ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX NO. PA 108–4073; FRL–6107–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Source Specific Control Measures and a Revised Episode Plan for USX Clairton in the Liberty Borough PM–10 Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) for the Commonwealth of Pennsylvania. This revision establishes and requires control measures at USX's Clairton Coke Works in Clairton, Pennsylvania and enhances the Allegheny County Health Department's (ACHD) episode plan by requiring the USX to develop and maintain a source-specific episode plan subject to ACHD approval.

DATES: This direct final rule will become effective on August 11, 1998 without further notice, unless EPA receives adverse comment on the notice of proposed rulemaking by July 13, 1998. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**.

ADDRESSES: Comments may be mailed to Makeba Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, 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 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 the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Denis M. Lohman, (215) 566–2192, or by e-mail at lohman.denny@epamail.epa.gov. While requests for information may be made via e-mail, comments for EPA consideration regarding this proposal must be submitted in writing to the address indicated above.

SUPPLEMENTARY INFORMATION:

I. Background

On February 21, 1996, the Group Against Smog and Pollution (GASP), a citizen's environmental group, filed suit against EPA. This suit [1] pertained to certain Clean Air Act (Act) mandated planning activities for Allegheny County, Pennsylvania's Liberty Borough PM–10 nonattainment area. This suit was settled in a Settlement Agreement signed by GASP, USX, ACHD, PADEP, EPA, and the United States Department of Justice. The Settlement Agreement provided for, among other things, ACHD and PADEP proposal of and EPA action on revisions to the Allegheny County portion of the Pennsylvania SIP applicable to USX Clairton. The Technical Support document (TSD) prepared for this rulemaking includes a detailed summary of the settlement provisions. Copies of the TSD are available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

On October 30, 1997, PADEP submitted ACHD-adopted measures to EPA as revisions to the Allegheny County portion of the Pennsylvania SIP. The purpose of these revisions is to incorporate into the SIP the control measures required by USX by the Settlement Agreement. These control measures include a revised air quality episode plan, the prohibition of coal combustion (except during certain emergencies), improved coal handling procedures, the installation of a mist eliminator on cooling tower, and ''big plug'' doors on most coke ovens.

II. Contents of the State Submittal

The submittal is comprised of several revisions to Allegheny County's Article XXI and administrative material. Specifically, section 2104.02, 2105.21, and 2106.05 were revised as follows:

A. Revisions to section 2104.02 of Article XXI, limit USX Clairton's Boiler #1 to 0.02 pounds of particulate matter per million British thermal units of actual heat input, except for fuel emergencies; require specific improvements to coal handling at USX Clairton's #2 Secondary Pulverizer; and require the operation of a mist eliminator on USX Clairton's Keystone cooling tower.

B. Revisions to section 2105.21, Coke Ovens and Coke Oven Gas, require the installation of ''big plug'' coke oven doors (i.e., doors with a minimum thickness of refractory material) on most coke oven batteries.

C. The adoption of section 2106.05, USX Clairton Works PM–10 Self Audit Emergency Episode Plan strengthens ACHD's air quality episode planning by requiring USX Clairton to develop and maintain a source-specific episode plan subject to ACHD approval. Unlike general episode plans required by 40 CFR 51 Subpart H, which are designed to guide the state and local air pollution control agencies in undertaking certain actions to protect the public from acute danger from ambient pollutant concentrations greatly exceeding the NAAQS, the County's plan for USX is designed to effect timely action by USX in order to prevent exceedances of the 24-hour PM–10 NAAQS.

III. Analysis of State Submittal

As stated above, the purpose of the October 1997 SIP revision submittal was to fulfill certain requirements of the Settlement Agreement and to strengthen the PM–10 SIP for the Liberty Borough area. The SIP revision imposes source specific requirements on the USX Clairton Coke Works including the development of a source-specific air quality episode plan, the prohibition of coal combustion (except during certain emergencies), improved coal handling procedures, the installation of a mist eliminator on its cooling tower, and ''big plug'' doors on all coke ovens.

The rules were properly adopted by Allegheny County and submitted to EPA as a SIP revision by PADEP. The rule revisions contained in the submittal serve to strengthen the Liberty Borough PM–10 nonattainment area plan in the Allegheny County portion of the Pennsylvania SIP. Furthermore, the submittal fulfills the Allegheny County's and Pennsylvania's obligations under sections 6, 9, 12, 15, and 18 of the Settlement Agreement.

EPA has determined that the SIP revision is approvable and fulfills ACHD's and PADEP's obligations under the Settlement Agreement to propose and submit measures to reduce particulate matter emissions in the Liberty Borough area. This SIP revision is being approved pursuant to section 110 of the Act.

IV. Final Action

EPA is approving the revisions to the Allegheny County portion of the Pennsylvania SIP submitted by PADEP on October 30, 1997 which impose source-specific requirements on USX Clairton Coke Works to reduce PM–10 emissions. EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial

[1] GASP v. Browner, Civil Action No. 96–322, Western District of Pennsylvania.

amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should EPA receive relevant comments on the notice of proposed rulemaking. This rule will become effective August 11, 1998 without further notice unless the Agency receives relevant adverse comments by July 13, 1998.

Should EPA receive such comments, it will publish a notice informing the public that this rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on the proposed rule. 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 rule will become effective on August 11, 1998 and no further action will be taken on the proposed rule.

If adverse comments are received that do not pertain to all paragraphs in this rule, those paragraphs not affected by the adverse comments will be finalized in the manner described here. Only those paragraphs which receive adverse comments will be withdrawn in the manner described here.

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.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Executive Order 13045

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

C. 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 does 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).

D. Submission to Congress and the General Accounting Office

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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability because it is applicable to only one entity, the USX Clairton Coke Works.

E. 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.

F. 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 August 11, 1998. Filing a petition for reconsideration by the Administrator of this final rule, approving control measures at USX Clairton 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, Particulate matter.

Dated: May 28, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52, subpart 2020 of chapter I, title 40 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraphs (c)(133) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(133) Revisions to the Pennsylvania State Implementation Plan consisting of Source-Specific Control Measures and a Revised Episode Plan for USX Clairton in the Liberty Borough PM–10 Nonattainment Area, submitted on October 30, 1997 by the Pennsylvania Department of Environmental Protection:

(I) Incorporation by reference.

(A) Letter of October 30, 1997 from the Pennsylvania Department of Environmental Protection transmitting a SIP revision for source specific control measures for USX Clairton located in the Liberty Borough PM–10 nonattainment area of Allegheny County.

(B) Revisions to Allegheny County's Article XXI applicable to USX's Clairton

Coke Works, effective August 15, 1997, specifically:

(*1*) Revisions to section 2104.02. limiting particulate matter emission from Boiler #1, requiring specific improvements to coal handling at Secondary Pulverizer #2, and requiring the operation of a mist eliminator at the Keystone cooling tower.

(*2*) Revisions to section 2105.21 requiring the installation of ''big plug'' doors on most coke ovens by January 1, 2000.

(*3*) The adoption of section 2106.05 requiring a source-specific ''self audit emergency action plan.''

(ii) Additional Material—Remainder of the October 30, 1997 State submittal.

[FR Doc. 98–15585 Filed 6–11–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AK 19–1707; FRL–6108–6]

Clean Air Act Reclassification; Anchorage, Alaska Nonattainment Area; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this document EPA is making a final finding that the Anchorage, Alaska, carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standards (NAAQS) under the Clean Air Act Amendments of 1990 (CAA). The CO nonattainment occurred after Anchorage received a one year extension to December 31, 1996 from the mandated attainment date of December 31, 1995 for moderate nonattainment areas. This finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. As a result of this finding, the Anchorage CO nonattainment area is reclassified as a serious CO nonattainment area by operation of law. As a result of the reclassification, the State is to submit within 18 months from the effective date of this action a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas.

EFFECTIVE DATE: July 13, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Montel Livingston, Office of Air Quality, U.S. EPA, Region 10, Seattle, Washington, 98006, telephone (206) 553–0180.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The CAA Amendments were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Anchorage nonattainment area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the CAA, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Anchorage nonattainment area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995.[1]

B. Effect of Reclassification

CO nonattainment areas reclassified as serious are required to submit, within 18 months of the area's reclassification, SIP revisions providing for attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. In addition, the State must submit a SIP revision that includes: (1) a forecast of vehicle miles traveled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Finally, upon the effective date of this reclassification, contingency measures in the moderate area plan for the Anchorage nonattainment area must be implemented.

The reclassification to serious does not mean that CO pollution levels in Anchorage are getting worse. In Anchorage, CO levels have dropped by more than 50% since the early 1980's. Reclassification to serious allows additional planning time to develop control strategies to meet the CO NAAQS because Anchorage failed to attain the CO standard by the end of its extension date, December 31, 1996.

C. Attainment Determinations for CO Nonattainment Areas

EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.[2] Section 179(c)(1) of the CAA states that the attainment determination must be based upon an area's ''air quality as of the attainment date.''

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR 50.8 and EPA policy.[3] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Anchorage nonattainment area, this document addresses only the air quality status of the Anchorage nonattainment area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average in any consecutive two-year period per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same two-year period constitutes a violation of the CO NAAQS.

D. Proposed Finding of Failure to Attain

On December 2, 1997 (62 FR 63687), EPA proposed to find that the Anchorage CO nonattainment area had failed to attain the CO NAAQS by December 31, 1996, the CO attainment extension date. Anchorage did not have two consecutive years of CO data without violations of the CO NAAQS. This proposed finding was based on air quality data showing three violations of

[1] The moderate area SIP requirements are set forth in section 187(a) of the CAA and differ depending on whether the area's design value is below or above 12.7 ppm. The Anchorage area has a design value above 12.7 ppm. 40 CFR 81.302.

[2] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled ''Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas,'' October 23, 1995 (Shaver memorandum).

[3] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990. See also Shaver memorandum.