

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(185)(i)(A)(9), (194)(i)(G), (198)(i)(K), (207)(i)(B)(2), and (225)(i)(B)(3) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (185) * * *
- (i) * * *
- (A) * * *
- (9) Rule 410.7, adopted May 6, 1991.
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- (194) * * *
- (i) * * *
- (G) South Coast Air Quality Management District.
- (I) Rule 1130.1, adopted July 9, 1993.
- * * * * *
- (198) * * *
- (i) * * *
- (K) Santa Barbara County Air Pollution Control District.
- (I) Rule 354, adopted June 28, 1994.
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- (207) * * *
- (i) * * *
- (B) * * *
- (2) Rule 231, adopted September 27, 1994.
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- (225) * * *
- (i) * * *
- (B) * * *
- (3) Rule 239, adopted June 8, 1995.
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40 CFR Part 52

[OH91-2; FRL-5506-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: On November 3, 1995, Ohio submitted revisions to its particulate matter plans for the Cleveland and Steubenville nonattainment areas. These revisions were submitted to address plan deficiencies that were identified by EPA in a final limited disapproval of the particulate matter plans published in the Federal Register on May 27, 1994. For the Cleveland area, these revisions provide earlier attainment of the air quality standard and correct the deficient test method disapproved in that rulemaking. For the Steubenville area, these revisions include an administrative order for tightening

controls at Wheeling-Pittsburgh Steel's basic oxygen furnace, and provide a fully updated modeling analysis demonstrating that the plan assures attainment. EPA is approving these revisions and terminating the potential for sanctions based on the deficiencies identified in the rulemaking of May 27, 1994.

EFFECTIVE DATE: This action is effective July 12, 1996.

ADDRESSES: Copies of the SIP revision and USEPA's analysis are available for public inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR-18J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102) Room M1500, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 886-6067.

SUPPLEMENTARY INFORMATION:

I. Background

Ohio submitted major revisions to its particulate matter regulations on November 14, 1991, with supplemental submittals on December 4, 1991, and January 8, 1992. EPA proposed rulemaking on these submittals on August 3, 1993, at 58 FR 41218, and published a notice of final rulemaking on May 27, 1994, at 59 FR 27464, granting limited approval/limited disapproval of these submittals. Although EPA approved most of Ohio's regulations, EPA concluded that Ohio had not satisfied selected requirements of the Clean Air Act applicable to its two particulate matter nonattainment areas, i.e., Cuyahoga County (including Cleveland) and the Steubenville area. This represented a disapproval finding under Section 179(a)(2), thus initiating an 18-month period after which sanctions were to be imposed in these areas under Section 179(b) unless or until the deficiencies are remedied.

On November 3, 1995, Ohio submitted further revisions to its particulate matter plans, seeking to remedy the deficiencies identified in EPA's May 1994 rulemaking. On January 23, 1996 (at 61 FR 1727), EPA proposed to approve the State's submittal and proposed to conclude that all particulate matter SIP requirements

were satisfied (except for new source review requirements, which were not addressed in either the January 1996 or the May 1994 rulemaking and are being addressed separately). Simultaneously, EPA issued an interim final determination that the deficiencies had been remedied (at 61 FR 1720), thereby staying application of sanctions.

In brief, for Cuyahoga County, the deficiencies were (1) failure to satisfy requirements for Reasonably Available Control Measures (RACM) by December 1992; and (2) failure to assure attainment due to deficiencies in the test method applicable to coke quenching. EPA proposed to find that these deficiencies were addressed when Ohio revised its rules to require a control strategy adequate to satisfy RACM requirements by December 1993 and improved the test method for coke quenching. For the Steubenville area, the deficiency was an inadequate attainment demonstration due to, among other factors, inadequate accounting for emissions from Wheeling-Pittsburgh Steel's basic oxygen furnace. EPA proposed to find this deficiency remedied by submittal of Findings and Orders issued by Ohio to Wheeling-Pittsburgh Steel requiring tightened control of basic oxygen furnace emissions and a revised attainment demonstration. A more detailed discussion of the prior deficiencies is provided in the Federal Register of May 27, 1994 (59 FR 27464), and a summary of that discussion and a more extensive discussion of Ohio's submittal which remedied those deficiencies is provided in the notice of proposed rulemaking of January 23, 1996 (61 FR 1727). Today's rule is final action on Ohio's November 1995 submittal and final action with respect to the previously identified deficiencies.

At the time of the proposed rulemaking, Ohio had conducted a public hearing in connection with its Cuyahoga County rule revisions but had not yet held and submitted documentation of a public hearing with respect to revisions to the Steubenville area attainment demonstration. The State held a public hearing on the Steubenville area revisions on January 22, 1996, and provided materials to EPA documenting this hearing and demonstrating satisfaction of related public comment requirements in its December 21, 1995, and March 13, 1996, submittals. EPA has evaluated these materials and has concluded that the relevant procedural requirements have been satisfied.

II. Comments on Proposed Rulemaking

One set of comments on the proposed rulemaking was received by EPA. These comments were submitted by Porter, Wright, Morris & Arthur on behalf of Ford Motor Company (Ford). These comments urged EPA not to rulemake on the State's November 1995 submittal alone, and instead urged EPA to request that the State address Ford's concerns with the existing particulate matter regulations and to conduct rulemaking on a combined set of revised regulations. No comments were made concerning EPA's proposed analysis of the State's November 1995 submittal.

EPA responds that it would be inappropriate to defer rulemaking on the State's November 1995 submittal pending receipt of a prospective future submittal, particularly in the absence of any expectation that the prospective future submittal would alter EPA's views of the existing submittal. EPA has an obligation to complete rulemaking in timely fashion on any SIP revision requested by the State. Both EPA and the State of Ohio have a particular interest in prompt completion of this rulemaking because sanctions, while stayed by the interim final determination, are nevertheless outstanding until final action approving the corrections to the deficiencies is published. The commenter does not claim that its requested rule revisions are mandated by the Clean Air Act, and the commenter identifies no other basis for EPA to require the State to conduct the desired rulemaking. In any case, assuming that Ohio adopts and submits rule revisions addressing Ford's concerns, EPA will undertake timely rulemaking on those rule revisions as well, in accordance with EPA's obligations under the Clean Air Act.

III. Today's Action

With respect to Cuyahoga County, EPA concludes that (1) the revised rules now provide for RACM by December 1993; (2) the coke quench water test method issue and the associated attainment demonstration issue have been resolved; and (3) additional revisions to the limitations for Ford's Cleveland Casting Plant do not jeopardize attainment. With respect to the Steubenville area, EPA concludes that the State has now submitted a fully approvable attainment demonstration for the area. In particular, EPA is approving the rule revisions for Cuyahoga County and the Findings and Order requiring control system enhancements at Wheeling-Pittsburgh Steel's basic oxygen furnace.

Based on these findings, EPA concludes that Ohio's particulate matter plans for the Cuyahoga County and Steubenville nonattainment areas now satisfy all applicable requirements under Part D of the Clean Air Act (except for new source review requirements, which are not addressed here or in the May 1994 rulemaking and are being addressed separately). Consequently, EPA finds that Ohio has remedied the deficiencies identified in the rulemaking of May 27, 1994. This finding fully terminates the potential for sanctions pursuant to that prior rulemaking.

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.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify 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 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).

Nothing in this action 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 the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

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 rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA has determined that the approval action taken today 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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 August 12, 1996. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 2, 1996.

Valdas V. Adamkus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.1870 is amended by adding paragraph (c)(110) to read as follows:

§§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(110) On November 3, 1995, December 21, 1995, and March 21, 1996,

OEPA submitted revisions to its particulate matter plan, addressing prior deficiencies in its plans for Cuyahoga and Jefferson Counties.

(i) Incorporation by reference.

(A) Rule 3745-17-03—Rule 3745-17-03—Measurement methods and procedures, effective November 15, 1995.

(B) Rule 3745-17-04—Compliance time schedules, effective November 15, 1995.

(C) Rule 3745-17-12—Additional restrictions on particulate emissions from specific air contaminant sources in Cuyahoga County, effective November 15, 1995.

(D) Findings and Orders issued to the Wheeling-Pittsburgh Steel Corporation, signed by Donald Schregardus and effective on October 31, 1995.

(ii) Additional material—Dispersion modeling analyses for the Steubenville area and for Cuyahoga County near Ford's Cleveland Casting Plant.

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40 CFR Part 52

[SIPTRAX No. PA 20-1-4026; PA 31-1-4027; PA 39-1-4028; AD-FRL-5463-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Partial Approval of PM-10 Implementation Plan for the Liberty Borough Area of Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, in part, revisions to the Allegheny County portion of the Pennsylvania State Implementation Plan (SIP) prepared by the Allegheny County Health Department (ACHD) and formally submitted by the Pennsylvania Department of Environmental Protection (PADEP). PADEP submitted the SIP revisions, in general, to satisfy the Clean Air Act's (the Act's) requirements for control of particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10), and specifically, to satisfy the Act's requirements applicable to the Liberty Borough area of Allegheny County, which is classified as a moderate nonattainment area for the national ambient air quality standards (NAAQS) for PM-10. EPA is approving the regulatory portions the Commonwealth's submittals. EPA is deferring action, at this time, on the attainment demonstration and associated air quality analyses portion

of one of the Commonwealth's submittals. This action is being taken under section 110 of the Act.

EFFECTIVE DATE: This final rule will become effective on July 12, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Divisions, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Thomas A. Casey, (215) 566-2194.

SUPPLEMENTARY INFORMATION: On April 11, 1995, EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania (60 FR 18385). The NPR proposed full approval of three revisions to the Allegheny County portion of the Pennsylvania SIP: a November 8, 1988 submittal which included the adoption of the PM-10 NAAQS and other provisions to satisfy pre-1990 Clean Air Act Amendment requirements pertaining to Group III PM-10 areas; a December 31, 1992 submittal which consisted of regulations to reduce PM-10 emissions and to limit visible emissions from several categories of fugitive dust sources; and a January 6, 1995 submittal which included revised regulatory provisions to reduce PM-10 emissions and an attainment demonstration of the NAAQS for PM-10 with its associated technical air quality analyses.

Description of Today's Action

EPA is approving the Commonwealth's November 8, 1988 submittal, December 31, 1992 submittal, and the regulatory portion of the January 6, 1994 submittal.

The underlying rationale for EPA's approval of these submittals is provided in the April 11, 1995, NPR, referenced above, as well as in the Technical Support Document (TSD), and will not be restated here. Today's action is considered a partial approval because EPA is deferring action at this time on the attainment demonstration portion of the January 6, 1994 submittal and its associated air quality analyses.

EPA is deferring action, at this time, on the attainment demonstration portion of the January 6, 1994 submittal for two reasons. First, EPA received

adverse comments on those aspects on EPA's April 11, 1995 proposal related to the attainment demonstration and air quality analyses, and is still considering those comments. Secondly, since the time EPA's April 11, 1995 proposal on the SIP revisions listed above, EPA has commenced rulemaking to determine whether or not the Liberty Borough PM-10 nonattainment area attained the NAAQS by the December 31, 1994 deadline required for moderate areas.¹

Summary of Public Comments

This section summarizes the public comments that were submitted regarding EPA's proposed approval of the regulatory portions of the SIP submittals, and provides EPA's responses to those comments. The public comments received regarding EPA's proposed approval of the attainment demonstration portion of the January 6, 1994 submittal will be not be discussed in this notice but rather as part of any future rulemaking actions by EPA on that attainment demonstration and its associated air quality analyses. Nine letters of public comment were submitted on EPA's April 11, 1995 proposal (60 FR 18385) which relate to the regulatory portions of the Commonwealth's submittals upon which EPA is taking final action. These comments can be divided in to two major areas: enforcement and general support.

Enforcement Comment: Three commenters raised concerns that the ACHD and the PADEP do not dedicate sufficient resources to enforcement, do not inspect coke oven batteries often enough, and that EPA should, therefore, disapprove the SIP because the Commonwealth has not fulfilled its requirement under section 110(a)(2)(E) of the Act to provide adequate personnel to implement the SIP.

Response: EPA has determined that the Commonwealth of Pennsylvania satisfies section 110(a)(2)(E) of the Act.

General Support: Four commenters expressed general support for EPA's April 11, 1995 proposed actions.

Final Action: EPA is approving, in part, revisions submitted by the Commonwealth of Pennsylvania for the Allegheny County portion of the Pennsylvania SIP. Specifically EPA is approving a November 8, 1988 submittal which included the adoption of the PM-10 NAAQS and other provisions to satisfy the pre-1990 Clean Air Act

¹ On September 19, 1995, EPA published a notice of proposed rulemaking (60 FR 48439) that proposes to find, pursuant to section 188(b)(2) of the Act, that Liberty Borough nonattainment area has not attained the PM-10 NAAQS by the statutory attainment date of December 31, 1994.