

significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The collection of information requirements contained in the proposed regulation will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3504(h)).

The Need for Correction

The following language was omitted from the comment section: In the proposed rule, § 32.35(b) allowed for exceptions to the requirement that applications for retroactive assistance must be submitted within five years of the last date the applicant pursued such program of education. Upon further reflection, the phrase "absent compelling justification" will be eliminated. Given the retroactive date established by Congress, and the family notification process being developed by the Bureau, it is difficult to envision circumstances wherein an otherwise eligible student would not be able to submit their application for retroactive assistance within five years after the last date he or she pursued such program of education.

Correction of Publication

Accordingly, the publication on Tuesday, July 15, 1997, of the final regulations at 62 FR 37713 is corrected as follows:

§ 32.35 [Corrected]

On page 37717, in the first column, in § 32.35(b), at the beginning of the second sentence remove, the words "absent compelling justification,".

Nancy Gist,

Director, Bureau of Justice Assistance.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN44-01-7269a; FRL-5861-6]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is conditionally approving a revision to the Minnesota State Implementation Plan (SIP) for the Saint Paul particulate matter (PM) nonattainment area, located in Ramsey County Minnesota. The SIP was submitted by the State for the purpose of bringing about the attainment of the PM National Ambient Air Quality Standards (NAAQS). The rationale for the conditional approval and other information are provided in this notice.

DATES: This "direct final" rule is effective September 22, 1997, unless EPA receives adverse or critical comments by August 21, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of this SIP revision and EPA's analysis are available for inspection during normal business hours at the above address. (Please telephone Christos Panos at (312) 353-8328, before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section (AR-18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353-8328.

SUPPLEMENTARY INFORMATION:

I. Background

Upon enactment of the Clean Air Act Amendments of 1990, certain areas were designated nonattainment for M and classified as moderate under sections 107(d)(4)(B) and 188(a) of the amended Clean Air Act (Act). See 56 FR 56694 (November 6, 1991) and 57 FR 13498, 13537 (April 16, 1992). A portion of the St. Paul area was designated nonattainment thus requiring the State to submit SIP revisions by November 15, 1991, satisfying the attainment demonstration requirements of the Act.

The State submitted SIP revisions and intended to meet these requirements in 1991 and 1992. The enforceable element of the State's submittals were administrative orders for nine facilities in the St. Paul area. On February 15, 1994 at 59 FR 7218, EPA took final action to approve Minnesota's submittals as satisfying the applicable requirements for the St. Paul M

nonattainment area. The EPA also made a final determination pursuant to section 189(e) that secondary PM formed from PM precursors does not contribute significantly to exceedances of the NAAQS.

The EPA received a request from the Minnesota Pollution Control Agency (MPCA) on February 9, 1996 to revise the PM SIP for Ramsey County, Minnesota. The revision to the SIP is for the control of PM emissions from certain sources located along Red Rock Road (Red Rock Road Area), within the boundaries of Ramsey County. The SIP revision request was reviewed for completeness based on the completeness requirements contained in Title 40 of the Code of Federal Regulations, part 51, appendix V. The EPA determined the submittal to be complete, and notified the State of Minnesota in a May 6, 1996 letter from Valdas Adamkus, EPA to Charles Williams, MPCA.

Red Rock Road Area. St. Paul has three "pockets" of M problems in the nonattainment area: University Avenue/ Mississippi Street, Childs Road, and Red Rock Road. At the time of the original air dispersion modeling and the SIP revision submittals (1992), MPCA staff believed all culpable sources were accounted for and that the control strategies demonstrated in the modeling and the Administrative Orders would be adequate for the area to attain the PM NAAQS. However, exceedances have been recorded between 1992 and 1995 at an ambient monitor located at 1303 Red Rock Road.

Two facilities on Red Rock Road have administrative orders that are part of the 1992 M SIP: Commercial Asphalt, Inc. (a subsidiary of Tiller Corporation), and North Star Steel Company. The MPCA believes that these sources were not culpable for a major fraction of these M exceedances (based upon microscopic analysis of the filters and wind directions during the relevant days).

Since the original air quality dispersion modeling for the SIP was completed, several small sources, whose activities did not require permits, have located along Red Rock Road. Consequently, the changes in land use has resulted in increased vehicle traffic on unpaved roads. Because of the changing dynamics of the area, MPCA recognized that the M SIP submitted in 1992 no longer accurately characterized the area.

After reviewing the data collected from air monitoring, site visits, and meetings with sources in the area, MPCA staff concluded that the changes along Red Rock Road are the cause of the recent problems in the area, and not

because the former SIP was inadequate. The MPCA believes the original SIP was adequate to attain the PM NAAQS at the time of the original submittal. With the new information on Red Rock Road collected, MPCA staff performed new dispersion modeling which showed that the control strategies included in North Star Steel's and Commercial Asphalt's Administrative Orders were still adequate. However, the MPCA recognizes that changes which have occurred along Red Rock Road since the original SIP was submitted necessitate revision to this area's SIP. Moreover, the MPCA believes that the Red Rock Road area situation is an isolated problem that does not affect the rest of the nonattainment area in St. Paul. An ambient monitor located across from the Childs Road sources in St. Paul has not shown any exceedances since before 1987. This monitor is located approximately 1.5 miles from the monitor on Red Rock Road.

II. Evaluation of State's Submission

A. Evaluation of the State Administrative Orders

The modeling identified three facilities in the area that either are, or could be, significant contributors to the current exceedances. In order to bring the area into modeled attainment, two of these facilities are required to commit to control measures to reduce their PM emissions. The third facility is required to either quantify their PM emissions to show that they can meet the NAAQS, or commit to control measures to reduce their PM emissions. MPCA put these requirements into Administrative Orders which were signed by St. Paul Terminals, Inc., AMG Resources Corporation, and Lafarge Corporation on February 2, 1996. In addition, the State also hopes to further analyze other sources outside of the 2 kilometer area from the ambient monitor, but within 4 kilometers. This is because there have been emission changes to some of these sources and the State will need to evaluate whether emissions from these sources cause additional concern for this nonattainment area. Because of these changes, as well as potentially significant changes by the other sources in the 4 kilometer area and other revisions, an additional modeling analysis will be submitted by the State to EPA.

St. Paul Terminals. St. Paul Terminals contributes significant amounts of PM from truck traffic on its roads without the implementation of controls. The Administrative Order for St. Paul Terminals includes applying dust suppressant on unpaved roads and

pressure washing paved roads. However, St. Paul Terminals has committed to implementing control measures on its property roads with a greater control efficiency than the control measures assumed in the modeling. The company chose to pave some previously unpaved areas, "power wash" with water all paved areas, and apply chemical dust suppressants (salts) in the remaining unpaved areas. In addition, to prevent the entrainment of fugitive dust from sediment tracked onto Red Rock Road, the Company will pressure wash Red Rock Road to the extent that track out of sediment from the facility can be seen on Red Rock Road.

AMG Resources Corporation. The PM emissions at the facility are generated from three metal shredders. Particulate emissions are controlled by cyclones, one for each shredder. The cyclone exhaust gases are vented into the building and escape the building through two wall vents with fans. The State initially assumed that all of the PM emissions from the metal shredders (subsequently emitted through the wall vents) are equal to that limited by Minnesota's Industrial Process Rule (Minn. R. 7011.0735). However, because AMG could not model attainment with this emission rate, AMG Resources disputed the State's assumption that the shredder wall vents emit the amount limited within Minn. R. 7011.0735, and that all shredder emissions reach the outside air. The State later assumed that the vents emit at a rate 10 percent of the original assumption and issued an Administrative Order to AMG Resources allowing them to conduct a performance stack test on the shredders (in absence of any approved methods for testing the wall vents), in order to prove that additional controls at the facility are not needed. Performance testing of the shredder emissions has subsequently been performed by AMG. A letter from MPCA to EPA, dated May 20, 1997 states that MPCA has verified the test results showing that AMG is able to meet the PM emission rate assumed in the State attainment modeling. Because AMG has fulfilled the requirements of the Administrative Order, MPCA has requested that the Administrative Order for AMG be removed from the SIP submittal.

Lafarge Corporation. At the end of 1994, Lafarge Corporation purchased Red Rock Road of Minnesota, Inc. The facility receives, transfers, stores, and ships cement. The cement is received by river barge, transferred to a hopper by crane and clamshell bucket, conveyed into storage silos and storage dome, and shipped by truck. The PM emission

sources at Lafarge Corporation are five baghouses, fugitive emissions from the transfer of the cement from the barge to the hopper, and truck and car traffic on the paved industrial roads. The modeling for Lafarge demonstrated that the operation of unloading cement from a barge with a clamshell bucket could not demonstrate compliance with the PM NAAQS. In addition, it is unclear if the five baghouses are in compliance with the PM NAAQS without further testing (Lafarge has not conducted performance testing to determine their emissions).

The Administrative Order requires the Company to: (1) Complete installation of a pneumatic unloader in place of the clamshell bucket by March 31, 1998; (2) operate the clamshell bucket in a prescribed manner in the interim until the pneumatic unloader is operational; and (3) submit revised modeling to MPCA which will include baghouse and stack parameters for the pneumatic unloading system. The Order also requires vendor certification and/or performance testing of all their baghouses. When vendor certification and/or performance testing is complete, Lafarge's Order will be revised to include specific limits for the baghouses.

The pneumatic unloading system is assumed to be a much cleaner system for unloading the barges. However, at the time of the submittal, no system had been chosen, therefore, no emissions data was available for the modeling analysis. Assumptions were made in the modeled attainment demonstration regarding the distribution of emissions with the pneumatic unloader installed, however, these will not be truly representative of operating conditions after April 1, 1998. In the interim, the administrative order requires the company to operate its current clamshell unloading system in accordance with prescribed measures designed to reduce the amount of fugitive emissions. The operating measures remain in effect until the pneumatic unloader is in operation. However, this scenario was not modeled. Specific information on dispersion characteristics associated with pneumatic unloader operation will be available in early 1998. The MPCA has assumed that the pneumatic unloader's fugitive PM emissions will be zero. However, emissions from other points will change as a result of the unloader. The MPCA will remodel the Red Rock Road area with the specific emission information from Lafarge once it becomes available.

B. EPA Analysis of Air Quality Data Modeling and Results

The results from the modeling analysis preliminarily demonstrate protection of the PM NAAQS. However, due to the lack of emission limits and specific information regarding emission distribution at Lafarge Corporation following the installation of the pneumatic unloader, EPA is conditionally approving the attainment demonstration/SIP revision at this time. Final approval will be conditioned upon EPA receiving a subsequent modeled attainment demonstration taking into consideration the sources which have experienced emission changes that may impact the Red Rock Road attainment demonstration. A more detailed discussion of the state's modeling analysis can be found in EPA's June 6, 1997 Technical Support Document.

C. Conditions and Commitments

The EPA has determined that the attainment demonstration for the Red Rock Road portion of the Ramsey County PM nonattainment area is not fully approvable at this time. As previously explained in this document, the demonstration lacks specific emissions data related to the operation of the pneumatic loading system to be installed by Lafarge Corporation. This information will not be available until early 1998. However, EPA believes that the SIP submittal is adequate to be approved on a conditional basis. When the emissions associated with the installation of the pneumatic loading system are known, the administrative order for Lafarge will be revised to reflect those limits on specific emission units. Additionally, a new modeling demonstration must be submitted reflecting the new limits as well as additional changes identified in this document. This remodeling must be submitted to EPA within 1 year of publication of the notice of conditional approval for the Red Rock Road area SIP revision.

III. Final Action

The EPA is approving this SIP revision, based on the condition that the State will submit a revised modeling demonstration which will contain the corrections detailed in this notice within 12 months of this final approval action. If the State fails to submit a SIP revision, this conditional approval under section 110(k) will be converted to a disapproval and the sanctions clock will begin. If the State does not submit a SIP, and the EPA does not approve the SIP on which the disapproval was based within 18 months of the disapproval,

the EPA must impose the sanctions under section 179 of the Act.

IV. Miscellaneous

A. Comment and Approval Procedure

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on September 22, 1997, unless adverse or critical comments concerning this action are submitted and postmarked by August 21, 1997. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received concerning this action will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action will be effective on September 22, 1997.

B. Applicability to Future SIP Decisions

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

C. Executive Order 12866

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 Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the 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, under 5 U.S.C. 605(b), the EPA may certify that the rule

will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

Conditional 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, the EPA certifies that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

If the conditional approval is converted to a disapproval under Section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, the EPA certifies that such a disapproval will not have a significant impact on a substantial number of small entities because it does not remove existing State requirements, nor does it substitute a new Federal requirement.

E. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the conditional approval action promulgated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

G. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

Dated: July 8, 1997.

Michelle D. Jordan,

Acting 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 52.1219 is amended by adding new paragraph (b) to read as follows:

§ 52.1219 Identification of plan—Conditional Approval.

* * * * *

(b) On February 9, 1996, the State of Minnesota submitted a request to revise its particulate matter (PM) State Implementation Plan (SIP) for the Saint Paul area. This SIP submittal contains administrative orders which include control measures for three companies located in the Red Rock Road area—St. Paul Terminals, Inc., Lafarge Corporation and AMG Resources Corporation. Recent exceedances were attributed to changes of emissions/operations that had occurred at particular sources in the area. The results from the modeling analysis submitted with the Red Rock Road SIP revision, preliminarily demonstrate protection of the PM National Ambient Air Quality Standards (NAAQS). However, due to the lack of emission limits and specific information regarding emission distribution at Lafarge Corporation following the installation of the pneumatic unloader, EPA is conditionally approving the SIP revision at this time. Final approval will be conditioned upon EPA receiving a subsequent modeled attainment demonstration with specific emission limits for Lafarge Corporation, corrected inputs for Peavey/Con-Agra, and consideration of the sources in the 2–4 km range which have experienced emission changes that may impact the Red Rock Road attainment demonstration.

[FR Doc. 97–19213 Filed 7–21–97; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7220]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the

Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.