

- Emissions information (to include annual and typical ozone season day emissions);
- Control equipment information; and
- Process data.

EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of West Virginia's Submittal

A. Procedural Background

In accordance with the requirements of 40 CFR § 51.102, a public hearing concerning West Virginia's SIP revision was held on June 23, 1993, in Charleston, West Virginia to solicit public comment on the implementation plan for the State. Following the public hearing, the plan was adopted by the State and signed by the Governor's designee on July 7, 1993 and submitted to EPA on August 10, 1993 as a revision to the SIP.

B. Components of West Virginia's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, West Virginia must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the sources and the State. For the emission statement program to be approvable, West Virginia's SIP revision must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Subsection 45-29-2. Definitions, includes, among others, definitions for the following terms: Actual emissions; Annual fuel process rate; Control efficiency; Control equipment identification code; Emission factor; Emission statement; Estimated emission method code; Estimated emission units; Facility; Measured emission methods code; Measured emission units; Owner or operator; Oxides of nitrogen; Ozone season; Percentage seasonal throughput; Person; Point; Potential to emit; Typical ozone season day; and Volatile organic compounds.

Subsections 45-29-1. General; 45-29-3. Applicability; 45-29-6. Enforceability; and 45-29-7. Severability require that a person who owns or operates any installation, source, or premises to report the levels

of emissions from all stationary sources of VOCs and NO_x. The state may, with EPA's approval, waive the Emission Statements requirements for classes or categories for stationary sources with facility-wide actual emissions of less than 25 tpy of VOC or NO_x, if the class or category is included in the Base Year ozone and Periodic ozone inventories are calculated using EPA approved emission factors or other methods acceptable to EPA. Subsection 45-29-5. Emission Statement Requirements, requires that a certifying official for each facility provide West Virginia with a statement reporting emissions by May 13, in 1993, and by April 15 of every year thereafter for the emissions discharged during the previous calendar year. This subsection of the regulation also delineates specific requirements for the content of these annual emission statements.

C. Enforceability

The State of West Virginia has provisions in its SIP which ensure that the emission statement requirements of West Virginia Regulation Title 45, Series 29, "Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions," are adequately enforced.

EPA has determined that the submittal made by the State of West Virginia satisfies the relevant requirements of the CAA and EPA's guidance document, "Guidance on the Implementation of an Emission Statement Program" (July 1992).

III. Final Action

EPA is approving a revision to the West Virginia SIP to include Regulation Title 45, Series 29, "Rule Requiring the Submission of Emission Statements for Volatile Organic Compounds and Oxides of Nitrogen Emissions." This revision was submitted to EPA by the State of West Virginia on August 10, 1993.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective September 18, 1995 unless, within 30 days of publication, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public

comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. 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 September 18, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of 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.

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. Redesignation of an area to attainment under section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities. 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 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 Act, 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 SIP's on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410 (a) (2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules