statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: December 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Chapter I, title 40, *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. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(92) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(92) The Florida Department of Environmental Protection has submitted revisions to the Florida State Implementation Plan on August 12, 1994. These revisions address including the Small Business Stationary Source Technical and Environmental Program in the Florida Administrative Code, Chapter 17–202.

(i) Incorporation by reference.

(A) Chapter 17–202, Small Business Stationary Source Technical and Environmental Compliance Assistance Program adopted on June 30, 1994.

(ii) Additional material. None.

[FR Doc. 96–3790 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[MI37–01–6713a; FRL–5422–5]

Approval and Promulgation of State Implementation Plan; Michigan; Site-Specific SIP Revision for the Enamalum Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA approves a revision to the Michigan State Implementation Plan (SIP) for ozone that was submitted on August 26, 1994 by the State of Michigan. This revision is a site-specific SIP revision that determines the appropriate reasonably available control technology (RACT) level for volatile organic compound (VOC) emissions from the Enamalum Corporation Novi, Michigan facility. This approval of the site-specific SIP revision allows for a limit higher than that found in the control technology guidance (CTG) document for this source category. Approval of this site-specific SIP revision is based upon the argument that the Enamalum Corporation facility cannot afford the controls normally required by the State's RACT rule. In the proposed rules section of this **Federal Register**, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's consent order that has been incorporated by reference.

DATES: This "direct final" is effective on April 22, 1996, unless EPA receives adverse or critical comments by March 22, 1996. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6960.

SUPPLEMENTARY INFORMATION:

I. Background

The Enamalum Corporation owns a facility located in Novi, Michigan that

HeinOnline -- 61 Fed. Reg. 6545 1996

performs metal coating operations. Because this facility is located in what was the Detroit-Ann Arbor moderate ozone nonattainment area and because its VOC emissions exceed the applicability cutpoint found in Michigan's RACT rule for this source category (*R 336.621 Emission of volatile organic compounds from existing metallic surface coating lines* or "Rule 621"), it is subject to the RACT requirements for this source category. The State of Michigan has adopted the requirements found in EPA's CTG for this source category ("Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface coating of Miscellaneous Metal Parts and Products") and the State's Rule 621 has been approved into the federally enforceable Michigan SIP.

The EPA issued CTG requires the prescriptive coating limit of 3.5 pounds of VOC per gallon of coating, minus water, as applied. Michigan's Rule 621 reflects this requirement.

The State of Michigan issued a consent order, Stipulation for Entry of Final Order By Consent SIP No. 6–1994, to the Enamalum Corporation that allows this facility to exceed the VOC emission limit established in Michigan's Rule 621. Specifically, the consent order allows the facility to use coatings with a 6.5 pounds of VOC per gallon of coating (minus water) as applied, limit.

The State of Michigan, on behalf of the Enamalum Corporation, has submitted to EPA a site-specific SIP revision requesting that the State's consent order now be approved into the Michigan SIP.

II. Evaluation of State Submittal

Michigan submitted this site-specific SIP revision to the EPA on August 26, 1994 under the signature of the Governor's designee, Roland Harmes, Director of the former Michigan Department of Natural Resources (now called the Michigan Department of Environmental Quality, but for purposes of this document the abbreviation "MDNR" will be used). The EPA found this rule to be complete in a letter to Roland Harmes dated November 8, 1994. The MDNR followed the required legal procedures for adopting this rule which are prerequisites for EPA to consider including this rule in Michigan's federally enforceable ozone SIP. A public comment period on this rule was open from March 25, 1994 through April 26, 1994, and a public hearing for this rule was held on April 26, 1994.

The MDNR has submitted for approval into the federally enforceable SIP the consent order that it has issued for the Enamalum Corporation's Novi facility. The basis for arguing that this site-specific SIP revision should be approved into the SIP, is that this facility cannot reasonably afford the controls required by Michigan's Rule 621.

A number of controls have been considered by the Enamalum Corporation and none have been found to be considered reasonable and have been eliminated as potential RACT options.

A. Process Description

The Enamalum Corporation applies a high performance architectural coating, Kynar 500, to aluminum extrusions used on commercial, storefront, and high-rise buildings. The Kynar 500 coating emits, on average, 6.1 pounds of VOC per gallon of coating when applied. This coating is being used because it meets the American Architectural Manufacturer's Association (AAMA) specification 605.2–1985 as a high performance architectural coating. Few other coatings are able to meet both this AAMA standard and the VOC RACT limit.

B. Control Scenario I—Powder Coatings

Powder coatings are currently available as substitutes for the liquid Kynar 500 coating. These powder coatings are able to meet both the AAMA standard and the Michigan VOC RACT limit but are not considered reasonable in terms of cost for the Enamalum Corporation.

The Enamalum Corporation is currently using powder coatings on some of its products but has not been able to use these coatings in a cost-effective manner on their outdoor products that will be exposed to extreme environmental conditions. The Enamalum Corporation has found that the amount of powder coating needed to produce a desirable product would increase the cost of the product to such a degree that their customers would no longer purchase their product. The cost of coating more than doubles when powder coatings are used in place of the liquid Kynar 500 coating. Also, the company has provided information indicating that the cost of powder coatings as means of a VOC control is beyond what would normally be considered RACT on a dollars per ton of VOC controlled basis. For these reasons, the use of powder coatings has been eliminated as a RACT option on basis of economic reasonability.

C. Add-On Incineration

The use of an add-on incinerator, like the use of powder coating, is considered to be a technically feasible way to control the emissions of VOCs from this source. However, because of economic considerations, it has also been eliminated as a RACT option.

Add-on incineration generally is considered to be economically reasonable on a dollars per ton of VOC reduced basis. However, MDNR was found that the expense of an incinerator is not affordable for this specific source.

The Enamalum Corporation has submitted information demonstrating that the net present value of the company after purchasing and operating an incinerator would be less than the net present value of the company if the facility were to shut down. When a company is able to make this demonstration for a control technique, this control technique is considered to be unaffordable by that company.

III. Final Rulemaking Action

The EPA approves Michigan's site-specific SIP revision, thereby making this consent order federally enforceable.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 22, 1996. However, if we receive adverse comments by March 22, 1996, EPA will publish a document that withdraws this action.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. 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), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

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

HeinOnline -- 61 Fed. Reg. 6546 1996

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.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the 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 the private sector, of $100 million or more. Under Section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today 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 the private sector, result from this action.

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 April 22, 1996. 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, Ozone, Reporting and recordkeeping requirements.

Dated: February 2, 1996.

Michelle D. Jordan,

Acting Regional Administrator.

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. 7401–7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(103) to read as follows:

§ 52.1170 Identification of Plan.

* * * * *

(c) * * *

(103) On August 26, 1994 Michigan submitted a site-specific SIP revision in the form of a consent order for incorporation into the federally enforceable ozone SIP. This consent order determines Reasonably Available Control Technology (RACT) specifically for the Enamalum Corporation Novi, Michigan facility for the emission of volatile organic compounds (VOCs).

(i) Incorporation by reference. The following Michigan Stipulation for Entry of Final Order By Consent.

(A) State of Michigan, Department of Natural Resources, Stipulation for Entry of Final Order By Consent No. 6–1994 which was adopted by the State on June 27, 1994.

[FR Doc. 96–3788 Filed 2–20–96; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 52

[MN28–02–7253; FRL–5402–2]

Approval and Promulgation of Implementation Plans (Minnesota)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a year-round oxygenated fuels program as a revision to Minnesota's State Implementation Plan (SIP) for carbon monoxide (CO). The use of oxygenated fuels can reduce emissions of CO from vehicles, thereby reducing the threat to human health posed by CO, which can contribute to heart and lung disease and reduce the concentration of oxygen in the blood stream. Minnesota already has an approved SIP which requires the use of oxygenated fuels during the winter; the extension of the oxygenated fuels program beyond the winter months will serve as the contingency measure required for nonattainment plans under section 172(c)(9) of the Clean Air Act (the Act). USEPA's action is based upon a SIP revision request which was submitted by the State to satisfy the requirements of the Act.

DATES: This final rule is effective on March 22, 1996.

ADDRESSES: Copies of the SIP revision request, public comments on the rulemaking, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Alexis Cain at (312) 886–7018 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AT–18J), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Air Toxics and Radiation Branch, Regulation Development Section (AT–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 12, 1993, the Commissioner of the Minnesota Pollution Control Agency submitted elements of a contingency measure for the carbon monoxide nonattainment area in the Twin-Cities area of the State. This area includes the following counties which comprise the CO control area: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright.[1] The State's

[1] St. Louis County (in the Duluth-Superior, Wisconsin MSA) was redesignated to attainment for carbon monoxide on April 14, 1994. The maintenance plan contains a "park and ride" measure to reduce vehicle miles traveled in the event maintenance cannot be assured. If the first choice measure (park and ride) does not succeed in reducing the CO concentrations the State will

Continued