

**§ 52.1887 [Amended]**

3. Section 52.1887 paragraph (b)(3) is removed.

[FR Doc. 81-33569 Filed 11-23-81; 8:45 am]

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**40 CFR Part 52**

[A-5-FRL 1969-2]

**Approval and Promulgation of Implementation Plans: Ohio**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final rulemaking.

**SUMMARY:** The U.S. Environmental Protection Agency (USEPA) announces approval of the Ohio State Implementation Plan (SIP) provisions which satisfy several general requirements of the Clean Air Act, as amended, including Section 121—Consultation; Section 110(a)(2)(K)—Permit Fees; Section 126—Interstate Pollution; Section 127—Public Notification; and Section 128—State Boards.

This action will be effective on January 25, 1982, unless notice is received within 30 days that someone wishes to submit comments.

**DATE:** This action is effective January 25, 1982.

**ADDRESSES:** Copies of the SIP revision are available for review at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, Regulatory Analysis Section, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460. Ohio Environmental Protection Agency, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Gerald S. Kellman/Toni Lesser, Air Planning Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6070 or 6037.

**SUPPLEMENTARY INFORMATION:****Section 121—Consultation:**

Section 121 of the Clean Air Act requires that States provide a

satisfactory process for consulting with local governments and Federal land managers in the development of plans for attaining and maintaining the National Ambient Air Quality Standards. A satisfactory process of consultation must be included for transportation control plans, air quality maintenance, preconstruction review of direct sources of air pollution, nonattainment requirements, prevention of significant deterioration, and certain compliance orders. This process must be ongoing and in accordance with regulations promulgated by USEPA in the June 18, 1979 Federal Register (44 FR 35176).

On January 30, 1981, the State submitted Ohio Amended Substitute Senate Bill 258, which was enacted into law on December 19, 1980. Section 3704.033(A) of the Ohio State Code, requires the Director of the Ohio Environmental Protection Agency (OEPA) to establish a procedure of consultation with general purpose local governments, designated organizations of elected officials of local governments, and the secretary of any department having authority over Federal land located in the State. The procedure must meet the requirements of the Federal Clean Air Act pertaining to transportation controls, air quality maintenance plans, preconstruction review of direct sources of air pollution, nonattainment designations, prevention of significant deterioration, and enforcement orders.

The State has submitted as one part on its July 27, 1979, proposed SIP revision, a joint memorandum of understanding between OEPA and local planning organizations in the State. This agreement and Section 3704.033(A) of the Ohio State Code fulfill the requirements of the Clean Air Act, that the SIP provide an opportunity for adequate consultation with local governments and organizations of local elected officials.

Based on these documents, USEPA approves Ohio's process of consultation.

**Section 110(a)(2)(K)—Permit Fees**

This section requires the owner or operator of each major stationary source to pay the permitting authority, as a condition of any permit required by the Clean Air Act, the reasonable costs of processing an application for a permit and of implementing and enforcing the terms and conditions of the permit.

On July 27, 1979, Ohio submitted to USEPA, Ohio Administrative Code Rules 3745-45-01 through 3745-45-05, which establish a comprehensive permit fee system. This system defines the sources subject to fees, specifies the

amount of the fee, the time period in which a fee must be paid, and provides for certain categories of exemptions. USEPA approves this system as meeting the requirements of Section 110(a)(2)(K).

**Section 126—Interstate Pollution**

Section 126(a)(1) of the Act requires that the SIP provide for written notice to nearby States of any proposed major stationary source which may significantly contribute to levels of air pollution in excess of National Ambient Air Quality Standards in that State.

On January 30, 1981, the State submitted Ohio Amended Substitute Senate Bill 258, which was enacted into law on December 19, 1980. Section 3704.03(f) of the Ohio Revised Code, requires that the owner or operator of each proposed new or modified air contaminant source provide notice of its proposed installation or modification to other States, as is required under the Clean Air Act. Based on this submittal, USEPA approves Ohio's conformity with section 126(a)(1) of the Act.

Section 126(a)(2) requires the State to identify major sources, which may significantly contribute to levels of air pollution in neighboring States.

In its July 27, 1979 SIP submittal, the State certified that it had sent letters to each adjacent State. These letters included a list of all major sources that may significantly contribute to levels of air pollution which are located in counties which border on these States. Based on this submittal, USEPA approves Ohio's conformity with section 126(a)(2) of the Act.

**Section 127—Public Notification**

Section 127 of the Act, requires the SIP to contain measures for effective notification to the public, on a regular basis, of instances or areas in which any national primary ambient air quality standard is exceeded; to advise the public of hazards associated with such pollution, and to enhance public awareness of measures which can be taken to prevent the standards from being exceeded.

In its July 29, 1979 SIP submittal, the State describes the procedures under which the public is notified of exceedances and the health hazards associated with such exceedances. On January 30, 1981, the State submitted Ohio Amended Substitute Senate Bill 258, which had been enacted into law. Section 3704.03(f) of the Ohio Revised Code requires the director of the OEPA to provide for measures to notify the public of exceedances, to advise the public of hazards associated with such pollution, and to enhance public

awareness of measures which would prevent the standards from being exceeded. Ohio regulation OAC-3745-35, submitted to USEPA on February 25, 1980, contains procedures for involving the public in regulatory and other procedures to improve air quality.

Based on these submittals, USEPA approves Ohio's public notification procedures:

#### Section 128—State Boards

Section 128 of the Act requires that any boards which approve permits or enforcement orders under the Act must contain a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permit or enforcement orders under the Act. It also requires that members of any such board adequately disclose any potential conflicts of interest. On July 27, 1979, Ohio submitted proposed amendments to the Ohio Revised Code, Section 3704, and on January 30, 1981, Ohio submitted an amended ORC 3704.

Chapter 102 of ORC 3704, contains provisions which require each member of a State board to file a statement which details possible conflicts of interest. The provisions of this chapter are consistent with the requirements of Section 128 of the Clean Air Act and ensure that a majority of the members of State boards will represent the public interest. Based on this submittal, USEPA approves Ohio's procedures for State boards:

Since USEPA views this action as a noncontroversial rulemaking, it is today approving the Ohio State Implementation Plan provisions which satisfy several general requirements of the Clean Air Act amending the following: Section 121—Consultation, Section 110(a)(2)(K)—Permit Fees, Section 126—Interstate Pollution, Section 127—Public Notification, and Section 128—State Boards. This action will be effective 60 days from the date of the Federal Register notice. However, if USEPA is notified within 30 days that someone wishes to submit comments, this action will be withdrawn and a new rulemaking will propose the action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities since it imposes no burden on sources. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291 (40 FR 13193), USEPA must also judge whether a regulation is "major" and, therefore subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation, as defined by Executive Order 12291, because this action only approves a State action. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from date of this publication. Under section 307(b) the subject of today's notice may not be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 121, 126, 127, 128, Clean Air Act, as amended (42 U.S.C. 7410(a), 7421, 7423, 7427, 7428))

Dated: November 18, 1981.

Aïne M. Gorsuch,  
Administrator.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

##### Subpart KK—Ohio

Section 52.1870(c) is amended by adding (subparagraph 32) as follows:

§ 52.1870 Identification of plan.

(c) \* \* \*

(32) On July 27, 1979, the State of Ohio submitted materials to satisfy the general requirements of the Clean Air Act under Sections 110(a)(2)(K); 126, 127, and 128. On January 30, 1981, the State of Ohio also submitted an amended substitute Senate Bill 258, which was enacted into law on December 19, 1980, amending Ohio Revised Code 3704.

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#### 40 CFR Part 55

[A-1-FRL 1975-4]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Delayed Compliance Order for Holyoke Water Power Company's Mt. Tom Generating Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) announces the issuance of an administrative order called a Delayed Compliance Order (DCO) to Holyoke Water Power Company (HWPC), allowing the single boiler of its Mt. Tom Generating Station, located in Holyoke, Massachusetts to be converted from burning oil to burning coal. The increased particulate emissions caused by coal burning will mean that HWPC will be unable to comply with the Massachusetts State Implementation Plan (SIP) until February 15, 1984. Between now and February 15, 1984, HWPC will be allowed to burn coal despite this noncompliance. During this interim period, however, HWPC must install the pollution control equipment necessary to achieve final compliance with the Massachusetts SIP. This DCO sets forth a compliance schedule, emissions limitations, and other requirements of section 113(d)(5) of the Clean Air Act.

EFFECTIVE DATE: November 24, 1981.

ADDRESSES: Copies of all comments received, EPA's responses to these comments, and all reports required under the DCO are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts; and at the Pioneer Valley Air Pollution Control District, 3rd floor, 1414 State Street, Springfield, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Arnold Leriche at the U.S. Environmental Protection Agency, Region I, JFK Federal Building, Room 1903, Boston, Massachusetts 02203 or telephone (617) 223-4448.

SUPPLEMENTARY INFORMATION: On May 21, 1981, HWPC, a subsidiary of Northeast Utilities, requested a DCO under Section 113(d)(5) of the Clean Air Act, 42 U.S.C. 7413(d)(5), to enable it to burn coal in the single 145 megawatt generating unit of its Mt. Tom