

40 CFR Part 52

[KY-88-6956a; FRL-5207-9]

Approval and Promulgation of Implementation Plans State: Approval of Revisions to Kentucky**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: On January 27, 1995, the Commonwealth of Kentucky, through the Natural Resources and Environmental Protection Cabinet (Cabinet), submitted revisions to the State Implementation Plan (SIP) correcting deficiencies in the definition of volatile organic compounds (VOCs). These revisions ensue from a commitment made by the Cabinet to the EPA to revise the definition of VOCs. The commitment was made in order for EPA to conditionally approve revisions to the VOC definition in a document dated June 23, 1994.

DATES: This final rule will be effective on July 28, 1995 unless adverse or critical comments are received by July 13, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Scott Southwick, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Division of Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555, x4207. Reference file KY-88-6956a.

SUPPLEMENTARY INFORMATION: On October 20, 1992, the Cabinet submitted a SIP revision which included the definition of a VOC. The VOC definition is found in rules 50:010, 51:001, 59:001, 61:001, and 63:001. The VOC definition met all federal guidelines except for a provision that stated, “* * * VOCs shall be measured by test methods that have been approved by the cabinet. Approval by the cabinet shall not constitute or imply approval by the USEPA. The cabinet will not approve a test method that has been disapproved for use by the USEPA.” EPA stated that the VOC definition was not approvable until the above language was revised to state that all test methods used must be approved by the EPA. On March 25, 1994, Kentucky committed to correct this deficiency. EPA then conditionally approved the VOC definition in the October 20, 1992, SIP revision on June 23, 1994 (59 FR 32343).

On January 27, 1995, Kentucky submitted a revision to the SIP that corrected the deficiency outlined above by revising the VOC definition to state that test methods must be approved by the EPA. The submittal also included minor revisions to rules 50:010, 51:001, 59:001, 61:001, and 63:001 which both clarify the intent of the rule and change the address of a Division for Air Quality regional office. This submittal also revised the SIP to include rule 65:001—Definitions and abbreviations of terms used in 401 KAR Chapter 65. This rule is identical to the rules 50:010 through 63:001.

Final Action

EPA is approving this Kentucky SIP submittal because the revisions are consistent with EPA guidelines. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on July 28, 1995 unless, by July 13, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no

such comments are received, the public is advised that this action will be effective on July 28, 1995.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a 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.

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 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 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, 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 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) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Dated: May 8, 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)(79) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(79) Revisions to the Commonwealth of Kentucky State Implementation Plan

(SIP) regarding the definition of volatile organic compound (VOC) submitted on January 27, 1995.

(i) Incorporation by reference.

(A) 401 KAR 50:010. Definitions and abbreviations of terms used in 401 KAR Chapters 50, 51, 53, 55, 57, 59, 61, 63, and 65, effective April 6, 1995.

(B) 401 KAR 51:001. Definitions and abbreviations of terms used in 401 KAR Chapter 51, effective April 6, 1995.

(C) 401 KAR 59:001. Definitions and abbreviations of terms used in 401 KAR Chapter 59, effective April 6, 1995.

(D) 401 KAR 61:001. Definitions and abbreviations of terms used in 401 KAR Chapter 61, effective April 6, 1995.

(E) 401 KAR 63:001. Definitions and abbreviations of terms used in 401 KAR Chapter 63, effective April 6, 1995.

(F) 401 KAR 65:001. Definitions and abbreviations of terms used in 401 KAR Chapter 65, effective April 6, 1995.

(ii) Other material.

(A) May 4, 1995, letter from Phillip J. Shepherd, Secretary, Natural Resources and Environmental Protection Cabinet to John H. Hankinson, Regional Administrator, U.S. EPA, Region IV.

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40 CFR Part 52

[MN37-1-6901a; FRL-5212-6]

Approval and Promulgation of Implementation Plans; Minnesota

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

ACTION: Direct final rule.

SUMMARY: Minnesota requested minor amendments to several previously approved administrative orders addressing emissions of particulate matter and sulfur. The amendments included deleting an order for a facility that no longer has significant emissions, eliminating reporting requirements for unscheduled startups and shutdowns, clarifying and enhancing dust control practices at one facility, and changing facility names. USEPA is approving this request. USEPA is also correcting the codification for a previous approval action.

DATES: This action will be effective on August 14, 1995 unless adverse or critical comments are received by July 13, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE-17J),

United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for public inspection during normal business hours at the following addresses: 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, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE-17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 886-6067.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On February 15, 1994, USEPA approved State Implementation Plan (SIP) revisions for particulate matter for the Saint Paul and Rochester, Minnesota, areas. On April 14, 1994, and September 9, 1994, USEPA approved SIP revisions for sulfur dioxide (SO₂) for much of the Minneapolis-Saint Paul area. The regulatory portion of these revisions consisted of administrative orders limiting emissions from affected facilities. On December 22, 1994, Minnesota submitted amendments to the administrative orders for 12 of these facilities. For six administrative orders in the particulate matter SIP for Saint Paul, namely for Ashbach Construction, Commercial Asphalt, Great Lakes Coal and Dock, Harvest States Cooperatives, Lafarge, and North Star Steel, the administrative orders were amended to (1) revise the statement of air quality standards to reflect revisions in the underlying State rules, (2) reduce opacity reading requirements typically to an as requested basis, and (3) eliminate the requirement to report scheduled startups and shutdowns. Administrative orders for J.L. Shiely and the Metropolitan Council were revised the same way except that the order for J.L. Shiely was also revised to incorporate more frequent and more effective road treatment, and the order for the Metropolitan Council was revised to delete reference to the Metropolitan Waste Control Commission. The order for PM Ag Products was revoked because the relevant sources have shut down. For the one administrative order in the