List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Motor vehicle pollution, Nitrogen oxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 1995.

A. Stanley Meiburg,

Acting Regional Administrator.

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 T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(66) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(66) Revisions to the Louisiana Department of Environmental Quality Regulation Title 33, Part III, Chapter 2, Section 223 and Chapter 19, Sections 1951–1973. These revisions are for the purpose of implementing a Clean Fuel Fleet Program to satisfy the Federal requirements for a Clean Fuel Fleet Program to be part of the SIP for Louisiana.

(i) Incorporation by reference.

(A) Revision to LAC, Title 33, Part III, Chapter 2, Rules and Regulations for the Fee System of the Air Quality Control Programs, Section 223, Fee Schedule Listing, adopted in the *Louisiana Register,* Vol. 20, No. 11, 1263, November 20, 1994.

(B) Revision to LAC, Title 33, Part III, Chapter 19, Mobile Sources, Subchapter B, Clean Fuel Fleet Program, Sections 1951–1973, adopted in the *Louisiana Register,* Vol. 20, No. 11, 1263–1268, November 20, 1994.

[FR Doc. 95–26195 Filed 10–20–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MI36–01–6712a; FRL–5294–4]

Approval and Promulgation of State Implementation Plan; Michigan; Eagle-Ottawa Leather Co. Site-Specific SIP Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Michigan State Implementation Plan (SIP) for the Eagle-Ottawa Leather Company facility located in Ottawa County, Michigan. This approval makes federally enforceable the State's consent order requiring control of volatile organic compound (VOC) emissions from the Eagle-Ottawa facility. The EPA's review of the revision shows that the controls are sufficient to constitute Reasonably Available Control Technology (RACT) for this facility. The EPA defines RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

DATES: This action is effective December 22, 1995 unless adverse comments are received within 30 days of this publication. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT–18J), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b) of the Clean Air Act, as amended on November 15, 1990, sets forth the requirements for ozone nonattainment areas which have been classified as moderate or above. Section 182(b)(2) requires the implementation of reasonably available control technology (RACT) for sources of volatile organic compounds (VOCs). Section 182(b)(2)(C) requires that States submit revisions to the State Implementation Plan (SIP) for major sources of VOCs for which the United States Environmental Protection Agency (EPA) has not issued a control technology guidelines (CTG) document.

The Eagle-Ottawa Leather Company is located in Ottawa County which is part of the Grand Rapids moderate ozone nonattainment area. The facility is a major source of VOCs for which a CTG has not been issued and, therefore, the State of Michigan has submitted a site-specific SIP revision, in the form of a consent order, that describes RACT for this source. This submittal satisfies the RACT requirement for this facility.

II. Evaluation of State Submittal

The Michigan Department of Natural Resources (MDNR) followed the required legal procedures for granting this source a site-specific consent order which are prerequisites for EPA to consider including this consent order in Michigan's federally enforceable SIP. A public comment period was held between April 25, 1994 through May 26, 1994. This public comment period was followed by a public hearing on May 26, 1994. This consent order was submitted to the EPA as a site-specific SIP revision under signature of the Governor's designee.

At the time the RACT evaluation was performed, it was thought, by the State, that only the three oldest lines needed to be evaluated for RACT. This is not the case and an evaluation should have been performed on all seven coating lines at the facility.

The consent order that was originally submitted by the State set a VOC limit of 5.8 lbs/gallon of coating, minus water and exempt solvents, as applied. EPA considers this to be acceptable as RACT for the coating lines evaluated in the RACT study. In order to satisfy the RACT requirement that all emission points at this facility have RACT limits applied to them, the remaining four lines will have a VOC limit of 3.1 lbs/gallon of coating, minus water and exempt solvents, as applied. This 3.1 limit is considered to be more stringent than RACT because it is a lower limit than the 5.8 limit which is considered RACT for the coating lines at this facility. The company has signed a letter indicating that the 3.1 limit is acceptable to them and will be incorporated as permit conditions in the federally enforceable permits that apply to these lines.

This RACT submittal is considered approvable because the control requirements evaluated as RACT for the three oldest lines have also been incorporated as permit conditions for the four lines for which a RACT evaluation was not performed. The EPA finds it acceptable that although a RACT analysis was not performed on the four newer lines, these lines are sufficiently

similar to the three older lines that RACT will be the same for all lines.

In the RACT study performed on the 3 oldest surface coating lines at this facility, various VOC controls were evaluated for appropriateness. The controls considered for the coating lines were: coating conversion, thermal incineration, catalytic incineration, and carbon adsorption. Based upon the results of this study, the State and Eagle-Ottawa have entered into a consent agreement limiting each of the lines to 5.8 pounds VOC per gallon of coating, minus water and exempt solvents, as applied, for the 3 lines evaluated in this study. The company has signed a letter indicating that the four lines that were not evaluated in this study, already have federally enforceable construction permits, will have the VOC limits in these permits set at 3.1 pounds VOC per gallon of coating, minus water and exempt solvents, as applied, which is more stringent than the limit found to be RACT for the lines that were evaluated in the RACT evaluation.

This RACT limitation requires the use of water-borne coatings but will still allow the use of solvent-borne coatings in applications where water-borne coatings could compromise product quality. All other control techniques have been eliminated on the basis of technological infeasibility or unreasonable cost. This same limit of 5.8 pounds of VOC per gallon of coating, minus water and exempted solvents, as applied, has been proposed as RACT for leather coating sources for the States of New York (57 FR 52606) and New Jersey (58 FR 38326). In addition to the limits which control the emission of VOCs into the atmosphere, appropriate recordkeeping requirements have been placed in the permits to aid in determining compliance with these limits.

In addition to the coating lines that were evaluated for RACT, this facility also has a research and development laboratory which is also a source of VOC emissions and is not currently covered under Federal regulations. The State did not include this point of emissions in the RACT evaluation and cited a State permitting regulation (which exempts pilot processes and research facilities from control) as justification for this exclusion. Region 5 commented that it is inappropriate to exclude this point of emissions from a RACT evaluation and that doing so is not in keeping with current VOC RACT policy. This comment was made in a letter to the State dated June 1, 1994.

Upon reviewing further documentation provided as technical support for this site-specific SIP revision it was found that the research and development laboratory emitted approximately 2 tons of VOCs in the past 2 years. Although a thorough RACT analysis has not been performed on this point of emissions at the facility, Region 5 is in agreement with the State that it is probably economically unreasonable to control a source of emissions of this size. Therefore, RACT for this point of emissions can be considered continuing to operate without controls.

The EPA has reviewed the procedures that the State has followed in developing the RACT limits for this facility and has found them to be approvable.

III. Action

The EPA approves Michigan's Eagle-Ottawa Leather Company site-specific SIP submittal of July 13, 1994. With this action, EPA incorporates Michigan's Stipulation for Entry of Consent Order and Final Order No. 7–1994 into the SIP, making this consent order federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on December 22, 1995. However, if we receive adverse comments by November 22, 1995, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA 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.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. 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 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.

This approval does not create any new requirements. Therefore, I certify that this action 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 the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act 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 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 28, 1995.

Valdas V. Adamkus

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 X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(99) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(99) On July 13, 1994, the State of Michigan requested a revision to the Michigan State Implementation Plan (SIP). The State requested that a consent order for the Eagle-Ottawa Leather Company of Grand Haven be included in the SIP.

(i) Incorporation by reference. State of Michigan, Department of Natural Resources, Stipulation for Entry of Consent Order and Final Order No. 7–1994 which was adopted on July 13, 1994.

[FR Doc. 95–26197 Filed 10–20–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 81

[A–95–09; FRL–5301–9]

Designation of Areas for Air Quality Planning Purposes; Commonwealth of Virginia: Correction to the Boundary of the Richmond Ozone Nonattainment Area To Exclude the Rural Portion of Charles City County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is making a correction to the boundary of the Richmond ozone nonattainment area in the Commonwealth of Virginia. The boundary of the Richmond ozone nonattainment area is being revised to include only a portion of Charles City County. This action is intended to reflect EPA's determination that Charles City County meets EPA's criteria for the designation of only a portion of a rural county where an air quality monitor indicates violations of the National Ambient Air Quality Standard (NAAQS), in lieu of designating the entire county nonattainment. This action will relieve the attainment portion of the County from meeting the Part D requirements of the Clean Air Act (CAA).

EFFECTIVE DATE: This rule will become effective on November 20, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Kathleen Henry at (215) 597–0545 at the EPA Regional Office listed above.

SUPPLEMENTARY INFORMATION: On November 7, 1994, the Commonwealth of Virginia submitted a request to revise the boundary of the Richmond ozone nonattainment area to exclude the rural portion of Charles City County. Specifically, the Commonwealth asked that only the southwestern corner of the county be included in the Richmond nonattainment area.

Sections 107(d)(4)(A)(i) and (ii) set out the general process by which areas were to be designated for ozone attainment/nonattainment immediately after enactment of the 1990 Amendments. Under the CAA, preenactment ozone and carbon monoxide (CO) nonattainment areas were classified on the date of enactment according to the severity of their problem. Within 120 days of enactment of the 1990 Amendments, the Governor of each State was required to submit a list of areas within the State, designating each area as attainment, nonattainment, or unclassifiable (120-day letter). Within 60 days of submitting the State lists, EPA was required to notify States of any potential modifications to the State's recommendations and encouraged States to comment within 20 days to EPA's proposal. EPA was required to promulgate the lists, including boundary modifications, within 240 days of enactment.

On March 15, 1991, the Commonwealth of Virginia submitted a list of ozone and CO nonattainment, attainment and unclassifiable areas and boundaries, which included the preenactment Richmond ozone nonattainment area. The Commonwealth's list expanded the Richmond nonattainment area to include the Richmond/Petersburg Metropolitan Statistical Area (MSA). However, the Commonwealth excluded parts of the MSA, including Charles City, Dinwiddie, Goochland, New Kent, Powhattan and Prince George's Counties and the City of Petersburg. These areas were designated separately as either unclassifiable or attainment. The Commonwealth excluded these areas because emissions from vehicle, area and point source emissions were below specified cutoff values set by the Commonwealth for areas that were subject to VOC controls.

EPA gave the 60 day notification to Virginia on May 14, 1991, that the Agency intended to modify the designation and/or boundaries of certain areas on the State's list, including the boundaries of the Richmond/Petersburg nonattainment area. Pursuant to section 107(d)(1)(i) of the CAA, EPA indicated that it intended to designate all of Charles City County nonattainment due to monitored violations of the NAAQS for ozone at the air quality monitoring station in the southwestern corner of the county.

On June 3, 1991, the Commonwealth commented that it disagreed with EPA's nonattainment designation for Charles City County due to it's small contribution to the total emissions for the MSA. EPA reaffirmed the nonattainment designation for Charles City County in a letter to the Commonwealth dated June 21, 1991, and promulgated all of Charles City County as part of the Richmond nonattainment area in the November 6, 1991, final rule (FR 56 56694) designating areas for air quality planning purposes. Please refer to Air Docket No. A–90–42.

In the November 6, 1991 rule, EPA established criteria for designating portions of counties nonattainment where monitored violations of the NAAQS were recorded but where the state did not wish to designate an entire county as nonattainment. In general, the criteria required that the boundary: (1) include an area contiguous with the adjoining nonattainment area, (2) include a reasonable area surrounding the monitor, and (3) include all adjoining areas with a population of sufficient density such that those areas were likely to contribute to the NAAQS violation.