TABLE 161.60(d)—VTS PRINCE WILLIAM SOUND REPORTING POINTS—Continued

Designator	Geographic name	Geographic description	Latitude/longitude	Notes
2A	Naked Island	Naked Island	60°40′00″N; 147°01′24″ W	Northbound Only.
2B	Naked Island	Naked Island	60°40′00″N; 147°05′00″ W	Southbound Only.
3A	Bligh Reef	Bligh Reef Light (Pilot Embark)	60°50′36″N; 146°57′30″ W	Northbound Only.
3B	Bligh Reef	Bligh Reef Light (Pilot Disembark)	60°51′00″N; 147°01′24″ W	Southbound Only.
4A	Rocky Point	Rocky Point	60°57′48″N; 146°47′30″ W	Northbound Only.
4B	Rocky Point	Rocky Point	60°57′48″N; 146°50′00″ W	Southbound Only.
5	Entrance Island	Entrance Island Light	61°05′24″N; 146°37′30″W..	

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

13. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 162.117 [Amended]

14. In 162.117, paragraph (c) is revised to read as follows:

* * * * *

(c) Anchoring Rules

(1) A vessel must not anchor:

(i) within the waters between Brush Point and the waterworks intake crib off Big Point southward of the Point Aux Pins range; or

(i) within 0.2 nautical miles of the intake crib off Big Point.

(2) In an emergency, vessels may anchor in a dredged channel. Vessels shall anchor as near to the edge of the channel as possible and shall get underway as soon as the emergency ceases, unless otherwise directed. Vessel Traffic Services St. Marys River must be advised of any emergency anchoring as soon as is practicable.

(3) Vessels collected in any part of the VTS Area by reason of temporary closure of a channel or an impediment to navigation shall get underway and depart in the order in which they arrived, unless otherwise directed by Vessel Traffic Service St. Marys River. Vessel Traffic Service St. Marys River may advance any vessel in the order of departure to expedite the movement of mails, passengers, cargo of a perishable nature, to facilitate passage of vessels through any channel by reason of special circumstance, or to facilitate passage through the St. Marys Falls Canal.

* * * * *

15. In § 162.117(g), Table 162.117(g), add the heading ''Table 162.117(g)—St. Marys River Speed Rules''; and in paragraph (g)(2), add the words ''Commanding Officer'' before ''Vessel Traffic Service St. Marys River.''

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

§ 165.809 [Removed]

17. Section 165.809 is removed.

§ 165.810 [Amended]

18. In § 165.810 redesignate paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d) respectively; and add paragraph (a) to read as follows:

(a) *Purpose and Applicability.* This section prescribes rules for all vessels operating in the Mississippi River below Baton Rouge, LA, including South and Southwest Passes, to assist in the prevention of collisions and groundings and to protect the navigable waters of the Mississippi River from environmental harm resulting from those incidents.

* * * * *

§ 165.811 [Amended]

19. In § 165.811, in paragraph (e), amend the table heading by adding ''Table 165.812(e)—'' before the words ''Minimum Available Horsepower Requirement''; and in paragraph (f)(4)(ii), remove the word ''horizontally'' and add, in its place, the word ''vertically.''

§ 165.1704 [Amended]

20. In § 165.1704 remove paragraph (c)(4) and redesignate paragraphs (c)(5), (c)(6) and (c)(7) as paragraphs (c)(4), (c)(5) and (c)(6), respectively.

Dated: May, 16, 1995.

G.A. Penington,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterways Services.

[FR Doc. 95–13268 Filed 5–30–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 136, PR3–2–6731, FRL–5209–5]

Approval and Promulgation of PM_{10} Implementation Plan for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the State Implementation Plan (SIP) revision submitted by the Commonwealth of Puerto Rico for the purpose of attaining the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP addresses sources impacting the Municipality of Guaynabo, Puerto Rico which has been designated nonattainment.

EFFECTIVE DATE: This action will be effective June 30, 1995.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Library, 290 Broadway, 16th Floor, New York, New York, 10007–1866.

Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909.

Commonwealth of Puerto Rico, Environmental Quality Board, Banco National Plaza, 8th Floor, 431 Ponce De Leon Avenue, Hato Rey, Puerto Rico, 00917.

Environmental Protection Agency, Air and Radiation Docket and Information

Center (MC 6102), 401 M. Street, S.W. Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007–18666 (212) 637–4249.

or

Carl Soderberg, Director, Environmental Protection Agency, Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico, 00909, (809) 729–6951.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act, as amended in 1990 (the Act), requires all areas that have measured a violation of the NAAQS for PM_{10} before January 1, 1989 be designated nonattainment. On November 15, 1990 by operation of law the Municipality of Guaynabo, Puerto Rico was designated nonattainment for PM_{10} and classified as moderate based on violations measured in 1987 in the Municipality. [see 56 FR 11101 (March 15, 1991)]. The Act requires state or territorial governments to revise their SIP for all areas that are designated as nonattainment to ensure that the NAAQS will be attained. Under the Act, the Commonwealth of Puerto Rico is regarded as a state. The reader should refer to the ''General Preamble'' [see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)] for a more detailed discussion of the designation of PM_{10} nonattainment areas.

II. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals. (See 57 FR 13565–13566.) In this action, EPA is approving the Puerto Rico PM_{10} implementation plan revision submitted to EPA on November 14, 1993. This submittal was intended to satisfy those moderate PM_{10} nonattainment area SIP requirements due November 15, 1991 and the moderate PM_{10} nonattainment area New Source Review requirements due June 30, 1992. EPA proposed to approve the submittal on August 11, 1994, 57 FR 41265. The reader is referred to the proposal for a detailed explanation of Puerto Rico's PM_{10} SIP and EPA's evaluation. In response to the **Federal Register** notice and a Public Meeting held by EPA Region II on September 11, 1994 in the Municipality of Cataño, comments were received from ten interested parties. EPA's response to these comments are discussed in IV. Public Comment.

III. Analysis of Puerto Rico's SIP Submission

A. Administrative Requirements

The Commonwealth of Puerto Rico held a public hearing on October 15, 1993 to accept public comments on the implementation plan for the Municipality of Guaynabo PM_{10} nonattainment area. Following the public hearing the plan was adopted by Puerto Rico and was submitted to EPA as a revision to the SIP on November 14, 1994. The submittal was supplemented with administrative documents on March 18, 1994 and March 30, 1994. The SIP submittal included revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution which include the following: Part I; Rule 102, ''Definitions,'' Part II; Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' Rule 203, ''Permit to Construct a Source,'' and Part IV; Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,'' and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area,'' which became effective on April 2, 1994. The entire SIP revision was reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR 51, and found to be administratively complete.

B. Emissions Inventory

Puerto Rico submitted an emissions inventory for base year 1990. EPA is approving the emissions inventory because it is accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.

C. New Source Review (NSR) PM_{10} Permit Program

The statutory permit requirements for moderate PM_{10} nonattainment areas are contained in section 173 and section 189 of the Act. For all moderate PM_{10} nonattainment areas, states must adopt the appropriate major source threshold, offset ratio, significance level for modifications, and provisions for PM_{10} precursors. Puerto Rico's PM_{10} implementation plan submittal addressed all NSR Act requirements, therefore, EPA is approving the PM_{10} NSR permit program SIP revision.

D. Reasonably Available Control Measures (RACM) including Reasonably Available Control Technology (RACT)

Moderate PM_{10} nonattainment areas were required to submit provisions to assure that RACM (including RACT) would have been implemented no later than December 10, 1993 or four years after designation in the case of an area classified as moderate nonattainment after November 15, 1990. [see sections 172(c)(1) and 189(a)(1)(C)]. The Municipality of Guaynabo was designated and classified as moderate nonattainment for PM_{10} on November 15, 1990 by operation of law, therefore, the Puerto Rico PM_{10} implementation plan needed to assure that RACT/RACM would have been implemented no later than December 10, 1993. The SIP contains enforceable commitments by the Puerto Rico Environmental Quality Board (EQB) to achieve various RACM requirements through regulations as well as through Memoranda of Understanding (MOU). These were effective upon adoption. The EQB has signed MOU's with various entities which include details of how the various RACM requirements would be implemented.

EPA has reviewed Puerto Rico's SIP documentation and concluded that its choice of control measures has provided for attainment of the PM_{10} NAAQS by December 31, 1994. By this notice, EPA is determining that the control strategies are consistent with the RACM and RACT requirements contained in the Act.

E. Contingency Measures

As provided in section 172(c)(9) of the Act, all PM_{10} nonattainment area SIP's must include contingency measures (see generally 57 FR 13543–44). These measures were required to be submitted by November 15, 1993 for the moderate PM_{10} nonattainment areas. [see 57 FR 13543 (April 16, 1992)]. Contingency measures should consist of other available measures, not already part of the area's control strategy, that take effect without further action by the Commonwealth or EPA upon a determination by EPA that the area has failed to make Reasonable Further Progress (RFP) or attain the PM_{10} NAAQS by the applicable statutory deadline. The Municipality of Guaynabo PM_{10} nonattainment area SIP contains contingency measures which are included in Rule 423(D).

After review of the contingency measures contained in the SIP, EPA has determined they meet the requirements of the Act.

F. Demonstration of Attainment

Moderate PM_{10} nonattainment areas were required to submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 [see sections 188(c)(1) and 189(a)(1)(B) of the Act).

EQB performed an attainment demonstration using the Industrial Source Complex (ISC2) dispersion model and five years of National Weather Service meteorological data. EPA recommends that implementation plans show maintenance of the PM_{10} NAAQS for at least three years beyond the attainment date. Puerto Rico's demonstration, included in their PM_{10} implementation plan, indicates the NAAQS for PM_{10} were attained by December 31, 1994 in the Municipality of Guaynabo. In addition, Puerto Rico went beyond EPA's recommendation of demonstrating maintenance of the PM_{10} NAAQS for three years and demonstrated they would be maintained at least until 1999. EPA is approving the attainment demonstration.

G. Quantitative Milestones and RFP

The moderate PM_{10} nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994 (see section 189(c)(1) of the Act). RFP is defined in section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

The assurance that milestones and RFP will be achieved is based upon the Commonwealth adopting and implementing the particular control measures contained in the PM_{10} SIP, RACM (including RACT).

H. Enforceability

The SIP must include enforceable emission limitations and other control measures, means or techniques necessary or appropriate to meet the requirements of the Act. [see section 110(a)(2)(A) of the Act]. Nonattainment plan provisions must also include enforceable emission limitations and other control measures, means or techniques necessary or appropriate to provide for attainment of the NAAQS by the applicable attainment date. [see section 172(b)(6)]. The SIP must also contain a program which provides for enforcement of the control measures and other elements in the SIP and the regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the NAAQS are achieved, including a permit program required under Part C or D of Title I of the Act. [see, section 110(a)(2)(C)]. All measures and other elements in the SIP must be enforceable by the Commonwealth and EPA [see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556]. Moderate PM_{10} nonattainment area plan provisions must also contain a program which provides for enforcement of the control measures and other elements in the SIP [see section 110(a)(2)(C)].

The SIP requires that all affected stationary sources must be in full compliance with the applicable RACT requirements by December 10, 1993. However, if a physical alteration of the stationary source is necessary to achieve compliance, the SIP requires that construction of the alteration must have been commenced by February 15, 1994, and must have been completed by November 30, 1994. EQB has prepared a compliance schedule for those sources that still need to make alterations. Compliance with these RACT requirements must be demonstrated using the applicable EPA Reference Test Methods. Puerto Rico has an enforcement program that will ensure that these RACT requirements are adequately enforced. There are civil penalties for noncompliance with the Regulation containing these RACT requirements.

In addition to the RACT requirements for stationary sources, the SIP contains enforceable commitments by EQB to achieve various RACM requirements. To implement these measures, EQB has signed an MOU with the Puerto Rico Department of Transportation, the Puerto Rico Electric Power Authority, the Municipality of Guaynabo, and the Port Authority that contain details on how each of these entities will meet these RACM commitments. The commitments to implement the RACM requirements are in the SIP itself, and thus are enforceable as requirements of the SIP. In addition, the MOU's, having gone through public review and comment, will be incorporated into the SIP by reference, and are effective as of the date each was signed. The attainment demonstration, which shows attainment of the PM_{10} NAAQS by December 31, 1994, uses emissions reductions from the identified RACM measures, and thus EPA expects them to be implemented pursuant to the MOU's. Once incorporated into the approved SIP, the requirements of the MOU may not be changed except by a revision to the SIP that has been submitted to and approved by EPA.

Puerto Rico's revisions to the regulations include a new definition for ''PM_{10}'' in Rule 102. Although test methods are not contained in Puerto Rico's definition of ''PM_{10}'' as they are in 40 CFR 51.100 (qq), EPA is approving Puerto Rico's definition of ''PM_{10},'' since the relevant test methods are found in other provisions of the regulations.

I. PM_{10} Precursors

The Act states that ''control requirements applicable to major stationary sources of PM_{10} must also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area.'' Based on filter analyses of the Guaynabo nonattainment area, the relatively minor contribution of precursors to overall nonattainment, and the effectiveness of the Commonwealth's RACT/RACM strategies, EPA agrees with EQB's determination that no controls of PM_{10} precursors beyond what are already controlled in the Puerto Rico SIP are needed for attainment. Nonetheless, Puerto Rico has chosen to include within the NSR provisions a requirement for control of PM_{10} precursors unless EPA and EQB determine otherwise.

IV. Public Comment

EPA proposed to approve the Puerto Rico PM_{10} implementation plan on August 11, 1994, 57 FR 41265. Comments were received from ten interested parties. Comments were also received during the Public Meeting held by EPA Region II on September 11, 1994 in the Municipality of Cataño. EPA evaluated all the comments with respect to EPA's proposed approval. Due to the large number of comments, EPA prepared a separate ''Responsiveness Document'' which summarizes each comment and includes EPA's evaluation and detailed response. This document is available from EPA upon request. In this **Federal Register** notice EPA has summarized major comments and responses.

The following summaries of comments and responses is divided into several major areas; the designation of the nonattainment area, the SIP attainment demonstration, and RACT determinations.

Designation of Nonattainment

Comment: Puerto Rico's plan is based on air quality data which is incomplete and insufficient for determining that the Municipality of Guaynabo was not in attainment of the air quality standards. Air quality now meets the NAAQS.

Response: The Commonwealth presented no information which invalidates the air quality data previously collected which indicated nonattainment. Section 107(d)(4)(B) of the Act mandated the designation of areas as nonattainment for PM_{10} by operation of law:

''(B) PM_{10} Designations.—By operation of law, * * * (ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM_{10} before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM_{10};''

This section of the Act confines the EPA to review air quality data prior to January 1, 1989, not after January 1, 1989, in designating an area for PM_{10}. The designation of the Municipality of Guaynabo as nonattainment for PM_{10} was based on the PM_{10} concentration of 285 $\mu g/m^3$, recorded at the Electrical Substation #24 on August 1, 1987. There was no evidence presented by the Commonwealth that showed this reading to be invalid. Further, air quality data available to the Administrator indicated that there were violations of the annual standard in 1987 and 1988. EPA does not find any evidence to conclude that the nonattainment designation was made in error.

If indeed the area is attaining the PM_{10} NAAQS in the Municipality of Guaynabo as a result of permanent reductions in emission, the Commonwealth can request a redesignation to attainment. Section 107 (d)(3) of the Act specifies the procedures and requirements for changing an area's designation. The redesignation of an area from nonattainment to attainment is an entirely separate procedure from today's SIP approval action. However, one requirement of a redesignation is that the Commonwealth has an approved PM_{10} attainment SIP. A redesignation request, which may be submitted at any time, would be processed expeditiously by EPA as a separate rulemaking.

Comment: The location of EQB's PM_{10} air quality monitors are not representative of the air in the remainder of the nonattainment area and in the surrounding areas of Guaynabo. Monitors should be located in the center and southern end of the Municipality of Guaynabo and in the Municipality of Cataño.

Response: EPA believes the current PM_{10} monitoring network in Puerto Rico is representative of the highest PM_{10} concentrations in the entire nonattainment area. This design is consistent with the monitoring objectives and methodologies described in Part 58 of the Code of Federal Regulations, Appendix D. They are sited immediately downwind of major point and area sources in locations where a long record of total suspended particulate monitors had measured the highest levels in Puerto Rico. Thus they meet the monitor-siting objective of measuring air quality in the area where the highest concentrations of a pollutant can be expected to occur.

Locations in southern Cataño and Guaynabo do not have the same potential to measure high concentrations due to the lack of major sources of particulate matter, as demonstrated by the emission inventory of the Municipality of Guaynabo. Consequently, their absence should not make the Commonwealth's plan any less approvable.

Attainment Demonstration

Comments: The dispersion model used in the attainment demonstration is not conservative. Wrong meteorological data being used. The Puerto Rico Electrical Power Authority (PREPA) Palo Seco plant should have been included in the Plan.

Response: The dispersion model is conservative because it predicts higher concentrations than observed for almost the entire set of observed data. The graph in the Commonwealth's PM_{10} plan comparing concentrations predicted by the model with the observed data may not demonstrate this fact because the plotted predicted concentrations lack the background contribution from outside the modeled area of (approximately 31 ug/m^3). When the concentrations predicted by the model are correctly included, however, the predicted concentrations are higher than the observed concentrations. Thus, EPA concludes that the model generally over predicts PM_{10} concentrations and is conservative. This is further supported by recent air quality measurements which show annual concentrations significantly well below concentrations predicted by the model, even after control measures have been enacted.

The San Juan Airport site is representative of the industrialized area of Guaynabo since it is also located on the north coast of Puerto Rico and subject to the same land-sea effects on the wind. The terrain in the Puerto Nuevo area where the largest emitting sources are located is mainly flat like the area near the Airport. Comparison between the San Juan Airport data and data collected at a meteorological tower in the Municipality of Guaynabo confirm that they are subject to the same meteorological patterns.

In reference to the PREPA Palo Seco issue, the attainment demonstration did consider the impact of the Palo Seco Power Plant's PM_{10} emissions on the Cataño—Guaynabo area. The atmospheric dispersion model used in the attainment demonstration showed that the greatest impact of the power plant's emissions remained over water. The plants contribution to the Guaynabo nonattainment area (only about three and one half percent of the time) is less than the deminimis impact levels contained in EPA regulations. Since the power plant is located outside of the Guaynabo nonattainment area, EPA's guidance to the states is that RACT strategies need only be applied to those sources which have a significant impact on the nonattainment area. Thus RACT at the Palo Seco Power Plant would have no real benefit to attainment of PM_{10} standards in the Guaynabo. However, all power plants in Puerto Rico are subject to the same 20 percent opacity limit that is required of the power plant in Puerto Nuevo.

RACT Determinations for Electrical Utilities

Comment: A mass emissions limit should be adopted by Puerto Rico. The 1.5 percent sulfur-in-fuel limit is not cost effective nor stringent enough to show attainment. EQB has no independent way of verifying sulfur-in-fuel limits.

Response: There is no requirement that a mass emission limit be used exclusively in state clean air plans. EPA can approve a SIP revision as long as it contains emission limits which are enforceable and which provide for attainment of the standards. The Act states ''each implementation plan submitted by a State * * * shall include enforceable emission limitations and other control measures, means, or techniques * * * as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act, section 110(a)(2)(A).''

The Puerto Rico SIP relies on a sulfur-in-fuel limit and a 20% opacity limitation, both of which are enforceable. Further, the Agency has collected emission data from a variety of fuel oil burning power plants from which the particulates can be

calculated. These factors are contained in the *Compilation of Air Pollutant Emission Factors* (AP–42), Supplement F, emissions factor equation. These emissions were factored into the Puerto Rico plan and attainment with health related ambient air quality standards was demonstrated.

EQB included in their SIP submittal an Economic Feasibility Analysis of Alternative Emission Control Strategies in the Guaynabo Municipality. This document presented an analysis of the cost of reducing emissions in Guaynabo and the cost effectiveness of alternative control strategies.

EPA reviewed the document and determined the costs of low sulfur residual oil were accurate to determine the cost effectiveness of controls applicable to PREPA. The analysis showed that 1.0, 1.5, and 2.0 percent sulfur oils cost about the same for each ton of sulfur reduced, however, according to the Economic Feasibility Analysis provided with the SIP, it will cost more than $6.6 million per year to reduce the sulfur content from 1.5 to 1.0 percent at the PREPA San Juan plant.

EQB has informed EPA that it has the necessary equipment to analyze fuel samples. Compliance of the sulfur-in-fuel limit will be verified by a variety of methods. In accordance with the January 31, 1994 Memorandum Of Understanding (MOU), PREPA and its fuel supplier will send sampling data to EQB. When the fuel supplier delivers the fuel, it will send its analysis of the fuel content to EQB. EQB can compare the supplier's analysis against reports from the facility.

In summary, the two procedures set forth in the PM_{10} SIP, the sulfur-in-fuel limit that correlates to a 0.08 #/MMBtu mass emission rate, and the 20% opacity restriction are easily measured, readily enforceable, and when combined with the other control measures adopted by the Commonwealth, can demonstrate attainment of the PM_{10} NAAQS. The Agency therefore has determined that the limits provided can and should be approved.

RACT Determinations for Grain Handling Facilities

Comment: Puerto Rico's ban on the use of clamshell unloading of ships is not supportable as RACT. The 99.9% filtration efficiency required of grain mills is not technically achievable.

Response: The *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* defines RACT as ''the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' Congress specified that nonattainment area plans were to ''require * * * reasonable further progress * * * including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of RACT.''

Through modeling, EQB's contractor demonstrated that emissions from the grain mills contributed in a large way to the violations of the PM_{10} air quality standard predicted by the model. Taking this into consideration, EQB determined that stringent RACT measures were needed at these facilities to show attainment.

EPA guidance identifies that Industrial process fugitive particulate emissions are produced during all phases of grain handling and processing including: unloading, receiving, handling, drying, cleaning, milling, and land-out. EPA's *Control Techniques for Particulate Emissions from Stationary Sources* recommends that for grain handling and storage ''the most common control strategy is to enclose and hood the processing equipment or area with ventilation to cyclones and filters.'' Thus, the emission reductions that can be obtained from this strategy depend upon both process modifications to optimize the capture efficiency of the ventilation system and the installation of control devices.

EQB determined that for a very dusty process such as Clamshell loading and unloading, RACT for this process would be the prohibition of Clamshell loading and unloading and the utilization of telescopic loading spouts in a fully enclosed area with a ventilation system. This control strategy is considered both technologically and economically feasible. EPA has verified this in discussions with grain facilities in the United States who are currently using the telescopic loading spouts.

EPA has not been able to conclude that a ban on loading/unloading using clamshells is not an acceptable RACT determination. Telescoping loading spouts are used in the industry to load and unload grain or grain products. However, EPA would object to a RACT determination that is less stringent than could be technologically and economically justified. Should the Commonwealth decide in the future to propose an alternative to a ban on the use of clamshells, the SIP could be revised accordingly.

The SIP requires the installation of control equipment with a 99.5% efficiency. Upon review EPA has concluded that this is achievable even in warm climates. In other parts of the country, (PM_{10} attainment and nonattainment areas), 99.9% is routinely required. One commenter argued that conditions at grain handling facilities in Puerto Rico would prevent 99.5% efficiency from being achieved. EPA has reviewed permits issued to grain mills in warm climates and determined that the 99.5% limit proposed in the SIP is achievable on a continuous basis providing there is proper operation and maintenance of the control systems.

Environmental Justice Concerns

Comment: Several commenters raised environmental justice concerns in their comments.

Response: EPA recognizes that air pollution sources in the SIP area raise environmental justice issues, and EPA has taken steps to address these concerns in the SIP process. In particular, EPA has had meetings and contacts with affected communities and organizations, and intends to continue these contacts as air programs are implemented and enforced. In addition, EPA and other agencies such as the Centers for Disease Control have been assessing environmental health factors in these communities. EPA will continue to review progress in implementing the SIP and other environmental programs with respect to Executive Order 12898 and the EPA Environmental Justice Strategy.

V. Summary

In this action, EPA is approving the SIP revision submitted to EPA on November 14, 1993 and supplemented on March 18, 1994 and March 30, 1994 by Puerto Rico for the Municipality of Guaynabo PM_{10} nonattainment area. Specifically, EPA is approving the emissions inventory, the control strategy including RACM and RACT, the demonstration that the Municipality of Guaynabo PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994 and maintain the PM_{10} NAAQS through 1999, the NSR permit provisions and the contingency measures. EPA determined that PM_{10} precursor controls are not needed for attainment. EPA is approving the revisions to the Puerto Rico Regulations for the Control of Atmospheric Pollution which include the following: Part I; Rule 102, ''Definitions,'' Part II; Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' Rule 203, ''Permit to Construct a Source,'' and Part IV; Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,''

and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area.'' EPA is approving this PM_{10} SIP submittal in relation to its satisfying all Act requirements.

Previously, the Governor of Puerto Rico was notified on December 16, 1991 by the EPA Regional Administrator that Puerto Rico had not submitted the PM_{10} SIP requirements due on November 15, 1991. This action formally started both an 18-month Sanction clock and a 24-month Federal Implementation Plan (FIP) clock. In a January 15, 1993 letter, the Governor was notified that another 18-month Sanction clock and 24-month FIP clock, for the failure to submit a permit program for the NSR requirements by June 30, 1992, had begun. Since the November 14, 1993 submittal was found to be complete, the findings made on December 16, 1991 and January 15, 1993 of non-submittal have been corrected and no sanctions will be imposed. With the approval of this SIP revision, all Clean Air Act requirements have been met and it is no longer necessary for EPA to adopt a FIP to address the PM_{10} deficiencies.

This notice is issued as required by Section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of Section 110 of the Clean Air Act, and 40 CFR Part 51.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this rule should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 that include a federal mandate that may result in estimated annual costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110(a)(2), 172(c), 173 and 189(a) of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose 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 any mandate upon the private sector, EPA's action would impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated annual costs of $100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

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

Under section 307(b)(l) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. 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 rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 14, 1995.

William J. Muszynski,

Acting Regional Administrator.

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 BBB—Puerto Rico

2. Section 52.2720 is amended by adding new paragraph (c)(35) to read as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) * * *

(35) A revision submitted on November 14, 1993 by the Chairman of the Puerto Rico Environmental Quality Board (EQB) for the Municipality of Guaynabo. The submittal was made to satisfy those moderate PM_{10} nonattainment area SIP requirements due for the Municipality of Guaynabo as outlined in the Clean Air Act of 1990.

(i) Incorporation by reference:

(A) Regulations:

(1) Amendments to Part I, Rule 102, ''Definitions,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(2) Amendments to Part II, Rule 201, ''Location Approval,'' Rule 202, ''Air Quality Impact Analysis,'' and Rule 203, ''Permit to Construct a Source,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(3) Amendments to Part IV, Rule 401, ''Generic Prohibitions,'' Rule 402, ''Open Burning,'' Rule 403, ''Visible Emissions,'' Rule 404, ''Fugitive Dust,'' and Rule 423, ''Limitations for the Guaynabo PM_{10} Nonattainment Area,'' of the Puerto Rico Regulations for the Control of Atmospheric Pollution, effective April 2, 1994.

(B) Memoranda of Understanding (MOU):

(1) MOU signed by the Chairman of EQB and the Executive Director of Puerto Rico Electrical Power Authority, San Juan plant, limiting the sulfur-in-fuel level, annual operation capacity, and requiring the submittal of monthly sampling reports of its fuel's sulfur content, effective January 31, 1994.

(2) MOU signed by the Chairman of EQB and the Secretary of Puerto Rico Department of Transportation and Public Works and the Executive Director of the Highway Authority to maintain and control the reconstruction of existing roads and the construction of new roads, effective July 2, 1993.

(3) MOU signed by the Chairman of EQB and the Mayor of the Municipality of Guaynabo to pave and maintain the streets, roads and parking areas located in the Municipality of Guaynabo, effective December 13, 1993.

(4) MOU signed by the Chairman of EQB and the Executive Director of the Puerto Rico Port Authority to pave and maintain the streets, roads, and parking areas that lead into the port area in Puerto Nuevo, Guaynabo and San Juan, effective October 14, 1993.

[FR Doc. 95–13181 Filed 5–30–95; 8:45 am]

BILLING CODE 6560–50–P