

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

particulate matter SIP for Rochester, i.e. for Rochester Public Utilities, the administrative order was amended to (1) revise the statement of air quality standards to reflect revisions in the underlying State rules, (2) reduce opacity reading requirements to an as requested basis, and (3) to require reporting of startups and shutdowns only if they are unscheduled and cause exceedances of the applicable limitations. (The company is required to operate continuous opacity monitors to identify periods of excessive emissions.) For SO₂ in the Twin Cities area, the administrative order for Northern States Power was amended to authorize the company to burn natural gas at six oil-fired gas turbines, and the administrative order for FMC Corporation was amended to show ownership now by United Defense, LP.

II. Analysis of State Submittal

USEPA reviewed each of the various amendments submitted by Minnesota. The revision of the statement of air quality standards is an administrative improvement that makes the orders better reflect new air quality standards in the underlying State rules. The elimination of the requirement for opacity testing according to preset schedules is a reasonable revision because these sources now have compliance histories to indicate the needed frequency of compliance testing. In any case, the orders provide that MPCA or USEPA can require opacity readings at any time, which is sufficient to assure enforceability of these limits. The elimination of requirements to report scheduled startups and shutdowns to MPCA does not eliminate the requirement that the sources record this information, and thus does not reduce MPCA's or USEPA's ability to obtain this information when necessary. For the special case of Rochester Public Utilities, because this facility uses electrostatic precipitators that routinely have unscheduled startups and shutdowns, and because this facility is required to operate continuous opacity monitors, it is reasonable to require this company to report only those startups and shutdowns that are unscheduled and cause exceedances of applicable limits. The name revisions obviously have no environmental impact. The enhancement of the road cleaning requirements for J.L. Shiely clearly will have beneficial environmental impacts. The order for the nonexistent equipment at the PM Ag Products facility is superfluous and may therefore be revoked without impact. The allowance for Northern States Power to burn natural gas at six gas turbines at its Inver

Hills Station has no effect on legally allowable emissions but allows an operational alternative that in practice will reduce emissions. In summary, all of the amendments requested by Minnesota are approvable.

III. Rulemaking Action

USEPA is approving the amendments to 12 administrative orders as requested by the State. All of these amendments were adopted and effective at the State on December 21, 1994. Specifically, for particulate matter in Saint Paul, USEPA is approving amendments to the administrative orders for the following facilities: (1) The Ashbach Construction Company facility at University Avenue and Omstead Street, (2) the Commercial Asphalt, Inc., facility at Red Rock Road, (3) the Great Lakes Coal & Dock Company facility at 1031 Childs Road, (4) the Harvest States Cooperatives facility at 935 Childs Road, (5) the LaFarge Corporation facility at 2145 Childs Road, (6) the Metropolitan Council facility at 2400 Childs Road, (7) the North Star Steel Company facility at 1678 Red Rock Road, and (8) the J.L. Shiely Company facility at 1177 Childs Road. USEPA is revoking the previously approved administrative order for the PM Ag Products, Inc., facility at 2225 Childs Road. For particulate matter in Rochester, USEPA is approving amendments to the administrative order for the Rochester Public Utilities facility at 425 Silver Lake Drive. For sulfur dioxide in the Minneapolis-Saint Paul area, USEPA is approving amendments to the administrative orders for the Northern States Power Inver Hills Station, and the United Defense, LP facility (formerly the FMC/U.S. Navy facility) in Fridley.

For convenience, USEPA is also using this rulemaking to correct the codification of its prior approval of Minnesota's offset rule. Rule 7005.3050 was included as an approved rule, and yet Minnesota had repealed this rule. Therefore, USEPA is amending the codification of approved Minnesota submittals to delete reference to this rule.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on August 14, 1995,

unless USEPA receives adverse or critical comments by July 13, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval. All public comments received will then be addressed in a subsequent rulemaking notice. Any parties interested in commenting on this action should do so at this time.

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 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 exempted this regulatory action from Executive Order 12866 review.

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 Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA 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 the State implementation plan or plan revisions approved in this action, the State has elected to adopt the program provided for under section 110 of the Clean Air Act. The rules and commitments being approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. The USEPA has also determined that this action does not include a mandate that may result in estimated costs or \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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 August 14, 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, Incorporation by reference, Intergovernmental relations, 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: May 15, 1995.
Valdas V. Adamkus,
Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, subpart Y, 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.

2. Section 52.1220 is amended by revising paragraph (c)(33)(i)(A) and by adding paragraph (c)(41) to read as follows:

§ 52.1220 Identification of plan.

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(c) * * *

(33) * * *

(i) * * *

(A) Rules 7005.3020, 7005.3030, and 7005.3040, with amendments effective August 24, 1992.

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(41) On December 22, 1994, Minnesota submitted miscellaneous amendments to 11 previously approved administrative orders. In addition, the previously approved administrative order for PM Ag Products (dated August 25, 1992) is revoked.

(i) Incorporation by reference.

(A) Amendments, all effective December 21, 1994, to administrative orders approved in paragraph (c)(29) of this section for: Ashbach Construction Company; Commercial Asphalt, Inc.; Great Lakes Coal & Dock Company; Harvest States Cooperatives; LaFarge Corporation; Metropolitan Council; North Star Steel Company; Rochester Public Utilities; and J.L. Shiely Company.

(B) Amendments, effective December 21, 1994, to the administrative order approved in paragraph (c)(30) of this section for United Defense, LP (formerly FMC/U.S. Navy).

(C) Amendments, effective December 21, 1994, to the administrative order approved in paragraph (c)(35) of this section for Northern States Power-Inver Hills Station.

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40 CFR Parts 52 and 62

[IA-13-1-6572a; FRL-5210-7]

Approval and Promulgation of Implementation Plans and Section 111(d) Plans; State of Iowa, Polk County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves the State Implementation Plan (SIP) revision submitted by the state of Iowa on behalf of Polk County, and approves the addition of an emissions limit for sulfuric acid mist from sulfuric acid manufacturing to Iowa's section 111(d) plan.

The state's revision involves modifications to the Polk County air pollution control rules. Polk County is an attainment area for all criteria pollutants. The Polk County air rules were revised to make them consistent with the state of Iowa's rules contained in the Iowa Administrative Code (IAC), which have been previously approved by EPA as meeting the requirements of the Clean Air Act.

DATES: This final rule is effective August 14, 1995 unless by July 13, 1995 adverse or critical comments are received.

ADDRESSES: Copies of the state submittal and the EPA-prepared technical support document (TSD) are available for public inspection during normal business hours at the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air and Radiation Docket and Information Center, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551-7213.

SUPPLEMENTARY INFORMATION: Beginning with its initial submission in 1972, the state of Iowa has operated a Federally approved SIP pursuant to the requirements of the Clean Air Act (CAA). During the past two decades, numerous revisions and updates have been made to the SIP in response to new Federal requirements.

The state of Iowa's section 111(d) plan for the control of sulfuric acid mist emissions from existing sulfuric acid production plants and for the control of fluoride emissions from existing phosphate fertilizer plants was approved by EPA in a **Federal Register** notice, under the Code of Federal Regulations Part 62 (50 FR 52920), published December 27, 1985.

REVIEW OF STATE SUBMITTAL: On May 5, 1994, the state of Iowa submitted to EPA Polk County Ordinance No. 132, which