List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: June 14, 1995.

David Kee,

Acting 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(111) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(111) On July 29, 1994, Illinois submitted regulations which require adoption and implementation of particulate matter contingency measures for Illinois' four moderate particulate matter nonattainment areas. Sources in the nonattainment areas which emit at least 15 tons of particulate matter must submit two levels of contingency measures, which will then become Federally enforceable. Sources will be required to implement the contingency measures if an exceedance of the National Ambient Air Quality Standard for Particulate Matter is measured, or if the United States Environmental Protection Agency finds that an area has failed to attain the National Ambient Air Quality Standards.

(i) Incorporation by reference.

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board;

(A) Part 106 Hearings Pursuant to Specific Rules, Section 106.930—Applicability, Section 106.931—Petition for Review, Section 106.932—Response and Reply, Section 106.933—Notice and Hearing, Section 106.934—Opinion and Order. Amended at 18 Ill. Reg. 11579–11586. Effective July 11, 1994.

(B) Part 212 Visible and Particulate Matter Emissions, Section 212.700—Applicability, Section 212.701—Contingency Measure Plans, Submittal and Compliance Date, Section 212.702—Determination of Contributing Sources, Section 212.703—Contingency Measure Plan Elements, Section 212.704—Implementation, Section 212.705—Alternative Implementation. Added at 18 Ill. Reg. 11587–11606. Effective July 11, 1994.

[FR Doc. 95–17216 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL123–1–6976a; FRL 5252–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves the March 28, 1995, Illinois State Implementation Plan (SIP) revision request which consists of a variance for P & S, Incorporated's (P & S) facility, located in Wood Dale, DuPage County, Illinois, from 35 Illinois Administrative Code (IAC) 218.586, the regulations for Stage II vapor recovery. This variance begins on November 1, 1994, and will ultimately expire on April 1, 1996. The granting of this variance is approvable because P & S has demonstrated that immediate compliance with the requirements at issue would impose an arbitrary and unreasonable hardship. USEPA made a finding of completeness on the SIP submittal on May 17, 1995. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. Please be aware that USEPA will institute another rulemaking notice on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action. Parties interested in commenting on this action should do so at this time.

DATES: This final rule is effective September 11, 1995 unless an adverse comment is received by August 14, 1995. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6976), Room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6082.

SUPPLEMENTARY INFORMATION: On January 12, 1993, USEPA approved Illinois's Stage II vapor recovery rules (35 Ill. Adm. Code 218) as a revision to the Illinois SIP for ozone, applicable to the Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County). These regulations satisfy section 182(b)(3) of the Clean Air Act as amended in 1990, which requires certain ozone nonattainment areas to require specified gasoline dispensing facilities to install and operate Stage II vapor recovery equipment. Stage II vapor recovery systems are designed to control and capture at least 95 percent of the Volatile Organic Compound (VOC) vapors emitted during the refueling of motor vehicles. Among these Stage II requirements is the provision that certain gasoline dispensing facilities, such as P & S's facility in Wood Dale, Du Page County, Illinois, must install Stage II vapor recovery equipment no later than November 1, 1994.

The Illinois Department of Transportation (IDOT) is currently upgrading the roads surrounding the P & S facility. It is anticipated that the construction of the roadway will require P & S's facility to relocate its underground storage tanks. Completion of the construction of the roadway is anticipated in early 1996. Installation of the Stage II vapor recovery equipment before the completion of the upgrading of the roadway and the relocation of the facility's tanks would mean that the facility would then be required to install the Stage II vapor recovery equipment twice, both before and after moving the tanks.

On October 29, 1994, P & S filed a petition with the Illinois Pollution Control Board (IPCB) requesting a variance from meeting the November 1, 1994, compliance date on the grounds that requiring the facility to install Stage II vapor recovery equipment prior to the completion of the upgrading of the roadway and the relocation of the facility's tanks would cause an unreasonable financial hardship. The IPCB is charged under the Illinois Environmental Protection Act with the responsibility of granting variance from regulations issued by the Board whenever it is found that compliance with the regulations would impose an arbitrary or unreasonable hardship upon the petitioner for the variance.

On February 16, 1995, the IPCB granted a variance from Stage II compliance for P & S. The variance begins November 1, 1994 and expires on April 1, 1996, or 60 days after notification to P & S from the IDOT, or the developer of the shopping center, that the widening of the roadway will be abandoned for any reason, whichever is sooner. Given both the high additional cost associated with having to install Stage II equipment twice and the minimal impact on ozone air quality occasioned by temporary noncompliance before April 1, 1996, the IPCB found that requiring P & S to have installed Stage II equipment by November 1, 1994, does constitute an unreasonable hardship. Illinois submitted this variance as a revision to the Illinois ozone SIP on March 28, 1995.

Final Rulemaking Action

The USEPA is approving this SIP revision because the above argument that immediate compliance with the Stage II requirements will cause an unreasonable hardship to P & S is acceptable to USEPA, and that the uncontrolled emissions generated by P & S as a result of the variance will not contribute significantly to ozone formation, given that the variance will expire on or before April 1, 1996.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on September 11, 1995, unless adverse or critical comments are received by August 14, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw the approval before its effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent action. Please be aware that USEPA will institute another rulemaking document on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises that this action will be effective September 11, 1995.

This action has been classified as a Table 3 action 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 Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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 any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

The USEPA 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.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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.

The 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 small entities. 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 the USEPA 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 sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to a State, local and/or tribal government(s) in the aggregate. The USEPA must also develop a plan with regard to small governments that would be significantly or uniquely affected by the rule.

This rule applies only to a single private sector source located in the Chicago ozone nonattainment area. To the extent that the rules being promulgated by this action will impose any mandate upon this source, such a mandate will not result in estimated annual costs of $100 million or more to that source. The rule also does not impact any governments. Therefore, no action is required under the Unfunded Mandates Act.

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 September 11, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose 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, Ozone, Hydrocarbons, Incorporation by reference, Volatile organic compounds.

Dated: June 14, 1995.

David Kee,

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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(112) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(112) On March 28, 1995, the State of Illinois submitted a revision to its ozone State Implementation Plan for P & S, Incorporated's facility located in Wood Dale, Du Page County, Illinois. It grants a compliance date extension from Stage II vapor control requirements (35 Ill. Adm. Code 218.586) from November 1, 1994 until April 1, 1996, or 60 days after notification to P & S, Incorporated that the roadway construction complicating the installation of Stage II equipment will be abandoned for any reason, whichever is sooner.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Final Opinion and Order, PCB 94–299, adopted on February 16, 1995, and effective on February 16, 1995. Certification dated March 1, 1995 of Acceptance by P & S, Incorporated.

[FR Doc. 95–17219 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 70

[CA77–2–7058; AD–FRL–5227–7]

Clean Air Act Final Interim Approval of Operating Permits Program for Glenn County, Lake County, Shasta County and Tehama County, California; Final Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Operating Permits, Lake County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Programs submitted by the California Air Resources Board (CARB) on behalf of Glenn County Air Pollution Control District (APCD), Lake County Air Quality Management District (AQMD), Shasta County AQMD, and Tehama County APCD, California (the four districts) 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. In addition, EPA is promulgating final approval of a revision to Lake County's portion of the California State Implementation Plan (SIP) regarding synthetic minor regulations for the issuance of federally enforceable state operating permits (FESOP) limiting emissions of criteria pollutants. In order to extend the federal enforceability of state operating permits to hazardous air pollutants (HAP), EPA is also finalizing approval of Lake County's synthetic minor regulations pursuant to section 112(l) of the Clean Air Act (CAA or Act).

EFFECTIVE DATE: August 14, 1995.

ADDRESSES: Copies of the four districts' submittals and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: For information on the Lake County program and SIP, please contact: Ed Pike, (415) 744–1248. For information on the programs for the other districts, please contact: Sara Bartholomew, (415) 744–1170.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Act), and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program. On November 29, 1994, EPA proposed disapproval, or in the alternative, interim approval of the operating permits program for Glenn County, Lake County, Shasta County and Tehama County, California. See 54 FR 60931. The proposed disapproval was due to deficiencies in the districts' upset/breakdown rules. The EPA received public comment on the proposal, and is responding to those comments in this document and in a separate ''Response to Comments'' document that is available in the docket. The EPA also compiled a Technical Support Document (TSD) for each of the four districts, which describes the operating permits program in greater detail.

In this notice EPA is taking final action to promulgate interim approval of the operating permits program for Glenn County APCD, Lake County AQMD, Shasta County AQMD, and Tehama County APCD, California.

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits. Permits issued pursuant to an operating permit program meeting these criteria and approved into the SIP are considered federally enforceable for criteria pollutants. The synthetic minor mechanism may also be used to create federally enforceable limits for emissions of hazardous air pollutants (HAP) if it is approved pursuant to section 112(l) of the Act.

In the November 29, 1994 **Federal Register**, EPA also proposed approval of Lake County's synthetic minor program for creating federally enforceable limits in District operating permits. In this notice, EPA is promulgating approval of the synthetic minor program for Lake County as a revision to Lake County's SIP.