

provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 19, 1996.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96-19337 Filed 7-29-96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA047-6936; FRL-5544-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Lead Implementation Plan for an Area in Northeast Philadelphia, PA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes full approval of the state implementation plan (SIP) submitted by the Commonwealth of Pennsylvania for the purpose of bringing about the attainment of the national ambient air quality standard (NAAQS) for lead. The implementation plan was submitted by the Commonwealth to satisfy certain Federal requirements for an approvable nonattainment area lead SIP for a portion of Philadelphia, Pennsylvania. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before August 29, 1996.

ADDRESSES: Comments may be mailed to Makeba A. Morris, Chief, Technical Assessment Section, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. 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; Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

FOR FURTHER INFORMATION CONTACT: Denis M. Lohman, (215) 566-2192, Technical Assessment Section (Mailcode 3AT22), at the EPA Region III address above or via e-mail at lohman.denny@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION: On September 30, 1994, the Pennsylvania Department of Environmental Resources submitted a revision to its State Implementation Plan (SIP) for a portion of northeast Philadelphia.

The revision consists of revised permits for three sources of lead emissions. The revised permits specify

emission limits, operational practices, and compliance provisions for each of the three sources.

I. Background

The national ambient air quality standard (NAAQS) for lead is 1.5 micrograms of lead per cubic meter of air ($\mu\text{g}/\text{m}^3$), averaged over a calendar quarter (see 40 CFR 50.12). Regulations promulgated pursuant to Section 110 of the Clean Air Act (Act) and codified at 40 CFR 51.117(a)(2) provide the each state implementation plan (SIP) must contain a demonstration showing that the plan will attain and maintain the standard in any area that has lead air concentrations in excess of the national ambient air quality standard concentration for lead, measured since January 1, 1974.

In 1988 the Philadelphia Department of Public Health, Air Management Services ("AMS") began monitoring lead concentrations in air at a site located at Castor and Delaware Avenues in northeast Philadelphia. The site, designated as ITO (Site #0449), is in the vicinity of two sources which are not included in the lead SIP approved by EPA in 1984 (see 49 FR 30697). In seven (7) of the 12 calendar quarters of the years 1988, 1989, and 1990, the ITO site measured lead air concentrations in excess of the national ambient air quality standard concentration for lead. The maximum quarterly average lead concentration, monitored in the fourth quarter of 1990, was 2.95 $\mu\text{g}/\text{m}^3$.

On July 6, 1992, EPA notified the Governor of Pennsylvania of its finding that, pursuant to section 110 (a)(2)(H)(ii) of the Act, the Philadelphia portion of the Pennsylvania SIP was substantially inadequate to attain and maintain the NAAQS for lead. Section 110(k)(5) of the Act requires the Commonwealth to revise the SIP whenever a finding of inadequacy is made. The adopted and implemented SIP revision must be submitted to EPA within 18 months following notification of the State Governor. Therefore, the SIP revision was due January 6, 1994. Under section 110(n)(2)(B) of the Act, attainment of the NAAQS must be demonstrated within 5 years of the date of issuance of a finding of SIP inadequacy. In the SIP call letter issued on July 6, 1992, EPA required that the NAAQS for lead be attained in Philadelphia by July, 1995; therefore, within 3 years.

On September 30, 1994, AMS, through the Pennsylvania Department of Environmental Resources, submitted a lead SIP revision request to EPA. The SIP revision contained attainment demonstrations and compliance provisions for three sources: Franklin

Smelting & Refining Corporation ("Franklin Smelting"), at 3100 E. Castor Avenue; MDC Industries, Inc. ("MDC"), at Castor and Delaware Avenues; and Anzon, Inc. ("Anzon"), at 2545 Aramingo Avenue. In this rulemaking action on the Pennsylvania lead SIP, EPA is proposing to approve a SIP revision requested by AMS taking into consideration the specific facts summarized in this notice and presented in a Technical Support Document which may be reviewed at the EPA Region III address above. Thus, EPA will consider any timely comments submitted within 30 days before taking final action on today's proposal.

II. Today's Action

A. Analysis of State Submission

1. Procedural Background

AMS held a public hearing on August 8, 1994, to entertain public comment on the implementation plan for Franklin Smelting, MDC, and Anzon. Following the public hearing the plan was adopted by the Commonwealth and signed by the Secretary, Pennsylvania Department of Environmental Resources on September 30, 1994, and submitted to EPA on September 30, 1994, as a proposed revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete on March 20, 1995, and a letter dated March 20, 1995, was forwarded to the Pennsylvania Department of Environmental Resources indicating the completeness of the submittal and the next steps to be taken in the review process. In this action, EPA proposes to approve the Pennsylvania's lead SIP revision submittal affecting Franklin Smelting, MDC, and Anzon and invites public comment on the action.

2. Accurate Emissions Inventory

To be approved the plan must include a comprehensive, accurate, current inventory of *actual* emissions from all sources of relevant pollutants in the area. The emissions inventory should identify the locations of affected sources. The emissions inventory should also include a comprehensive, accurate, and current inventory of *allowable* emissions in the area.

AMS submitted an emissions inventory based on stack tests of point sources and fugitive source emission rate estimates based on emission factors published by EPA in a document entitled "Compilation of Stationary

Source Emission Factors," commonly referred to as AP-42. The baseline inventory identified Franklin Smelting as the primary cause of monitored NAAQS exceedances, contributing over 86 percent of the total emissions in the immediate vicinity during the time that the violations were recorded. Additional contributing sources included MDC and Goldberg & Sons, Inc., contributing eight (8) and five (5) percent of the total emissions respectively. Goldberg & Sons, Inc. has subsequently ceased operation. AMS was not able to specify allowable emission rates for the identified sources. None of the sources have applicable emission limits for lead except as lead is regarded as particulate matter. For any given source the lead emissions could range from less than one percent to nearly half of the particulate matter emissions.

EPA is proposing to approve the emissions inventory because it appears to be sufficiently accurate and comprehensive to provide a basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of section 110(a)(2)(K) of the Clean Air Act. For further details see the Technical Support Document (TSD).

3. Quantification of Emission Limits

The proposed SIP revision provides application of enforceable control measures through issuance, for each facility, of source-specific emission limitations and other necessary requirements in the form of special operating license (permit) conditions. The emission limitations contained in each operating permit are consistent with the emission rate values used to demonstrate attainment in the supporting modeling analyses.

Franklin Smelting & Refining

Franklin Smelting sources were identified as contributing to the lead problem. New rules for lead emission controls at the facility were established as permit conditions attached to Franklin Smelting's existing licenses for each lead process. Stack sources were identified with specific allowable lead emission rates and will be controlled as follows:

- (1) The main blast furnace stack emissions, vented through a baghouse, will be limited to 1.0 pounds per hour of lead (lb/hr).
- (2) Emissions from tapping at the blast furnace are controlled by two baghouses. Tapping Baghouse East has a limit of 0.00926 lb/hr. Tapping Baghouse West has a limit of 0.00206 lb/hr.

(3) Emissions from the Furnace Yard Enclosure will exhaust to three baghouses which will exhaust through a common stack. The stack emission limit is 0.714 lb/hr.

(4) Emissions inside the converter building are controlled by two control systems. Localized hoods over the converters are exhausted to the converter scrubber/baghouse system. Lead emissions from this system are limited to 0.33 lb/hr. The converter building is exhausted to a baghouse and through the Tenolli stack. Lead emissions from the Tenolli stack are limited to 0.413 lb/hr.

(5) Emissions from the shredder are required to be controlled by a baghouse. Lead emissions from the shredder stack are limited to 0.0429 lb/hr.

Other provisions of the operating permit specify additional control measures including the control of fugitive or non-stack emissions by enclosing the emission points within buildings, paving of roads, adoption of pollution prevention techniques, and good operating practices. Additional details about the conditions of the operating permit may be obtained from the TSD.

MDC Industries, Inc.

MDC sources were identified as contributing to the lead nonattainment problem. Specific allowable lead emission rates were established for MDC processes, each of which is required to be controlled by a baghouse as follows:

- (1) Slag screening vented through baghouse 1 and limited to 0.047 lb/hr.
- (2) Abrasive sizing vented to baghouse 2 and limited to 0.095 lb/hr.
- (3) Dryer vented to baghouse 5 and limited to 0.12 lb/hr.

The MDC processes are further limited to 84 hours per week of operation with no restriction as to hours per day of operation. Additional provisions of the operating permit limit visible emissions and require improved self-monitoring by MDC's personnel directed toward controlling wind blown dust from storage piles. Additional details about the conditions of the operating permit may be obtained from the TSD.

Anzon, Inc.

To comply with federal SIP requirements, the proposed SIP revision includes formal documentation of attainment and provisions to maintain the lead NAAQS by Anzon. The 1984 Philadelphia lead SIP was submitted in response to violations of the lead NAAQS recorded in the vicinity of the Anzon facility. Subsequent to the approval of the 1984 lead SIP, Anzon made significant operational improvements under a compliance

agreement with the City of Philadelphia to minimize lead emissions from its facility. The terms of the compliance agreement are incorporated into the permit for Anzon submitted with this SIP revision request. Quarterly averages for lead at ambient air monitoring sites in the vicinity of Anzon have shown compliance with the lead NAAQS since 1987.

4. Demonstration

The AMS conducted an attainment demonstration using dispersion modeling to predict quarterly lead averages within 1 kilometer of Franklin Smelting. Monthly and quarterly averages were determined with the EPA dispersion model ISCLT2. The EPA screening model SCREEN2 was used to determine lead concentrations in building cavity regions. Emission rates from the operating permits for Franklin Smelting and MDC Industries were modeled along with area and volume sources at those facilities plus background emissions from Delaware Avenue, nearby Interstate 95 and E. Goldberg & Sons. Meteorological data from the Philadelphia International airport for the years 1987 thru 1991 were used for the modeling. This demonstration indicates that the NAAQS for lead will be attained and maintained in future years if Franklin Smelting operates in compliance with its permit. The demonstration predicted a maximum, or design, concentration in the second quarter of 1991 as 1.41 $\mu\text{g}/\text{m}^3$, thus demonstrating attainment and maintenance of the lead NAAQS. For a more detailed description of the attainment demonstration and the control strategy used, see the TSD accompanying this notice.

5. Enforceability Issues

The operating permit issued to each facility specifies maximum allowable emission rates for specified point sources and, in addition, specifies selected operational practices and schedules for installation of further control measures. Each permit contains compliance provisions and specifies monitoring and recordkeeping requirements. Each permit further addresses federal enforceability by containing the provision: "This permit shall remain enforceable by the U.S. Environmental Protection Agency as part of the State Implementation Plan notwithstanding the expiration date of this permit."

Consistent with the attainment demonstration described above, the SIP revision requires that all affected activities must be in full compliance with the applicable SIP provisions by

not later than July 6, 1995. In addition to the applicable control measures, this includes the applicable recordkeeping requirements which are addressed in the supporting technical information. Compliance for certain measures, such as lead mass emission rates must be determined in accordance with appropriate test methods. The SIP provides that compliance of the lead mass emission rates applicable to the Blast Complex, the Converter Complex and the shredder at Franklin Smelting will be determined in accordance with 40 CFR part 60, appendix A Reference Method 12 or EPA approved alternatives. Initial tests and biannual retests are required. EPA finds these test methods are appropriate for determining compliance because they, along with the required monitoring and recordkeeping, establish the continuing compliance with the provisions of the attainment demonstration.

The Commonwealth of Pennsylvania has a program that will ensure that the measures contained in the operating permits are adequately enforced. Each permit contains explicit monitoring requirements which are required to be operable by July 1, 1994. Records of the monitoring of specified parameters are required to be maintained and available on-site for inspection. Each facility is also required to report, in writing within twenty-four hours, any event occurring which may increase pollutant emissions to the atmosphere. Periodic, either monthly or quarterly, reporting of specified compliance-related information is also required in each permit. The TSD contains further information on enforceability requirements including: enforceable emission limitations; test methods and compliance schedules as appropriate; averaging times for compliance test methods; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

Under authority granted by the Pennsylvania Air Pollution Control Act (35 P.S. §§ 4001-4015) the Commonwealth of Pennsylvania has delegated responsibility for the management of air quality in Philadelphia to AMS. The provisions of Chapter 133 of the Pennsylvania environmental regulations (25 Pa. Code § 133), effective September 11, 1971, establish procedures for approving local agencies or for rescinding or suspending previously granted approval.

EPA's review of this material indicates that full compliance with the proposed SIP revision will result in attainment and maintenance of the lead NAAQS. EPA is proposing to approve

the Pennsylvania SIP revision for Philadelphia, which was submitted on September 30, 1994. EPA is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this notice.

Proposed Action

EPA is proposing to approve the plan revision submitted to EPA for the Delaware and Castor Avenue area of northeast Philadelphia on September 30, 1994. Among other things, the Commonwealth of Pennsylvania has demonstrated that the Delaware and Castor Avenue area of northeast Philadelphia area would attain the lead NAAQS by July 6, 1995.

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.

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 Clean Air Act do not create any new requirements but simply approve requirements that the Commonwealth is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated 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 to the private sector, result from this action.

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 (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the SIP revision controlling lead emissions in Philadelphia will be based on whether it meets the requirements of section 110(a)(2) (A)-(K) and of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: July 17, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96-19322 Filed 7-29-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[PA065-4026b; FRL-5535-1]

Approval and Promulgation of Air Quality Implementation Plans; Proposed Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable General State Operating Permits and General Plan Approvals Under Sections 110 and 112(l)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of creating Federally enforceable conditions for sources of criteria air pollutants in general operating permits and general plan approvals issued by the Commonwealth. In order to extend the federal enforceability of general State operating permits and general plan approvals to include hazardous air pollutants (HAPs), EPA is also proposing approval of Pennsylvania's general operating permit and general plan approval program regulations pursuant to Section 112(l) of the Act. In the Final Rules section of this Federal Register, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and in the Technical Support Document (TSD) for this rulemaking. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA 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. 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. **DATES:** Comments must be received in writing by August 29, 1996. **ADDRESSES:** Written comments on this action should be addressed to David Arnold, Chief, Permit Programs Section, Mailcode 3AT23, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. 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, and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8468, Harrisburg, Pennsylvania 17105-8468.

FOR FURTHER INFORMATION CONTACT:

Michael H. Markowski, Mail Code 3AT23, U.S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566-2063.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

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

Dated: June 26, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96-19206 Filed 7-29-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[NY001; FRL-5544-3]

Clean Air Act Proposed Interim Approval of Operating Permits Program: State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the operating permits program submitted by the State of New York for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources and to certain other sources.

DATES: Comments on this proposed action must be received in writing by August 29, 1996.

ADDRESSES: Written comments should be addressed to Steven C. Riva, Chief, Permitting and Toxics Support Section, at the New York Region II Office listed below. Copies of the State's submittal and other supporting information used in developing the proposed interim approval as well as the Technical Support Document are available for inspection during normal business hours at the following locations:

EPA Region II, 290 Broadway (21st Floor until July 19, 25th Floor after July 19), New York, New York 10007-1866, Attention: Steven C. Riva.

New York State Department of Environmental Conservation, 50 Wolf