

World Geodetic System of 1984 (WGS 84). The ellipsoid used for NAD 83, Geodetic Reference System 1980 (GRS 80), is earth-centered or geocentric as opposed to the nongeocentric ellipsoids previously employed. This means that the center of the ellipsoid coincides with the center of the mass of the earth. Any inquiries and requests for further information regarding NAD 83 and National Ocean Service nautical charts should be addressed to: Director, Coast Survey (NCG2), National Ocean Service, NOAA, 1315 East-West Highway, Station 6147, Silver Spring, Maryland 20910-3282.

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps of Engineers is amending the regulations in 33 CFR 334 by inserting the following clause that alerts mariners to the potential for navigation and charting errors in consequence of the NAD 83.

“Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used”. On January 24 1995, the Corps published this change in the Notice of Proposed Rulemaking section of the **Federal Register** (60 FR 4582-4583) with the comment period ending on February 23, 1995. We received no comments.

Notes

1. The U.S. Army Corps of Engineers has determined that this rule is not a major rule within the meaning of Executive Order 12866 and is in accordance with the exemption provided military functions.

2. This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354) which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses, small government jurisdictions. We do not believe that the establishment of these rules will have any negative impacts on small entities because the procedures codified here will only serve to eliminate errors and confusion about the applicability of the 1983 North American Datum. Finally,

no reporting or record-keeping requirements are imposed on any small entity as the result of this amendment to the danger zone/restricted area regulations. Therefore, we have determined that this rule will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334

Navigation, Waterways, Transportation.

Accordingly, we are amending Part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: (40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3).

2. Section 334.6 *Datum* is added as follows:

§ 334.6 Datum.

(a) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

(b) For further information on NAD 83 and National Service nautical charts please contact: Director, Coast Survey (N/CG2), National Ocean Service, NOAA, 1315 East-West Highway, Station 6147, Silver Spring, MD 20910-3282.

Dated: March 15, 1995.

Stanley G. Genega,

Major General, U.S. Army, Director of Civil Works.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL115-1-6791a; FRL-5166-1]

Approval and Promulgation of Implementation Plans; Revision to the Illinois State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves the State Implementation Plan (SIP) revision request submitted by the State of Illinois on October 25, 1994, for the purpose of lowering the Reid Vapor Pressure (RVP) of gasoline from 9.0 pounds per square inch (psi) to 7.2 psi for the Metro-East St. Louis (Metro-East) ozone nonattainment area which includes Madison, Monroe, and St. Clair Counties. The rationale for the approval is set forth in this direct final rule; additional information is available at the address indicated below. 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 on May 22, 1995, unless notice is received by April 24, 1995, that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: 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.

Copies of the USEPA's technical analysis (TSD) 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.

A copy of the RVP 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

The USEPA first proposed to regulate gasoline RVP in 1987 (52 FR 31274). Reid vapor pressure is a measure of a fuel's volatility; the higher the RVP the faster a fuel evaporates. Emissions of Volatile Organic Compounds (VOC) react with other pollutants, such as oxides of nitrogen, to form ozone. Ozone formation is most active during the summer months because the chemical reactions involved rely on direct sunlight and high ambient temperatures. Thus, regulations limiting fuel RVP are designed to protect human health by reducing ozone formation and human exposure.

USEPA's gasoline RVP proposal resulted in a two-phased final regulation which Congress incorporated into the Clean Air Act (Act) in section 211(h). Phase I of the regulation took effect in 1990 (54 FR 11868) for the years 1990 and 1991. The second phase of the regulation became effective in 1992 (55 FR 23658). The rule divides the continental United States into two control regions, Class B and Class C. Generally speaking, the Class B States are the warmer southern and western states, such as Missouri; and Class C States are the cooler northern states, such as Illinois. The Phase II regulation limits the volatility of high ozone season gasoline to 9.0 psi RVP for Class C areas and limits Class B ozone nonattainment areas to 7.8 psi RVP. Therefore, the Missouri counties within the St. Louis ozone nonattainment area are required to meet the 7.8 psi RVP standard while the Illinois counties have a 9.0 psi RVP limit.

State governments are generally preempted under section 211(c)(4)(A) of the Act from requiring that any or all areas in a State meet a volatility standard more stringent than the federal standard.¹ However, under 211(c)(4)(C) a State can require a more stringent

standard in its SIP if the more stringent standard is necessary to achieve the National Ambient Air Quality Standard (NAAQS) that the SIP implements in a particular nonattainment area. The State can make this necessity showing by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist and are technically possible to implement, but are unreasonable or impracticable. If a State makes this showing, it can lower the volatility to whatever standard is necessary in the nonattainment area(s).

II. State Submittal

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. The Metro-East area is classified as "Moderate" nonattainment for ozone, and as such is 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 22, 1994, outlining the VOC emission control measures that the State will implement in order to satisfy the 15 percent ROP requirements. USEPA is currently reviewing the plan. One of the measures identified in the Metro-East plan was an RVP limit of 7.8 psi. The Metro-East ozone nonattainment area includes Madison, Monroe, and St. Clair Counties. The 7.8 psi RVP level was originally chosen to coincide with the gasoline volatility requirement for the adjacent St. Louis, Missouri area. However, in December 1993, the Missouri Department of Natural Resources (DNR) proposed lowering the St. Louis area gasoline RVP to 7.2 psi. Therefore, in order to maintain consistency within the area, IEPA proposed a similar 7.2 psi RVP limit. On April 22, 1994, IEPA filed the proposed 7.2 psi RVP rules 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 RVP rule to USEPA on October 25, 1994, as a revision to the Illinois ozone SIP.

Illinois has reviewed all reasonable control measures and calculated the total reductions that it could achieve through these measures. The 15 percent ROP modeling has shown that limiting the RVP of gasoline to 7.2 psi reduces

emissions in the Metro-East area by approximately 8.5 tons per day or 26 percent of the total reduction needed in the area to meet the 15 percent ROP requirement and to attain the NAAQS for ozone. Evaluation of the ROP modeling has shown that the Metro-East area will not be able to demonstrate attainment without controls that achieve this quantity of emission reduction. Illinois has selected the RVP control because there are no other reasonable and practicable emission control options available for the area capable of achieving this level of emission reduction. In determining whether other control measures were unreasonable or impracticable, Illinois considered such factors as cost-effectiveness, unpopularity with the public, need for consistent RVP standards across the greater metropolitan area, and the time frame in which such reductions can be achieved. (See February 9, 1995 TSD for a more detailed discussion of this analysis).

III. Analysis of Rule

The Illinois RVP rule amends 35 Ill. Adm. Code Part 219 Subpart A and Subpart Y. The RVP rule limits the volatility of gasoline sold in Madison, Monroe, and St. Clair Counties to 7.2 psi RVP during the control period beginning in 1995. The adopted control period included in the rule is June 1 to September 15 for retail outlets and wholesale consumers, and May 1 to September 15 for all others. The rule grants a 1 psi waiver for ethanol-blended gasolines that have an ethanol content between 9 and 10 percent by volume. In addition the Illinois RVP rule requires all parties involved with the marketing of gasoline to maintain records indicating that the volatility of each gasoline shipment is in compliance with the 7.2 psi RVP standard. The control period, ethanol blend waiver, and recordkeeping requirements are all consistent with the Act and USEPA's final RVP rule (CAA § 211(h); 40 CFR 80.27).

Gasoline sampling and testing to assure compliance with the regulation will be performed by the Illinois Department of Agriculture. Sampling will be performed in accordance with the procedures described by USEPA in its gasoline volatility regulations in 40 CFR 80 appendix D. Gasoline volatility and ethanol content tests will be performed following procedures described by USEPA in 40 CFR 80 appendix E and appendix F, respectively. Gasoline analysis results will be forwarded to the IEPA for compliance assurance and the preparation of enforcement actions. The

¹ USEPA promulgated the RVP regulations under both section 211(c) and section 211(h). States are generally preempted under section 211(c)(4)(A) from requiring fuel standards nonidentical to Federal standards promulgated under section 211(c)(1).

Illinois Environmental Protection Act (Illinois Act), section 42(a), states that any person that violates any provision of this 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 this 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 enforceable state regulations which are consistent with Federal requirements. The State has also committed to perform enforcement inspections on at least 20 percent of the regulated stations during the first year of enforcement. 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.

Procedural Background

Because USEPA considers this action noncontroversial and routine, the Agency is approving it without prior proposal. The action will become effective on May 22, 1995. However, if the USEPA receives adverse comments by April 24, 1995, then the USEPA will publish a notice 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 2 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 SIP. Each request for revision to any SIP 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.*

Environmental Protection Agency, 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 May 22, 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: February 23, 1995.

Robert Springer,
Acting 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)(109) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(109) On October 25, 1994, Illinois submitted a regulation that reduced the maximum allowable volatility for gasoline sold in the Metro-East St. Louis ozone nonattainment area, which includes Madison, Monroe, and St. Clair Counties, to 7.2 psi during the summer control period. The summer control period is June 1 to September 15 for retail outlets and wholesale consumers, and May 1 to September 15 for all others.

(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, Part 219 Organic Material Emission Standards and Limitations for Metro East Area, (A) Section 219.112 Incorporation by Reference. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

(B) Section 219.585 Gasoline Volatility Standards. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

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40 CFR Part 52

[OH45-1-5974a; FRL-5169-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving revisions to the Ohio State Implementation Plan (SIP) adopted by the Ohio Environmental Protection Agency (OEPA) on March 15, 1993, and December 30, 1994. The OEPA submitted these revisions to the USEPA on June 7, 1993, and February 17, 1995. The revisions concern Ohio Administrative Code (OAC) Chapter 3745-21, "Carbon Monoxide, Photochemically Reactive Materials,