

Revision No. 1 dated January 17, 1990, Revision No. 2 dated March 17, 1992, Revision No. 3 dated September 3, 1993, Errata No. 1 to the 1988 MUTCD Revision 3, dated November 1, 1994, Revision No. 4 dated November 1, 1994, Revision No. 4a (modified) dated February 19, 1998, Revision No. 5 dated December 24, 1996, Revision No. 6 dated June 19, 1998, and Revision No. 7 dated January 3, 2000. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. The 1988 MUTCD, including Revision No. 3 dated September 3, 1993, may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), P.O. Box 371954, Pittsburgh, PA 15250-7954, Stock No. 650-001-00001-0. The amendments to the MUTCD titled, "1988 MUTCD Revision No. 1," dated January 17, 1990, "1988 MUTCD Revision No. 2," dated March 17, 1992, "1988 MUTCD Revision No. 3," dated September 3, 1993, "1988 MUTCD Errata No. 1 to Revision No. 3," dated November 1, 1994, "1988 MUTCD Revision No. 4," dated November 1, 1994, "1998 MUTCD Revision No. 5," dated December 24, 1996, "Revision No. 6," dated June 19, 1998, and "Revision No. 7" dated January 3, 2000 are available from the Federal Highway Administration, Office of Transportation Operations, HOTO, 400 Seventh Street, SW., Washington, DC 20590. These documents are available for inspection and copying as prescribed in 49 CFR part 7.

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Issued on: December 22, 1999.

**Kenneth R. Wykle,**

*Federal Highway Administration.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL177-1a; FRL-6506-3]

### Approval and Promulgation of Implementation Plan; Illinois

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving an Illinois State Implementation Plan (SIP) revision request affecting air permit rules, submitted on July 23, 1998. The

submittal includes several "clean up" amendments to existing permitting rules. These amendments group similar rules together, and revise terms to be consistent with current vocabulary and usage. The State is planning to withdraw the portion of the original submittal that included rule amendments expanding the small source operating permit rules to also include stationary sources that emit 25 tons or more per year of any air contaminants and that are not subject to Title V or Federally Enforceable State Operating Permit (FESOP) requirements. Therefore, we are taking no action today on that portion of the submittal which is being withdrawn.

**DATES:** This rule is effective on March 3, 2000, unless EPA receives adverse written comments by February 2, 2000. If adverse written comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**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 revision request for this rulemaking action are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886-6082 before visiting the Region 5 Office).

#### FOR FURTHER INFORMATION CONTACT:

Lauren Steele, Environmental Engineer, at (312) 353-5069.

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we," "us," or "our" are used, we mean EPA. The supplemental information is organized in the following order:

- I. What action is EPA proposing in this rulemaking?
- II. The Clean Up amendments.
  - A. What are the Clean Up amendments to the Illinois permitting rules?
  - B. How do the Clean Up amendments affect the SIP and are the amendments approvable?
- III. Where are the SIP revision rules codified?
- IV. What public hearing opportunities were provided for this SIP revision?
- V. Final Rulemaking Action.
- VI. Administrative Requirements.
  - A. Executive Order 12866
  - B. Executive Order 13132
  - C. Executive Order 13045
  - D. Executive Order 13084
  - E. Regulatory Flexibility Act
  - F. Unfunded Mandates

- G. Submission to Congress and the Comptroller General
- H. National Technology Transfer and Advancement Act
- I. Petitions for Judicial Review

### I. What Action Is EPA Proposing in This Rulemaking?

We are approving Illinois' July 23, 1998, request to amend sections of their State Implementation Plan that deal with State air pollution permits, for purposes of "cleaning up" the language. This will provide consistency of word use, and easier readability of several passages.

### II. The Clean Up Amendments

#### A. What Are the Clean Up Amendments to the Illinois Permitting Rules?

The Clean Up amendments change certain terms used in the regulatory language to update the text to current terminology used in State statutes and regulations. The Clean Up amendments also consolidate the provisions of several sections, and repeal duplicative sections and text. Certain clarifications to rule requirements have also been added to the permitting regulation. A more detailed description of the clean up revisions has been provided in the TSD for this rulemaking.

#### B. How Do the Clean Up Amendments Affect the SIP and Are the Amendments Approvable?

The Clean Up amendments make no substantive change to the permitting regulations, and are intended only to simplify the regulation text. Since the Clean Up amendments do not affect the stringency of the SIP, the amendments are approvable.

### III. Where are the Rules for this SIP Revision Codified?

The SIP Revision includes:

(1) Amendments to the following sections of Part 201, Subpart D: Permit Applications and Review Process under 35 Ill. Adm. Code:

- 201.152 Contents of Application for Construction Permit,
- 201.157 Contents of Application for Operating Permit,
- 201.158 Incomplete Applications
- 201.159 Signatures
- 201.160 Standards of Issuance
- 201.162 Duration
- 201.163 Joint Construction and Operating Permits
- 201.164 Design Criteria

(2) Repeal of the following sections of subpart D:

- 201.153 Incomplete Applications
- 201.154 Signatures
- 201.155 Standards for Issuance

(3) Repeal of the entire Subpart E: Special Provisions for Operating Permits

for Certain Smaller Sources, specifically:

- Section 201.180 Applicability
- Section 201.181 Expiration and Renewal
- Section 201.187 Requirements for a Revised Permit

(4) Amendments to the following section of Subpart F: CAAPP Permits:

- Section 201.207 Applicability

The rules were published in the Illinois Register on June 19, 1998 (22 Ill. Reg. 11451). The effective date of the rules is June 23, 1998.

#### IV. What Public Hearing Opportunities Were Provided for this SIP Revision?

Public hearings were held on December 8, 1997, in Chicago, Illinois and on January 12, 1998, in Springfield, Illinois.

#### V. Final Rulemaking Action

In this rulemaking action, we approve the July 23, 1998, SIP revision which includes the Clean Up amendments to the permitting rules.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by February 2, 2000. Should the Agency receive such comments, it will publish a withdrawal of the final rule informing the public that this action will not take effect. 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 March 3, 2000.

#### VI. Administrative Requirements

##### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

##### B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that

have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the

communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

##### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

#### F. 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 annual 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 promulgated does not include a Federal mandate that may result in estimated annual 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. 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. EPA 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 publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major” rule as defined by 5 U.S.C. 804(2).

#### H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA,

EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

#### I. 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 March 3, 2000. 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.

Dated: December 1, 1999.

Jo Lynn Traub,

Acting Regional Administrator, Region 5.

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)(151) to read as follows:

##### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(151) On July 23, 1998, the State of Illinois submitted a State Implementation Plan (SIP) revision that included certain “clean-up” amendments to the State’s permitting rules.

(i) *Incorporation by reference.*

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

(A) Subchapter a: Permits and General Provisions, Part 201: Permits and General Provisions.

(1) Subpart D: Permit Applications and Review Process, Section 201.152 Contents of Application for Construction Permit, 201.153 Incomplete Applications (Repealed), Section 201.154 Signatures (Repealed), Section 201.155 Standards for Issuance (Repealed), Section 201.157 Contents of Application for Operating Permit, Section 201.158 Incomplete Applications, Section 201.159 Signatures, 201.160 Standards for Issuance, Section 201.162 Duration, Section 201.163 Joint Construction and Operating Permits, and Section 201.164 Design Criteria. Amended at 22 Ill. Reg. 11451, effective June 23, 1998.

(2) Subpart E: Special Provisions for Operating Permits for Certain Smaller Sources, Section 201.180 Applicability (Repealed), Section 201.181 Expiration and Renewal (Repealed), Section 201.187 Requirement for a Revised Permit (Repealed), Repealed at 22 Ill. Reg. 11451, effective June 23, 1998.

(3) Subpart F: CAAPP Permits, Section 201.207 Applicability, Amended at 22 Ill. Reg. 11451, effective June 23, 1998.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MT–001–0016a; FRL–6506–1]

### Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Montana; Revisions to the Missoula County Air Quality Rules

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA approves the State implementation plan (SIP) revisions submitted by the Governor of Montana with a letter dated November 14, 1997. This submittal consists of several revisions to Missoula County Air Quality Control Program regulations, which were adopted by the Montana Board of Environmental Review (MBER) on October 31, 1997. These rules include regulations regarding general definitions, open burning, and criminal penalties. This submittal also includes revisions to regulations regarding national standards of performance for new stationary sources (NSPS) and National Emission Standards for