

SUMMARY: The USEPA proposes to approve the State Implementation Plan (SIP) revision request submitted by the State of Ohio for the purpose of satisfying Clean Air Act requirements. In the final rules section of this **Federal Register**, the USEPA is approving the State's SIP revision request as a direct final rule without prior proposal, because the USEPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the USEPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The USEPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments must be received on or before April 24, 1995.

ADDRESSES: Written comments should be mailed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and the USEPA's analysis of it are available for public inspection during normal business hours at: (It is recommended that you telephone Bonnie Bush at (312) 353-6684, before visiting the Region 5 office.)

Regulation Development Section, Air Enforcement Branch (AE-17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Bonnie J. Bush, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois, 60604. (312) 353-6684.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

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

Dated: February 23, 1995.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 95-7102 Filed 3-22-95; 8:45 am]

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40 CFR Part 52

[IL115-6791b; FRL-5166-2]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve 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. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before April 24, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 23, 1995.

Robert Springer,

Acting Regional Administrator.

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BILLING CODE 6560-50-P

40 CFR Part 52

[CA 32-3-6502; FRL-5177-6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the California State Implementation Plan (SIP) for ozone. These revisions concern the control of oxides of nitrogen (NO_x) from stationary gas turbines. The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking will incorporate this rule into the Federally approved SIP. EPA has evaluated this rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA actions on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments on this proposed action must be received in writing on or before April 24, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 2020 "L" Street,
Sacramento, CA 95814.
South Coast Air Quality Management
District, 21865 E. Copley Drive,
Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1200.

SUPPLEMENTARY INFORMATION:

Applicability

This document addresses EPA's proposed action for South Coast Air Quality Management District (SCAQMD) Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines. This rule was submitted by the California Air Resources Board (CARB) on December 31, 1990.

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_x emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a NPRM entitled "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement) which describes and provides preliminary guidance on the requirements of section 182(f). 57 FR 55620. The November 25, 1992 notice should be referred to for further information on the NO_x requirements and is incorporated into this proposal by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compound (VOC) emissions, in moderate or above ozone nonattainment areas. The Los Angeles-South Coast Air Basin is classified as extreme;¹ therefore this area was subject to section 182(f), the RACT requirements of section 182(b)(2), and

the November 15, 1992 deadline, cited below.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC (and NO_x) emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_x CTGs issued before enactment and EPA has not issued a CTG document for any NO_x sources since enactment of the CAA. The RACT rules covering NO_x sources and submitted as SIP revisions are expected to require final installation of the actual NO_x controls as expeditiously as practicable, but no later than May 31, 1995.

This document addresses EPA's proposed action for SCAQMD Rule 1134, Emissions of Oxides of Nitrogen from Stationary Gas Turbines. The SCAQMD adopted Rule 1134 on August 4, 1989 and the rule was submitted by the CARB on December 31, 1990. This submitted rule was found to be complete on February 28, 1991 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V² and is being proposed for limited approval and limited disapproval.

Rule 1134 controls emissions of NO_x from the operation of gas turbines of 0.3 megawatt and larger. NO_x emissions contribute to the production of ground level ozone and smog. The rule was adopted as part of SCAQMD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for this rule.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_x rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in the NO_x Supplement (57 FR 55620) and various EPA policy guidance documents.³ Among these provisions is

²EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

³Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); and "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register**

the requirement that a NO_x rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_x emissions.

For the purposes of assisting state and local agencies in developing NO_x RACT rules, EPA prepared the NO_x Supplement to the General Preamble. In the NO_x Supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_x emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_x (see section 4.5 of the NO_x Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_x. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_x. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_x. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_x RACT rules meet Federal RACT requirements and are fully enforceable and strengthen or maintain the SIP.

Rule 1134 is a new rule which was adopted to control emissions from stationary gas turbines. For this source category, CARB has made a determination on the emission levels that constitute both RACT and best available retrofit control technology (BARCT). BARCT emission levels are generally more stringent than RACT levels, and CARB has published a guidance document concerning their determination for this source category. Sources subject to Rule 1134⁴ are required to meet BARCT emission limits and to use continuous emissions monitoring systems (CEMS). EPA agrees that the limits incorporated in Rule 1134 meet Federal RACT levels, and are consistent with the Agency's guidance and policy for making RACT determinations in terms of general cost-effectiveness, emission reductions, and environmental impacts.

Although SCAQMD Rule 1134 will strengthen the SIP, the rule contains deficiencies related primarily to the lack

Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

⁴Rule 1134 will apply to sources which are not covered in the SCAQMD NO_x RECLAIM program.

¹The Los Angeles-South Coast Air Basin retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

of Federal enforceability. These deficiencies include Executive Officer discretion in approving CEMS, lack of test methods, and lack of monitoring requirements to demonstrate exemption eligibility. A more detailed discussion of the sources controlled, the controls required, justification for why these controls represent RACT, and the rule deficiencies can be found in the Technical Support Document (TSD), which is available from the U.S. EPA, Region IX office. Because of the rule deficiencies, Rule 1134 is not approvable pursuant to section 182(a)(2), section 182(b)(2), section 182(f) and part D of the CAA, because it is not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 1134 under sections 110(k)(3), 301(a), and 182(f) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies which must be corrected in order to fully meet the requirements of section 182(a)(2), 182(b)(2), 182(f), and part D of the CAA. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this NPRM has been adopted by the SCAQMD and is

currently in effect in the SCAQMD. EPA's limited disapproval action will not prevent SCAQMD or EPA from enforcing this rule.

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 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.

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *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 economic 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.

Limited approvals under section 110 and 301 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, it does not have a significant impact on affected small entities. 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. 7410 (a)(2).

The Office of Management and Budget has waived this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 8, 1995.

John Wise,

Acting Regional Administrator.

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BILLING CODE 6560-50-P

40 CFR Part 300

[FRL-5177-5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Koch Refining Company from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Koch Refining Company Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Minnesota, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before April 24, 1995.

ADDRESSES: Comments may be mailed to Gladys Beard (HSRM-J) Associate Remedial Project Manager, Office of Superfund, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Minnesota Pollution Agency Public Library, 520 Lafayette RD. St. Paul, MN 55155-194. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan