief valve used must comply with its California Air Resources Board (CARB) certification. The P/V rule also requires the owner or operator to register the installation of the P/V relief valve, to maintain records of malfunctions, maintenance, and repair and to annually test for proper system pressure/vacuum. IEPA currently employs an annual inspection program for Stage I and II regulated facilities. The storage tank breathing control program will be incorporated into the existing inspection program. The State currently has the authority to administer and enforce the control program once the rules become effective.

The Illinois Environmental Protection Act (Illinois Act), section 42(a), states that any person that violates any provision of the Illinois Act or any regulation adopted by the Board, or any permit or term or condition thereof, or that violates any determination or order of the Board pursuant to the Illinois Act, shall be liable to a civil penalty not to exceed \$50,000 for the violation and an additional \$10,000 for each day for which the violation continues. In that this submittal is a regulation adopted by the Board, a violation of which subjects the violator to penalties under section 42(a), the submittal contains sufficient enforcement penalties for approval.

## IV. Final Rulemaking Action

The USEPA approves the SIP revision submitted by the State of Illinois. The

State of Illinois has submitted a SIP revision that includes an enforceable state regulation which is consistent with Federal requirements. The SIP also includes a commitment from the State to perform enforcement inspections on the regulated stations. Substantial penalties that will provide an adequate incentive for the regulated industry to comply and are no less than the expected cost of compliance are included in current Pollution Control Board Regulation. USEPA is, therefore, approving this submittal.

## V. Procedural Background

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on March 28, 1995. However, if the USEPA receives adverse comments by February 27, 1995, then the USEPA will publish a document that withdraws the action, and will address the comments received in response to this direct final rule in the final rule on the requested SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**. The comment period will not be extended or reopened.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to any 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. 600 *et seq.*, USEPA 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, USEPA 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 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, 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA 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).

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 28, 1995. 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, Hydrocarbon, Incorporation by reference, Ozone.

Dated: December 29, 1994.

#### 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(107) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(107) On October 25, 1994, Illinois submitted a regulation which requires gasoline dispensing operations in the Chicago and Metro-East St. Louis ozone nonattainment areas that have storage

tanks of at least 575 gallons to install pressure/vacuum relief valves on storage tank vent pipes. Tanks installed before January 1, 1979, are exempt from the rule if they have a capacity of less than 2000 gallons, as are tanks that are equipped with floating roofs or equivalent control devices that have been approved by the State and USEPA.

(i) Incorporation by reference. Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 201 Permits and General Provisions, Section 201.302 Reports. Amended at 18 Ill. Reg. 15002. Effective September 21, 1994.

(B) Part 211 Definitions and General Provisions, Section 211.5060 Pressure/Vacuum Relief Valve. Added at 18 Ill. Reg. 14962. Effective September 21, 1994.

(C) Part 218 Organic Material Emission Standards and Limitations for Chicago Area, Section 218.583 Gasoline Dispensing Operations—Storage Tank Filling Operations. Amended at 18 Ill. Reg. 14973. Effective September 21, 1994.

(D) Part 219 Organic Material Emission Standards and Limitations for Metro East Area, Section 219.583 Gasoline Dispensing Operations—Storage Tank Filling Operations. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

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#### 40 CFR Part 63

[AD-FRL-5147-1]

RIN 2060-AC19

#### National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks; Extension of Compliance

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

**ACTION:** Final rule; extension of compliance.

**SUMMARY:** On October 24 and 28, 1994, EPA announced a partial 3-month stay and reconsideration of certain aspects of the "National Emission Standards for Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other

Processes Subject to the Negotiated Regulation for Equipment Leaks" 59 FR 19402 (April 22, 1994) and 59 FR 29196 (June 6, 1994) (collectively known as the "hazardous organics NESHAP" or the "HON"). The EPA also proposed, pursuant to Clean Air Act section 301(a)(1), 42 U.S.C. 7601(a)(1), to extend temporarily the applicable compliance dates for sources subject to the stay, but only as necessary to complete the two reconsiderations (including appropriate regulatory action) of the rule in question. The EPA received no adverse public comment on either of the two proposed short-term compliance extensions. The EPA is extending the compliance dates until April 24, 1995. A short-term extension of this nature is well within the 3-year period allowed by the Act.

**EFFECTIVE DATE:** January 27, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Janet S. Meyer, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5254.

#### SUPPLEMENTARY INFORMATION:

##### I. Compliance Extension

On October 24, 1995 (59 FR 53359) EPA announced that, pursuant to Clean Air Act section 307(d)(7)(B), it is reconsidering certain portions of the HON rule. The October 24, 1995 administrative stay applied only to those source owners or operators who make a representation in writing that resolution of the area source definition issues could affect whether the facility is subject to the HON. Readers should refer to that notice for a complete discussion of the background and rule affected.

On October 28, 1995 (59 FR 54131), EPA announced an administrative stay of the effectiveness of the provisions for compressors and for surge control vessels and bottoms receivers for sources subject to the October 24, 1994 compliance date pending reconsideration of those provisions. Readers should refer to that notice and the associated proposed amendments to subpart H (59 FR 54154) for a complete discussion of the background and the proposed changes to the rule.

Along with both notices of partial stay and reconsideration, EPA also proposed to extend the compliance dates beyond the 3 months provided, as necessary to complete reconsideration and revision of the rule in question.

Ten comment letters were received on each of the two notices of partial stay and reconsideration. No adverse