

Subpart C—Deposit Activities of All Savings Associations**§ 557.20** What records should I maintain on deposit activities?

All federal and state chartered savings associations (“you”) should establish and maintain deposit documentation practices and records that demonstrate that you appropriately administer and monitor deposit-related activities. Your records should adequately evidence ownership, balances, and all transactions involving each account. You may maintain records on deposit activities in any format that is consistent with standard business practices.

PART 561—DEFINITIONS

8. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§ 561.16 [Amended]

9. Section 561.16 is amended, in paragraph (a), by removing the phrase “, as provided in § 563.6(b) of this chapter”.

§ 561.42 [Amended]

10. Section 561.42 is amended by removing the phrase “§§ 563.6 and 561.16” and adding in its place “§ 561.16”.

PART 563—OPERATIONS

11. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 3806; 42 U.S.C. 4106.

§§ 563.2, 563.3, 563.6, 563.7, 563.9, 563.10 [Removed]

12. Sections 563.2, 563.3, 563.6, 563.7, 563.9, and 563.10 are removed.

PART 563g—SECURITIES OFFERINGS

13. The authority citation for part 563g continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78n, 78p, 78w.

§ 563g.1 [Amended]

14. Section 563g.1 is amended by removing the last sentence of paragraph (a)(13).

Dated: October 15, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97-27842 Filed 10-21-97; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 913**

[SPATS No. IL-081-FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Illinois permanent regulatory program (hereinafter referred to as the “Illinois program”) pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This amendment provides that areas revegetated following the removal of temporary structures such as sedimentation ponds, roads, and small diversions are not subject to a revegetation responsibility period and bond liability period separate from that of the permit area or increment thereof served by such facilities. The amendment is intended to clarify ambiguities in the State regulations and to improve operational efficiency.

EFFECTIVE DATE: October 22, 1997.

FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204-1521, Telephone: (317) 226-6700.

SUPPLEMENTARY INFORMATION:

- I. Background on the Illinois Program
- II. Submission of the Proposed Amendment
- III. Director’s Findings
- IV. Summary and Disposition of Comments
- V. Director’s Decision
- VI. Procedural Determinations

I. Background on the Illinois Program

On June 1, 1982, the Secretary of the Interior conditionally approved the Illinois program. Background information on the Illinois program, including the Secretary’s findings, the disposition of comments, and the conditions of approval can be found in the June 1, 1982 **Federal Register** (47 FR 23883). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 913.15, 913.16, and 913.17.

II. Submission of the Proposed Amendment

By letter dated June 22, 1992 (Administrative Record No. IL-1192), Illinois submitted a proposed program amendment consisting of revisions to a number of its approved regulations. OSM announced receipt of the proposed amendment in the August 18, 1992, **Federal Register** (57 FR 37127) and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on September 17, 1992. Since no one requested an opportunity to testify at a public hearing, the hearing scheduled for September 14, 1992, was canceled.

By letter dated April 27, 1993 (Administrative Record No. IL-1207), Illinois submitted revisions to its proposed amendment in response to concerns raised by OSM in letters dated September 2, 1992, and October 2, 1992 (Administrative Record Nos. IL-1204 and IL-1205, respectively), and in response to comments received from other governmental agencies and individuals. OSM announced receipt of the revised amendment in the May 17, 1993, **Federal Register** (58 FR 28804) and, in the same notice, reopened the public comment period and again provided an opportunity for a public hearing. The public comment period closed on June 16, 1993. As with the previous submittal, no one requested an opportunity to testify at a public hearing; therefore, the hearing scheduled for June 11, 1993, was canceled.

OSM subsequently announced its decision on most provisions of the proposed amendment in the September 3, 1993, **Federal Register** (58 FR 46845). However, in the same document, OSM stated at 58 FR 46849-50 (finding 11(c)) and 30 CFR 913.15(o)(4) that it was deferring a decision on the proposed revisions to sections 1816.116(a)(2)(C) and 1817.116(a)(2)(C) of title 62 of the Illinois Administrative Code (IAC) until additional opportunity for public comment was provided in a separate **Federal Register** document. That commitment was fulfilled by the notice published on September 15, 1993 (58 FR 48333), which reopened the public comment period until October 15, 1993. This notice also included similar proposed revisions to the Kentucky and Ohio regulations as well as a discussion of OSM’s proposed policy concerning restart of the revegetation responsibility period every time a small portion of the permit area requires reseeding or replanting. Subsequently, in the May 29,

1996, **Federal Register** (61 FR 26792), OSM approved similar proposed revisions to the Colorado regulations, based on the adoption of the proposed OSM policy published on September 15, 1993 (58 FR 48333).

Only Illinois' proposed revisions are under consideration in this final rule document. The Kentucky and Ohio proposals will be addressed in a separate final rule document. Since no one requested an opportunity to testify at a public hearing, no hearing was held.

The amendment revises two regulations defining normal husbandry practices and other activities that will not restart the liability period. It also includes a document explaining how the State intends to interpret and implement these rules. This policy document specifies that Illinois will consider the reseeded areas from which temporary features such as sedimentation ponds, roads, and diversions have been removed after revegetation is established on the surrounding area to be non-augmentative.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the deferred revisions at 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C) and the accompanying policy document that explains how the State intends to implement these rules.

A. *OSM's policy concerning the term of liability for reclamation of roads and temporary sediment control structures.* As outlined in the May 29, 1996, **Federal Register** (61 FR 26792), OSM has adopted the policy published for comment in the September 15, 1993, **Federal Register** (58 FR 48333). Section 515(b)(20) of SMCRA provides that the revegetation responsibility period shall commence "after the last year of augmented seeding, fertilizing, irrigation, or other work" needed to assure revegetation success. In the absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area. As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until two years after the last augmented seeding, planting of the sites from which such structures are removed

need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038-44039, September 26, 1983).

The purpose of the revegetation responsibility period is to ensure that the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA since (1) the lands involved are relatively small in size and either widely dispersed or narrowly linear in distribution and (2) the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structure unnecessary for the protection of water quality.

In addition, the areas affected likely would be no larger than those which could be reseeded (without restarting the revegetation period) in the course of performing normal husbandry practices, as that term is defined in 30 CFR 816.116(c)(4) and explained in the preamble to that rule (53 FR 34636, 34641; September 7, 1988; 52 FR 28012, 28016; July 27, 1987). Areas this small would have a negligible impact on any evaluation of the permit area as a whole. Most importantly, this interpretation is unlikely to adversely affect the regulatory authority's ability to make a statistically valid determination as to whether a diverse, effective permanent vegetative cover has been successfully established in accordance with the appropriate revegetation success standards. From a practical standpoint, it is usually difficult to identify precisely where such areas are located in the field once revegetation is established in accordance with the approved reclamation plan.

The above discussion of the rules in 30 CFR Part 816, which applies to surface mining activities, also pertains to similarly or identically constructed section in 30 CFR Part 817, which applies to underground mining activities.

B. *Comparison of Illinois' policy with OSM's policy clarification.* Illinois' policy document specifies that the State will consider limited reseeded and associated fertilization and liming of areas where features such as sediment ponds, roads, and small diversions have been removed as non-augmentative on agricultural and non-agricultural lands where the area is small in relation to the watershed of the area. The statement

also stipulates that any minor reseeded area be revegetated under approved plans and that vegetation be fully established at the time of final bond release. Illinois' reference to roads in its statement is interpreted by OSM to mean those roads necessary for maintenance of sediment ponds, diversions, and reclamation areas. Ancillary roads used for maintenance do not include haul roads or other primary roads which should either have been removed upon completion of mining or approved to be retained for an approved postmining land use. On April 11, 1997 (Administrative Record No. IL-1243). OSM discussed the above interpretation of roads with Illinois. Illinois agreed with OSM's interpretation of the meaning of the term "roads" as used in its policy document.

Because Illinois' policy document stipulates that these small reclaimed areas must be revegetated under approved plans, the policy ensures that the vegetation of these areas would be subject to Illinois' counterparts to the Federal regulations at 30 CFR 816.111 and those portion of Illinois' counterparts to the Federal regulations at 30 CFR 816.116 related to the attainment of the postmining land use. Illinois' policy requirement that vegetation on these small areas be fully established at the time of final bond release would tend to discourage the removal of ponds, roads, or diversions toward the end of the liability period for the surrounding area. If removal of the structures occurs toward the end of the liability period for the larger reclaimed area, the areas where the ponds or diversions existed would not qualify for final bond release until diverse, effective, and permanent vegetative cover is established that meets the standards of Illinois' counterpart to 30 CFR 816.111.

Although Illinois' policy document is primarily concerned with the definition of normal husbandry practices, the term "non-augmentative" is used in reference to the removal of sediment ponds, roads, and small diversions that were used in support of reclamation. OSM interprets this to mean Illinois considers removal of these structures as non-augmentative, but not as a normal husbandry practice. OSM agrees that removal of such structures, while being non-augmentative, is not a normal husbandry practice.

Based on the above discussion, the Director finds that Illinois' policy is consistent with and no less effective than the Federal regulations at 30 CFR 816.46(b) (5) and (6), 816.150(f)(6), and sections 515(b) (19) and (20) of SMCRA,

as clarified by OSM in the September 15, 1993, **Federal Register** (58 FR 48333).

C. *Removal of Required Regulatory Program Amendment 30 CFR 913.16(o)*. In the December 13, 1991, **Federal Register** (56 FR 64986), OSM placed required regulatory program amendment 30 CFR 913.16(o) on the Illinois program. It required Illinois to either submit revisions to 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C) to require OSM approval of all normal husbandry practices other than those specifically listed in its approved program or delete the provisions providing Illinois with the authority to approve unspecified husbandry practices. By letter dated June 22, 1992 (Administrative Record No. IL-1192), Illinois submitted proposed changes to its program. As part of these revisions, at 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C), Illinois proposed to revise its revegetation standards by specifying normal husbandry practices for the State. These included approved agricultural practices described in the Illinois Agronomy Handbook and those practices which are part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 *et seq.*). The Illinois Agronomy Handbook is published by the University of Illinois—Cooperative Extension Service, Office of Agricultural Communications and Education. It includes recommended fertility management practices for row crops and hayland, which are tailored for site specific soil conditions; crop rotation practices; tillage practices; and application practices on unmined land in Illinois.

Subsequently, by letter dated April 27, 1993 (Administrative Record No. IL-1207), Illinois submitted revisions to its proposed amendment in response to issue letters prepared by OSM on September 2, and October 2, 1992 (Administrative Record Nos. IL-1204 and IL-1205, respectively), and in response to comments received from other agencies and individuals. Included in these revisions was the policy document in which Illinois explained how it would determine what are normal husbandry practices and how it would judge management practices on mined land against the recommended agricultural management practices and soil conservation practices of the referenced documents.

These proposed revisions, which were approved in the September 3, 1993, **Federal Register** (58 FR 46849), and the policy document satisfy required regulatory program amendment 30 CFR 913.16(o). Therefore, the Director is

taking this opportunity to remove it from the Illinois program.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on Illinois' policy document and OSM's proposed policy.

Comments were received from the Illinois Department of Mines and Minerals (now the Illinois Department of Natural Resources—Office of Mines and Minerals), the Kentucky Coal Association, the Kentucky Resources Council, the Lignite Energy Council, the National Coal Association, and the North Dakota Public Service Commission. Except for the Kentucky Resources Council, all of the commenters were in favor of the policy.

In response to the Director's proposed clarification of OSM policy, the Kentucky Resources Council initiates its comments with the premise that OSM has proposed to treat the initial seeding and restoration of areas disturbed by diversions, roads and sedimentation ponds as "normal husbandry practices." It then argues that the initial seeding of such areas is not normal husbandry practice, and any revegetation other than "husbandry practices" as defined by 30 CFR 816.116(c)(4) constitutes "augmented seeding" and would therefore require extension of the full liability period for the establishment of permanent vegetation. First, the Director did not base not restarting the liability period on the contention that revegetation of such areas is a normal husbandry practice. Second, the Director does not agree that any revegetation other than "normal husbandry practices" constitutes "augmented seeding." The legislative history of the Act reveals no specific Congressional intent in the use of the term "augmented seeding." Accordingly, OSM's interpretation of augmented seeding is given deference so long as it has a rational basis. OSM would not consider the seeding of small areas, such as ponds and their associated diversions and roads, as augmented seeding. For further discussion of such rationale, see the Director's Finding A. Under the proposed Illinois, Kentucky, and Ohio amendments, areas reclaimed following removal of temporary structures such as sedimentation ponds and associated structures and roads would not be subject to a separate or extended bond liability period apart from the applicable permit area served by such structures. The seeding of sedimentation

ponds and their associated diversions and roads is not the result of reclamation failure, but because 30 CFR 816.46(b)(5) prohibits the removal of temporary sedimentation ponds until two years after the last augmented seeding.

The Kentucky Resources Council overlooks the fact that for the vast majority of the reclaimed area the revegetation responsibility period will be at least five years. Neither Congressional history nor the language of the statute distinguishes between initial overall reclamation of a mined area and the subsequent restoration of temporary structures like sedimentation ponds and maintenance roads. In the absence of such distinction, the Secretary is delegated discretion to determine whether a proposed state amendment is no less effective than the Act and consistent with the counterpart Federal regulation. The Director's stated interpretation of Section 515(b)(20) is that it applies "to the increment or permit area as a whole, not individually to those lands within that area upon which revegetation is delayed solely because of their use in support of the reclamation effort of the planted area." See 58 FR 48333, September 15, 1993.

OSM has taken a consistent position in approving an amendment to the Colorado surface mining program which provided that reclaimed temporary drainage control facilities shall not be subject to the extended liability period for revegetative success or the related bond release criteria (61 FR 26792, May 29, 1996). The Director, therefore, does not agree with the commenter's interpretation of Section 515(b)(20) of SMCRA.

Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Illinois program. Comments were received from the U.S. Forest Service and the U.S. Bureau of Mines. The U.S. Forest Service commented that it had reviewed OSM's proposed rule to clarify its policy towards revegetation and agreed with the proposed rule.

The U.S. Bureau of Mines suggested that OSM consider the significant differences in the reclamation of sediment structures and roads, since sediment structures generally possess characteristics necessary for successful reclamation, while roads generally require significant initial work to

develop a necessary growth environment. OSM agrees with the commenter. OSM's policy and Illinois' regulations and policy document require that when such structures are removed, the land on which they were located must be regraded and revegetated in accordance with approved plans and the requirements of 30 CFR 816.111 through 816.116, or state counterparts. Because the Illinois policy will be limited to small areas, roads posing significant potential for reclamation problems will be excluded.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The deferred provision from Illinois proposed amendment did not pertain to air or water quality standards. Therefore, OSM did not request the EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from the EPA (Administrative Record No. IL-1225). It responded on October 18, 1993 (Administrative Record No. IL-1231), that it concurred without comment.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record Nos. IL-1226 and IL-1228). Neither the SHPO and ACHP responded to OSM's request.

V. Director's Decision

Based on the above finding, the Director approves Illinois' regulations at 62 IAC 1816.116(a)(2)(C) and 1817.116(a)(2)(C) and its policy document as submitted on June 22, 1992, and as revised on April 27, 1993.

The Federal regulations at 30 CFR Part 913, codifying decisions concerning

the Illinois program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the

Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 3, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

PART 913—ILLINOIS

1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 913.15 Approval of Illinois regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
June 22, 1992	October 22, 1997	62 IAC 1816.116(a)(2)(C); 1817.116(a)(2)(C); Non-augmentation Policy Statement.

§ 913.16 [Amended]

3. Section 913.16 is amended by removing and reserving paragraph (o).
 [FR Doc. 97-27982 Filed 10-21-97; 8:45 am]
 BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 157-0055a; FRL-5912-7]

Withdrawal of Direct Final Rule for Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule for the approval of a revision to the California State Implementation Plan. EPA published the direct final rule on August 25, 1997 at 62 FR 44909, approving revisions to a rule from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). As stated in that **Federal Register** document, if adverse or critical comments were received by September 24, 1997, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action on this or a future revision of this rule in the near future. EPA will not institute a second comment period on this document.

DATES: The direct final rule published at 62 FR 44909 is withdrawn as of October 22, 1997.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1199.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the August 25, 1997 **Federal Register**, and in the short informational

document located in the proposed rule section of the August 25, 1997 **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 9, 1997.

Felicia Marcus,
Regional Administrator.

Subpart F of part 52, Chapter I, Title 40 of the Code of Federal Regulations if amended as follows:

PART 52—[AMENDED]

Subpart F—California

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

§ 52.220 [Amended]

2. Section 52.220 is amended by removing paragraph (c)(224)(i)(D).

[FR Doc. 97-27978 Filed 10-21-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5911-8]

Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is extending by an additional one month the deadline for taking final action on petitions that eight States have submitted to require EPA to make findings that sources upwind of those States contribute significantly to nonattainment problems in those States. Under the Clean Air Act (CAA or Act), EPA is authorized to grant this time extension if EPA determines that the extension is necessary, among other things, to meet the purposes of the Act's rulemaking requirements. By this document, EPA is making that determination. The eight States that

have submitted the petitions are Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

EFFECTIVE DATE: This action is effective as of October 14, 1997.

FOR FURTHER INFORMATION CONTACT: Howard J. Hoffman, Office of General Counsel, MC-2344, 401 M St. SW, Washington, DC 20460, (202) 260-5892.

SUPPLEMENTARY INFORMATION:

I. Background

Today's action is procedural, and is set in the context of a series of actions EPA is taking to address the problem of the transport of tropospheric ozone and its precursors—especially oxides of nitrogen (NO_x)—across the eastern region of the United States.

The most recent step EPA has taken to address regional ozone transport was the signing of a proposed rulemaking that the State implementation plans (SIPs) of 22 States and the District of Columbia, all in the eastern half of the United States, must be revised under CAA sections 110(k)(5) and 110(a)(1) to include provisions reducing NO_x emissions because those emissions contribute significantly to ozone nonattainment or maintenance problems in downwind states. EPA Administrator Carol M. Browner signed this proposed rulemaking—referred to in this notice as the NO_x SIP call—on October 10, 1997. The proposal is designed to assure that SIPs meet the requirements of CAA section 110(a)(2)(D), which mandates that SIPs contain adequate provisions prohibiting emissions that significantly contribute to downwind nonattainment problems. This proposal is based on information indicating that emissions from those 23 jurisdictions have an adverse impact on downwind areas with respect to both of the ozone National Ambient Air Quality Standards (NAAQS)—the long-standing one-hour standard and the eight-hour standard that was promulgated by notice dated July 18, 1997 (62 FR 38856). EPA's proposals were based generally on recommendations and technical analyses from the Ozone Transport Assessment Group (OTAG), which was an organization comprising EPA, states,