of any court of the United States within the jurisdiction in which the investigation or proceeding is conducted, or where such person resides or transacts business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records pursuant to subpoenas issued in accordance with section 6(c) of the Act for the purpose of securing effective enforcement of the provisions of this Act, for the purpose of any investigation or proceeding under this Act, and for the purpose of any action taken under section 12(f) of the Act.

(f) Notwithstanding the delegation of authority to the Director set forth in paragraph (e) of this section, in any case in which the Director believes it appropriate the matter may be submitted to the Commission for its consideration. Nothing in this section shall prohibit the Commission from exercising the authority delegated in paragraph (e) of this section.

Issued in Washington, DC on May 22, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–13300 Filed 5–28–02; 8:45 am]

BILLING CODE 6351–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL189–1a; FRL–7212–9]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to particulate matter control requirements for rural grain elevators in Illinois. On April 8, 1999, the Illinois Environmental Protection Agency (IEPA) submitted section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a requested revision to the Illinois State Implementation Plan (SIP). The requested SIP revision exempts rural grain elevators from certain particulate matter control requirements. An air quality modeling analysis was conducted to show that this rule change would not cause or contribute to violation of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10).

DATES: This rule is effective on July 29, 2002, unless EPA receives relevant adverse written comments by June 28, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should send written comments to: Patricia Morris, Acting Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

Table of Contents

I. What Is the EPA Approving?

EPA is approving section 9 of the Illinois Environmental Protection Act (as revised by Public Act 89–491) as a revision to the Illinois SIP. The revised Illinois Environmental Protection Act exempts rural grain elevators from particulate matter control requirements contained in section 212.462 of Title 35 of the Illinois Administrative Code (35 IAC 212.462).

a. What Sources Are Being Exempted?

The exemption applies to ''any grain elevator located outside of a major population area'' provided that the elevator:

1. does not violate the pollution prohibition in subsection (a) of section 9 of the Illinois Environmental Protection Act or have a certified investigation on file with the Illinois EPA; and,

2. Is not required to obtain a Clean Air Act Permit Program permit.

''Major population areas'' are defined at 35 IAC 211.3610. Generally, major population areas include Cook, Lake, DuPage, and Will Counties; portions of McHenry, Kane, and St. Clair Counties; as well as the municipalities of Kankakee, Rockford, Moline, Galesburg, Peoria, Pekin, Bloomington/Normal, Champaign/Urbana, Decatur, Springfield, and surrounding areas.

Subsection (a) of section 9 of the Illinois Environmental Protection Act states ''No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the [Illinois Pollution Control Board] under this Act.''

A ''certified investigation'' means ''a report signed by Illinois Environmental Protection Agency personnel certifying whether a grain-handling operation (or portion thereof) or grain-drying operation is causing or tending to cause air pollution.''

A Clean Air Act Permit Program permit is a permit required under section 39.5 of the Illinois Environmental Protection Act. For sources of particulate matter pollution, such as grain elevators, sources with a potential to emit over 100 tons of PM10 per year are required to obtain permits under this program.

b. What Requirements Are They Being Exempted From?

The revised Illinois Environmental Protection Act exempts rural grain elevators from particulate matter control requirements contained in 35 IAC 212.462. The requirements in 35 IAC 212.462 are applicable only to operations with a total annual grain throughput of 300,000 bushels or more. 35 IAC 212.462 requires sources to apply for a permit subject to 35 IAC 201. 35 IAC 212.462 also requires, among other requirements, control equipment with 90% particulate removal efficiency on cleaning and separating operations, major dump-pit areas, internal transferring areas, and watercraft loadout areas. 35 IAC 212.462 requires truck and hopper car loading to use socks, sleeves or choke loading, and for box car loading emissions to be controlled ''to the fullest extent which is technically and economically feasible''.

c. What Requirements Still Apply?

Illinois grain elevators exempted from the requirements of 35 IAC 212.462 continue to be regulated by 35 IAC 212.461 which includes housekeeping requirements such as maintenance and operation of existing control equipment, and requirements for cleaning and maintenance of areas such as floors, roofs, and property. No visible emissions are allowed from the head house.

Grain drying operations continue to be regulated by 35 IAC 212.463, which contains specific requirements for different types of grain dryers.

Sources exempted from 35 IAC 212.462 are also subject to the opacity limits of 35 IAC 212.123, which limit opacity of emissions to 30%, generally. 60% opacity is allowed for up to 8 minutes per hour, on no more than 3 occasions in any 24-hour period.

Additionally, New Source Performance Standards (Title 40 Code of Federal Regulations, part 60, subpart DD) apply to grain elevators constructed or modified after August 3, 1978. These Federal regulations, generally, contain limits on grain loading/unloading, grain drying, and material handling operations at grain elevators with a permanent storage capacity of more than 2.5 million bushels.

II. Analysis of the Requested SIP Revision

Section 110(l) of the Clean Air Act (Act) states that EPA shall not approve a requested SIP revision if the revision would interfere with any applicable requirement of the Act. While the requested SIP revision does not apply to any PM10 ''nonattainment areas'', it is a relaxation of the current SIP. Therefore, to satisfy section 110(l) of the Act, an air quality modeling analysis was conducted to determine whether the requested SIP revision would cause or contribute to violations of PM10 National Ambient Air Quality Standards (NAAQS). Illinois submitted a modeling analysis, and the EPA conducted further analyses to confirm the State's results. The modeling analyses considered a representative rural grain elevator with a throughput of 2.5 million bushels per year, using conservative emissions estimates, and including estimates of background PM10 concentrations. The analysis showed that the requested SIP revision will not cause or contribute to violations of the PM10 NAAQS. The NAAQS for PM10 are 150 and 50 micrograms per cubic meter ($\mu g/m^3$) for the 24-hour and annual standards, respectively. The final modeling analysis results showed an expected 24-hour (highest sixth-high plus background) concentration of 129 $\mu g/m^3$ and an expected annual-average concentration 41 ug/m^3. For a detailed discussion, see the Technical Support Document dated April 23, 2002.

EPA thus concludes that this submittal will not interfere with attainment or any other Act requirement. Therefore, EPA is approving the requested SIP revision.

III. What Are the Environmental Effects of This Action?

As discussed above, while this submittal allows somewhat more emissions in rural areas than was previously allowed, air quality modeling analysis shows that approval of this requested SIP revision will not result in violations of the PM10 NAAQS. (For more information *see* the Technical Support Document dated April 23, 2002.)

IV. EPA Rulemaking Action

We are approving, through direct final rulemaking, revisions to particulate matter control requirements for rural grain elevators in Illinois. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision in case adverse written comments are filed. This action will be effective without further notice unless we receive relevant adverse written comment by June 28, 2002. Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on July 29, 2002.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 July 29, 2002. 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, Particulate matter, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 7, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(165) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(165) On April 8, 1999, the Illinois Environmental Protection Agency submitted revisions to particulate matter control requirements for rural grain elevators in Illinois. The revised requirements exempt rural grain elevators from certain particulate matter control requirements.

(i) *Incorporation by reference.* Revised grain elevator provisions in Section 9(f) of the Illinois Environmental Protection Act. Adopted by both Houses of the Illinois General Assembly as Public Act 89–491 (previously Senate Bill 1633) on April 25, 1996, approved by the Governor of Illinois on May 23, 1996, effective June 21, 1996.

* * * * *

[FR Doc. 02–13246 Filed 5–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[NE 156–1156a; FRL–7218–2]

Approval and Promulgation of Implementation Plans and Operating Permit Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving revisions to the Nebraska State Implementation Plan (SIP), Operating Permit Program, and Air Toxics Program. These revisions will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program.

DATES: This direct final rule will be effective July 29, 2002, unless EPA receives adverse comments by June 28, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lynn M. Slugantz at (913) 551–7883.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal Approval Process for a SIP?

What does Federal Approval of a State Regulation Mean to Me?

What is the Part 70 Operating Permit Program?

What is Being Addressed in This Action?

Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?

What Action is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52,