Order 12866 which superseded Executive Order 12291 on September 30, 1993.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base 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. 7410(a)(2).

List of Subjects in 40 CFR Part 52

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

Dated: March 5, 1994.

John H. Hankinson, Jr.,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(83) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(83) Revisions to Chapter 17–296 of the Florida Administrative Code (FAC) regarding Stationary Sources submitted on July 2, 1993.

(i) Incorporation by reference.

(A) Amendments to FAC 17–296.405 and 17–296.406, adopted June 9, 1993.

[FR Doc. 94–8816 Filed 4–13–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[CA 57–9–6292; FRL–4858–9]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing limited approvals and limited disapprovals of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on September 29, 1993. This final action will incorporate these rules into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from metal container, closure, and coil coating, from wood products coating, and from graphic arts operations. EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the requirements for non-attainment areas. As a result of this limited disapproval EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of this disapproval.

EFFECTIVE DATE: This final rule is effective on May 16, 1994.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket, 6102, 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Chris Stamos, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1187.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1993 at 58 FR 50884, EPA proposed granting limited approval and limited disapproval of the following SCAQMD rules into the California SIP: Rule 1125, Metal Container, Closure, and Coil Coating Operations; Rule 1136, Wood Products Coatings; and Rule 1130, Graphic Arts. Rule 1125 and Rule 1136 were adopted by SCAQMD on August 2, 1991 and submitted by the California Air Resources Board (CARB) to EPA on May 13, 1993. Rule 1130 was adopted by SCAQMD on March 6, 1992 and submitted by CARB on September 14, 1992. These rules were submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the notice of proposed rulemaking (NPR) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPR. EPA is finalizing the limited approval of these rules in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies. These deficiencies are related to recordkeeping requirements, test method references, Executive Officer discretion, control device equivalency, VOC limits, and rule applicability. A detailed discussion of the rule provisions and evaluations has been provided in the NPR and in technical support documents (TSDs) available at EPA's Region IX office (TSDs for SCAQMD's Rule 1125, Rule 1136, and Rule 1130 dated April 30, 1993 and July 21, 1993).

Response to Public Comments

A 30-day public comment period was provided at 58 FR 50884. EPA received no comment letters on the NPR.

EPA Action

EPA is finalizing a limited approval and a limited disapproval of the above-referenced rules. The limited approval of these rules is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rules strengthen the SIP. However, the rules do not meet the section 182(a)(2)(A) CAA requirement because of the rule deficiencies which were discussed in the NPR. Thus, in order to strengthen the SIP, EPA is granting limited-approval of these rules under sections 110(k)(3) and 301(a) of the CAA. This action approves the rules into the SIP as federally enforceable rules.

At the same time, EPA is finalizing the limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. As stated in the NPR, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin. Sections 179(a) and 110(c). If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rules covered by this final rule have been adopted by the SCAQMD and are currently in effect in the Los Angeles–South Coast Air Basin. EPA's limited disapproval action in this final rule does not prevent SCAQMD or EPA from enforcing these rules.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). A revision to the SIP processing review tables was approved by the Acting Assistant Administrator for the Office of Air and Radiation on October 4, 1993 (memorandum from Michael H. Shapiro, to the Regional Administrators). A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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 June 13, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 25, 1994.

David P. Howekamp,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(189)(i)(A)(*4*) and (193)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(189) * * *

(i) * * *

(A) * * *

(*4*) Rules 1125 and 1136, adopted on August 2, 1991.

* * * * *

(193) * * *

(i) * * *

(A) * * *

(*2*) Rule 1130 adopted on March 6, 1992.

* * * * *

[FR Doc. 94–8963 Filed 4–13–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MD13–1–6145; FRL–4860–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland (Revisions to Air Pollution Emergency Episode Plan Requirements)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision revises definitions and provisions to Maryland's air pollution emergency episode plan requirements. The intended effect of this action is to incorporate by reference into the federally-enforceable SIP revised State regulations which meet current Federal requirements. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule will become effective June 13, 1994 unless notice is received on or before May 16, 1994 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597- 1325.

SUPPLEMENTARY INFORMATION: On June 7, 1990, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.05 governing air pollution episode emergency plans. The amended provisions, which are applicable Statewide, are summarized below:

1. COMAR 26.11.05.01A.–Definition of "Air Stagnation Advisory (ASA)" (added)
2. COMAR 26.11.05.01B.–Definition of "Atmospheric stagnation" (modified)
3. COMAR 26.11.05.01H.–Definition of "Pollutant Standards Index (PSI)" (added)
4. COMAR 26.11.05.01J.–Definition of "Special Dispersion Statement (SDS)" (added)
5. Deletion of the definition of "Coefficient of haze."
6. COMAR 26.11.05.02B.,.02C.– Administrative changes making clear that the Maryland Department of the Environment (MDE) Secretary's designee is empowered to declare conditions of air pollution designated as Standby Watch, Health Advisory, Alert, Warning, or Emergency.
7. COMAR 26.11.05.03A.,B, D.–Air Pollution Episode CriteriaAdministrative changes similar to those made in COMAR 26.11.05.02B. and C. Replacement of forecast stage with a standby watch stage and a health advisory stage.
8. COMAR 26.11.05.05A.–Control Requirements and Standby Orders. Administrative changes. Replacement of forecast stage with a standby watch stage and a health advisory stage.
9. COMAR 26.11.05.05B. through D.– administrative changes to broaden the definition of "incineration" in that so that the specific term "refuse" is deleted.

The current SIP requires activation of episode plans either: (1) When air stagnations are forecasted; or (2) air pollutant concentrations reach Alert Stage levels. However, revisions are necessitated to correct situations where the applicable regulations did not require air pollution emergency episode plans to be activated, despite the fact that violations of the National ambient air quality standards (NAAQS) had been recorded, but neither of the above conditions were met.

To correct this situation, Maryland has instituted a revised system for activating air pollution episode plans before air quality actually becomes unhealthful. The Forecast Stage has been replaced: (1) A Standby Watch Stage which will be triggered when the PSI reaches a level of 83 (i.e., monitored air quality concentrations reach 83 percent of the applicable National Ambient Air Quality Standard (NAAQS); and (2) a Health Advisory Stage which will be treated whenever the PSI reaches a level of 100 (i.e., there is a monitored violation of the NAAQS). Maryland may also issue an SDS for situations where forecasted atmospheric stagnations are expected to last between 12 and 36 hours. Maryland may also issue an ASA where atmospheric stagnations are expected to last more than 36 hours, and is required to make a public announcement within two hours of such declaration. (COMAR 26.11.05.03B.(1)(c).)

The revisions to COMAR 26.11.05 have a limited impact on the attainment and maintenance of standards. The purpose of emergency episode plans is to ensure that in the event of unhealthy air quality, there are SIP-enforceable provisions which can be activated so as to minimize the exacerbation of unhealthy air quality levels (i.e., air quality levels in excess of the NAAQS) through the activation of emergency control measures. The removal of the term "refuse" in the context of incineration is consistent with requirements prescribed in 40 CFR part 51, appendix L regarding the curtailment of incinerator use when invoking air pollution emergency episode plans. The prescribed requirements in appendix L call for curtailment of all incinerator use regardless of the type of material being burned.

The revised requirements which replace the Forecast Stage still conform with the triggering levels and lengths of air stagnation episodes prescribed in 40 CFR part 51, appendix L. In addition, the revised threshold levels for NO_2, PM_{10}, and ozone also conform with those prescribed in 40 CFR part 51, appendix L. Similarly, the removal of the COH threshold levels is also consistent with EPA's view that COH measurements do not reflect the best means of measuring combined SO_2 and PM_{10} levels. Currently, there is no requirement in either 40 CFR part 51, subpart H or 40 CFR part 51, appendix L which requires States to have COH threshold levels in their respective air pollution emergency episode plans.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective June 13, 1994 unless, by May 16, 1994, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent documents. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on June 13, 1994.

Final Action

EPA is approving the amendments to COMAR 26.11.05 described above as a revision to the Maryland SIP. The Agency has also reviewed this SIP revision request for conformance with the provisions of the 1990 amendments enacted on November 15, 1990, and has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 3 action for signature by the Acting Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continues in effect under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

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 [Insert date 60 days from date of publication]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action regarding EPA's approval of revisions to Maryland's air pollution emerency episode requirements (COMAR 26.11.05) 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: March 21, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(100) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(100) Revisions to the Code of Maryland Administrative Regulations (COMAR) submitted on June 7, 1990 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of June 7, 1990 from the Maryland Department of the Environment transmitting revisions to the Maryland State Implementation Plan.

(B) The following revised regulations to COMAR 26.11.05 (Air Pollution Episode Plans), effective June 18, 1990: 26.11.05.01A., .01B., .01H., and .01J.; 26.11.05.02B., .02C.; 26.11.05.03A., 03B., 03D.; 26.11.05.05A., 05B., 05C., and .05D. Deletion of the definition "coefficient of haze."

(ii) Additional material.

(A) Remainder of the June 7, 1990 State submittal.

[FR Doc. 94–8964 Filed 4–13–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MT1–1–6311; FRL–4859–5]

Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan for Columbia Falls PM_{10} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA approves the State implementation plan (SIP) submitted by the State of Montana to achieve attainment of the National ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP was submitted by Montana to satisfy certain Federal requirements for an approvable moderate nonattainment area PM_{10} SIP for Columbia Falls. The State has committed to complete several actions for this SIP, including issues regarding its New Source Review and Prevention of Significant Deterioration regulations, test methods, emergency episode plan, operating permit program, and contingency measures. EPA will take separate action, as appropriate, on these rules when the State fulfills its related commitments.

EFFECTIVE DATE: This final rule will become effective on May 16, 1994.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202–2405; Montana Department of Health and Environmental Sciences, Air Quality Bureau, Cogswell Building, Helena, Montana 59620–0901; and USEPA Air & Radiation Docket Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Meredith Bond, Environmental Protection Agency, Region VIII, (303) 293–1764.

SUPPLEMENTARY INFORMATION:

I. Background

The Columbia Falls, Montana area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991); 40 CFR 81.327 (Flathead County; Columbia Falls and vicinity). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of part D, title I of the Act.

The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM_{10} nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this final action and the supporting rationale.

Those States containing initial moderate PM_{10} nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM)

[1] The 1990 Amendments to the Clean Air Act made significant changes to the air quality planning requirements for areas that do not meet (or that significantly contribute to ambient air quality in a nearby area that does not meet) the PM_{10} National Ambient Air Quality Standards (see Public Law No. 101–549, 104 Stat. 2399). References herein are to the Clean Air Act, as amended ("the Act"), 42 U.S.C. 7401, *et seq.*

(including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modelling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions are due at a later date. States with initial moderate PM_{10} nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 (see section 189(a)). Such States also were required to submit contingency measures by November 15, 1993 that become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline. See section 172(c)(9) and 57 FR 13543–13544.

On January 27, 1994, EPA announced its proposed approval of the Columbia Falls, Montana moderate nonattainment area PM^{10} SIP as meeting those moderate PM_{10} SIP requirements due on November 15, 1991 (59 FR 3804–3808). In that proposed rulemaking action and related Technical Support Document (TSD), EPA described in detail its interpretations of title I and its rationale for proposing to approve the Columbia Falls moderate nonattainment area PM_{10} SIP taking into consideration the specific factual issues presented.

EPA requested public comments on all aspects of the proposal (please reference 59 FR 3808), and no comments were received during the comment period, which ended on February 28, 1994. This final action on the Columbia Falls moderate nonattainment area PM_{10} SIP is unchanged from the January 27, 1994 proposed approval action.

The discussion herein provides only a broad overview of the proposed action EPA is now finalizing. The public is referred to the January 27, 1994 proposed rule for a more in depth discussion of the action now being finalized.

II. Response to Comments

EPA did not receive any public comments regarding its January 27, 1994 proposed approval of the Columbia Falls moderate nonattainment area PM_{10} SIP (59 FR 3804–3808).

This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). The Columbia Falls SIP consists of two submittals. The first contains the Flathead County Air Pollution Control Program and Air Pollution Plan regulations. Flathead County contains two PM_{10} nonattainment areas for which SIPs were due in November 1991: Columbia Falls and Kalispell. The Flathead County regulations apply to both areas and were submitted with the attainment demonstration for Kalispell on November 25, 1991, after being approved by the Montana Board of Health and Environmental Sciences (MBHES) on November 15, 1991. The Columbia Falls SIP and attainment demonstration were not submitted at that time since a permit necessary to the control strategy for the SIP was not finalized. The MBHES issued that permit and approved the SIP on January 24, 1992. This second submittal to EPA was made by the Governor on May 6, 1992. Final technical corrections to the SIP were received by EPA on June 15, 1993. The submittals were intended to satisfy those moderate PM_{10} SIP requirements due for Columbia Falls on November 15, 1991.

As described in EPA's proposed action on this SIP (59 FR 3804–3808, January 27, 1994), the Columbia Falls moderate nonattainment area PM_{10} plan includes, among other things, a comprehensive and accurate emissions inventory, control measures that satisfy the RACM requirement, a demonstration (including air quality modelling) that attainment of the PM_{10} NAAQS will be achieved by January 1, 1995[2], provisions for meeting the November 15, 1994 quantitative milestone and reasonable further progress, and enforceability documentation. Further, EPA proposed to determine that major sources of precursors of PM_{10} do not contribute significantly to PM_{10} levels in excess of the NAAQS in Columbia Falls[3] Please refer to EPA's notice of proposed rulemaking (59 FR 3805) and the TSD for that action for a more detailed discussion of these elements of the Columbia Falls plan.

In this final rule, EPA is announcing its approval of those elements of the Columbia Falls moderate nonattainment area PM_{10} SIP that were due on November 15, 1991, and submitted by the Governor on November 25, 1991 and May 6, 1992, with technical corrections submitted in a letter dated June 15, 1993. Specifically, EPA is approving the Flathead County rules (with the exception of rules 501 through 506 which are specific to the city of Kalispell–EPA will take separate action on the Kalispell PM_{10} nonattainment area control plan) and the Columbia Falls PM_{10} nonattainment area control plan.

EPA finds that the State of Montana's PM_{10} SIP for the Columbia Falls moderate nonattainment area meets the Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), requirement. Five sources/source categories were identified as contributing to the PM_{10} nonattainment problem in Columbia Falls and, therefore, were targeted for control in the SIP. The State has demonstrated that by applying control measures to area sources (re-entrained road dust, residential wood combustion, prescribed burning, and motor vehicle exhaust), as well as reducing allowable emissions through air quality permit modifications for the Plum Creek sawmill and fiberboard plant, Columbia Falls will be in attainment by January 1, 1995 (see footnote # 2) and it does not appear that applying further control measures to these sources would expedite attainment.

EPA views the following measures as reasonable, enforceable, and responsible for significant PM_{10} emissions reductions in Columbia Falls: (1) Flathead County Rules No. 601–606, which provide re-entrained road dust controls, including sanding and chip

[2] The Clean Air Act calls for attainment by December 31, 1994. Section 188(c)(1). EPA interprets the State's demonstration as providing for attainment of the PM_{10} NAAQS by January 1, 1995. EPA is approving the State's demonstration on the basis of the de minimis differential between the two dates.

[3] The consequences of this finding are to exclude these sources from the applicability of PM_{10} nonattainment area control requirements. Note that EPA's finding is based on the current character of the area including for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area.

sealing standards and street sweeping and flushing requirements; (2) Flathead County Rules No. 201–209, which regulate prescribed burning; (3) Flathead County Air Pollution Control Program, Chapter VIII, Sub-chapter 3, which contains a voluntary solid fuel burning device curtailment program, and Sub-chapter 4, which lists materials prohibited from burning in wood or coal residential stoves; (4) industry permit modifications made at Plum Creek to reduce allowable plant-wide emissions; and (5) the Federal tailpipe standards, which provide an ongoing benefit due to fleet turnover. The RACM (including RACT) provisions in the SIP are described further in the technical support document associated with EPA's January 27, 1994 notice of proposed rulemaking on this SIP.

Further, although no credit was claimed in the SIP, EPA notes that the State has adopted, as part of the Columbia Falls SIP, the Montana Smoke Management Plan, which sets standards for the regulation of prescribed burning. EPA approved this plan in a separate rulemaking action. (59 FR 2988, January 20, 1994).

A more detailed discussion of the individual source contributions, their associated control measures (including available control technology) and an explanation of why certain available control measures were not implemented, can be found in the TSD accompanying EPA's proposed approval of the Columbia Falls moderate PM_{10} nonattainment area SIP (59 FR 3804). EPA has reviewed the State's documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Montana's PM_{10} nonattainment plan for Columbia Falls will result in the attainment of the PM_{10} NAAQS by January 1, 1995 (see footnote # 2). By this action EPA is approving the Columbia Falls PM_{10} plan's control measures as satisfying the RACM, including RACT, requirement.

As noted, EPA did not propose to approve some aspects of the Columbia Falls SIP, as explained in the notice of proposed rulemaking (59 FR 3804–3808) and associated TSD. To address deficiencies identified by EPA, the State adopted commitments after public hearings on November 15, 1991 and January 24, 1992, and submitted the commitments to EPA with the Governor's May 6, 1992 letter, as additional tasks to be completed to correct the deficiencies in the Columbia Falls and statewide SIP. The State has fulfilled commitments related to SIP requirements due November 15, 1991 for the Columbia Falls nonattainment area. Those items related to deficiencies in the statewide SIP will be addressed in a separate action. EPA has determined that the Columbia Falls SIP can be fully approved without the State fulfilling the remaining commitments. Therefore, EPA is tracking the State's efforts to meet these commitments, but approval of the SIP for the Columbia Falls nonattainment area is not contingent upon the State meeting them by the specified dates. Therefore, EPA will take separate action, as appropriate, when the remaining commitments are fulfilled by the State. A more detailed discussion of the State's commitments can be found in EPA's January 27, 1994 proposed approval of the Columbia Falls moderate nonattainment area PM_{10} SIP (59 FR 3804–3808) and the TSD for that action.

The State has made a separate commitment to testing and further dispersion modeling of emissions from the Columbia Falls Aluminum Company (CFAC) facility. This facility is located outside the nonattainment area and emissions from CFAC were not identified on the Chemical Mass Balance analysis of filters collected from the monitor in the Columbia Falls nonattainment area. Emissions from CFAC are a potential concern, however, since this source accounts for 20 percent of the emission inventory (at permitted allowable emissions). EPA will continue to monitor the testing and assist the State with any action required by the results.

Final Action

This document announces EPA's final action on the rulemaking proposed at 59 FR 3804. As noted elsewhere in this action, EPA received no adverse public comments on the proposed action. As a direct result, the Regional Administrator has reclassified this action from Table 2 to Table 3 under the processing procedures established at 54 FR 2214, January 19, 1989.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for a 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.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on a substantial number of small entities affected. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

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 June 13, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be file, 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)).

Executive Order (EO) 12866

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: March 24, 1994.

William P. Yellowtail,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(31) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(31) The Governor of Montana submitted a portion of the requirements for the moderate nonattainment area PM_{10} State Implementation Plan (SIP) for Columbia Falls, Montana with letters dated November 25, 1991 and May 6, 1992, with technical corrections dated June 15, 1993. The submittals were made to satisfy those moderate PM_{10} nonattainment area SIP requirements due for Columbia Falls on November 15, 1991.

(i) Incorporation by reference.

(A) Stipulation signed November 15, 1991 between the Montana Department of Health and Environmental Sciences, the Flathead County Commission, and the Kalispell City Council and the Columbia Falls City Council, which delineates responsibilities and authorities between the MDHES and Flathead County.

(B) Board order issued on November 15, 1991 by the Montana Board of Health and Environmental Sciences approving the Flathead County Air Pollution Control Program.

(C) Flathead County Board of Commissioners Resolution No. 867, adopting the Flathead County Air Pollution Control Program and Flathead County Air Pollution Control Regulations, with the exception of rules 501 through 506, signed October 3, 1991.

(ii) Additional material.

(A) Montana Department of Health and Environmental Sciences Air Quality Permit # 2667-M, with a final modification date of January 24, 1992, for Plum Creek Manufacturing, Inc. Columbia Falls Operations.

(B) Montana Smoke Management Plan, effective April 28, 1988, which addresses prescribed burning requirements.

(C) Federal tailpipe standards, which provide an ongoing benefit due to fleet turnover.

[FR Doc. 94–8965 Filed 4–13–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MN12–1–6110; FRL–4858–4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA is approving revisions to Minnesota's State Implementation Plan (SIP) for sulfur dioxide (SO_2) for the Air Quality Control Region (AQCR) 131 area (excluding the Pine Bend area of Dakota County and the St. Paul Park/Ashland area), which were submitted to USEPA on May 29, 1992. These SIP revisions were submitted by the State of Minnesota as a means of demonstrating attainment of the National Ambient Air Quality Standards (NAAQS) for SO_2. The USEPA proposed to disapprove the originally submitted SIP revisions on September 13, 1993. However, that notice of proposed rulemaking stated that if the issues identified within were satisfactorily addressed by the State by the end of the 30-day comment period, and if no other significant adverse comments were received, USEPA would proceed with a final approval. The issues were adequately addressed by the State and submitted to the USEPA on July 12, 1993. No comments were received on the September 13, 1993, proposed action. Consequently, the USEPA is fully approving the SO_2 SIP revisions for AQCR 131.

EFFECTIVE DATE: This final rule becomes effective on May 16, 1994.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone Randy Robinson, (312) 353–6713, before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of today's revision to the Minnesota SIP is available for inspection at:

U.S. Environmental Protection Agency, Air Docket, 6102, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Air Enforcement Branch, Regulation Development Section (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–6713.

SUPPLEMENTARY INFORMATION:

I. Background

On May 29, 1992, the Minnesota Pollution Control Agency (MPCA) submitted to the United States Environmental Protection Agency (USEPA), revisions to the State Implementation Plan (SIP) for sulfur dioxide (SO_2) in Air Quality Control Region (AQCR) 131. The seven-county metropolitan area (AQCR 131) has been designated, by the USEPA, as nonattainment for SO_2. This submittal was intended to demonstrate attainment of the National Ambient Air Quality Standards (NAAQS) for SO_2in AQCR 131, excluding an area surrounding the SO_2 emission sources at Ashland Petroleum Company, and an area surrounding the SO_2 emission sources at and near Koch Refining Company, located in Dakota County. These two sources and the surrounding areas were subject to separate submittals and are addressed in separate rulemakings.

On September 13, 1993, a document was published in the Federal Register (58 FR 47840) which proposed disapproval of the SO_2 SIP revision for AQCR 131. The proposed notice discussed the State submittal, including background information, attainment demonstration, specific aspects of each administrative order, USEPA comments regarding the administrative orders, comparison of submittal with sections 110 and 172 requirements, and proposed rulemaking action. The disapproval was based on the issues which had been identified in the notice by the USEPA. However, the action also stated that if the issues were satisfactorily addressed by the end of the 30-day comment period, and if no adverse comments were received, the USEPA would proceed with a final approval. This final rule will present a brief summary of the State submittal, detail how the USEPA identified issues were addressed, and present our recommendation for final approval.

II. Submittal Summary

The SO_2 SIP revisions submitted by the MPCA for the AQCR 131 area consisted primarily of administrative orders issued to five facilities: (1) Minneapolis Energy Center, Inc.; (2) Northern States Power Company; (3) FMC and U.S. Navy (FMC has since changed its name to Armament Systems Division of United Defense, L.P.); (4) GAF Corporation; and (5) Federal-Hoffman, Incorporated. The administrative orders contained emission limits, operating restrictions, compliance methodologies, and reporting and recordkeeping requirements. Technical support was also submitted which justified the limits and restrictions in the administrative orders as well as explained the methodology used to demonstrate attainment.

Attainment Demonstration

Section 172(c)(6) requires that revisions include enforceable emission limitations and other control measures, means or techniques, necessary to provide for attainment of the applicable NAAQS. The State submittal demonstrated attainment through the use of air dispersion modeling. The primary guidance for such demonstrations is the Guideline on Air Quality Models, which specifies the criteria for selection of dispersion models and for estimation of emissions and other model inputs. In accordance with that guidance, the dispersion modeling conducted for the five administrative orders in this submittal was performed using the Industrial Source Complex Short-term (ISCST) model (version 90346) for calculation of the 24-hour and 3-hour concentrations. The analysis used urban dispersion coefficients, five years of National Weather Service meteorological data (surface data from the Minneapolis/St. Paul airport and upper air data from St. Cloud), regulatory default parameters, and receptors spaced at 100 meter intervals at areas of maximum impact. The emissions used in the modeling demonstration were based on the maximum emissions allowed at each facility. The annual impacts were calculated in the original 1987 submittal using the Climatological Dispersion Model (CDM 2.0). The modeled concentrations, plus background concentrations and growth margins, showed attainment with the 3-hour, 24-hour, and annual NAAQS.

Compliance

The administrative orders for the five facilities each contain sections detailing how compliance is to be determined. The methods used include continuous emissions monitors (CEMS), stack testing conducted in accordance with Reference Methods 1 through 4, 6, 6a, or 6b, and regular fuel sampling and fuel supplier certification. The USEPA has determined, based on guidance in the "General Preamble for Future Proposed Rulemakings," published in the Federal Register on April 16, 1992 (57 FR 13498), that these compliance methods are adequate to provide for SO_2 compliance monitoring at the affected facilities.

III. State Responses to USEPA Comments

The following are the administrative order revisions made by the State and submitted to USEPA on July 12, 1993, in response to USEPA comments detailed in the notice of proposed rulemaking. In addition, the administrative order for FMC Corporation and U.S. Navy was again revised on March 26, 1993 and an official SIP revision package was sent to the USEPA at that time. Those revisions will also be discussed in this section.

Federal Hoffman, Inc.

(1) A formula was added to the administrative order which calculates an emission rate in pounds of sulfur dioxide per million British Thermal Units (lbs/mmBtu) from information on percent sulfur, density of the fuel oil, theoretical sulfur to sulfur dioxide availability, and the heating value.

(2) It was made clear in the administrative order that the emission limits on emission points 82, 83, and 84, apply to each point and not the group.

(3) The method used to determine the sulfur content of fuel oil is now clearly identified as an approved American Society for Testing and Materials (ASTM) method.

FMC and U.S. Navy

(1) In response to a concern about monthly analysis of fuel oil for waste oil or waste solvents, the administrative order was changed so that every time the Company adds waste oil or waste solvents to the fuel oil, the resulting fuel oil will be sampled and analyzed.

(2) The method used to determine sulfur content of the fuel oil is now clearly identified as an approved ASTM method.

(3) A formula was added to the administrative order which calculates an emission rate in lbs/mmBtu from information on percent sulfur, fuel oil coefficients for the type of fuel being burned, and the heating value.

Additional changes to the FMC and U.S. Navy order were requested in a March 26, 1993, SIP revision package submitted by the State. The changes included the addition, in Exhibit 1 of the administrative order, of distillate oil as a fuel type for boilers 1 through 13 (these boilers are also allowed to burn residual oil), three diesel generators were added as emission points to Exhibit 1 (these diesel generators were included in the modeled attainment demonstration), name changes for boilers 1A, 1B, and 2A, and associated changes to Part I.C.E of the administrative order which specifies operating restrictions during the decommission of boilers 1 through 17 and their replacement with three new boilers.

GAF Building Materials Corporation

(1) The administrative order increases the sampling and analyzing frequency of the mixture of No. 6 fuel oil and knockout oil (a petroleum based by-product) from a monthly to a weekly basis. If, after six months, the sulfur content of the mixture is less than 1.3 percent, monthly sampling will be considered sufficient.

(2) The administrative order now contains a formula for use in calculating an emission rate in lbs/mmBtu from the recorded sulfur content and heating value information.

(3) The method used to determine sulfur content of the fuel oil and asphalt are specifically identified as approved ASTM methods. A revision was also made to the recordkeeping section of the administrative order requiring the Company to keep records on the mixture of fuel oil and knockout oil.

Northern States Power

(1) The annual emission limit on emission point 13 has been revised and is now based on a daily, 365-day rolling average.

(2) Minor language changes were made to clarify that testing conditions and operating capacities may be specified by the MPCA and/or the USEPA, and that the company shall obtain a permit amendment if required by State or Federal regulation.

(3) A comment regarding the need for a formula in the order was addressed by the use of continuous emission monitors (CEMS) at the facility. The CEMS provide emissions data in lbs/mmBtu and lbs/hour. The section in the administrative order discussing the operation and maintenance of the CEMS was revised to reflect a new date for beginning stack flow monitoring. This was requested by the Company due to

equipment installation problems and subsequent delays.

(4) An additional revision was made to the administrative order limiting the types of fuel the Company is authorized to burn.

Minneapolis Energy Center, Inc.

(1) In response to an USEPA comment regarding emission limits on operating scenarios not included in the original administrative order, the State has revised the order to include limits on all possible operating scenarios at the facility. Dispersion modeling was submitted to support the additional limits. Also, information was included in the administrative order for determining compliance when an operating scenario changes in the middle of an averaging period.

(2) A formula was added to the administrative order to be used for calculating sulfur dioxide emissions in lbs/hr based on data regarding fuel flow, fuel density and percent sulfur.

(3) The administrative order was revised to require recordkeeping during periods of time when natural gas supplies are interrupted and the Facility is burning distillate oil.

(4) The emission units for emission point number 1 were changed to correctly reflect Boilers 1, 2, and 3.

(5) An emergency diesel generator was added to the emission units included in the administrative order. The generator is limited to 0.5 lbs of sulfur dioxide/mmBtu. The generator was included in the supplementary dispersion modeling attainment demonstration noted in 1) above.

IV. Public Comment/USEPA Response

There were no comments received on the notice of proposed rulemaking published on September 13, 1993.

V. Rulemaking Action

The SO_2 SIP revisions submitted to USEPA for AQCR 131 (except the Pine Bend area of Dakota County and the St. Paul Park/Ashland area) dated May 29, 1992, and the supplemental amendments dated, March 26, 1993, and July 12, 1993, satisfy the general requirements for implementation plans as detailed in section 110(a)(2) of the Clean Air Act and also the nonattainment area plan requirements listed in subpart 1 of part D of title I of the Clean Air Act. The July 12, 1993, submittal satisfactorily addressed the issues identified in the September 13, 1993, notice of proposed rulemaking. Consequently, given that no other comments on the proposed rulemaking were received, USEPA is taking final action to approve Minnesota's SO_2 SIP revision submittals for the above specified area of AQCR 131.

The enforceable element of the State's submittals are the administrative orders for five facilities in AQCR 131. The codification portion of this document identifies the effective dates of the administrative orders and the names and locations of the facilities covered. This final action incorporates into the SIP and makes federally enforceable the administrative orders for: (1) FMC Corporation and U.S. Navy; (2) Federal Hoffman, Incorporated; (3) Northern States Power–Riverside Plant; (4) GAF Corporation; and (5) Minneapolis Energy Center, Incorporated.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action makes final the action proposed at 58 FR 47840. As noted elsewhere in this action, USEPA received no adverse public comment on the proposed action. Consequently, this action has been reclassified from Table 2 to Table 3 by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). A revision to the SIP processing review tables was approved by the Acting Assistant Administrator for Office of Air and Radiation on October 4, 1993 (Michael Shapiro's memorandum to Regional Administrators). A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on USEPA's request. This request continued in effect under Executive Order 12866 which superceded Executive Order 12291 on September 30, 1993.

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 June 13, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

NOTE: Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: March 21, 1994.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations,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.

Subpart Y—Minnesota

2. Section 52.1220 is amended by adding paragraph (c)(30) to read asfollows.

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(30) On June 4, 1992, March 30, 1993, and July 15, 1993, the State of Minnesota submitted revisions to its State Implementation Plans (SIPs) for sulfur dioxide for Air Quality Control Region (AQCR) 131 (excluding the Dakota County Pine Bend area and an area around Ashland Refinery in St. Paul Park).

(i) Incorporation by reference.

(A) An administrative order, received on June 4, 1992, for FMC Corporation and U.S. Navy, located in Fridley, Anoka County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, which was received on March 30, 1993, became effective on March 5, 1993. Amendment Two, which was received on July 15, 1993, became effective on June 30, 1993.

(B) An administrative order, received on June 4, 1992, for Federal Hoffman, Incorporated, located in Anoka, Anoka County, Minnesota. The administrative order became effective on May 27, 1992. Amendment one, received on July 15, 1993, became effective on June 30, 1993.

(C) An administrative order, received on June 4, 1992, for GAF Building Materials Corporation (Asphalt Roofing Products Manufacturing Facility) located at 50 Lowry Avenue, Minneapolis, Hennepin County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, received on July 15, 1993, became effective on June 30, 1993.

(D) An administrative order, received on June 4, 1992, for Northern States Power Company–Riverside Generating Plant, located in Minneapolis, Hennepin County, Minnesota. The administrative order became effective on May 27, 1992. Amendment One, received on July 15, 1993, became effective on June 30, 1993.

(E) An administrative order for Minneapolis Energy Center, received on July 15, 1993, Inc.'s Main Plant, Baker Boiler Plant, and the Soo Line Boiler Plant all located in Minneapolis, Hennepin County, Minnesota. The administrative order became effective on June 30, 1993.

(ii) Additional material.

(A) A letter from Charles Williams to Valdas Adamkus dated May 29, 1992, with enclosures providing technical support (e.g., computer modeling) for the revisions to the administrative orders for five facilities.

(B) A letter from Charles Williams to Valdas Adamkus dated March 26, 1993, with enclosures providing technical support for an amendment to the administrative order for FMC Corporation and U.S. Navy.

(C) A letter from Charles Williams to Valdas Adamkus dated July 12, 1993, with enclosures providing technical support for amendments to administrative orders for four facilities and a reissuance of the administrative order to Minneapolis Energy Center, Inc.

[FR Doc. 94–8813 Filed 4–13–94; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 52

[MN22–2–6114; FRL–4859–1]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving the removal of a transportation control measure (TCM) as a revision to Minnesota's State Implementation Plan (SIP) for carbon monoxide (CO). USEPA's action is based upon a revision request which was submitted by the State.

EFFECTIVE DATE: This final rule becomes effective on May 16, 1994.

ADDRESSES: Copies of the requested SIP revision, and other materials relating to this rulemaking are available for inspection at the following address: (It is recommended that you telephone William Jones at (312) 886–6058, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Region 5, Chicago, Illinois 60604.

A copy of this SIP revision is available for inspection: Air Docket, 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION: The CO SIP for the Duluth area was approved at 45 FR 40579 (June 18, 1980). The Duluth area was redesignated to attainment for CO, see 51 FR 45319 (December 18, 1986), and 52 FR 6548 (March 4, 1987). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, codified at 42 U.S.C. 7401–7671q. Pursuant to section 107(d)(4)(A), the City of Duluth was designated nonattainment for CO as a result of monitored violations of the CO National Ambient Air Quality Standards (NAAQS) during the 1988–1989 time period, see 56 FR 56694, November 6, 1991. On October 30, 1992, the State of Minnesota requested the removal of a TCM from the CO State Implementation Plan for Duluth. This TCM is an improved truck turning radius. On September 24, 1993, USEPA proposed to approve the requested SIP revision, see 58 FR 49952. The State also requested on that date that a maintenance plan for the area be approved and that the area be redesignated to attainment of the CO NAAQS. Action on the maintenance plan and redesignation request is in a separate notice.

The State Implementation Plan Revision

The State submitted rollback modeling that shows that the revision would not interfere with attainment of the CO NAAQS.

USEPA believes that the State has shown through rollback modeling of concentrations, air quality trends, and information on the effect of the construction of I–35 on the amount of truck traffic that would be rerouted, that I–35 provides an equivalent or greater reduction in emissions than the improved truck turning radius TCM.

All of the transportation control measures with the exception of the improved truck turning radius have been implemented. This turning radius would have made it easier for trucks to turn at 14th Avenue and 3rd Street east (Trunk Highway 61). The City of Duluth discovered that enlarging the turning radius would require significant rerouting of utilities, which probably was not legally feasible, since utility companies have equal eminent domain authority. In some cases, trucks were using East 1st Street, which was not a designated truck route, to avoid the turn on 14th Avenue East and 3rd Street East. The City erected a sign on 1st Street directing through truck traffic to 3rd Street East so that trucks would not hamper movements on both 1st and 3rd Streets East.

Currently, a truck heading northeast from the southwestern part of Duluth would by pass Duluth's downtown on I–35 unless it had a delivery downtown. Construction on I–35 was completed on October 28, 1992. All through truck traffic will now use I–35, eliminating permanently any need to widen the turning radius at the intersection of 14th Avenue East and 3rd Street.[1] Truck

[1] Although I–35 is not a measure in the SIP, it is a completed measure that provides permanent emission reductions. Therefore, USEPA believes the