

the Comptroller General of the United States prior to publication of the rule in the **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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 1998. 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 5, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

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 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(142) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(142) On May 5, 1995, and May 26, 1995, the State of Illinois submitted State Implementation Plan revision requests for reactor processes and distillation operations in the Synthetic Organic Chemical Manufacturing Industry as part of the State's control measures for Volatile Organic Material emissions for the Chicago and Metro-East (East St. Louis) areas. This plan was submitted to meet the Clean Air Act requirement for States to adopt Reasonably Available Control Technology rules for sources that are covered by Control Techniques Guideline documents.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 211: Definitions and General Provisions, Subpart B: Definitions, 211.980 Chemical Manufacturing Process Unit, 211.1780 Distillation Unit, 211.2365 Flexible Operation Unit, 211.5065 Primary Product, amended at 19 Ill. Reg. 6823, effective May 9, 1995.

(B) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant, Sections 218.431 Applicability, 218.432 Control Requirements, 218.433 Performance and Testing Requirements, 218.434 Monitoring Requirements, 218.435 Recordkeeping and Reporting Requirements, 218.436 Compliance Date, 218.437 TRE Index Measurement for SOCMR Reactors and Distillation Units, amended at 19 Ill. Reg. 6848, effective May 9, 1995.

(C) Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant, Sections 219.431 Applicability, 219.432 Control Requirements, 219.433 Performance and Testing Requirements, 219.434 Monitoring Requirements, 219.435 Recordkeeping and Reporting Requirements, 219.436 Compliance Date, 219.437 TRE Index Measurement for SOCMR Reactors and Distillation Units, amended at 19 Ill. Reg. 6958, effective May 9, 1995.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH112-1a; FRL-5976-9]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving an August 1, 1997 requested revision to the Ohio State Implementation Plan (SIP) incorporating revised emission statement reporting requirements which were previously approved for the purpose of implementing an emissions statement program for stationary sources

within the State's ozone nonattainment areas classified as marginal or above. In this action, USEPA is approving the State's finding that emission statement requirements are no longer applicable to areas redesignated as attaining the national ambient air quality standards (NAAQS) for ozone through a "direct final" rulemaking; the rationale for this approval is set forth below. Elsewhere in this **Federal Register**, USEPA is proposing approval and soliciting comment on this direct final action; should USEPA receive such comment, it will publish an action informing the public that this rule did not take effect; otherwise, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective May 22, 1998 unless written adverse comments not previously addressed by the State or USEPA are received by April 22, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

Copies of the Ohio submittal are available for public review during normal business hours, between 8:00 a.m. and 4:30 p.m., at the above address.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886-6036.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(a)(3)(B) of Title I of the Clean Air Act (CAA) requires states with areas designated nonattainment of the NAAQS for ozone to establish regulations for reporting of actual emissions by stationary sources that emit volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) in ozone nonattainment areas.

On March 22, 1994, the State of Ohio submitted a SIP revision outlining a program to require emission statements from those stationary sources that emit more than 25 tons of VOCs or NO_x per any calendar year and that are located in counties designated nonattainment for the NAAQS for ozone. The following twenty four counties were designated nonattainment for the NAAQS for ozone at the time of that submittal and stationary sources in those counties were required to submit emission

statements: Ashtabula, Butler, Clark, Clermont, Cuyahoga, Delaware, Franklin, Geauga, Greene, Hamilton, Lake, Licking, Lorain, Lucas, Mahoning, Medina, Miami, Montgomery, Portage, Stark, Summit, Turnbull, Warren and Wood counties. USEPA fully approved that requested SIP revision on October 13, 1994 (59 FR 51863). For a more detailed description of the Ohio emission statement program see Ohio Administrative Rule 3145-24-04, paragraphs (A) through (G), or the final rule listed above.

Only four of the original 24 counties remain designated nonattainment of the NAAQS for ozone: Warren, Butler, Clermont, and Hamilton Counties in the Cincinnati-Hamilton nonattainment area. Consequently, on August 1, 1997, the State of Ohio submitted a request to USEPA to revise its SIP by modifying Ohio Administrative Code rule 3745-24-02, entitled Applicability. The revision would delete the reporting requirements for the counties in areas redesignated from nonattainment to attainment of the NAAQS for ozone. The revision also deletes the requirement to submit an emissions statement for the calendar year in which an area is redesignated to attainment.

II. Summary of State Submittals and Previous USEPA Rulemakings

Discussions of the State of Ohio submittals concerning emission statement requirements and USEPA's rulemakings concerning redesignation of areas in Ohio can be found in the September 29, 1997 Technical Support Document which is available from the Region 5 address above.

III. Revised Emission Statement Requirements

Approval of this requested SIP submittal will delete the emissions statement reporting requirements for sources located in areas redesignated from nonattainment to attainment for the NAAQS for ozone. The exemptions from the emission statement reporting requirements would be effective upon redesignation. Approval of the State's request would also remove these newly redesignated areas from the applicability section of the Ohio Administrative Code, Section 3745-24-02.

Specifically, the old rule required sources in the Toledo and Dayton areas (all redesignated to attainment in 1995), Cleveland-Akron-Lorain, Columbus, Canton and Youngstown areas (all redesignated to attainment in calendar year 1996) to submit emissions statements by November 15, 1997, providing their VOC and NO_x emissions

for 1996. Under the new rule, these sources would not have to report their emissions for 1996 and later years.

The USEPA approval of the State's request would reduce the number of counties subject to the emission statement reporting requirements from 24 to 4. Sources in Butler, Clermont, Hamilton and Warren Counties all located in the Cincinnati-Hamilton ozone nonattainment area would still be required to submit emission statements.

IV. Rationale for Approval

The following counties in Ohio have been redesignated to attainment for the NAAQS for ozone: Ashtabula, Clark, Cuyahoga, Delaware, Franklin, Geauga, Greene, Lake, Licking, Lorain, Lucas, Mahoning, Medina, Miami, Montgomery, Portage, Stark, Summit, Trumbull, and Wood counties. Section 182 (a)(3)(B) of title I of the CAA only requires States to establish regulations for the reporting of actual emissions by stationary sources that emit VOCs and NO_x in ozone nonattainment areas. Therefore, USEPA is approving the SIP revision request from the State of Ohio to delete the reporting requirements for sources in those areas which have been redesignated to attainment of the NAAQS for ozone and to remove the provision in the rules that extends the emissions reporting requirements for the calendar year in which they are redesignated.

V. USEPA Rulemaking Action

USEPA is approving, through final rulemaking action, a revision to the Ohio State Implementation Plan limiting emission statement reporting requirements to stationary sources located within the State's marginal and above ozone nonattainment areas.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the SIP revision should specified written adverse comments be filed.

This rule will become effective without further notice unless USEPA receives relevant adverse written comment on the parallel proposed rule (published in the proposed rules section of this **Federal Register**) by April 22, 1998. Should USEPA receive such comments, it will publish a final rule informing the public that this rule did not take effect. Any party interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting, 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.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

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 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 CAA 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 the State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with 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. This Federal action approves pre-existing requirements under State law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Sections 3745.70–3745.73 of the Ohio Revised Code). The USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the CAA. The USEPA will take appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio CAA program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, Federal approval for the CAA program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

E. Submission to Congress and the Comptroller General

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. USEPA 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 the publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 22, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 20, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

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 *et seq.*

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(117) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(117) On August 1, 1997 the Ohio Environmental Protection Agency submitted a requested revision to the Ohio State Implementation Plan. This revision constituted amendments to the emissions statement reporting regulations approved on October 13, 1994 and codified in paragraph (c)(100) of this section. The revision is intended to limit the applicability of these rules to stationary sources located within the State's marginal and above ozone nonattainment areas.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745–24–02 Applicability. Effective July 31, 1997.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA 041–4069; FRL–5977–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Conditional Limited Approval of the Pennsylvania VOC and NO_x RACT Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting conditional limited approval of a State

Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires the implementation of reasonably available control technology (RACT) on all major sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_x). The intended effect of this action is to grant conditional limited approval to this Pennsylvania RACT regulation.

EFFECTIVE DATE: This final rule is effective on April 22, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 566–2180, at the above EPA Region III address.

SUPPLEMENTARY INFORMATION:**Background**

On August 12, 1997 (62 FR 43134), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed conditional limited approval of the Pennsylvania RACT regulation for NO_x and VOC sources. (Pennsylvania Chapters 129.91 through 129.95). The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PA DEP, then known as the Pennsylvania Department of Environmental Resources) on February 4, 1994. This submittal was amended with a revision on May 3, 1994 correcting and clarifying the presumptive NO_x RACT requirements under Chapter 129.93(b)(4). The submittal was again amended on September 18, 1995 by the withdrawal from EPA consideration of provisions 129.93(c)(6) and (7) pertaining to best available control technology (BACT) and lowest achievable emission rate (LAER). A description of Pennsylvania's SIP revision and EPA's rationale for granting it conditional limited approval were provided in the NPR and shall not be restated here.