

40 CFR Part 52

[PA097-4030; FRL-5635-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised Visible Emissions Rules for Allegheny County Pertaining to Blast Furnace Slips**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: Pursuant to Agency procedures for approving minor State Implementation Plan (SIP) revisions, this action identifies a plan revision submitted by Pennsylvania on behalf of Allegheny County which EPA approved and incorporates the relevant material into the Code of Federal Regulations.

This revision deletes the exemption of blast furnace slips from Allegheny County's visible emissions regulations. This action lists the SIP revision that EPA has approved and incorporates the relevant material into the code of Federal Regulations. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action is effective October 22, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 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 the Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 566-2108 or by e-mail at frankford.harold@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has approved the following minor SIP request under section 110(a) of the Clean Air Act (CAA):

State	Pollutant	Subject matter	Source	Submittal date	Approval date
Allegheny County	PM ₁₀	Blast furnace slips (Article XX, Sections 401.B.1 and 518).	USX Corporation; Shenango Steel Corporation.	September 25, 1989	December 27, 1989.

EPA has determined that this SIP revision complies with all applicable requirements of the Clean Air Act and EPA requirements concerning such revisions. Due to the minor nature of this revision, EPA concluded that conducting notice-and-comment rulemaking prior to approving the revisions would have been "unnecessary and contrary to the public interest," and hence, was not required by the Administrative Procedures Act, 5 U.S.C. 553(b). Each of these SIP approvals became final and effective on the date of EPA approval as listed in the chart above.

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.

Administrative Requirements**A. Executive Order 12866**

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.

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.

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 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 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).

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 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) 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 today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial 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 December 23, 1996. Filing a petition for reconsideration by the Administrator of this final rule pertaining to EPA's approval of Allegheny County's provisions for blast furnace slips 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: October 2, 1996.

Stanley L. Laskowski,

Acting 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(100) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to Article XX (Air Pollution Control) of the Allegheny County Health Department Rules and Regulations submitted on September 25, 1989 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by Reference

(A) Letter of September 25, 1989 from the Pennsylvania Department of Environmental Resources transmitting revisions to Article XX (Air Pollution Control) of the Allegheny County Health Department Rules and Regulations governing visible emissions.

(B) Revision to Article XX, Section 401.B (Visible Emissions-Exclusion) and deletion of Article XX, Section 518 (Blast Furnace Slips), effective July 1, 1989.

(ii) Additional Material

(A) Remainder of September 25, 1989 State submittal pertaining to Article XX, Sections 401 and 518.

[FR Doc. 96–27001 Filed 10–21–96; 8:45 am]

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40 CFR Part 52

[LA–23–1–6871a; FRL–5636–6]

Approval and Promulgation of State Implementation Plan; Louisiana; 15 Percent Rate-of-Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA is approving a revision to the Louisiana State Implementation Plan (SIP) for the purpose of satisfying the 15 percent rate-of-progress requirements of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality standard (NAAQS) for ozone.

DATES: This "direct final" rule is effective December 23, 1996 unless adverse comments are received by November 21, 1996. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7214.

Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H. B.

Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70810.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Jeanne McDaniels, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 Clean Air Act; Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7617q. Section 182(b)(1) of the Act requires all ozone nonattainment areas classified as moderate and above to submit a SIP revision by November 15, 1993, which describes, in part, how these areas will achieve an actual reduction in emissions of volatile organic compounds (VOC) of at least 15 percent during the first six years after enactment of the Act (November 15, 1996). Emissions and emissions reductions shall be calculated on a typical weekday basis for the "peak" 3-month ozone period (generally June through August). In Louisiana, the Baton Rouge ozone nonattainment area is classified as "serious" and is subject to the section 182(b)(1) 15 percent rate-of-progress requirements. The Baton Rouge ozone nonattainment area is comprised of the following parishes: East Baton Rouge, West Baton Rouge, Iberville, Ascension, Livingston, and Pointe Coupee.

The 15 percent VOC emissions reduction required by November 15, 1996, is defined within this document as "rate-of-progress" (ROP). The SIP revision that illustrates the plan for the achievement of the emissions reductions is defined in this document as the "15 Percent ROP Plan."

II. Analysis of the Submittal

On December 15, 1995, the Governor of Louisiana submitted to EPA a revision to the SIP to meet the 15 percent ROP requirements. This submittal superseded previous 15 Percent ROP Plans that had been submitted to EPA on November 4, 1993; November 10, 1994; and May 19, 1995. (A detailed chronology and description of these earlier submittals is provided in the Technical Support Document (TSD) to this action, which is available from EPA's Region 6 Office listed above.) The EPA deemed the December 15, 1995,