

B. Discussion

EPA concludes that the attainment demonstration deficiency in the Sacramento ozone SIP is substantially identical to the deficiencies in the South Coast CO and ozone SIP and the Ventura ozone SIP, and EPA is therefore now taking final action to disapprove the Sacramento ozone SIP. The ground for EPA's final disapproval of the Sacramento SIP is that it does not demonstrate attainment of the ozone NAAQS by December 31, 1987, or by any other fixed date (near-term or otherwise) thereafter. Under the terms of the Act and EPA's regulations, such final plan disapproval results in the imposition of a construction ban in the Sacramento AQMA for major new sources and major modifications of existing sources of VOC.¹ Section 110(a)(2)(I); 49 CFR 52.24(a). Under 40 CFR 52.24 (f)(4)(ii) and (f)(5)(i), a major stationary source or major modification that is major for VOC is also major for ozone.

Today's action is also driven by the reasoning of the decision in *Abramowitz*. That decision establishes that EPA has no discretion under the law to postpone the final disapproval when the Agency has effectively determined that the plan does not provide for timely attainment. Thus, EPA is not responding directly to public comments on EPA's July 14, 1987 proposal. EPA may respond to some of the comments in the future, perhaps in connection with EPA's final policy on how areas like Sacramento should correct their SIPs after December 31, 1987.

C. Final Action

EPA is today taking final action to disapprove the 1982 Sacramento AQMA SIP revision for attainment of the primary NAAQS for ozone. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d), this disapproval is effective January 3, 1989. The effective date for the construction ban is January 3, 1989.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the

impact of proposed or final rules on small entities. EPA does not have sufficient information to determine the impacts that the construction moratorium announced in today's notice may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action were to have a significant impact, however, the Agency could not modify its action. Under the Act, the imposition of a construction moratorium is mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Act, and that determination, in turn, is effectively required by the Ninth Circuit's decision in *Abramowitz*.

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 January 30, 1989. 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

Air pollution control, Ozone, Intergovernmental relations.

Dated: November 28, 1988.

Lee M. Thomas,
Administrator.

40 CFR Part 52, Subpart F, is amended as follows:

PART 52—[AMENDED]

Subpart F—California

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.237 is amended by adding new paragraph (a)(3) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(3) The ozone attainment demonstration for the Sacramento AQMA. No major stationary source, or major modification of a stationary source, of volatile organic compounds may be constructed in the Sacramento nonattainment area unless the construction permit application is complete on or before January 3, 1989.

* * * * *

[FR Doc. 27760 Filed 11-30-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3478-2]

Approval and Promulgation of State Implementation Plans; Revision to Regulation No. 3, Visibility Protection; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: In this action, EPA is approving revisions to the Colorado Air Quality Control Commission (AQCC) Regulation No. 3 (Sections IV and XIV) of the Colorado State Implementation Plan (SIP) pertaining to New Source Review (NSR) visibility protection in mandatory Class I Federal areas. This action results from a rulemaking on July 12, 1985 (50 FR 28544), in which EPA promulgated Federal regulations for visibility NSR (40 CFR 51.307) in states which failed to comply with the provisions of 40 CFR 51.307.

On May 8, 1986, the Governor of Colorado submitted a revision to AQCC Regulation No. 3 (Section IV) of the SIP to include visibility NSR protection in mandatory Class I Federal areas from sources locating in nonattainment areas. Also included in the submittal is a revision to AQCC Regulation No. 3 (Section XIV) which provides for visibility protection in mandatory Class I Federal areas from sources locating in attainment areas. AQCC Regulation No. 3, Section XIV was originally submitted on April 18, 1983, as part of Colorado's Prevention of Significant Deterioration (PSD) regulations.

EPA's approval of the attainment and nonattainment NSR procedures for visibility protection apply only to those source categories regulated by previously approved NSR and PSD regulations. Colorado's Visibility NSR regulations meet the criteria of 40 CFR 51.307, and these regulations will replace, where appropriate, the Federal Visibility NSR regulations now in effect for Colorado.

EFFECTIVE DATE: December 1, 1988.

ADDRESSES: Copies of the submittal are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following offices:

Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

¹ The Sacramento Air Quality Maintenance Area includes all of Sacramento and Yolo Counties and portions of Placer and Solano Counties. Within this area, any major new source or major modification for which the construction permit application is incomplete on or after January 3, 1989 will be prohibited from construction. EPA's criteria for determining an application to be complete are explained in 52 FR 26404 and 26409 n.18 (July 14, 1987).

FOR FURTHER INFORMATION CONTACT:

Michael Silverstein, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1769.

SUPPLEMENTARY INFORMATION:**Background**

Section 169A of the Clean Air Act (Act), 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value.

("Mandatory Class I Federal areas" (hereinafter Class I areas) are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400-81.437.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their SIPs to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 CFR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981 (see 45 FR 80091, codified at 40 CFR 51.302(a)(1)). That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the court stayed the litigation, pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate Visibility SIPs (hereinafter Federal Implementation Plans (FIPs)). A negotiated Settlement Agreement between EPA and EDF required EPA to promulgate Visibility FIPs on a specific schedule. It required EPA to propose to incorporate Federal regulations in states where SIPs were deficient with respect to the 1980 Visibility NSR regulations (40 CFR 51.307). However, the Settlement Agreement allowed each State an opportunity to avoid Federal promulgation if it submitted an SIP by May 6, 1985. Colorado was one of the states that did not meet this deadline. Final promulgation of Federal Visibility NSR regulations for all states (including Colorado) having deficient SIPs was published on July 12, 1985 (49 FR 28544), and became effective August 12, 1985.

On April 18, 1983, the Governor of Colorado submitted to EPA Colorado's PSD Regulation (Regulation No. 3) which

included Section XIV, providing for visibility protection in Class I areas from sources locating in attainment areas. This revision to the Colorado SIP was adopted by the Colorado Air Quality Control Commission (AQCC) March 10, 1983. EPA approved this PSD revision to the Colorado SIP with some source category exemptions on September 2, 1986 (51 FR 31125). No action was taken with respect to the Colorado regulation for visibility protection in Class I areas at that time. Therefore, the EPA promulgated visibility regulations remained in effect.

On May 8, 1986, the Governor of Colorado submitted to EPA a revision to AQCC Regulation No. 3 which was adopted on March 20, 1986. This revision adds Section IV.D.2.a.(vi) to AQCC Regulation No. 3, providing for NSR visibility protection in Class I areas from sources locating in nonattainment areas. This addition requires an applicant to demonstrate that emissions from a new or modified source locating in a nonattainment area will not adversely impact visibility in a Class I area. Visibility analyses and/or comments from the Federal Land Manager (FLM) must be considered in the decision to grant or deny the permit. In addition to adding Section IV.D.2.a.(vi) to AQCC Regulation No. 3, the May 8, 1986, submittal again included Section XIV in response to EPA's promulgated Visibility NSR regulations.

On March 31, 1987 (52 FR 10239), EPA proposed to approve both the attainment and nonattainment NSR procedures for visibility protection for source categories regulated by the NSR and PSD regulations which have previously been approved by EPA. However, Colorado's NSR and PSD regulations have been disapproved for certain sources as described in 46 FR 21180 (April 30, 1981) and 51 FR 31125 (September 2, 1986), respectively. The EPA promulgated Visibility NSR regulations will remain in effect for these sources.

Affected Areas

The following areas in Colorado are Class I areas where visibility is an important value:

Black Canyon of the Gunnison Wilderness
Eagles Nest Wilderness
Flat Tops Wilderness
Great Sand Dunes Wilderness
La Garita Wilderness
Maroon Bells-Snowmass Wilderness
Mesa Verde National Park
Mount Zirkel Wilderness
Rawah Wilderness

Rocky Mountain National Park
Weminuche Wilderness
West Elk Wilderness

New Source Review

States are required by 40 CFR 51.307 to review new major stationary sources and major modifications prior to construction to assess potential impacts on visibility in any visibility protection area, regardless of the air quality status of the area in which the source is located. That is, sources locating in attainment areas and nonattainment areas must undergo Visibility NSR (see 40 CFR 51.307 (a) and (b)(2), respectively). These requirements ensure: (1) That the visibility impact review is conducted in a timely and consistent manner; (2) that the reviewing authority considers any timely FLM analysis demonstrating that a proposed source would have an adverse impact on visibility; and (3) the public availability of the permitting authority's conclusion.

There are two parts to Visibility NSR: PSD major stationary sources and major sources in nonattainment areas.

For all major PSD stationary sources:

(1) The State must notify the FLM in writing not more than 30 days after receiving a permit application or advance notification of application from a proposed source that may impact a visibility protection area.

(2) This notification must take place at least 60 days prior to the public hearing on the application and must contain any analysis of the potential impact of the proposed source on visibility.

(3) The State must consider any analysis concerning visibility impairment performed by the FLM and received not more than 30 days after the notification.

(4) If the State does not concur with the FLM's analysis that adverse visibility impairment will result from the proposed source, the State must provide in its notice of public hearing on the application an explanation of its decision or give notice as to where the explanation can be obtained.

(5) The State must have the ability to require a permit applicant to monitor visibility in or around the visibility protection areas.

For major sources in nonattainment areas:

(1) A major source or modification that may impact a visibility protection area must provide a visibility impact analysis.

(2) The State must ensure that the sources' emissions are consistent with the national visibility goal. The State may consider the cost of compliance, the

time for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(3) The State must follow the same procedures outlined in the PSD items 1 through 5 above in conducting nonattainment area visibility reviews.

Items 1 through 5 for major PSD stationary sources, and items 1 through 3 for major sources in nonattainment areas, are the procedural steps in visibility review as defined in 40 CFR 52.27(d) and 52.28 (c) and (d), respectively. (The provisions of 40 CFR 52.27 and 52.28 were proposed in 49 FR 42670 and finalized in 50 FR 28544.)

The Colorado Visibility SIP has incorporated into the NSR section its existing permit requirements for any source locating in an attainment or nonattainment area. The AQCC Regulation No. 3 specifies the standard requirements for any permit application and permit approval.

Section XIV of AQCC Regulation No. 3 requires any emission permit applicant to demonstrate that emissions from the proposed source will not adversely impact visibility in a Class I area. The demonstration must be reviewed by the FLM, and any determination by the FLM must be considered by the APCD in its decision to grant or deny the permit. The permit will be denied for sources proven to cause a potential impact.

The SIP commits to the notification time frame requirements to the FLM. Section XIV allows the APCD to determine independently if there is an adverse impact to visibility in Class I areas, if the FLM fails to make such determination or such determination is in error. The APCD commits to provide an explanation of its decision, should it disagree with the FLM's assessment on a proposed source's impact on visibility, and to give notice as to where that explanation can be obtained.

FLM Coordination

Under section 165(d) of the Clean Air Act, the FLM is given an affirmative responsibility to protect air quality related values which includes visibility in Class I areas. The visibility regulations allow the FLM the opportunity to identify visibility impairment and to identify elements for inclusion in monitoring strategies. The FLM must maintain these areas consistent with congressional land use goals.

The State of Colorado has accorded the FLM (through the National Park Service (NPS) and the United States Forest Service (USFS)) opportunities to participate and comment on its Visibility SIP and regulations.

Comments by the NPS and the USFS were considered and incorporated where applicable. The State has committed in the SIP to consult continually with the FLM on the review and implementation of the visibility program. Further, the State recognizes the expertise of the FLM in monitoring and new source applicability analyses for visibility and has agreed to notify the FLM of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application.

EPA proposed to approve the Colorado Visibility NSR regulations on March 31, 1987 (52 FR 10239). No comments were received.

Summary of Action

EPA is approving the revisions to AQCC Regulation No. 3 of the Colorado SIP as they apply to NSR for visibility protection in Class I areas. These regulations will replace the Federal Visibility NSR regulations now in effect in Colorado, except as they apply to categories of sources for which the Colorado NSR and PSD regulations have been disapproved.

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 January 30, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Incorporation by reference, Particulate matter, Carbon monoxide, Hydrocarbons.

Authority: 42 U.S.C. 7401-7642.

Date: November 14, 1988.

Lee M. Thomas,

Administrator.

Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart G—Colorado

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.320 is amended by adding paragraph (c)(40) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(40) A revision to the Colorado SIP was submitted by the Governor on May 8, 1986, for Visibility New Source Review.

(i) Incorporation by Reference.

(A) Revision to the Colorado State Implementation Plan regarding Revision to Regulation No. 3, Section XIV was submitted by the Governor on April 18, 1983, and was adopted on March 10, 1983.

(B) Revision to the Colorado State Implementation Plan regarding Revision to Regulation No. 3, Section IV was submitted by the Governor on May 8, 1986, and was adopted on March 20, 1986.

3. Section 52.344 is amended by revising paragraph (b) to read as follows:

§ 52.344 Visibility protection.

* * * * *

(b) The Visibility NSR regulations are approved for industrial source categories regulated by the NSR and PSD regulations which have previously been approved by EPA. However, Colorado's NSR and PSD regulations have been disapproved for certain sources as listed in 40 CFR 52.343(a)(1). The provisions of 40 CFR 52.26 and 52.28 are hereby incorporated and made a part of the applicable plan for the State of Colorado for these sources.

[FR Doc. 88-26719 Filed 11-30-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3484-2]

Approval and Promulgation of Implementation Plans; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this notice, EPA is approving (1) revised State of Idaho Department of Health and Welfare (IDHW) rules regulating the height of stacks and the use of dispersion techniques, and (2) two administrative rule changes, submitted on March 27, 1987, as revisions to the Idaho state implementation plan (SIP). These revisions clarify and correct portions of the existing rules for stack heights and dispersion techniques and were submitted to satisfy the requirements of section 123 (Stack Heights) of the Clean Air Act (hereinafter the Act).

EFFECTIVE DATE: January 3, 1989.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-87-7), Environmental Protection Agency, 1200 Sixth Avenue AT-082, Seattle, Washington 98101.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

State of Idaho Department of Health and Welfare (IDHW), 450 W. State Street, Statehouse, Boise, Idaho 83720.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue AT-082, Seattle, Washington 98101, Telephone: (206) 442-4253, FTS: 399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

On March 27, 1987 the State of Idaho Department of Health and Welfare (IDHW) submitted revised rules regulating the use of stack heights and dispersion techniques and two other administrative rule changes as revisions to the Idaho State Implementation Plan (SIP). The revisions to section 16.01.1002.94 "Stack" (definition) and section 16.01.1014 "Stack Heights and Dispersion Techniques," of the Rules and Regulations for Control of Air Pollution in Idaho clarify and correct portions of the existing rules for stack heights and dispersion techniques to comply with revised EPA stack height regulations as promulgated in 40 CFR Part 51. These rules apply to all new sources and modifications in Idaho as required in 40 CFR 51.164, as well as to existing sources as required in 40 CFR 51.118 and apply to all sources that were or are constructed, reconstructed, or modified subsequent to December 31, 1970. EPA has reviewed the revisions to these rules and has determined that the revised rules are consistent with EPA's requirements for stack heights and dispersion techniques regulations as promulgated by EPA on July 8, 1985.

EPA's stack height regulations were challenged in *NRDC v. Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983 within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2));

2. Dispersion credit for sources originally designed and constructed with

merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A)); and

3. Grandfathering pre-1979 use of the refined $H + 1.5L$ formula (40 CFR 51.100(ii)(2)).

The revisions to section 16.01.1009 "Total Compliance," and section 16.01.1201.03 "Visible Emissions—Exception," clarify the applicability of these sections.

On July 1, 1988 (53 FR 24964), EPA proposed to approve the submitted revisions and provided a 30-day public comment period on this proposed approval. No comments were received.

II. Summary of Action

EPA is today approving of the revised stack heights and dispersion techniques rules as a revision to the Idaho SIP satisfying the requirements of section 123 of the Act, and is approving the administrative rule revisions for "Total Compliance," and "Visible Emissions."

Although EPA is approving IDHW's stack height rules on the grounds that they satisfy 40 CFR Part 51, EPA is also providing notice that this action may be subject to the decision in *NRDC v. Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the *NRDC* remand modifies the July 8, 1985 regulations, EPA will notify the State of Idaho that its rules must be changed to comport with EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by IDHW and source owners or operators.

III. Administrative Review

Under 5 U.S.C. § 605(b), I certify this revision will not have a significant economic impact on a substantial number of small entities (46 FR 8709).

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 January 30, 1989. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Date: November 17, 1988.

Lee M. Thomas,
Administrator.

Note: Incorporation by reference of the State Implementation Plan for the state of Idaho was approved by the Director of the Federal Register on July 1, 1982.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart N—Idaho

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

Authority: 42 U.S.C. 7401-7642

2. Section 52.670 is amended by adding paragraph (c)(25) to read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

(25) On March 27, 1987, the State of Idaho Department of Health and Welfare submitted revised rules regulating the use of stack heights and dispersion techniques (section 16.01.1002.94 and section 16.01.1014) as revisions to the Idaho state implementation plan. Additional revisions included clarifications to section 16.01.1009 (Total Compliance), and section 16.01.1201.03 (Visible Emissions-Exception).

(i) Incorporation by Reference

(A) March 27, 1987 letter from the State of Idaho Department of Health and Welfare to EPA, Region 10.

(B) Section 16.01.1002.94 (Stack), section 16.01.1014 (Stack Heights and Dispersion Techniques), section 16.01.1009 (Total Compliance) and section 16.01.1201.03 (Visible Emissions-Exception) adopted by the State of Idaho Department of Health and Welfare on February 11, 1987.

3. Section 52.679 is revised to read as follows:

§ 52.679 Contents of Idaho State Implementation plan.

Implementation Plan for the Control of Air Pollution in the State of Idaho

Chapter I—Introduction (submitted 1/15/80)
Chapter II—Administration (submitted 1/15/80)
Chapter III—Emissions Inventory (submitted 1/15/80)
Chapter IV—Air Quality Monitoring (submitted 1/15/80, 2/14/80)
Chapter V—Source Surveillance (submitted 1/15/80)
Chapter VI—Emergency Episode Plan (submitted 1/15/80)
Chapter VII—Approval Procedures for New and Modified Facilities (submitted 4/19/85)

Chapter VIII—Non-Attainment Area Plans

VIII-a—Silver Valley Nonattainment Plan
(submitted 1/15/80)VIII-b—Lewiston Nonattainment Plan
(submitted 1/15/80, 12/4/80)VIII-c—Transportation Control Plan for the
carbon monoxide of Ada County
(submitted 5/24/84, 1/3/85, and 3/25/85)VIII-d—Pocatello TSP Nonattainment Plan
(submitted 3/7/80, 2/5/81)VIII-e—Soda Springs Nonattainment Plan
(submitted 1/15/80)

Chapter IX—(Reserved)

Chapter X—Plan for Maintenance of National
Ambient Air Quality Standards for Lead
(submitted 2/3/84)Appendix A—Legal Authority and Other
General Administrative Matters
(submitted 1/15/80)Appendix A.2—Section 39-100, Idaho Code
(submitted 1/15/80)Appendix A.3—Rules and regulations for
control of air pollution in Idaho Manual
(submitted 1/15/80, 4/19/85)1-1000 Legal Authority (submitted 1/15/
80)

1-1001 Policy (submitted 1/15/80)

1-1002 Definitions (submitted 4/19/85)

1-1002.01 Act

1-1002.02 Actual Emissions

1-1002.03 Adverse Effect on Visibility

1-1002.04 Air Contaminant

1-1002.05 Air Pollution

1-1002.06 Air Quality

1-1002.07 Air Quality Criterion

1-1002.08 Allowable Emissions

1-1002.09 Ambient Air

1-1002.10 Ambient Air Quality Violation

1-1002.11 ASTM

1-1002.12 Attainment Area

1-1002.13 Background Level

1-1002.14 Baseline (Area, Concentration,
Date)1-1002.15 Base Available Control
Technology (BACT)

1-1002.16 Board

1-1002.17 Btu

1-1002.18 Collection Efficiency

1-1002.19 Commence Construction or
Modification

1-1002.20 Complete

1-1002.21 Construction

1-1002.22 Control Equipment

1-1002.23 Controlled Emission

1-1002.24 Criteria Pollutant

1-1002.25 Department

1-1002.26 Designated Facility

1-1002.27 Director

1-1002.28 Emission

1-1002.29 Emission Standard

1-1002.30 Emission Standard Violation

1-1002.31 Emissions Unit

1-1002.32 Equivalent Air-Dried Kraft Pulp

1-1002.33 Existing Stationary Source or
Facility

1-1002.34 Facility

1-1002.35 Federal Class I Area

1-1002.36 Federal Land Manager

1-1002.37 Fuel-Burning Equipment

1-1002.38 Fugitive Dust

1-1002.39 Fugitive Emissions

1-1002.40 Hazardous Air Pollutant

1-1002.41 Hot-Mix Asphalt Plant

1-1002.42 Incinerator

1-1002.43 Indian Governing Body

1-1002.44 Indian Reservation

1-1002.45 Industrial Process

1-1002.46 Innovative Control Technology

1-1002.47 Integral Vista

1-1002.48 Kraft Pulp

1-1002.49 Lowest Achievable Emission
Rate (LAER)

1-1002.50 Major Facility

1-1002.51 Major Modification

1-1002.52 Malfunction

1-1002.53 Mandatory Federal Class I Area

1-1002.54 Modification

1-1002.55 Monitoring

1-1002.56 Multiple Chamber Incinerator

1-1002.57 Net Emissions Increase

1-1002.58 New Stationary Source or
Facility

1-1002.59 Nonattainment Area

1-1002.60 Noncondensables

1-1002.61 Odor

1-1002.62 Opacity

1-1002.63 Open Burning

1-1002.64 Operating Permit

1-1002.65 Particulate Matter

1-1002.66 Permit to Construct

1-1002.67 Person

1-1002.68 Portable Equipment

1-1002.69 ppm (parts per million)

1-1002.70 Primary Ambient Air Quality
Standard

1-1002.71 Process or Process Equipment

1-1002.72 Process Weight

1-1002.73 Process Weight Rate

1-1002.74 Reasonable Further Progress
(RFP)

1-1002.75 Salvage Operations

1-1002.76 Secondary Ambient Air Quality
Standard

1-1002.77 Secondary Emissions

1-1002.78 Significant

1-1002.79 Significant Contribution

1-1002.80 Smoke

1-1002.81 Source

1-1002.82 Source Operation

1-1002.84 Standard Conditions

1-1002.85 Stationary Source

1-1002.86 Time Intervals

1-1002.87 TRS (total reduced sulfur)

1-1002.88 Unclassifiable Area

1-1002.89 Uncontrolled Emission

1-1002.90 Visibility Impairment

1-1002.91 Wigwam Burner

16.01.1002.94 "Stack" (adopted 2/11/87)

1-1003 (Repealed)

1-1005 Reporting (submitted 1/15/80)

1-1006 Upset Conditions, Breakdown
(submitted 1/15/80)1-1008 Circumvention (submitted 1/15/
80)16.01.1009 "Total Compliance" (adopted
2/11/87)1-1010 Sampling and Analytical
Procedures (submitted 1/15/80)1-1011 Provisions Governing Specific
Activities (submitted 1/15/80)1-1012 Procedures and Requirements for
Permits to Construct and Operating
Permits (submitted 4/19/85)1-1013 Registration Procedures and
Requirements for Portable Equipment
(submitted 4/19/85)16.01.1014 "Stack Heights and Dispersion
Techniques" (adopted 2/11/87)

1-1015—1-1050 (Reserved)

1-1051—1-1055 Air Pollution Emergency
Regulation (submitted 1/15/80)

1-1056—1-1100 (Reserved)

1-1101 Air Quality Standards and Area
Classification (submitted 4/19/85)

1-1102—1-1112 (Repealed)

1-1113—1-1150 (Reserved)

1-1151—1-1153 Rules for Control of Open
Burning (submitted 1/15/80)

1-1154—1-1200 (Reserved)

1-1201 Visible Emissions (submitted 1/
15/80)16.01.1201.03 "Visible Emissions—
Exception" (adopted 2/11/87)

1-1202 (Reserved)

1-1203 General Restrictions on Visible
Emissions From Wigwam Burners
(submitted 1/15/80)

1-1204—1-1205 (Repealed)

1-1206—1-1250 (Reserved)

1-1251—1-1252 Rules for Control of
Fugitive Dust (submitted 1/15/80)

1-1253—1-1300 (Reserved)

1-1301 Fuel Burning Equipment—
Particulate Matter (submitted 1/15/80)

1-1302—1-1304 (Repealed)

1-1305—1-1325 (Reserved)

1-1326 (Repealed)

1-1327 Emission Limitations (submitted
1/15/80)1-1328 Allowable Rate of Emission Based
on Process Weight Rate—Table
(submitted 1/15/80)1-1329 Particulate Matter—New
Equipment Process Weight Limitations
(submitted 1/15/80)1-1330 Particulate Matter—Existing
Equipment Process Weight Limitations
(submitted 1/15/80)

1-1331—1-1350 (Reserved)

1-1351—1-1355 Rules for Sulfur Content
of Fuels (submitted 1/15/80)

1-1356—1-1400 (Reserved)

1-1401—1-1402 Rules for Control of
Fluoride Emissions (submitted 1/15/80)

1-1403—1-1450 (Reserved)

1-1451—1-1452 Rules for Control of
Odors (submitted 1/15/80)

1-1453—1-1500 (Reserved)

1-1501—1-1504 Rules for Control of
Incinerators (submitted 1/15/80)

1-1505—1-1550 (Reserved)

1-1551—1-1553 Rules for Control of
Motor Vehicle Emissions (submitted 1/
15/80)

1-1554—1-1600 (Reserved)

1-1601—1-1605 Rules for Control of Hot-
Mix Asphalt Plants (submitted 1/15/80)

1-1606—1-1650 (Reserved)

1-1651—1-1662 Rules For Control of Kraft
Pulp Mills (submitted 1/15/80)

1-1663—1-1700 (Reserved)

1-1701—1-1704 (Repealed)

1-1705—1-1750 (Reserved)

1-1751—1-1755 Rules for Control of
Rendering Plants (submitted 1/15/80)

1-1756—1-1800 (Reserved)

1-1801—1-1804 Rules for Control of
Sulfur Oxide Emissions From Sulfuric
Acid Plants (submitted 1/15/80)

1-1805—1-1850 (Reserved)

1-1869—1-1899 (Reserved)

1-1900—1-1906 (Repealed)

1-1907—1-1950 (Reserved)

1-1969—1-1999 (Reserved)

Appendix B Emissions Inventory—Ada
County Carbon Monoxide
Nonattainment Area (submitted 1/15/80)

Appendix G Permits—Silver Valley (submitted 1/15/80)
 Appendix H Permits—Lewiston (submitted 12/4/80, 2/5/81)
 Appendix J Permits—Pocatello (submitted 3/7/80)
 Appendix K Permits—Soda Springs (submitted 1/15/80)
 Beker Industries, 1973 Consent Order (40 CFR 52.670(c)(15)) — SO₂ Emission Limitation (submitted 7/28/75)
 40 CFR Part 52, Subparts A and N
 [FR Doc. 88-27561 Filed 11-30-88; 8:45 am]
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40 CFR Part 799

[OPTS-42061E; FRL-3484-7]

Oleylamine; Final Test Standards and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a final Phase II test rule under section 4(a) of the Toxic Substances Control Act (TSCA) specifying the test standards and reporting requirements to be used by manufacturers and processors of oleylamine (9-octadecenylamine or ODA; CAS No. 112-90-3). This rule requires that certain TSCA health effects test guidelines be utilized as the test standards for the required studies, and that test data be submitted within specified times.

DATES: In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on December 15, 1988. This rule shall become effective on January 17, 1989.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA is promulgating a final Phase II test rule specifying test standards and reporting requirements for ODA. The test standards and reporting requirements are added to 40 CFR 799.3175.

Public reporting burden for this collection of information is estimated to average 535 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including

suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

EPA issued a final Phase I rule under section 4(a) of TSCA published in the *Federal Register* of August 24, 1987 (52 FR 31962), requiring manufacturers and processors to perform developmental toxicity and two-tiered mutagenicity testing of ODA. The need for third tier mutagenicity testing and oncogenicity testing was to be determined by EPA following public program review of all relevant data.

Under the two-phase test rule development process, manufacturers and processors of ODA would normally have been required to submit proposed study plans, including schedules for each of these required tests, in accordance with 40 CFR 790.50. EPA would review the submitted study plans and schedules and issue them, with any necessary modifications, for public comment in a Phase II test rule proposal. After evaluating and responding to public comment, EPA would adopt the study plans in a Phase II final rule as the required test standards and data submission deadlines in accordance with 40 CFR 790.52.

However, in the case of the ODA test rule, which was initiated under the two-phase process, EPA decided to propose the relevant TSCA test guidelines as the test standards for the rule (52 FR 31970; August 24, 1987). EPA also proposed that the data from the required studies be submitted within certain time periods, these time periods serving as the data submission deadlines required by TSCA section 4(b)(1). The reasons for this change in the test rule development process for ODA were discussed in the proposed Phase II rule.

II. Modifications to the Two-Phase Rulemaking Process

Because EPA proposed certain TSCA guidelines as the test standards and proposed data submission deadlines, persons subject to the Phase I final rule were not required to submit proposed study plans for the required testing or proposed dates for the initiation and completion of this testing. They were, however, required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.45.

EPA is now promulgating a final Phase II rule requiring manufacturers (including importers) and processors of

ODA who have not been granted exemptions from the rule to conduct testing in accordance with specified test standards and reporting requirements. While EPA has not identified any byproduct manufacturers of ODA, such persons are subject to the requirements of this test rule. These standards and requirements reflect EPA's evaluation of comments received on the proposed rule. Moreover, once this Phase II final rule is promulgated, those persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 45 days before the initiation of each of the required tests.

III. Proposed Phase II Test Rule

A. Proposed Test Standards

EPA proposed that testing of ODA be conducted using the following TSCA test guidelines as test standards:

1. For specific organ/tissue toxicity under 40 CFR 798.4900 *Developmental toxicity study*.
 2. For genetic toxicity: Chromosomal effects—*a. First tier under 40 CFR 798.5385 In vivo mammalian bone marrow cytogenetics tests: Chromosomal analysis.*
b. Second tier under 40 CFR 798.5450 Rodent dominant lethal assay.
c. Third tier under 40 CFR 798.5460 Rodent heritable translocation assay.
 3. For genetic toxicity: Gene mutations—*a. First tier under 40 CFR 798.5300 Detection of gene mutations in somatic cells in culture.*
b. Second tier under 40 CFR 798.5275 Sex-linked recessive lethal test in Drosophila melanogaster.
c. Third tier under 40 CFR 798.5200 Mouse visible specific locus test (see Unit V.A.3. of this preamble).
 4. For chronic exposure under 40 CFR 798.3300 *Oncogenicity.*
- EPA believes that the TSCA Health Effects Test Guidelines cited in Unit III.A., if properly followed, will produce adequate and reliable data.

B. Proposed Reporting Requirements

EPA proposed that all data developed under this rule be conducted and reported in accordance with its TSCA Good Laboratory Practice (GLP) standards which appear at 40 CFR Part 792, and that test sponsors submit individual study plans at least 45 days prior to the initiation of each study.

EPA is required by section 4(b)(1)(c) of TSCA to specify the time period during which persons subject to a test rule must submit test data. EPA proposed that interim progress reports be provided at 6-month intervals