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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY–112–9933(a); FRL–6975–5]

Approval and Promulgation of Air Quality Implementation Plans; Kentucky: Approval of American Greetings Corporation; Source-Specific State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 30, 1999, the Commonwealth of Kentucky submitted, through the Natural Resources and Environmental Protection Cabinet, a source-specific revision to the Kentucky State Implementation Plan (SIP). This source-specific SIP revision allows American Greetings Corporation to have an alternative averaging period of 30 days for compliance determination. EPA is approving this revision because the 30 day alternate averaging period does not jeopardize maintenance of the National Ambient Air Quality Standards (NAAQS).

DATES: This direct final rule is effective July 9, 2001 without further notice, unless EPA receives adverse comment by June 8, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to Randy Terry, at the EPA Regional Office listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Copies of SIP materials which are incorporated by reference into 40 CFR Part 52 (the documents relative to this action) are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency; Region 4 Air Planning Branch; 61 Forsyth Street, SW; Atlanta, Georgia 30303–8960

Commonwealth of Kentucky; Division for Air Quality; 803 Schenkel Lane; Frankfort, KY 40601–1403

FOR FURTHER INFORMATION CONTACT: Randy Terry at 404/562–9032.

SUPPLEMENTARY INFORMATION:

I. Background

On March 30, 1999, the Commonwealth of Kentucky submitted, through the Natural Resources and Environmental Protection Cabinet, a source-specific revision to the Kentucky SIP. This source-specific SIP revision allows American Greetings Corporation to have an alternative averaging period of 30 days for compliance determination.

To meet the requirements of this SIP revision, American Greetings Corporation must provide all record keeping in accordance with regulation 401 KAR 59:212, *New Graphic Arts Facilities Using Rotogravure and Flexography,* Section 4(6). These records shall include, but are not limited to, the following:

(a) Applicable regulation number;

(b) Application method and substrate type;

(c) Amount and type of graphic arts material or solvent used at each point of application, including exempt compounds;

(d) The volatile organic compound (VOC) content as applied in each graphic arts materials or solvent;

(e) The date for each application for graphic arts material or solvent; and

(f) The amount of surface preparation, clean-up, or wash-up solvent (including exempt compounds) used and the VOC content of each;

In addition, the permittee must keep monthly records of the pounds of each ink and topcoat lacquer used and the corresponding VOC contents and hours of operation. These emissions shall be calculated and recorded in tons per month and tons per 12 months. Tons per 12 months shall represent a rolling average. These records shall be made available for inspection to any authorized representative of the Division for Air Quality upon request.

Agency policy regarding SIP revisions for averaging times for compliance with VOC emission limits is stated in a January 20, 1984, memo from John R. O'Conner, Acting Director, Office of Air Quality Planning and Standards: ''Current Agency guidance specifies the use of a daily weighted average for VOC regulations as the preferred alternative where continuous compliance is not feasible.''

The aforementioned memo also approves the utilization of averaging period for VOC emissions for as long as thirty days, providing that certain conditions are met.

These requirements consist of the following elements.

1. The VOC limits must be specified in an enforceable form with appropriate compliance dates.

2. A description of the affected processes and associated historical production and operating rates.

3. A description of the control techniques to be applied to the affected processes such as low solvent and waterborne coating; technology and/or add-on controls.

4. The nature of the emission control program whether a bubble, a regulation change, a compliance schedule, or some other form of alternative control program.

5. The method of record keeping and reporting to be employed to demonstrate compliance with the new emission limit requirement and to support the showing that the emission limit is consistent with Reasonable Further Progress (RFP) and the demonstration of attainment.

II. Analysis of State's Submittal

In response to meeting the aforementioned requirements, Kentucky submitted the results of a detailed statistical analysis verifying that the actual emissions emitted are consistently below the allowable emissions. Based on this analysis, Kentucky utilizing a monthly averaging recording system has a very minimal chance that the emissions will exceed ten percent of the permitted emission rate.

Kentucky's submittal addressed the NAAQS for ozone in the Appalachian Air Quality Control Region where the facility is located. Kentucky found that there were no violations of the ozone NAAQS during 1992–1995, based on an evaluation of the 1996–1997 Kentucky Environmental Quality Commission's Environmental Annual Status Report on Air Quality. EPA's review of additional ozone data in the Aerometric Information Retrieval System (AIRS) for the surrounding counties of Bell, Perry, and Pulaski for the years 1992–2000 found no ozone violations. Based on the air quality analysis by Kentucky and EPA's review of additional ozone air quality data, EPA concludes there will be no adverse environmental impact on the surrounding ozone attainment area from the adoption of 30-day monthly VOC record keeping for the American Greetings Corporation.

The use of thirty day averaging period as a maximum averaging time for VOC emissions is consistent with current agency policy, as detailed in the January 20, 1984, John O'Conner memo. Because of the simplicity of this action, no technical support document was prepared.

III. Final Action

EPA is approving the aforementioned changes to the SIP because they are

consistent with the Clean Air Act and EPA requirements. The requirements for averaging time frames for sources of ozone precursors can be found in the January 20, 1984, memo by John R. O'Conner. EPA believes that approving this source-specific SIP revision will create no adverse effects in the surrounding attainment area based on the ozone air quality data from the surrounding monitoring sites.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective July 9, 2001 without further notice unless the Agency receives relevant adverse comments by June 8, 2001.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 9 2001 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders and Congressional Acts

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies 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.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

B. Disclaimer Language Approving SIP Revisions in Audit Law States

Nothing in this action should be construed as making any determination or expressing any position regarding Kentucky's, audit privilege and penalty immunity law, ''KRS 224.01–040'' or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Kentucky's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 2001. 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, Carbon monoxide, Hydrocarbons, Intergovernmental

relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 20, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of 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 *et seq.*

Subpart S—Kentucky

2. In § 52.920 the table in paragraph (d) is amended by adding a new entry for ''Alternate Averaging Period for American Greetings Corporation'' to the end of the table as follows:

§ 52.920 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Alternate Averaging Period for American Greetings Corporation.	KDEPDAQ Permit V–98–049		July 9, 2001	66 FR 23617.

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[FR Doc. 01–11524 Filed 5–8–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–6976–8]

RIN 2090–AA19

Project XL Site-Specific Rulemaking for the Autoliv ASP Inc. Facility in Promontory, Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is implementing a project under the Project XL program that will provide site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), for the Autoliv ASP Inc. (Autoliv) facility in Promontory, Utah. The terms of the XL project are defined in a Final Project Agreement (''FPA'') which has been available for public review and comment. (See 65 FR 49571, August 14, 2000). Following a review of the public comments, the FPA was signed by Autoliv, Box Elder County, the state of Utah, and EPA on September 20, 2000. EPA is today publishing a final rule, applicable only to the Promontory Facility, to facilitate implementation of the XL project. The principal objective of this XL Project is to explore the benefits of a more streamlined and flexible RCRA regulation of pyrotechnic hazardous wastes from the automobile airbag industry that are treated in industrial furnaces. Today's final rule is an outgrowth of the proposed rule published on February 13, 2001 See 66 FR 9992. Today's action provides regulatory flexibility to Autoliv in the form of a conditional exemption from the definition of hazardous waste. It is conditioned on Autoliv's compliance with air emission and waste management requirements that have been developed under this XL project. The air emission and waste management requirements are set forth in today's final rule. Today's action is intended to provide site-specific regulatory changes to implement this XL project. The EPA the state of Utah and Autoliv expect this XL project to result in superior environmental performance while providing cost savings and paperwork reduction for both Autoliv and the state of Utah.

DATES: This final rule is effective on May 9, 2001.

ADDRESSES: Docket: Three dockets contain supporting information used in developing this final rule, and are available for public inspection and copying at the EPA's docket office located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–2001–AUFP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page. Project materials are also available for review for today's action on the world wide web at *http://www.epa.gov/projectxl/.* A duplicate copy of the docket is available for inspection and copying at U.S. EPA, Region 8 Library, First Floor, 999 18th Street, CO 80202–2466 during normal business hours. Persons wishing to view the duplicate docket at the Denver location are encouraged to contact Ms. Mary Byrne in advance, by telephoning (303) 312–6491 or by email at or byrne.mary@epa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Byrne, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202–2466 or Mr. Ted Cochin, Office of Environmental Policy Innovation, U.S. EPA, 1200 Pennsylvania Avenue NW (1802), Washington, DC 20460. Further information on today's action may also be obtained on the world wide web at *http://www.epa.gov/projectxl/.* Questions to EPA regarding Today's action can be directed to Ms. Byrne at (303) 312–6491 or Mr. Cochin at (202) 260–0880.

SUPPLEMENTARY INFORMATION: The development and implementation of on-site treatment would be piloted at Autoliv's Promontory, Utah facility using the existing metals recovery furnace with air pollution controls instead of sending the materials off-site to be open burned. This pilot is intended to test the effectiveness of on-site treatment of automobile airbag waste pyrotechnics in Autoliv's Metals Recovery Furnace (MRF). These automobile airbag waste pyrotechnics generated on-site at the Autoliv facility, are currently regulated as reactive hazardous wastes (waste code D003).

The pilot will determine whether this approach promotes better treatment of the waste pyrotechnics than the current method of open burning. Autoliv will comply with many of the general facility standards of RCRA, and is not seeking relief from all RCRA management protections. Through this project, Autoliv intends to be able to treat waste