New Actions Required by This AD

Terminating Modification for Model MD–90–30 Series Airplanes

(d) For Model MD–90–30 series airplanes: Within 18 months after the effective date of this AD, do the actions specified in paragraphs (c)(1) and (c)(2) of this AD, per Boeing Alert Service Bulletin MD90–27A031, dated January 29, 2001, or Revision 01, dated March 26, 2001. Accomplishment of those actions terminates the AFM revision requirements of paragraph (b) of this AD. After doing those actions, the AFM revision required by paragraph (b) of this AD may be removed from the AFM.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 22, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16383 Filed 6–28–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118–1a; FRL–7005–5]

Conditional Approval Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing conditional approval of the Ohio Environmental Protection Agency's (OEPA) SIP for Prevention of Significant Deterioration (PSD) provisions for attainment areas.

Ohio submitted a request for a SIP-approved PSD program on March 1, 1996. The request was supplemented on April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. Ohio Administrative Code (OAC) sections 3745–31–11 to 3745–31–20 contain the permitting provisions for areas attaining the national ambient air quality standards (NAAQS). The general provisions applying to both attainment and nonattainment areas are found in OAC sections 3745–31–01 to 3745–31–10.

DATES: Comments must be received on or before July 30, 2001.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Genevieve Damico at (312) 353–4761 before visiting the Region 5 office.

Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, Environmental Engineer, Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4761.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

A. What is the purpose of this document?
B. Who will be affected by this action?
C. What is the history of OEPA's PSD program?
D. How are OEPA's PSD rules structured?
E. Why are we granting a conditional approval?
F. How will 51.166(b)(23)(i) be implemented under this action?
G. How can this conditional approval become fully approved?

A. What Is the Purpose of This Document?

We are soliciting public comments on the proposal for conditional approval of Ohio's request for its Prevention of Significant Deterioration (PSD) program to be approved into the SIP. We will consider these comments before we take final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

B. Who Is Affected by This Action?

Because the fully approved PSD program will be similar to the PSD program that OEPA already operates under delegated authority, air pollution sources will generally not be affected by this action. However, once the program is fully approved, persons wishing to appeal PSD permits will have to file their appeals with OEPA under the SIP-approved program, rather than with USEPA's Environmental Appeals Board as they have been doing under the delegated PSD program.

C. What Is the History of Ohio's PSD Program?

OEPA submitted its first permitting SIP to USEPA on January 31, 1972, and submitted replacement regulations on June 6, 1973. These regulations provided requirements, such as best available technology, that were meant to be uniformly applied throughout the state.

The Clean Air Act Amendments of 1977 required states to go further than uniformly applied regulations. The Amendments provided for the designation of areas within a state as ''attainment'' or ''nonattainment.'' An ''attainment'' area meets the NAAQS. A ''nonattainment'' area does not meet the NAAQS.

OEPA requested delegation of the PSD attainment permitting program on February 8, 1980, and received delegation on January 29, 1981.

OEPA submitted a request for approval of Ohio Administrative code (OAC) sections 3745–31–01 to 3745–31–20 into the SIP on March 1, 1996. Ohio subsequently submitted revisions dated March 1, 1996, April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. OEPA's PSD program has since remained in delegated status. The subsequent requests for SIP-approval of Ohio's regulations allow us to grant conditional approval to the program for reasons described below.

D. How Are OEPA's PSD Rules Structured?

Part C of Title I of the Clean Air Act (CAA) requires a SIP for PSD rules for attainment areas. 40 CFR 51.165 and 51.166 contain the requirements for a PSD permitting program. OEPA submitted this SIP in the form of OAC sections 3745–31–11 to 3745–31–20. OEPA also submitted general provisions applying to both attainment and nonattainment areas in the form of OAC sections 3745–31–01 to 3745–31–10.

E. Why Are We Granting a Conditional Approval?

We are proposing to grant conditional approval to Ohio's PSD rules, OAC sections 3745–31–01 to 3745–31–20. These rules, for the most part, fulfill part C of Title I of the CAA by incorporating the critical provisions at 40 CFR 51.165 and 51.166 for ambient air increment consumption, area designation and redesignation restrictions, best available control technology, impact analysis, and air quality modeling. OAC sections 3745–31–01(OOO) does not, however, include a 25 tons per year significance level for particulate matter, or a 50 ton per year significance level for municipal solid waste landfill emissions, as required by 40 CFR 51.166(b)(23)(i). Furthermore, total reduced sulfur and reduce sulfur compounds are incorrectly defined to exclude hydrogen sulfide. Therefore, the definition of significant as required by 40 CFR 51.166(b)(23)(i) is not complete. In a December 5, 2000, letter, OEPA has committed to correct the definition of significance in OAC 3745–31. Because OAC sections 3745–31–01 through 3745–31–20 meet all requirements of 40 CFR 51.165 and 51.166 with this exception, and OEPA has committed to correct these deficiencies, we believe it is appropriate to grant conditional approval. When Ohio demonstrates that the deficiencies identified above are cured, USEPA can grant final approval to these rules.

USEPA is currently reviewing OEPA's implementation of the delegated PSD program in response to a petition submitted by D. David Altman on behalf of Ohio Citizen Action, the Ohio Environmental Council, Rivers Unlimited, and the Ohio Sierra Club. Any concerns that USEPA finds as a result of this review will be addressed through the process of responding to the petition. Today's proposed conditional approval only addresses whether or not specific provisions of Ohio's administrative code meet the federal criteria for a PSD program, as set forth in 40 CFR part 51, and does not address any issues regarding how the code is being applied or enforced by Ohio. We believe the OAC revisions meet the criteria for approval with the exceptions listed above, and are therefore proposing to conditionally approve them. No particular findings or conclusions in or from the USEPA petition review should be inferred from today's proposed conditional approval.

F. How Will 51.166(b)(23)(i) Be Implemented Under This Action?

Although Ohio will have a SIP-approved PSD program, until this conditional approval becomes final OEPA will continue to be delegated the authority under § 51.166(b)(23)(i) of the federal PSD regulations to permit sources of significant particulate matter, municipal solid waste landfill emissions, and total reduced sulfur and reduce sulfur compounds. The delegation will continue until such time as the identified deficiencies are corrected and full approval is granted (or unless USEPA otherwise addresses the delegation after the review of Ohio's implementation of the PSD program pursuant to the petition discussed above).

G. How Can This Conditional Approval Become Fully Approved?

OEPA will have one year from the time that the conditional approval is final to submit the necessary changes to its rules to correct the deficiencies identified in this notice. If OEPA does not submit approvable changes within the one year timeframe, USEPA will disapprove Ohio's PSD program.

USEPA Action

In this rulemaking action, we propose conditional approval of OEPA's March 1, 1996 request, as amended by OEPA's April 16, 1997 request, for additions and revisions to OAC sections 3745–31–01 to 3745–31–10, and OAC sections 3745–31–11 to 3745–31–20 because the request meets all of the requirements of 40 CFR 51.165 and 51.166 with the exception of a 25 ton per year significance level for particulate matter; a 50 ton per year significance level for municipal solid waste landfill emissions as required by 40 CFR 51.166(b)(23)(i); and because total reduced sulfur and reduce sulfur compounds are incorrectly defined to exclude hydrogen sulfide. OEPA has also committed to correct the definition of significance in OAC 3745–31.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed 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 proposed 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 proposes to approve 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 (Pub. L. 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not 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 proposed 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, USEPA'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), USEPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for USEPA, 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 proposed rule, USEPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. USEPA 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C 7401 *et seq.*

Dated: May 8, 2001.

Norman Neidergang,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16437 Filed 6–28–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ105–0040; FRL–7005–4]

Approval and Promulgation of Implementation Plans; Arizona—Maricopa Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve under the Clean Air Act (CAA or Act), as a revision to the Arizona State Implementation Plan (SIP), a general permit rule that provides for the expeditious implementation of best management practices (BMPs) to reduce particulate matter (PM–10) from agricultural sources in the Maricopa County (Phoenix) PM–10 nonattainment area. EPA is proposing to approve the general permit rule as meeting the ''reasonably available control measure'' (RACM) requirements of the Act.

DATES: Written comments will be accepted until July 30, 2001.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: John Ungvarsky, EPA Region 9, 75 Hawthorne Street (AIR2), San Francisco, CA 94105 or ungvarsky.john@epa.gov.

A copy of docket, containing material relevant to EPA's proposed action, is available for review at: EPA Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105. Interested persons may make an appointment with John Ungvarsky to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

A copy of docket is also available to review at the Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

*Electronic Availability.*This document is also available as an electronic file on EPA's Region 9 Web Page at http://www.epa.gov/region09/air.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky at (415) 744–1286 or ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION

I. Background

A. Air Quality Status

Portions of Maricopa County [1] are designated nonattainment for the PM–10 national ambient air quality standards (NAAQS) [2] and were originally classified as ''moderate'' pursuant to section 188(a) of the CAA. 56 FR 11101 (March 15, 1991). On May 10, 1996, EPA reclassified the Maricopa County PM–10 nonattainment area to ''serious'' under CAA section 188(b)(2). 61 FR 21372. Having been reclassified, Phoenix is required to meet the serious area requirements in CAA section 189(b).

While the Phoenix PM–10 nonattainment area is currently classified as serious, today's proposed action relates only to the moderate area statutory requirements for RACM. However, as discussed further below, Arizona developed state legislation and a general permit rule applicable to agricultural sources of PM–10 when the area had already been reclassified to serious. Therefore the State's focus was on the serious area statutory requirements for ''best available control measures'' (BACM). RACM, as will be seen, is generally considered to be a subset of BACM. As a result, in order to evaluate whether the general permit rule meets the RACM requirements for the purpose of this rulemaking, it was necessary for EPA to refer to portions of the State's serious area state implementation plan (SIP) submittals. Thus, while the Agency is not proposing action at this time on those submittals as they relate to the Act's serious area statutory requirements, those requirements and the State's submittals developed to meet them are discussed here. The relevant portions of the State's serious area submittals are cited below and are included in the docket for this proposed action.

B. CAA Planning Requirements and EPA Guidance

The air quality planning requirements for PM–10 nonattainment areas are set out in subparts 1 and 4 of title I of the Clean Air Act. Those states containing initial moderate PM–10 nonattainment areas were required to submit, among other things, by November 15, 1991 provisions to assure that RACM (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993. CAA sections 172(c)(1) and 189(a)(1)(C). Since that deadline has passed, EPA has concluded that the required RACM/RACT must be implemented ''as soon as possible.'' *Delaney* v. *EPA,* 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be ''as soon as practicable.'' See 55 FR 41204, 41210 (October 1, 1990) and 63 FR 28898, 28900 (May 27, 1998).

EPA has issued a ''General Preamble'' [3] describing EPA's preliminary views on how the Agency intends to review SIPs and SIP revisions submitted under title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP provisions. The methodology for determining RACM/RACT is described in detail in the General Preamble. 57 FR 13498, 13540–13541. In short and as pertinent here, EPA suggests starting to define RACM with the list of available control measures for fugitive dust in Appendix C1 to the General Preamble and adding to this list any additional control measures proposed and documented in public comments. Any measures that apply to emission sources of PM–10 and that are de minimis and any measures that are unreasonable for technology reasons or because of the cost of the control in the area can then be culled from the list. In addition, potential RACM may be culled from the list if a measure cannot be implemented on a schedule that would advance the date

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[1] ''Maricopa,'' ''Maricopa County'' and ''Phoenix'' are used interchangeably throughout this proposal to refer to the nonattainment area.

[2] There are two PM–10 NAAQS, a 24-hour standard and an annual standard. 40 CFR 50.6. EPA promulgated these NAAQS on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulate with new standards applying only to particulate matter up to 10 microns in diameter (PM–10). At that time, EPA established two PM–10 standards. The annual PM–10 standard is attained when the expected annual arithmetic average of the 24-hour samples for a period of one year does not exceed 50 micrograms per cubic meter ($\mu g/m^3$). The 24-hour PM–10 standard of 150 $\mu g/m^3$ is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, appendix K.

[3] See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).