

§ 20.611 Rule 611. Continuation of representation following death of a claimant or appellant.

A recognized organization, attorney, agent, or person properly designated to represent a claimant or appellant will be recognized as the representative of his or her survivors for a period of one year following the death of the claimant or appellant. The provisions of this section do not apply to any survivor who has appointed another representative in accordance with these rules or who has indicated in writing that he or she does not wish to be represented by the claimant's or appellant's representative. Written notice that a survivor does not wish to be represented by the claimant's or appellant's representative will be effective when received by the agency of original jurisdiction or, if the case has been certified to the Board for appellate review, by the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 5902-5904)

Subpart N—Miscellaneous

3. In subpart N, § 20.1302 is revised to read as follows:

§ 20.1302 Rule 1302. Death of appellant during pendency of appeal.

An appeal pending before the Board of Veterans' Appeals when the appellant dies will be dismissed.

(Authority: 38 U.S.C. 7104(a))

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52**

[MN54-01-7279a; FRL-5913-3]

Approval and Promulgation of Implementation Plan: Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves Minnesota's 1993 periodic carbon monoxide (CO) emission inventory. The inventory was submitted by the State of Minnesota to satisfy a Federal requirement that those States containing CO nonattainment areas (NAA's) classified moderate and serious submit a revised emission inventory (i.e., from the 1990 base year inventory) at the end of each 3 year period thereafter, until the area is redesignated to attainment. It is an inventory of actual CO season emissions from all

sources, in accordance with EPA guidance.

The geographic area covered in the 1993 periodic CO emission inventory includes counties of the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright County. The rationale for this approval is set forth in this final rule; additional information is available at the address indicated below in the supporting Technical Support Document (TSD). Elsewhere in this **Federal Register**, EPA is proposing approval and soliciting comment on this action; if adverse comments are received, EPA will withdraw the direct final rulemaking and address the comments received in a new final rule; otherwise no further rulemaking will occur on this action.

DATES: This final rule will be effective December 22, 1997 unless substantive adverse comments not previously addressed by the State or USEPA are received by November 24, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments may be mailed to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Copies of the material submitted by the Minnesota Pollution Control Agency may be examined during normal business hours at the same location.

FOR FURTHER INFORMATION CONTACT: Charles Hatten at (312) 886-6031.

SUPPLEMENTARY INFORMATION:**Background**

Under the Clean Air Act as amended (including the 1990 Amendments)(the Act), States have the responsibility to inventory emissions contributing to the National Ambient Air Quality Standards nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The Act required States with moderate and serious CO nonattainment areas to initially submit a base year CO inventory that represented actual emissions during the peak CO season by November 15, 1992. This base year inventory was for calendar year 1990. Moderate and serious CO nonattainment areas were also required to submit a revised emissions inventory periodically. The submittal of the first periodic emissions inventory is required no later than September 30, 1995, and every 3 years

thereafter until the area is redesignated to attainment. The 1990 base year inventory is the primary inventory from which the periodic inventories are derived. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, March 1991.

The air quality planning requirements for CO nonattainment areas are set out in section 187 of Title I of Clean Air Act (the Act). Under section 187(a)(5) of the Act, for those States containing areas designated nonattainment for CO, and classified moderate or serious, a revised emission inventory (i.e., from the 1990 base year inventory) must be submitted at the end of each 3 year period thereafter, until the area is redesignated to attainment. The State's submittal must include a comprehensive, accurate, and current inventory of actual CO season emissions from all sources. Stationary point, area, and on-road and off-road mobile sources are to be included in the inventory. This first periodic inventory is for calendar year 1993. The periodic inventory is to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peaks CO air quality concentrations occur. For many, but not all areas of the country, the peak CO season will be in the winter-time months. For areas where winter is the peak CO season, the 1993 periodic inventory will include the winter months that begin in 1992 and extend into 1993 (e.g., December 1992 through January-February 1993). Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992). Emission inventories are first reviewed under the completeness criteria established under section 110(k)(C) of the Act (56 FR 42216, August 26, 1991). According to section 110(k)(1)(C) if a submittal does not meet the completeness criteria, "the State shall be treated as not having made the submission." Under section 179(a)(1) and 110(c)(1), a finding by EPA that a submittal is incomplete is one of the actions that initiates the sanctions and Federal Implementation Plan.

Review of State 1993 CO Periodic Emission Inventory (PEI)*I. Procedural Background*

The approach to developing the 1993 PEI should be to require a rigorous

inventory, similar to that for the 1990 base year emission inventory, that would be suitable for regulatory purposes; i.e., milestone compliance demonstration or maintenance plan tracking. However, if EPA determines that the 1993 PEI will not be used to support a regulatory purpose, a less rigorous approach may be appropriate.¹ After a preliminary review of the May 25, 1995, draft submittal of the 1993 PEI, EPA notified the State of Minnesota Pollution Control Agency (MPCA) in a letter with its determination that the inventory was being prepared in accordance with EPA guidance, and recommended that the MPCA complete the quality assurance checks on the draft inventory. EPA also recognized at this time a less rigorous approach to developing the 1993 CO PEI would satisfy the requirements of section 187(a)(5) of the Act, since it would not have any impact for regulatory purposes.

The final 1993 CO PEI was submitted on September 28, 1995, from the MPCA to EPA. The EPA reviewed the inventory and is satisfied that all Agency guidance requirements have been met.

The 1993 CO PEI inventory contained summary tables for stationary point and area sources, and mobile source (both on-road and nonroad) CO emissions in tons per year and pounds per winter day. A detailed breakdown of these source categories, for the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), by county, and Wright County is given in summary tables 1.4.1, 1.4.2, 1.4.3, and 1.4.4. Summary tables 1.4.5, 1.4.6, 1.4.7, and 1.4.8 for the 1993 PEI provide CO emissions in the Twin Cities seven county metropolitan area, by county and Wright County; seven and eight county totals *as a percent of total CO emissions* in tons per year and pounds per winter day, by major source category.

The plan submittal also included a comparison of the 1993 PEI and the 1990 base year inventory for stationary point and area sources, and mobile source (both on-road and nonroad) CO emissions in tons per year and pounds per winter day. A detailed breakdown of these source categories, for the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), by county, and Wright County is given in

summary tables 1.4.9, 1.4.10, 1.4.11, and 1.4.12. Summary tables 1.4.13, 1.4.14, 1.4.15, and 1.4.16 provide a comparison of the 1993 PEI and the 1990 base year inventory CO in the Twin Cities seven county metropolitan area, by county and Wright county; seven and eight county totals emissions *as a percent of total CO emissions* in tons per year and pounds per winter day, by major source category are also provided.

The CO nonattainment boundaries for these areas are described in 56 FR 56694 (November 6, 1991), and classified as moderate. The geographic area covered is classified as a moderate CO nonattainment area because the area has a design value of 11.40 parts per million.

II. Final Rulemaking Action

EPA is approving the Minnesota's 1993 CO periodic emission inventory as meeting the requirements of section 187(a)(5) of the Act as a revision to the CO state implementation plan for all areas designated as nonattainment, classified moderate and serious. These areas included the counties of the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright County.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve this part 52 action should adverse or critical comments be filed. This action will be effective December 22, 1997 unless, by November 24, 1997 adverse or critical comments are received.

If 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 this action serving as a 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. If no such comments are received, the public is advised that this action will be effective on December 22, 1997.

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.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrators 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 D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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.

Extension of an area's attainment date under the Act does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

C. Unfunded Mandates

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 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 promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more

¹ Reference the September 30, 1994, memorandum from David Mobley, "1993 Periodic Emission Inventory Guidance," it presented suggestions on the guidance preparation of the 1993 periodic emission inventory and reporting requirements.

to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in this **Federal Register**. This rule is not a "major rule" as defined by section 804(2).

E. 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, 1997. 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and record-keeping requirements.

Dated: October 9, 1997.

David A. Ullrich,

Acting Regional Administrator.

Parts 52 of chapter I, title 40 of the Code of Federal Regulations are 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 Y—Minnesota

2. Section 52.1237 is amended by adding paragraph (b) to read as follows:

§ 52.1237 Control strategy: Carbon monoxide.

* * * * *

(b) Approval—The 1993 carbon monoxide periodic emission inventory requirement of section 187(a)(5) of the Clean Air Act, as amended in 1990, has

been satisfied for the following areas: the counties of the Twin cities seven county Metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 016–1016; FRL–5912–6]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action on a proposed rulemaking published July 29, 1996 (61 FR 39375). This final action includes provisions related to open burning, new source review requirements in nonattainment areas, and test method and definition updates.

DATES: This rule is effective on November 24, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

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

SUPPLEMENTARY INFORMATION: During the public comment period of the proposed rulemaking published July 29, 1996 (61 FR 39375), and closing August 28, 1996, the EPA did not receive any comments. However, a notice reopening the public comment period was published on September 17, 1996 (61 FR 48873), requested by interested persons who desired more time to address the construction permit exemption provisions contained in the original July 29, 1996, proposed rulemaking. During the reopened public comment period, the EPA received one comment from the state of Iowa. The nature of this comment was to request an additional revision to the State Implementation Plan (SIP) concerning the construction permit exemptions. In correspondence dated September 27, 1996, the Director of the Iowa Department of Natural Resources, Larry J. Wilson, requested a revision to the SIP that would allow

retroactive application of the construction permit exemptions proposed for approval in the July 29, 1996, notice.

After careful analysis, the EPA has elected to address approval of the minor source construction permit exemptions and the request for retroactive approval in a separate rulemaking at a later date. The EPA has analyzed this rule to determine that it has no impact on the other rule revisions that were proposed for approval in the July 29, 1996, proposal. Therefore, the EPA can take action on the other rule revisions at this time, and take a separate action on the exemption rule.

In this final rulemaking, the EPA is approving those portions of the original proposal that include amendments to the Iowa open burning rule, a permit by rule provision for spray booths, revisions to Iowa's major new source permit rule for nonattainment areas, a revised definition of "volatile organic compounds," and updates to Iowa's compliance sampling test methods. The EPA's rationale for approval of these revisions is contained in the July 29, 1996, notice previously described, and no comments were received on the proposed approval of these revisions.

Furthermore, the EPA has determined that the permit by rule for spray booths contained in IAC 567–22.8(1) meets the requirements regarding limitations on potential to emit (PTE) under section 112(l). Therefore, insofar as the rule applies to hazardous air pollutants, it is approved under section 112(l) as well as section 110 of the Act. The EPA is also approving IAC rule 567–22.3(6) which limits PTE for new sources under section 112(l).

I. Final Action

The EPA is taking final action on the revisions described in the July 29, 1996, proposed rulemaking regarding the permit by rule provision for spray booths, open burning, new source review requirements in nonattainment areas, and definition and test method updates.

The permit by rule for spray booths is approved under both section 110 for criteria pollutants as well as under section 112(l) as it relates to hazardous air pollutants. The EPA is also approving the IAC rule 567–22.3(6) which limits PTE for new sources under 112(l).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental