Notices

Federal Register
Vol. 62, No. 146
Wednesday, July 30, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Final Conformity Determination for Proposed Carlota Copper Project, Pinal and Gila Counties, Arizona

AGENCY: Forest Service, USDA.

ACTION: Notice: Final Conformity Determination for the Proposed Carlota Copper Project, Pinal and Gila Counties, Arizona.

SUMMARY: In accordance with the federal Conformity Rule (November 30, 1993, 40 CFR 93.150–160), the United States Department of Agriculture, Forest Service—Tonto National Forest (Tonto NF) has reviewed the air quality analysis conducted for the proposed Carolta Copper Project. The project is proposed to be within Hayden/Miami Planning Area and the Miami Sulfur Dioxide Nonattainment Area, designated nonattainment areas for particulate matter less than 10 microns in aerodynamic diameter (PM_{10}) and sulfur dioxide (SO_2), respectively. The Tonto NF's review has been conducted consistent with the requirements of 40 CFR part 93, Subpart B: ''Determining Conformity of General Federal Activities to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993.

The Tonto NF has determined that total annual emissions of SO_2 from the proposed project are less than the *de minimis* emission threshold (40 CFR part 93) that triggers the requirement to conduct a conformity determination.

Annual PM_{10} emissions have been determined to exceed the PM_{10} *de minimis* threshold and the Tonto NF has prepared a conformity determination for this pollutant. As per the requirement in 40 CFR 93.153(h)(1), this **Federal Register** notice lists the proposed activities that are presumed to conform and the bases for the presumptions. A comprehensive presentation of the bases for the conformity presumptions are included in the report, ''Final Conformity Determination: Carlota Copper Project, Pinal and Gila Counties, Arizona,'' USDA, Forest Service—Tonto National Forest, July 1997 (the report). This document is available to the public for reference purposes.

ADDRESSES: The report, ''Final Conformity Determination: Carlota Copper Project, Pinal and Gila Counties, Arizona,'' USDA, Forest Service—Tonto National Forest, Arizona, July 1997, is available for reference purposes at the following locations: Tonto National Forest Supervisor's Office, Phoenix, Arizona; Globe Ranger District Office, Globe, Arizona.

FOR FURTHER INFORMATION CONTACT: Paul M. Stewart, Tonto National Forest, 2324 E. McDowell Road, Phoenix, AZ 85006, (602) 225–5200.

SUPPLEMENTARY INFORMATION:

I. Background

The Carlota Copper Company has submitted a Plan of Operations (1992), a subsequent Update to the Plan of Operations (1993), and numerous letter submittals documenting changes to the Plan of Operations (as documented in Chapter 2 of the Final Environmental Impact Statement for the Carlota Copper Project) to the United States Department of Agriculture, (USDA) Forest Service—Tonto National Forest (Tonto NF) for the construction, operation, and reclamation of the Carlota Copper Project (project), a copper mining and processing operation. The project is designated by rule and regulation as a Class II minor source to be permitted by the Arizona Department of Environmental Quality (ADEQ). The proposed project is located on private land and on lands administered by the Tonto NF. Specifically, the project is located in Gila and Pinal Counties, approximately 7 miles west of Miami, Arizona.

A portion of the project is proposed to be within the northern part of an area that has been designated by the United States Environmental Protection Agency (EPA) as a nonattainment area for the annual 24-hour National Ambient Air Quality Standard (NAAQS) for particulate matter less than 10 microns in aerodynamic diameter (PM_{10}). The first phase of the PM_{10} nonattainment designation occurred August 7, 1987, (52 **Federal Register** (FR) 29383) when EPA identified and listed the Group I and Group II area in each state. The Hayden/Miami Planning Area was designated a Group I area. A Group I area is an area that has been estimated by EPA to have a 95 percent or greater probability of exceeding the PM_{10} standards (Hayden PM_{10} State Implementation Plan (SIP) p. 14).

On November 15, 1990, EPA designated all Group I areas as ''nonattainment'' for PM_{10}. At the same time, EPA announced that all areas designated as nonattainment area for PM_{10} were classified as ''moderate'' nonattainment areas. Therefore, the Hayden/Miami Planning Area is classified as a moderate nonattainment area for PM_{10}. A moderate area is a nonattainment area that the Administrator has determined can practicably attain the NAAQS for PM_{10} by the attainment date for moderate areas (as expeditiously as practicable but no later than the sixth calendar year after the area's designation as nonattainment). (Clean Air Act, Section 188(a–c)). The Hayden/Miami Planning Area consists of:

- Township: T4S, R16E; T5S, R16E; T6S, R16E,
- The portion of Township T3S, R16E that does not lie on the San Carlos Indian Reservation, and
- The rectangle formed by, and including Townships: T1N, R13E; T1N, R15E; T6S, R13E; T6S, R15E.

The portion of the project area that is within the moderate nonattainment area is in the rectangle formed by the four townships. Specifically, the project area is located within Township T1N, R13E.

On November 10, 1994, ADEQ petitioned EPA to realign the Hayden/Miami Planning Area PM_{10} nonattainment boundary. Based on topographical and climatological differences, as well as no monitored exceedances of the PM_{10} NAAQS in the Miami area, ADEQ requested that Townships T1N, R13E–R15E and T1S, R13E–R15E be excluded from the nonattainment area. This area includes the proposed Carlota Copper Project area. To date, there has been no action by EPA to realign the Hayden/Miami Planning Area, Therefore, the proposed project remains within the nonattainment area.

Tonto NF concurs with ADEQ's classification of the proposed Carlota Copper Project as a Class II minor

source in a nonattainment area. Consequently, the New Source Review (NSR) permitting programs (i.e., Prevention of Significant Deterioration (PSD) review for attainment area and nonattainment area (NAA) review for nonattainment areas) do not apply. Because the Carlota Copper Project is not subject to these major source permitting requirements, the Carlota Copper Project cannot take advantage of the conformity determination exclusion offered under 40 CFR 93.153(d)(1) and a formal conformity determination is required.

The area has also been classified as a Priority IA Region (40 CFR 52.121) for sulfur dioxide (SO_2). States are required to prepare and submit a SIP that demonstrates attainment and maintenance of the NAAQS in Priority I Regions. The Priority IA classification is for any area that has been designated a Priority I region primarily because of emissions from a single source. In this case, the designation is based on copper smelting operations in Miami, Arizona. The area is in attainment for all other criteria pollutants: carbon monoxide, nitrogen dioxide, lead, and ozone.

Section 110 of the Clean Air Act requires that the State of Arizona prepare and submit to the EPA a SIP to reduce particulate emissions to achieve and maintain attainment of both the SO_2 and PM_{10} NAAQS. ADEQ has developed a PM_{10} SIP designed to reduce and maintain ambient concentrations of PM_{10} to levels below the NAAQS for PM_{10}. EPA has proposed partial approval of the Hayden PM_{10} SIP. To date, there has been no final approval of the SIP. ADEQ is in the process of developing the Miami SO_2 SIP.

Due to the proposed location of the project in the nonattainment area and the Tonto NF's affirmative role as Federal Land Manager, the Tonto NF has the responsibility under the Clean Air Act section 176(c)(4) (November 15, 1990) to make a determination as to whether the proposed project conforms with all aspects of the applicable SIP for the area. The Tonto NF has reviewed the air quality analysis conducted for this project consistent with the requirements of 40 CFR part 93 Subpart B: ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993.

The Tonto NF has determined that total annual emissions of SO_2 from the project are less than the *de minimis* emission threshold (40 CFR 93.153(b)(1)) that triggers the requirement to conduct a conformity determination. Therefore, although the Miami area has been designated a nonattainment area for SO_2, a conformity determination for SO_2 emissions is not required. Annual PM_{10} emissions have been determined to exceed the *de minimis* threshold and the Tonto NF has determined that a conformity determination is required for PM_{10}.

II. Requirements of the Conformity Determination

In the absence of a fully approved PM_{10} SIP for the Hayden/Miami planning area, according to 40 CFR 93.151, the federal conformity regulations contained in 40 CFR part 93 apply to the Carlota Copper Project.[1] These regulations require a demonstration that total direct and indirect emissions from the project will not:

1. Cause or contribute to any new violation of any standard in the area,
2. Interfere with provisions in the applicable SIP for maintenance of any standard,
3. Increase the frequency or severity of any existing violation of any standard in any area, or
4. Delay timely attainment of any standard or any required interim emission reductions or other milestones in the SIP for purposes of

(a) Demonstration of reasonably further progress (RFP),

(b) Demonstration of attainment, or

(c) Maintenance plan.

The Tonto NF has determined that this Conformity Determination is to establish through a local modeling analysis that PM_{10} emissions from Carlota emission sources on private and public lands will not create any new exceedances of the PM_{10} NAAQS (''general'' requirement ''1,'' above). For the reasons stated below, the activities of the proposed Carlota Copper Project conform to general requirements 2, 3, and 4.

The proposed SIP only serves to bring ambient PM_{10} concentrations in the Hayden area to levels that are below the NAAQS. The PM_{10} nonattainment designation for the Hayden/Miami Planning Area is a result of expected exceedances of the PM_{10} NAAQS proximate to the coppersmelting activities in the town of Hayden. As a result, the ''design value'' (i.e., the predicted ambient level of PM_{10} upon which the controls in the SIP are based) pertains to particulate levels in Hayden (not to the proposed project site). Hayden is located in the southern tip of Gila County, approximately 25 miles south of the proposed project.

Ambient concentrations monitored in the project area (see the discussion of background concentrations in the report) and PM_{10} monitoring in the town of Miami demonstrate that exceedances of the NAAQS in the nonattainment area have not occurred outside of the town of Hayden. Review of the local modeling analysis for the Carlota Copper Project (discussed in detail in the report) indicate that particulate impacts in Hayden (25 miles south of the project) due to emissions from the project are expected to be negligible (or zero). The proposed project is not expected to interfere with maintenance of the standard in Hayden and the local modeling analysis demonstrates protection of the NAAQS in the project area. The Tonto NF has therefore determined the proposed action to conform with requirement 2.

Similarly, requirement 3 is met because the project is not expected to cause any impacts in Hayden, thus emissions from the project will not increase the frequency or severity of violations of the PM_{10} NAAQS that have been monitored in Hayden. There have been no monitored violations of the PM_{10} NAAQS in the proposed project area.

Lastly, requirement 4 is met because there are no interim emission reductions or other milestones in the proposed SIP that pertain to any emission sources at the Carlota Copper Project. Particulate emission control measures in the proposed SIP pertain only to control of PM_{10} emissions at two specific copper smelters (and associated activities) located in Hayden. Any demonstration of ''reasonable further progress,'' attainment, or compliance with a maintenance plan would only pertain to ambient PM_{10} levels in Hayden and/or emission control measures implemented on the subject emission sources.

III. Conformity Determination Methodology

Local Modeling Analysis. The final Conformity Rule (40 CFR part 93) specifically allows for the use of a local

[1] Given the receipt of several public comments on the issue of requirements of a conformity determination, it is important to note that an increment consumption analysis is not a required portion of a federal conformity determination. For the Carlota Copper Project, this position is justified on two levels: (1) The conformity rule (40 CFR part 93) explicitly lists the requirements of a conformity determination and does not include an increment consumption analysis on the list of requirements; and (2) because the proposed Carlota Copper Project is classified as an Arizona Class II (minor) source in a nonattainment area, an increment consumption analysis is expressly not required under state or federal rules and regulations. Concurrence on this position has been offered by the Tonto NF, ADEQ, EPA Region IX, and the Pinal County Air Pollution Control District. As a measure of the significance of impacts from the Carlota Copper Project, the Tonto NF included an assessment of increment consumption in the Final Environmental Impact Statement.

modeling analysis for a conformity determination. 40 CFR 93.158(a)(4)(l) stipulates:

''Where the State agency primarily responsible for the applicable SIP determines that an area-wide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meet the requirements specified in paragraph (b) of this section, based on local air quality modeling analysis * * *''

Paragraph (b) (40 CFR 93.158) requires that the local air quality modeling analysis shows that an action does not cause or contribute to any new violation of any standard in any area. Paragraph (b) also requires that a local air quality analysis meet the applicable requirements of 40 CFR 93.159, *Procedures for Conformity Determinations of General Federal Actions.* The applicable requirements of 93.159 are:

- The analysis must be based on the latest and most accurate emission estimation techniques (including estimation of emission control efficiencies) available for stationary and area sources of emissions, defined as the latest emission factors specified by EPA in AP–42 (''Compilation of Emission Factors''), unless more accurate emission data are available (93.159.b.2) (site-specific parameters are used when available);
- The analysis must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the ''Guideline on Air Quality Models (Revised)'' (1986) including supplements (93.159.c); and
- The analysis must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur the year during which total emissions are expected to be the greatest on an annual basis (93.159.d.2).

Emissions. For the purposes of a conformity determination, direct and indirect emissions are defined as follows (40 CFR 92.152):

- Direct Emissions: Those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action;
- Indirect Emissions: Those emissions of a criteria pollutant or its precursors that:

1. Are caused by the Federal action, but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and

2. The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency.

For the Carlota Copper Project, the Tonto NF has determined that the emissions inventory prepared for the air quality analysis includes the total of direct and indirect emissions from Carlota sources on private and Federal lands using the latest emission factors (for emission estimates and control efficiencies) specified in AP–42 and site-specific parameters when available (40 CFR 93.159(b)(2)). The Tonto NF has determined only emissions sources of PM_{10} at the proposed project are of concern with regard to PM_{10} conformity requirements. The basis for designation of the area as nonattainment was PM_{10} emissions (not precursors) from mining activities (associated with smelting activities in Hayden, AZ). Precursors of PM_{10} were also not incorporated in the SIP analysis for the nonattainment area. The Tonto NF maintains that a conformity determination based on PM_{10} emissions will be adequate to assess conformity and to protect the PM_{10} NAAQS at the process area boundary.

The local modeling analysis utilized the EPA-approved ISCST3 dispersion model (Version 95200) with the dry deposition algorithm. The Tonto NF has reviewed the modeling analysis and has determined that the model has been run according to the most recent modeling guidelines and supplements.

Emissions from process and non-process sources at the project are direct emissions under the definition above. The Tonto NF has determined that the hourly and annual emission estimates prepared for the air quality analysis are representative of the maximum of PM_{10} emission rates expected to occur over the life of the project. The distribution of emission sources in the modeling analysis has been assessed by the Tonto NF to be representative of the spatial extent of the emissions sources that is expected to produce the maximum off-site PM_{10} impacts over the life of the project (40 CFR 93.159(d)(2)). Further, the Tonto NF has not identified any other emissions or emission sources that the Tonto NF can practicably control or maintain control of due to a continuing program responsibility for the project. The report includes a detailed description of emission sources and controls at the project.

Offsets. As an option to a modeling analysis, 40 CFR 93.158 allows an action to fully offset its emissions within the same nonattainment area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant (§ 93.158(a)(5)(iii)). The Tonto NF has determined that since the local modeling analysis satisfies the requirements of 40 CFR 93.158(b) and because there is not a fully approved SIP for the Hayden/Miami Planning Area that could be revised to include offsets, the local modeling analysis allowed for in § 93.158(a)(4) is adequate for determining the conformity of the action.

IV. Presumption of Conformity

The United States Department of Agriculture (USDA) Forest Service—Tonto National Forest has reviewed the air quality analysis conducted for the Carlota Copper Project (consistent with the requirement of 40 CFR part 93, ''Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)'', issued on November 30, 1993).

For purposes of emissions of sulfur dioxide (SO_2), the project is proposed to be located in an area designated as nonattainment for SO_2 (the Miami Sulfur Dioxide Nonattainment Area) although there is not an approved SO_2 SIP for the nonattainment area. The Tonto NF has reviewed the air quality analysis and determined that predicted direct and indirect emissions of SO_2 are 26 tons per year based on a required AQCP condition (as issued by ADEQ) to use low sulfur content diesel fuel. (0.05 percent sulfur by weight) in stationary combustion sources and the commitment to use low sulfur diesel fuel in all mobile combustion equipment. This is below the *de minimis* level of 100 tons per year for SO_2 as defines in the general conformity rule (40 CFR 93.153). Because projected annual SO_2 emissions from the proposed facility are below the *de minimis* SO_2 level, no further conformity determination is necessary.

For purposes of emissions of particulate matter with aerodynamic diameter less than 10 microns (PM_{10}), the project is proposed to be located in an area designated as a moderate nonattainment area for PM_{10} (the Hayden/Miami Planning Area). The air quality analysis for the project indicates that predicted direct and indirect emissions of PM_{10} exceed the *de minimis* level for moderate PM_{10} areas (100 tons per year). Therefore, the Tonto NF has reviewed the local PM_{10} emissions modeling analysis for the project and has determined the following:

- The methods for estimating direct and indirect emissions from the project

meet the requirements of 40 CFR 93.159. The emissions scenario used in the air quality analysis is expected to produce the greatest off-site impacts on a daily and annual basis. (A detailed description of the emission sources and detailed emissions inventory tables are included in the report.)

- The local PM_{10} emissions modeling methodology is appropriate for determining whether emissions from the project will cause or contribute to any new violation of the PM_{10} National Ambient Air Quality Standard (NAAQS) and meet the requirements of 40 CFR 93.159. (A detailed description of the local PM_{10} emissions modeling methodology is included in the report.)
- The results of the modeling analysis using the EPA-approved ISCST3 dispersion model (Version 95200) with the dry deposition algorithm predict maximum 24-hour ambient concentrations (impact plus background) at the process area boundary to be 110.8 $\mu g/m^3$. This is below the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. (A detailed description of the modeling analysis results and the printouts of the model input and output files are included in the report.)
- The results of the modeling analysis predict the maximum average annual ambient concentration at the process area boundary to be 36.9 $\mu g/m^3$. This is below the annual PM_{10} NAAQS STANDARD OF 50 $\mu g/m^3$. [2]
- The action does not cause or contribute to any new violation of any standard in any area (40 CFR 93.158(b)(2)(i)).
- The action does not increase the frequency or severity of any existing violation of any standard in any area (40 CFR 93.158(b)(2)(ii)).
- The action does not violate any requirements or milestones in the SIP (no requirements or milestones are applicable to the project) (40 CFR 93.158(c)).

The Tonto NF has also determined that the planned PM10 controls for the project are equivalent to Best Available Control Technology (BACT) for sources of PM_{10} emissions associated with open-pit mining operations.

Based on these determinations, the activities at the Carlota Copper Project is presumed to conform to the applicable conformity requirements for the project area. The list of activities at the Carlota Copper Project that are presumed to conform include:

Process	Non-process
Primary crusher system Conveyor systems Secondary crusher system Boiler Back-up generator	Topsoil removal. Topsoil unloading to stockpiles. Blast hole drilling. Blasting. Loading/unloading of ore and mine rock. Hauling or ore and mine rock. Combustion emissions from mobile equipment. Travel of mine equipment other than haul trucks. Haul road maintenance.

This presumption of conformity is based on adequate activity limits, emission limits, emission controls, and monitoring requirements that have been included in the AQCP No. 071437P0–99 for the Carlota Copper Project issued by ADEQ. The presumption of conformity assumes that the requirements in the permit will be adequately enforced by ADEQ. The Tonto NF lists the following permit requirements (contained in the Attachment B to the permit) as being critical to the presumption of conformity of the Carlota Copper Project:

- Maximum speed limit of 35 mph for all vehicles and an average speed for the heavy-duty haul trucks of 15 mph. (Condition II.D.1)
- Unpaved roadway treatment with magnesium chloride, calcium chloride, or other chemical dust suppressants with equivalent or better control efficiency in sufficient quantity and frequency to maintain a ground inventory of 0.25 gallons per square yard. (Condition II.E.2)
- Water sprays installed, operated, and maintained continuously during the times of operation of the primary crusher. (Condition II.E.2)
- Water sprays installed, operated, and maintained continuously (except as provided by the excess emission rule, A.A.C. R18–2–306 and 310) during the times of operation of the conveyor systems, transfer points, process equipment, and storage piles at the stacker discharge points. (Condition II.E.3)
- Baghouse installed and operated on the secondary crusher and associated vibrating screen. (Condition II.G.1)
- A weight rate of mined rock (waste rock and ore combined) shall not exceed 125,000 tons per 24-hour calendar day and 29 million tons per year. (Condition III.A)
- Burn only diesel no. 2 fuel with a sulfur content of less than 0.05 percent in the SX/EW tankhouse boiler and backup generator and the leach pad backup generator. (Condition II, Boiler and Generator Emissions, C.1)
- An ambient PM_{10} monitor installed, near the boundary of the mining activity in the general direction of the Superstition Wilderness, operated on an every-sixth-day schedule, and maintained in accordance with applicable manufacturer's instructions, EPA handbooks, and federal requirements (Condition IV.A).

Dated: July 22, 1997.

Charles R. Bazan,

Forest Supervisor.

[FR Doc. 97–20010 Filed 1–29–97; 8:45 am]

BILLING CODE 3410–01–M

[2] Predicted maximum concentrations (impact plus background) at Top-of-the-World (located within the nonattainment area) area are 20.4 $\mu g/m^3$ for the 24-hour average and 17.3 $\mu g/m^3$ for the annual average.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lower Stillwater Watershed, Darke and Miami Counties, Ohio

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR 650); the Natural