

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 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 3, 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

Air pollution control, Carbon monoxide, Environmental protection, Incorporation by reference, Intergovernmental relations, Lead, 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: March 8, 1995.

David A. Ullrich,

Acting Regional Administrator.

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

Subpart Y—[Amended]

2. Section 52.1220 is amended by adding paragraph (c)(37) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(37) On November 23, 1993, the State of Minnesota submitted updated air permitting rules.

(i) Incorporation by reference.

(A) Rules 7007.0050 through 7007.1850, effective August 10, 1993.

(B) Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, 7002.0015, and 7005.0100, effective August 10, 1993.

§ 52.1225 [Amended]

3. Section 52.1225 is amended by removing and reserving paragraphs (c) and (d).

§ 52.1233 [Added]

4. Section 52.1233 is added to read as follows:

§ 52.1233 Operating permits. Emission limitations and related provisions which are established in Minnesota permits as federally enforceable conditions in accordance with Chapter 7007 rules shall be enforceable by USEPA. USEPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures or permit requirements which do not conform with the permit program requirements or the requirements of USEPA's underlying regulations.

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40 CFR Part 52

[VA20-1-5996a; FRL-5178-9]

Approval and Promulgation of Air Quality Implementation Plans; for the Commonwealth of Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires an emission statement program for stationary sources of volatile organics compounds (VOCs) and/or nitrogen oxides (NO_x). The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_x applicable to all ozone nonattainment areas in accordance with section 182(a)(3)(B) of the 1990 Clean

Air Act Amendments (CAAA). This action is being taken under section 110 of the CAA.

DATES: This final rule will become effective July 3, 1995 unless notice is received on or before June 1, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the Commonwealth's submittal and other information are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Region III, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3AT14), U.S. Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-8239.

SUPPLEMENTARY INFORMATION: On November 4, 1992, the Virginia Department of the Environment Quality (VDEQ) submitted a formal revision to the Commonwealth of Virginia's SIP which among other things, requires owners of stationary sources that emit VOCs and NO_x, above specified actual emission applicability thresholds, and within the ozone nonattainment areas, to submit annual statements certifying emissions. This notice only addresses those portions of the November 4, 1992 SIP submittal related to the Commonwealth of Virginia's emission statement program. The other SIP revisions included in the submittal are the subjects of separate rulemaking notices.

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. EPA published a "General Preamble" describing EPA's preliminary views on how the Agency intends to review SIP's and SIP revisions submitted under Title I of the

CAA, including those State submittals for ozone transport areas within the States {see 57 FR 13498 (April 16, 1992) ["SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"], 57 FR 18070 (April 28, 1992) ["Appendices to the General Preamble"], and 57 FR 55620 (November 25, 1992) ["SIP: NO_x Supplement to the General Preamble"]}.

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify Title 40, Part 51 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also made applicable by section 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the State each year emission statements certifying their actual emissions of VOCs and NO_x. This section of the Act provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NO_x at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_x or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA. Emissions from stationary sources that emit less than 25 tons per year of VOC and NO_x are included in Virginia's base year emission inventory and must be also included in the periodic emission inventories.

At minimum, the emission statement data should include:

- Certification of data accuracy;
- Source identification information;
- Operating schedule;

- Emissions information (to include annual and typical ozone season day emissions);
- Control equipment information; and
- Process data.

EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of the Commonwealth's Submittal

A. Procedural Background

The Commonwealth of Virginia held public hearings on July 22, 1992, for the purpose of soliciting public comment on proposed regulatory revisions concerning emission statements for stationary sources. The regulatory revisions were adopted on October 30, 1992, submitted to EPA on November 4, 1992 as a proposed revision to the SIP, and became effective in the Commonwealth of Virginia on January 1, 1993.

B. Components of Virginia's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the sources and the State. For the emission statement program to be approvable, the state's SIP must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Virginia's revision consists of amendments to Title VR 120-01 Regulations for the Control and Abatement of Air Pollution, specifically to add paragraph B to section 120-02-31, Registration, and to add Appendix S, which cross-references document AQP-8, Procedures for Preparing and Submitting Emission Statements for Stationary Sources.

Section 120-02-31, requires that owners of stationary sources report the levels of emissions from the sources emitting VOCs and NO_x, in order to assess compliance with emission and air quality standards and to track emission reductions necessary to attain the ozone National Ambient Air Quality Standard (NAAQS). This requirement applies to existing, modified, or new stationary sources that emit 25 tons per year (TPY) or more of VOCs or NO_x, and are

located in any ozone nonattainment area. The upper portion of White Top Mountain is the only area in Smyth County which is an ozone nonattainment area. Because there are no emission sources in this nonattainment area, the Commonwealth has excluded it from emission statement requirements.

Under the Commonwealth's regulation, sources' annual emission statements are due by April 15 of each year, beginning in 1993, for the emissions discharged during the previous calendar year. Section 120-02-31, Appendix S, Air Quality Program Policies and Procedures describes specifically how emission statements shall be prepared.

C. Enforceability

The Commonwealth of Virginia has a provision in its SIP which ensures that the emission statement requirements of Section 182(a)(3)(B) and Sections 184(b)(2) and 182(f) of the CAA as required by VR 120-01, section 120-02-31, are adequately enforced. Once EPA completes the rulemaking process approving the Virginia's Emission Statement program as part of the SIP, it will be federally enforceable.

EPA has determined that the submittal made by the Commonwealth of Virginia satisfies the relevant requirements of the CAA and EPA's guidance document, "Guidance on the Implementation of an Emission Statement Program" (July 1992). EPA's detailed review of Virginia's Emission Statement is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 3, 1995 unless, by June 1, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice 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 July 3, 1995.

III. Final Action

EPA is approving revisions to the Commonwealth of Virginia SIP to include an Emission Statement Program. These revisions consist of amendments to Title VR 120-01 Regulations for the Control and Abatement of Air Pollution, the addition of paragraph B to section 120-02-31, Registration, and the addition of Appendix S including the document referenced therein, AQP-8.

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 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 economic 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, the Administrator certifies that it does not have a significant impact on small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA 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 (S.Ct. 1976); 42 U.S.C. section 7410 (a)(2).

This action has been classified as a Table 2 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 an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

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 3, 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 approving Virginia's Emission Statement SIP submittal requirements 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, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: January 25, 1995.

Peter H. Kostmayer,

Regional Administrator, Region III.

40 CFR part 52 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 VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(103) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(103) Revisions to the Commonwealth of Virginia Regulations State Implementation Plan submitted on November 4, 1992 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letter of November 4, 1992 from the Virginia Department of Environmental Quality transmitting a revised regulation to require owners of stationary sources in emissions control areas to submit emission statements annually.

(B) Amendments to Title VR 120-01, addition of paragraph B to section 120-02-31 and the addition of Appendix S including referenced document AQP-8, procedures for Preparing and Submitting Emission Statements for Stationary Sources. Effective on January 1, 1993.

(ii) Additional Material.

(A) Remainder of November 4, 1992 State submittal related emission statements.

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40 CFR Part 52

[DC23-1-6790a; FRL-5181-2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; GSA Central and West Heating Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State implementation plan (SIP) revision submitted by the District of Columbia. This revision will limit air pollution from two steam-generating facilities located in the District of Columbia. The intended effect of this action is to approve a permit-to-operate issued by the District of Columbia to General Services Administration for its Central and West Heating Plants. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective July 3, 1995, unless notice is received on or before June 1, 1995, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs (3AT00), 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT:

David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: (215) 597-9781.

SUPPLEMENTARY INFORMATION: On October 24, 1994, the District of