

U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects in 40 CFR Part 52

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

Dated: April 3, 1995.

Patrick M. Tobin,

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.

Subpart S—Kentucky

2. Section 52.920 is amended by adding paragraph (c)(77) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(77) Revisions to the Commonwealth of Kentucky State Implementation Plan (SIP) concerning emission statements were submitted on December 29, 1994, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Regulation 401 KAR 50:035 Permits, Section 1, Section 2(1) and Section 10. Regulation became effective September 28, 1994.

(ii) None.

[FR Doc. 95-10696 Filed 5-1-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[MN29-1-6203a; FRL-5174-7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving a revision to the Minnesota State Implementation Plan (SIP) to incorporate new permitting regulations. This revision consists of the State Rules in Chapter 7007, entitled "Air Emission Permits," in conjunction with other rule changes relating to the repeal of prior air permitting rules. Although these rules have been submitted previously to

satisfy the requirements of Title V of the Clean Air Act, the purpose of this submittal is (1) to support federally enforceable permit conditions for limiting sources' potential to emit, (2) to allow the use of permits as vehicles for future SIP revisions, and (3) to update the procedural rules governing the issuance of air permits in Minnesota. USEPA concludes that all three purposes are satisfied.

DATES: This action will be effective July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to:

William L. MacDowell, Chief,
Regulation Development Section (AE-17J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for inspection at the following addresses: (It is recommended that you telephone John Summerhays at (312) 886-6067, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Enforcement Branch, U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 23, 1993, the Minnesota Pollution Control Agency (MPCA) submitted revised air permitting rules for approval as part of the State Implementation Plan (SIP). These rules represent Minnesota's consolidated permitting regulations, which include provisions for operating permits for major sources pursuant to Title V of the Clean Air Act, construction permits for major new sources and major source modifications pursuant to Parts C and D of Title I, and operating and construction permits for minor sources and minor modifications pursuant to State law. Thus, this submittal complements Minnesota's submittal dated November 15, 1993, seeking USEPA approval of the same regulations

as satisfying Title V requirements. Separate rulemaking is being conducted with respect to whether these regulations satisfy Title V requirements. (See the **Federal Register** of September 13, 1994, at 59 FR 46948.)

Minnesota's submittal of November 23, 1993, does not seek to satisfy any specific mandate under the Clean Air Act. As noted above, a separate submittal seeks to satisfy the requirements of Title V. A pair of submittals dated August 5, 1992, and August 26, 1993, have been found to satisfy nonattainment area major new source review requirements (see 59 FR 8578, dated February 23, 1994). The State has not sought to provide State regulations to supersede Federal regulations on attainment area new source review (prevention of significant deterioration).

Instead, the State's submittal of November 23, 1993, seeks approval of updated State permitting regulations which have superseded previously approved regulations, including several provisions to help the State implement its Title V and Title I programs. Minnesota intended with this submittal: (1) to provide a mechanism for intermediate size sources to obtain federally enforceable limitations to become "minor sources," (2) to facilitate future SIP revisions, and (3) to update the federally approved regulations to reflect the updated State permitting regulations. Each of these purposes requires evaluation under different criteria. These purposes and the associated United States Environmental Protection Agency (USEPA) criteria for approval are discussed individually in subsequent sections.

A. Federally Enforceable Limitations on Potential To Emit

The first purpose of Minnesota's submittal was to provide a mechanism for intermediate size sources to obtain federally enforceable limitations such that the sources' potential to emit would be below the size thresholds at which major source permits are required. This mechanism involves federally enforceable State operating permits (FESOPs) incorporating the relevant limitations. The State intends to write such permits both in the context of new source review and in the context of Title V permitting. As clarified in a letter from Charles Williams to Valdas Adamkus dated November 21, 1994, the State is requesting this authority with respect to hazardous air pollutants (HAPs) as well as for pollutants with air quality standards ("criteria pollutants").

Criteria for USEPA approval of FESOP programs are given in the **Federal**

Register of June 28, 1989 (54 FR 27274). FESOP programs must satisfy five principal requirements: (1) the regulations must be approved into the SIP, (2) sources must have a legal obligation to comply with permit terms and USEPA must be authorized to deem as "not federally enforceable" those permits which it finds fail to satisfy applicable requirements, (3) the program must require all limits to be at least as stringent as other applicable requirements, (4) the permit provisions must be permanent, quantifiable, and otherwise enforceable as a practical matter, and (5) the permits must have been subject to public notice and review. Use of FESOPs for limiting hazardous air pollutants is further subject to requirements in section 112(l) of the Clean Air Act, which is also discussed below. Also discussed below is a policy memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting," dated June 13, 1989, and a policy memorandum entitled "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)," dated January 25, 1995.

The first requirement for approval of Minnesota's FESOP program is satisfied by virtue of today's approval of Minnesota's regulations into the SIP.

The second requirement contains two parts. With respect to sources' legal obligations, Minnesota's rules satisfy the requirement by requiring each permit to state that "Any [noncompliance with permit conditions] constitutes a violation of the state law and, if the provision is federally enforceable, of the [Clean Air Act, and] is grounds for enforcement action."

With respect to the authority granted to USEPA to deem permits "not federally enforceable," the technical support document provides a detailed interpretation of Minnesota's rules on this issue both for the time period during permit review and for the time period subsequent to permit issuance. For the permit review period, the State rules specify that Minnesota "shall not issue [such a permit] if the administrator objects to its issuance in writing [during the specified review period]." For the period after the permit has been issued, USEPA interprets Minnesota's rules to allow avoidance of otherwise applicable permitting requirements only if a permit condition provides a federally enforceable limit on a source's potential to emit, which USEPA would be authorized to determine. Thus, in summary, USEPA is authorized to deem permits not

federally enforceable both during and after the permit review period.

With respect to the third requirement, Rule 7007.0800 ("Permit Content") explicitly requires that permits "shall include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements * * *." No provision in the State rules authorizes any relaxation from any applicable requirement.

With respect to the fourth requirement, enforceability is mostly to be provided on a permit-by-permit basis, particularly by writing practical and quantitative enforcement procedures into each permit. USEPA will review enforceability of permits using the above cited memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting," which describes the types of limitations that reduce potential to emit in a federally enforceable manner. Nevertheless, enforceability also requires proper permit program design. Minnesota's regulations (for example Rule 7007.0800 quoted above) provide for fully enforceable limitations. Concerning permanence, Rule 7007.0450 (2) expressly provides for permanence of "title I conditions," thereby assuring permanence of conditions relating to new source review. Pursuant to Rule 7007.0800 (15), Title I conditions in each permit will be identified as such. Other conditions have the duration provided for under Title V, i.e., they expire with permit expiration but are typically renewed with permit reissuance. Consequently, Minnesota's rules provide for the degree of permanence necessary for enforcement of the applicable provisions, and more generally provide for permit limitations to be fully enforceable.

With respect to the fifth requirement, Minnesota's rules have explicit requirements for public notice and review of proposed permitting actions. Of particular concern here are provisions that apply to permitting actions that establish limits to avoid major source permitting requirements ("synthetic minor permits"), both with respect to new source and to existing source permitting requirements. In both cases, Rule 7007.0850 provides for a 30-day public comment period. For most minor source permits, including existing source "synthetic minor permits," Rule 7007.0850 (2) allows the State to publish notice in the State Register rather than in a local newspaper. This approach is provided for in USEPA regulations for major existing source permits under Title V

(i.e., the regulations published at 40 CFR 70), and so this approach is also considered acceptable for synthetic minor existing source permits. For minor source permitting that involves "title I conditions," defined in Rule 7007.0100 (25) to include major new source permit conditions, permit conditions established to help meet air quality standards, and synthetic minor permit conditions, further requirements apply. Specifically, Rule 7007.0850 (4) requires that such permit actions "comply with all other federal requirements for public participation." The Federal requirements for new source permitting include prominent advertisement of the proposed permit, i.e., newspaper publication, which would thus also be a requirement of Rule 7007.0850. Rule 7007.0850 (2)(B) also stipulates that major amendments to State permits (including "major modifications" as defined in USEPA's new source review regulations as well as "synthetic minor modifications"), have the same notice and comment requirements as State permit issuance, "if authorized or required by the administrator." USEPA clearly authorizes and requires full notice and opportunity for public comment in cases of major and synthetic minor modifications. In summary, newspaper notice is a requirement for major and synthetic minor new source permitting under Federal regulations and therefore also under Minnesota Rule 7007.0850(4). In addition, USEPA "authorizes and requires" full notice and opportunity for public comment for major and synthetic minor modifications, which is therefore also required in these cases under Minnesota Rule 7007.0850 (2)(B). Given these interpretations, Minnesota's rules require full satisfaction of relevant notice and comment requirements.

In addition to meeting the criteria in the June 28, 1989, notice, a FESOP program for HAPs must meet the statutory criteria for approval under section 112(l)(5). This section allows USEPA to approve a program only if it (1) contains adequate authority to assure compliance with any section 112 standard or requirement, (2) provides for adequate resources, (3) provides for an expeditious schedule for assuring compliance with section 112 requirements, and (4) is otherwise likely to satisfy the objectives of the Act. The memorandum cited above dated January 25, 1995, provides further discussion of these criteria and of the extent to which limits on criteria pollutants such as volatile organic compounds and

particulate matter may be considered to limit sources' potential to emit HAPs.

Minnesota satisfies these additional requirements for HAPs. (1) The State has adequate authority to assure compliance with section 112 requirements since the third criterion of the June 28, 1989, notice is met, that is, the program does not allow waiving any section 112 requirement. Nonmajor sources would still be required to meet applicable section 112 requirements. (2) Minnesota has committed to provide adequate resources to implement and enforce the program, which it will obtain from fees collected under Title V. USEPA believes that this mechanism will provide sufficient resources to implement this program. USEPA will monitor the State's implementation of the program to assure that adequate resources continue to be available. (3) Minnesota's permitting program also meets the requirement for an expeditious schedule for assuring compliance. A source seeking a voluntary limit on potential to emit is probably doing so to avoid a Federal requirement applicable on a particular date. Nothing in this program would allow a source to avoid or delay compliance with the Federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. (4) Finally, Minnesota's permitting rules are consistent with the objectives of the section 112 program since its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. USEPA believes that this purpose is consistent with the overall intent of section 112. Accordingly, USEPA finds that Minnesota's program satisfies applicable criteria for establishing federally enforceable limitations on potential to emit both criteria and hazardous air pollutants.

Minnesota has requested that eligibility for Federal enforceability extend not only to permits issued after the effective date of this rule but also extend to permits issued under the State's current rule prior to the effective date of today's rulemaking. If the State followed its own procedures, each permit issued under this regulation to establish a Title I condition (e.g. for a source to have minor source potential to emit) was subject to public notice and prior USEPA review. Therefore, USEPA will consider all such operating permits issued which were processed in a manner consistent with both the State regulations and the five criteria to be federally enforceable with the promulgation of this rule provided that

any permits that the State wishes to make federally enforceable are submitted to USEPA and accompanied by documentation that the procedures approved today have been followed. USEPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements.

B. Use of State Permits as SIP Revisions

The second purpose of Minnesota's submittal was to facilitate future SIP revisions. For cases when a single source or a small number of sources require limitations to bring about attainment or to meet other Title I requirements, Minnesota intends that such limitations could be incorporated into the source's permit. Minnesota would then submit the permit as a SIP revision in lieu of the current practice of developing and submitting an administrative order. Minnesota's submittal does not include any such permits for USEPA rulemaking. Thus, the following discussion expresses the approach and criteria that USEPA anticipates using in the future if and when Minnesota does provide such submittals.

The first criterion for USEPA approval of this approach is that the relevant permit conditions be nonexpiring and enforceable. Minnesota's rules address this criterion by defining such permit conditions as "Title I conditions." Minnesota's Rule 7007.0100 (25) defines this term to mean (1) any conditions in a permit which are based on new source review, (2) any conditions imposed to assure attainment, or (3) any conditions established to avoid being subject to new source review (i.e., limitations on potential to emit to become "synthetic minor sources"). Rule 7007.0450 declares that title I conditions are permanent "without regard to permit expiration or reissuance * * *." USEPA will review practical enforceability of permit-based SIP submittals on a permit by permit basis. Assuming that other relevant requirements are met (e.g., any attainment demonstration requirements), USEPA anticipates that well written permits would satisfy the substantive requirements for SIP revisions.

The second criterion for USEPA approval of permits as SIP revisions is that administrative requirements for the adoption of SIP revisions be met. These requirements are specified in 40 CFR 51, particularly Subpart F (Procedural Requirements) and Appendix V (Completeness Criteria). Most notably, any SIP revision must have been subject to proper public notice and opportunity for comment. In particular, the State

must have published a newspaper notice of the intended SIP revisions and have provided a 30-day opportunity for comments and opportunity for a public hearing.

Minnesota's rules have different public notice provisions depending on applicability of Title V permitting requirements, i.e., for major versus minor sources. For sources obtaining or amending a Title V permit, Rule 7007.0850 (Public Notice and Comment) subpart 2 dictates satisfaction of the SIP notice and comment requirements discussed previously. It is less clear whether Minnesota's rules mandate satisfaction of these requirements in the case of minor sources. Rule 7007.0850 subpart 4 states that Minnesota "shall also comply with all other federal requirements for public participation applicable to permits and permit amendments which include Title I conditions [including establishment of attainment-based limitations], including requirements in [40 CFR 51.102, 51.161, and 51.166(Q)]." On the other hand, Rule 7007.1500 subpart 3 indicates (seemingly inadvertently) that such amendments need not be subject to notice and comment. However, it is not necessary to determine here exactly what Minnesota's rules require. Instead, the real issue is whether each permit submitted for SIP revision purposes has been issued in accordance with the notice and comment requirements applicable to SIP revisions (as described above), irrespective of what notice and comment provisions are mandated by Minnesota rules. USEPA will conduct a submittal-by-submittal review of whether the notice and comment requirements for SIP revisions have been satisfied at the time it rulemakes on each submittal.

The above discussion addresses Minnesota's request that USEPA accept permits as the enforceable elements of future SIP revisions. Minnesota's submittal also requested that administrative orders currently in the SIP be replaced with permits. USEPA cannot grant this request now; no Title V permits have yet been issued and so none are available to replace the existing administrative orders. When such permits do become available, the substitution of a permit for an administrative order will not occur on an automatic basis, but rather will be reviewed as a SIP revision following the normal SIP review process.

C. Review of Updated New Source Review Requirements

A third purpose of Minnesota's submittal was to update the federally approved regulations to reflect the

updated State permitting regulations. In adopting a single set of air permitting regulations incorporating both construction permits and operating permits, the State updated numerous new source review provisions in conjunction with its adoption of the regulations required under Title V. These rules specify criteria for what sources must have Title V permits (namely, major sources), what sources must have State permits, and what sources do not need a permit. Further rules specify application requirements, permit content, and procedures for permit processing. Criteria are given for treating modifications as insignificant and for treating activities as insignificant. Separate requirements are established for administrative amendments, minor amendments, moderate amendments, and major amendments. Criteria for reopening of permits, criteria for Federal enforceability, criteria for coverage by a permit shield, and exemptions for emergency circumstances are defined. Additional revisions include modified permit processing provisions (e.g. specific public comment provisions), provisions which exempt certain defined modifications and activities from permitting due to insignificance, provision of raised size thresholds for State permits, and provision for trading of emissions increases and decreases at "minor" sources.

The technical support document provides a rule-by-rule review of the updated Minnesota regulations. A few rules present ambiguities requiring further interpretation. Previous discussion has described USEPA's interpretation of Minnesota's rules concerning notice and comment, concluding that USEPA authorizes and requires and therefore Rule 7007.0850 requires full opportunity for public comment and newspaper notice for synthetic minor and major new source and modification permits. Rule 7007.0750 allows construction prior to permit issuance in some cases for minor sources (provided State authorization is granted), but prohibits preissuance construction for major sources; USEPA interprets this rule to prohibit preissuance construction for prospective synthetic minor sources since such sources are major sources until the permit is issued. Rule 7007.1750 provides that conditions required under Chapter 7007 rules are federally enforceable, but is ambiguous as to whether permit conditions adopted to avoid "major source" size thresholds qualify as federally enforceable. Since such conditions may be considered a

means of satisfying Title I permitting requirements, and since Federal enforceability is a prerequisite for such limits to be effective in avoiding categorization as a major source, USEPA interprets such permit conditions as federally enforceable.

Numerous provisions governing new source review in Minnesota are unaffected by the State's submittal. Minnesota's offset rules, recodified as Rules 7007.4000 through 7007.4030, continue to provide substantive requirements for major new sources and major modifications in nonattainment areas. The State has not sought approval of State regulations for prevention of significant deterioration (i.e. new source review in attainment areas) to replace the Federal regulations at 40 CFR 52.21, so the Federal regulations remain applicable.

In its action on previous Minnesota permitting regulations, published at 53 FR 17033 (May 13, 1988), USEPA disapproved the rules with respect to sources with new source performance standards but exempted by the State as being below permitting size thresholds. The rules providing these exemptions have been repealed and replaced with regulations that require a permit for any source to which new source performance standards apply. Thus the prior partial disapproval may be rescinded. USEPA further concludes that these rules satisfy applicable new source permitting requirements.

II. Rulemaking Action

Today's rulemaking addresses Minnesota's air permitting regulations as submitted November 23, 1993. USEPA approves these regulations. Furthermore, USEPA concludes that Minnesota's three purposes in submitting these regulations have been fulfilled. First, USEPA concludes that Minnesota has satisfied the criteria for issuing federally enforceable state operating permits. Second, USEPA finds that Minnesota has established a suitable mechanism for use of permits as the basis of SIP submittals. Although no such permits have yet been issued or submitted, USEPA anticipates being able to approve future permit-based SIP submittals provided that SIP-related public notice requirements and other relevant SIP requirements (e.g. any attainment demonstration criteria) have been satisfied. Third, USEPA concludes that these new permitting regulations continue to satisfy relevant new source review requirements. Finally, USEPA is rescinding the partial disapproval applicable to Minnesota's previous permitting regulations.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on July 3, 1995, unless adverse or critical comments are received by June 1, 1995. This action will authorize Minnesota to issue federally enforceable state operating permits limiting the potential to emit criteria and/or hazardous air pollutant emissions. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Most of the rules approved by this rulemaking are in Chapter 7007 of Minnesota's rules. Specifically, USEPA is approving Rules 7007.0050 through 7007.1850, including Rules 7007.0050, .0100, .0150, .0200, .0250, .0300, .0350, .0400, .0450, .0500, .0550, .0600, .0650, .0700, .0750, .0800, .0850, .0900, .0950, .1000, .1050, .1100, .1150, .1200, .1250, .1300, .1350, .1400, .1450, .1500, .1600, .1650, .1700, .1750, .1800, and .1850. In addition, USEPA is approving the repeal of previous Rules 7001.1200, 7001.1205, 7001.1210, 7001.1215, and 7001.1220, amendments to Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, and 7002.0015 that accompany this repeal, and new definitions in Rule 7005.0100. USEPA will address Rule 7019.3000 (a portion of the State's emissions inventory rules) in separate rulemaking.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 has exempted this rule from the requirements of section 6 of Executive Order 12866.

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. USEPA*, 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 July 3, 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

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

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

Dated: March 8, 1995.

David A. Ullrich,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52 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 Y—[Amended]

2. Section 52.1220 is amended by adding paragraph (c)(37) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(37) On November 23, 1993, the State of Minnesota submitted updated air permitting rules.

(i) Incorporation by reference.

(A) Rules 7007.0050 through 7007.1850, effective August 10, 1993.

(B) Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, 7002.0015, and 7005.0100, effective August 10, 1993.

§ 52.1225 [Amended]

3. Section 52.1225 is amended by removing and reserving paragraphs (c) and (d).

§ 52.1233 [Added]

4. Section 52.1233 is added to read as follows:

§ 52.1233 Operating permits. Emission limitations and related provisions which are established in Minnesota permits as federally enforceable conditions in accordance with Chapter 7007 rules shall be enforceable by USEPA. USEPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures or permit requirements which do not conform with the permit program requirements or the requirements of USEPA's underlying regulations.

[FR Doc. 95-10702 Filed 5-1-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[VA20-1-5996a; FRL-5178-9]

Approval and Promulgation of Air Quality Implementation Plans; for the Commonwealth of Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires an emission statement program for stationary sources of volatile organics compounds (VOCs) and/or nitrogen oxides (NO_x). The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_x applicable to all ozone nonattainment areas in accordance with section 182(a)(3)(B) of the 1990 Clean

Air Act Amendments (CAAA). This action is being taken under section 110 of the CAA.

DATES: This final rule will become effective July 3, 1995 unless notice is received on or before June 1, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the Commonwealth's submittal and other information are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Region III, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3AT14), U.S. Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-8239.

SUPPLEMENTARY INFORMATION: On November 4, 1992, the Virginia Department of the Environment Quality (VDEQ) submitted a formal revision to the Commonwealth of Virginia's SIP which among other things, requires owners of stationary sources that emit VOCs and NO_x, above specified actual emission applicability thresholds, and within the ozone nonattainment areas, to submit annual statements certifying emissions. This notice only addresses those portions of the November 4, 1992 SIP submittal related to the Commonwealth of Virginia's emission statement program. The other SIP revisions included in the submittal are the subjects of separate rulemaking notices.

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. EPA published a "General Preamble" describing EPA's preliminary views on how the Agency intends to review SIP's and SIP revisions submitted under Title I of the