

to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2e(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T02-050 is added to read as follows:

**§ 165.T02-050 Safety Zone; Lower Mississippi River.**

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 661.0 to mile 662.0.

(b) *Effective dates.* This section becomes effective at 12:01 a.m. on July 17, 1997, and terminates at 11:59 p.m. on August 31, 1997.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: July 18, 1997.

**P.L. Mountcastle,**

*Lieutenant Commander, USCG, Alternate Captain of the Port.*

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**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Parts 1 and 2**

[Docket No. 970410086-7174-02]

RIN 0651-AA92

**Revision of Patent and Trademark Fees for Fiscal Year 1998; Correction**

**AGENCY:** Patent and Trademark Office, Commerce.

**ACTION:** Final rule; correction.

**SUMMARY:** The Patent and Trademark Office published in the **Federal Register** of July 29, 1997, a document revising certain patent fee and trademark service fee amounts for fiscal year 1998. Inadvertently, an incorrect planned recovery amount was stated. This document corrects the planned recovery amount for fiscal year 1998.

**DATES:** Effective on October 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lee by telephone at (703) 305-8051, fax at (703) 305-8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, D.C. 20231.

**SUPPLEMENTARY INFORMATION:** A final rule revising certain patent fee and trademark service fee amounts for fiscal year 1998 was published as FR Doc. 97-19901 in the **Federal Register** of July 29, 1997 (62 FR 40450). The final rule contains an error in the Recovery Level Determinations section. The planned recovery amount anticipated for fiscal year 1998 was incorrectly stated as \$763,391,000. This correction revises the planned recovery amount.

In rule FR Doc. 97-19901 published on July 29, 1997 (62 FR 40450), make the following correction. On page 40450, in the third column, change the planned recovery amount to \$748,320,000.

Dated: August 6, 1997.

**Albin F. Drost,**

*Deputy Solicitor.*

[FR Doc. 97-21239 Filed 8-11-97; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IL137-1a; FRL-5868-5]

**Approval and Promulgation of Implementation Plans; Revision to the Illinois State Implementation Plan for Ozone**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA approves the State Implementation Plan (SIP) revision request submitted by the State of Illinois on May 14, 1996, for the purpose of making a change to the regulatory control period established for Illinois' 7.2 pounds per square inch (psi) Reid Vapor Pressure (RVP) regulations currently required for the Metro-East St. Louis (Metro-East) moderate ozone nonattainment area which includes Madison, Monroe, and St. Clair Counties. In addition, EPA is approving a correction to the identification number for the Clark Oil Company listed in Illinois' Marine Vessel Loading rule. The rationale for the approval is set forth in this direct final rule; additional information is available at the address indicated below. In the proposed rules section of this **Federal Register**, EPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse written comments are received on this direct final rule, EPA will withdraw this direct final rule and address the comments received in a subsequent final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. No additional opportunity for public comment will be provided. Unless this direct final rule is withdrawn no further rulemaking will occur on this requested SIP revision.

**DATES:** This final rule is effective on October 14, 1997 unless written adverse or critical comments are received by September 11, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and EPA's analysis (Technical Support Document) are available for inspection at the following address: (It is recommended that you telephone

Francisco Acevedo at (312) 886-6061 before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Francisco Acevedo, Environmental Protection Specialist, at (312) 886-6061.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Reid vapor pressure is a measure of a fuel's volatility; the higher the RVP the faster a fuel evaporates. Emissions of volatile organic compounds (VOC) react with other pollutants, such as oxides of nitrogen, to form ozone. Ozone formation is most active during the summer months because the chemical reactions involved rely on direct sunlight and high ambient temperatures. Thus, regulations limiting fuel RVP are designed to protect human health by reducing ozone formation and human exposure.

The EPA first proposed to regulate gasoline RVP in 1987 (52 FR 31274). EPA's gasoline RVP proposal resulted in a two-phased final regulation which Congress incorporated into the Clean Air Act (Act) in section 211(h). Phase I of the regulation took effect in 1990 (54 FR 11868) for the years 1990 and 1991. The second phase of the regulation became effective in 1992 (55 FR 23658). The rule divides the continental United States into two control regions, Class B and Class C. Generally speaking, the Class B States are the warmer southern and western states, such as Missouri; and Class C States are the cooler northern states, such as Illinois. The Phase II regulation limits the volatility of high ozone season gasoline to 9.0 psi RVP for Class C areas and limits Class B ozone nonattainment areas to 7.8 psi RVP. Therefore, the Missouri counties within the St. Louis ozone nonattainment area are required to meet the 7.8 psi RVP standard while the Illinois counties have a 9.0 psi RVP limit.

State governments are generally preempted under section 211(c)(4)(A) of the Act from requiring that any or all areas in a State meet a more stringent volatility standard.<sup>1</sup> However, under 211(c)(4)(C) a State can require a more stringent standard in its SIP if the more stringent standard is necessary to achieve the National Ambient Air

Quality Standards (NAAQS). The State can make this necessity showing by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist and are technically possible to implement, but are unreasonable or impractical. If a State makes this showing, it can lower the volatility to whatever standard is necessary in the nonattainment area(s).

On October 25, 1994, the Illinois Environmental Protection Agency (IEPA) formally submitted 7.2 psi RVP rules to EPA, as a revision to the Illinois ozone SIP. On March 23, 1995, EPA published a **Federal Register** document approving the Illinois 7.2 psi RVP rules as a revision to the State SIP. (March 23, 1995, FR 60 FR 15233).

**II. State Submittal**

On May 14, 1996, IEPA formally submitted a State Implementation Plan revision request which included final amendments to Ill. Adm. Code 219.585(a) and 219.Appendix E. The amendment in Adm. Code 219.585(a) pertains to a change to the regulatory control period in Illinois' 7.2 RVP rules approved by EPA on March 23, 1995. The amendment in Adm. Code 219.Appendix E is a housekeeping matter that corrects an error in the identification number of Clark Oil Company terminal which is subject to Illinois' Marine Vessel Loading rules. IEPA originally filed proposed rules with the Illinois Pollution Control Board (Board) on September 6, 1995. Public Hearings were held on October 25, 1995, in Springfield, Illinois and October 26, 1995, in Edwardsville, Illinois. On February 1, 1996, the Board adopted a final Opinion and Order for both of the proposed amendments. On March 1, 1996 the amended rule for R96-2 was published in the Illinois Register.

**III. Analysis of Rule**

The Illinois 7.2 psi RVP rule approved by EPA on March 23, 1995, limits the volatility of gasoline sold in Madison, Monroe, and St. Clair Counties to 7.2 psi RVP during the control period beginning in 1995. The adopted control period included in the rule was June 1 to September 15 for retail outlets and wholesale consumers, and May 1 to September 15 for all others.

The Illinois submittal being approved in this notice changes the compliance date for all sources that currently have an annual compliance date of May 1st of each year for 7.2 psi RVP gasoline to June 1st of each year. The compliance date for gasoline supply facilities adopted earlier was inconsistent with the federal compliance date for southern

ozone nonattainment areas. Federal regulations lower RVP of gasoline in two steps. Step I requires the entire country to have 9.0 psi RVP at the supply facilities beginning on May 1st of each year. Step II requires that southern ozone nonattainment areas, such as St. Louis, Missouri, have 7.8 psi RVP gasoline at both supply and retail levels beginning on June 1st of each year. See June 11, 1990 **Federal Register** (55 FR 23658).

The Illinois rules approved by EPA on March 23, 1995, required 7.2 psi RVP gasoline at supply facilities in the Metro-East area in May when the rest of the country was only required to have 9.0 psi RVP gasoline under the Federal RVP requirements. Due to the geography of the St. Louis area, in which the Metro-East nonattainment portion is part of the larger St. Louis metropolitan area and market, and due to the limited storage capacity for petroleum products, not changing the May 1 compliance date for those facilities located in the Metro-East ozone nonattainment area requires that for the month of May the petroleum refining industry supply and sell to the majority of the St. Louis area market 7.2 psi RVP gasoline, when such gasoline is only required in the Illinois portion of the metropolitan area which makes up only 20 to 25 percent of the market.

In addition to the issue of the regulatory control period for low volatility gasoline, EPA is approving Illinois' correction of an error regarding the identification number for the Clark Oil Company, as found in 35 Ill. Adm. Code 219.Appendix E. The correction changes the identification number from 197800AAA to 119050AAA. The Clark Oil Company terminal is currently subject to Marine Vessel Loading rules. These rules were adopted by the Illinois Pollution Control Board on October 20, 1994, and were approved by EPA in a **Federal Register** published April 3, 1995 (60 FR 16801).

**IV. Final Action**

The EPA is approving Illinois' changes to 35 Ill. Adm. Code 219.585(a), as a revision to the ozone SIP which establishes a uniform annual date of June 1 upon which all regulated gasoline facilities must comply with Illinois' 7.2 psi RVP gasoline requirements. EPA is also approving Illinois' correction of the identification number for the Clark Oil Company, as found in 35 Ill. Adm. Code 219.Appendix E from 197800AAA to 119050AAA.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse

<sup>1</sup> EPA promulgated the RVP regulations under both section 211(c) and section 211(h). States are generally preempted under section 211(c)(4)(A) from requiring fuel standards nonidentical to Federal standards promulgated under section 211(c)(1).

comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should written adverse or critical comments be filed. This action will be effective on October 14, 1997 unless, by September 11, 1997, written adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All written public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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 October 14, 1997.

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

**V. Administrative Requirements**

**A. Executive Order 12866**

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

**B. 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 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 Federal action authorizes and approves into the Illinois SIP requirements previously adopted by the state, and imposes no new requirements. Therefore, 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action.

The Act forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2)).

**C. Unfunded Mandates**

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with 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. The EPA has determined that the final action 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 authorizes and approves into the Illinois SIP requirements previously adopted by the state, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action.

**D. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

**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 October 14, 1997. 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, Hydrocarbon, Ozone.

Dated: July 1, 1997.

**David A. Ullrich,**  
*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 O—Illinois**

2. Section 52.720 is amended by adding paragraph (c)(106)(i)(D) and revising paragraph (c)(109) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (106) \* \* \*
- (i) \* \* \*

(D) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Appendix E: List of affected Marine Terminals amended at 20 Ill. Reg. 3848. Effective February 15, 1996.

\* \* \* \* \*

(109) On October 25, 1994, Illinois submitted a regulation that reduces the maximum allowable volatility for gasoline sold in the Metro-East St. Louis ozone nonattainment area, which includes Madison, Monroe, and St. Clair Counties, to 7.2 pounds per square inch Reid Vapor Pressure (RVP) during the summer control period. On May 14, 1996, Illinois submitted an amendment to its RVP rule which changes the summer regulatory control period of the program. The summer control period for the Illinois RVP program is June 1 to September 15.

(i) *Incorporation by reference.*

Illinois Administrative Code Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources, Part 219 Organic Material Emission Standards and Limitations for Metro East Area,

(A) Section 219.112 Incorporation by Reference. Amended at 18 Ill. Reg. 14987. Effective September 21, 1994.

(B) (Reserved)

(C) Section 219.585 Gasoline Volatility Standards. Amended at 20 Ill. Reg. 3848: Effective February 15, 1996.

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