

Reporting and recordkeeping requirements.

PART 1208—[REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 6802 *et seq.*, 7 CFR part 1208 is removed.

Dated: January 6, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03-453 Filed 1-9-03; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-02-144]

Drawbridge Operation Regulations. Cape Cod Canal, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations that govern the Conrail Railroad Bridge across Cape Cod Canal, mile 0.7, at Bourne, Massachusetts. This temporary deviation will allow the bridge to remain closed at 60 feet above mean high water from 8 a.m. through 5 p.m., on 14 days in January, 2003. From 8 a.m. through 5 p.m. on February 3 and 6, 2003, the bridge may remain fully closed. This temporary deviation is necessary to facilitate vital unscheduled mechanical repairs at the bridge.

DATES: This deviation is effective from January 2, 2003, through February 6, 2003.

ADDRESSES: Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Mr. John McDonald, Project Officer, First Coast Guard District Bridge Branch, (617) 223-8364.

SUPPLEMENTARY INFORMATION: The vertical clearance under the Conrail

Railroad Bridge in the open position is 135 feet at mean high water and 139 feet at mean low water. The draw is normally in the fully open position except for the passage of rail traffic. The existing regulations are listed at 33 CFR 117.589.

The owner of the bridge, the Army Corps of Engineers (ACOE), requested a temporary deviation from the Drawbridge Operation Regulations to facilitate vital unscheduled maintenance, the replacement of the counterweight guide rails, at the bridge. This work must be performed without delay to ensure continued safe reliable operation of the bridge.

The bridge owner advised the mariners who normally use this waterway about the necessary emergency repairs at the bridge and the temporary closures that will be required in order to facilitate the necessary repairs. No objections were received.

Under this temporary deviation the Conrail Railroad Bridge, mile 0.7, across the Cape Cod Canal, may remain closed at 60 feet above mean high water from 8 a.m. through 5 p.m. on January 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 28, 29, and 30, 2003. From 8 a.m. through 5 p.m. on February 3 and 6, 2003, the bridge may remain fully closed.

Under the deviation schedule listed above, the bridge will be closed three days each week; however, the third day each week and the last week of the closure schedule were added as extra days in case the repair work is delayed by inclement weather.

Mariners may contact the U.S. Army Corps of Engineers Marine Traffic Controller 24-hour telephone line at (508) 759-4431 for the operational status of the bridge.

Thirty days notice to the Coast Guard for approval of this bridge maintenance was not given by the bridge owner and was not required because this work involves vital, unscheduled maintenance that must be performed without undue delay.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: December 27, 2002.

J.L. Grenier,

Captain, Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 03-484 Filed 1-9-03; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118-3; FRL-7436-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves Ohio's State Implementation Plan (SIP) revisions for New Source Review (NSR) in nonattainment areas. Previously, EPA issued both a direct final approval and a proposed approval of Ohio's revisions. EPA withdrew the direct final action upon receiving adverse comments. In this action, EPA responds to the public comments received and announces EPA's final rulemaking action. In consideration of the comments and the requirements of the Clean Air Act (CAA), EPA now fully approves Ohio's nonattainment NSR program as an addition to the SIP.

Recently, EPA announced new regulations regarding changes to the NSR Program through efforts under "NSR Reform." Today's approval of Ohio's NSR SIP submission does not address EPA's new rules but is limited to portions of Ohio's program under prior existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any new requirements that EPA may promulgate as part of "NSR Reform."

DATES: This rule is effective on January 10, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location:

Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kaushal Gupta at (312) 886-6803 or Jorge Acevedo at (312) 886-2263 before visiting the Region 5 office.

Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Kaushal Gupta, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-

18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886-6803. For further information regarding OEPA's rules for public notice procedure, please contact Jorge Acevedo, Environmental Engineer, Permits and Grants Section (IL/IN/OH), Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 886-2263.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

- A. What Is the Purpose of This Document?
- B. What Is the History of OEPA's Nonattainment NSR Program?
- C. Are OEPA's Nonattainment NSR Rules Now Approvable?
- D. What Were the Adverse Comments, and How Does EPA Respond to Them?
- E. What Is Today's Action?

A. What Is the Purpose of This Document?

This document is our approval of Ohio's nonattainment NSR SIP revision requests dated from July 23, 1980, to August 19, 1999. On April 22, 1996, we proposed to conditionally approve the revision requests dated up to March 1, 1996 (61 FR 17669). Subsequently, OEPA submitted several rule changes which met our condition for full approval. On February 21, 2002, we issued a proposed approval (67 FR 7996) and a direct final approval (61 FR 7954) of the revision requests dated up to August 19, 1999. On April 16, 2002, we withdrew the direct final rule because we received adverse comments on it (67 FR 18497). The proposed approval remained in effect. Today, we follow up the proposed approval with full, final approval of the revision requests dated up to August 19, 1999.

B. What Is the History of Ohio's Nonattainment NSR Program?

OEPA submitted its first NSR SIP revision request on January 31, 1972, and submitted replacement regulations on June 6, 1973. The regulations submitted by the State provided requirements, such as best available technology, that were meant to be uniformly applied throughout the State.

The Clean Air Act Amendments (CAAA) of 1977 required States to go further than uniformly applied regulations. The CAAA of 1977 provided for the designation of areas within a State as "attainment" or "nonattainment." An "attainment" area meets NAAQS for one of six criteria pollutants: total suspended particulates, sulfur dioxide, ozone, carbon monoxide,

nitrogen dioxide and lead. A "nonattainment" area does not meet the NAAQS for one or more of these pollutants. The CAAA of 1977 also required states to adopt more stringent regulations, such as offsets and lowest achievable emission rate (LAER), for new pollution sources in nonattainment areas.

On July 23, 1980, and September 25, 1980, OEPA submitted its NSR plan designed to meet the nonattainment area requirements of title I, part D of the CAA. We conditionally approved this plan on October 31, 1980, 45 FR 72119 (codification corrected on December 17, 1980, at 45 FR 82927). The conditional approval required OEPA to submit a part D NSR plan which refined the criteria for permit issuance and assured that the requirements of CAA sections 172 and 173 were met.

To satisfy the conditional approval, OEPA submitted a request to incorporate revised regulations in the SIP on October 4, 1982, and January 24, 1993. These revised regulations sought to incorporate title 40, part 51, Appendix S of the Code of Federal Regulations (CFR) as the Ohio NSR plan. We granted only limited approval of the revised regulations on September 8, 1993 (58 FR 47214), stating that the regulations did not satisfy the nonattainment area planning requirements of part D.

The CAAA of 1990 imposed further NSR requirements for nonattainment areas. Pursuant to these latter amendments, OEPA submitted a request to revise the entire SIP package on August 20, 1993. We proposed to disapprove the SIP revision request on March 4, 1994, because it did not satisfy the part D requirements of the CAA (59 FR 10349). The final disapproval of the State request was published on September 21, 1994 (59 FR 48392).

OEPA submitted another SIP revision request on March 1, 1996. On April 22, 1996 (61 FR 17669), we proposed to conditionally approve the general and nonattainment provisions for the SIP. We stated that the proposed provisions were deficient for not providing a definition for "pollution control project," and that this deficiency had to be corrected for the nonattainment provisions to be fully approved. OEPA subsequently submitted a number of revisions to its request dated March 1, 1996, April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. These revisions provide general provisions (OAC 3745-31-01 to 3745-31-10) and nonattainment area provisions (OAC 3745-31-21 to 3745-31-27).

The CAA further requires that the public be given sufficient time to comment on a permit before the permit is issued. To meet this requirement, OEPA submitted an August 19, 1999, request for approval of the incorporation of Ohio Administrative Code (OAC) 3745-47-01, 3745-47-02, 3745-47-03, 3745-05, 3745-47-07, and 3745-47-08 (D) into the SIP. These rules provide public notice procedures for both attainment and nonattainment construction permits.

On February 21, 2002, EPA simultaneously published a proposed approval (61 FR 7996) and a direct final approval (61 FR 7954) of Ohio's submitted NSR SIP revisions. In the direct final rulemaking, we stated that if we received adverse comments by March 25, 2002, the direct final approval would be withdrawn. We did receive adverse comments, and therefore withdrew the rule on April 16, 2002 (67 FR 18497). The proposed approval remained in effect. Today we are following up on our proposed approval by addressing the adverse comments that we received and setting forth our final approval of Ohio's NSR rules under the Clean Air Act.

C. Are OEPA's Nonattainment NSR Rules Now Approvable?

OEPA's nonattainment NSR rules are now approvable because they fulfill the requirement set by the April 22, 1996, conditional approval: they provide a definition for "pollution control project" as required by 40 CFR 51.165(a)(1)(xxv). The submitted rules also satisfy the minimum Federal requirements for a nonattainment NSR program.

D. What Were the Adverse Comments, and How Does EPA Respond to Them?

Below we summarize the substantive comments pertaining to the submitted rules, and our responses to them:

(1) Before granting final approval of any Ohio rules, EPA should complete its review of Ohio's programs in response to the petitions for withdrawal or revocation of OEPA's authority. That EPA's August 30, 2001, draft report of its review cited problems with OEPA's implementation of PSD rules indicates that problems could develop in an NSR program that takes a larger role at OEPA.

Response: USEPA is currently reviewing OEPA's implementation of the delegated PSD program in response to a petition submitted by D. David Altman on behalf of Ohio Citizen Action, the Ohio Environmental Council, Rivers Unlimited, and the Ohio Sierra Club. EPA intends to address any potential need on OEPA's part to

improve implementation of its PSD rules through EPA's ongoing review of OEPA's program. See Draft Report on U.S. EPA Review of Ohio Environmental Programs, August 30, 2001, United States Environmental Protection Agency. Any concerns that USEPA finds as a result of this review will be addressed through the process of the aforementioned review.

Today's approval only addresses whether or not specific provisions of Ohio's administrative code meet the Federal CAA criteria for an NSR program, and does not address any issues regarding how the code is, or will be, applied or enforced by Ohio. We believe that the submitted rules meet the criteria for approval under the CAA and no particular findings or conclusions pertaining to the EPA petition review should be inferred from today's approval.

(2) The public participation process in Ohio is flawed, and should be corrected before approval of Ohio's rules.

Response: The submitted rules comply with Federal NSR requirements for public participation under the CAA. Any concerns, if any, that U.S. EPA may have with Ohio's public participation process under Ohio's PSD program will be addressed through the ongoing review of Ohio's program. See response to comment #1.

(3) The approval should be withheld because OEPA does not have a training program that ensures a minimum level of training and consistency across the state, and because it currently has a very high level of vacancies with no system in place to expeditiously fill those vacancies.

Response: The submitted rules comply with Federal NSR requirements under the CAA. Any concerns, if any, that U.S. EPA may have with the level of vacancies under Ohio's PSD program will be addressed through the ongoing review of Ohio's program. See response to comment #1.

(4) The approval would take OEPA's NSR permitting activities from Federal scrutiny and move appeal jurisdiction from EPA to OEPA. Such transitions remove Federal safety measures.

Response: Under the Clean Air Act, this approval will not change our level of scrutiny of OEPA's permitting activities. We will retain oversight over OEPA's NSR program, and will continue to require public involvement in the program. The approval will also have no effect on appeal jurisdiction because nonattainment-area permits can only be appealed through the State.

(5) The approval should incorporate by reference all currently outstanding SIP changes, rather than merely on the

March 1, 1996, revision request and several subsequent revisions.

Response: This final approval does not address SIP changes dated after August 19, 1999, because those changes have not been subjected to public notice. This approval only addresses the following: (1) All nonattainment NSR SIP changes dated on or before April 21, 1998, which were made available for public comment in the April 22, 1996, proposal for conditional approval and the February 21, 2002, proposed approval; (2) The August 19, 1999, SIP changes for public notice procedures pertaining to both attainment and nonattainment-area permits, which were made available for public comment in the February 21, 2002, proposed approval. For SIP changes dated after August 19, 1999, we will take a separate action to ensure that the public is given proper opportunity to comment on those changes.

(6) In the definition for "major stationary source," the submitted rules exclude pollutants regulated under CAA section 112 for attainment-area sources subject to 100-ton-per-year thresholds, while Federal regulations do not provide for such an exclusion.

Response: CAA section 112 is a separate program and is not regulated through NSR. NSR does not require the application of 100-ton-per-year thresholds to section 112 pollutants. In fact, CAA section 112(b)(6) prohibits the application of Prevention of Significant Deterioration (PSD) rules to the section 112 pollutants. Therefore, the rule that is the subject of this comment, OAC 3745-31-01 (SS), is consistent with the Federal definition.

(7) OEPA's definition for "major stationary source" is provided for attainment and nonattainment areas, but not for unclassified areas.

Response: As is inferred from the equal treatment of attainment and unclassified areas in 40 CFR 52.21(b)(14)(iii)(a), 52.21(b)(15)(i), and 52.21(i)(3), the Federal definition for "major stationary source" applies to unclassified areas and attainment areas equally. We interpret the submitted OEPA rule, OAC 3745-31-01 (SS), to carry the same inference. Therefore, "major stationary source" need not be defined separately for unclassified areas.

(8) In determining whether there has been a net emissions increase, the submitted rules limit the consideration of fugitive emissions to those source categories having 100-ton-per-year thresholds. The Federal regulations have no such limitation.

Response: We disagree that the Federal regulations have no such

limitation. Under 40 CFR 51.165(a)(1)(iv)(C) and 51.165(a)(4), State rules may exempt fugitive emissions from consideration for a major source or major modification unless the source belongs to one of the source categories having 100-ton-per-year thresholds or the source is subject to section 111 (New Source Performance Standards) and section 112 (National Emissions Standards for Hazardous Air Pollutants) of the Clean Air Act. The Ohio rule, OAC 3745-31-01 (RR) is consistent with the Federal rules.

(9) In the submitted rules, the use of alternative fuel or raw material is exempted from the definition of "major modification" if the source was capable of accommodating it before December 21, 1976. It also exempts emission increases caused by increases in hours of operation or production rate if those increases were not prohibited by a Federally enforceable permit condition established after December 21, 1976. However, the Federal regulations set the critical date for both of these exemptions at January 6, 1975, not December 21, 1976.

Response: This comment refers to the Federal PSD rules at 40 CFR 51.166(a)(2)(iii)(e)-(f), which apply the January 6, 1975 date. The PSD rules are not relevant to today's approval, which addresses general and nonattainment NSR provisions. The submitted rule, OAC 3745-31-01(RR)(5)(a), applies the December 21, 1976, date required by the nonattainment NSR rules at 51.165(a)(1)(v)(C)(5)-(6). Therefore, the Ohio rule is consistent with the Federal rule.

(10) In the definition for "major modification," the submitted rules state that alternative fuel or raw material can be used as long as "the stationary source is approved to use under any permit issued under this ruling." The "ruling" to which this sentence refers to is unclear.

Response: We disagree that the word "ruling" is unclear in OAC 3745-31-01(RR)(5)(b). In the context of the definition, "ruling" refers to a permit issued under Ohio's SIP.

(11) The Federal definition for "net emissions increase" provides that an increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. OEPA's version of this definition, however, restricts only the consideration of sulfur dioxide and particulate matter (leaving out nitrogen oxides).

Response: This comment relates to maximum allowable increases and baseline dates, which do not apply to the nonattainment rules we are approving. They apply, instead, to the Ohio attainment rules which were conditionally approved on October 10, 2001 (66 FR 51570). Offsets, not maximum allowable increases, govern nonattainment areas.

(12) OEPA's definition for "net emissions increase" fails to specify that only PM-10 emissions can be used to evaluate the net increases for PM-10.

Response: We believe that it is inherent in this rule, OAC 3745-31-01(Y), that only PM-10 emissions can be used to evaluate net PM-10 increases. Ohio's rules distinctly set out the definitions and measuring procedures of particulate matter and PM-10 at OAC 3745-17. (The rules use the term "total suspended particulates" for PM-10.) The distinctions drawn in those rules apply to the definition of "net emissions increase." Therefore, we do not believe that the definition needs further clarification.

(13) OEPA's definition for "emissions unit" is made unclear by the sentence "This term does not include operations or activities that emit air pollutants regulated under State law but are not regulated under the Clean Air Act."

Response: We disagree that the definition for "emissions unit" is unclear at OAC 3745-31-01(AA). Under the submitted rule, any operation or activity that emits air pollutants regulated under the CAA is an "emissions unit." The clarifying sentence serves to distinguish CAA-regulated emissions units from those regulated only under State laws.

(14) The Federal definition of Best Available Control Technology specifically includes "fuel cleaning or treatment or innovative fuel combustion techniques," but OEPA's definition lists only "fuel combustion techniques."

Response: We interpret Best Available Control Technology (BACT) requirements to apply to any aspect of fuel combustion, cleaning, or treatment that affects emissions, and do not feel that the clause "including fuel combustion techniques" at OAC 3745-31-01(M) excludes any aspect of BACT. The clause does not preclude technologies beyond fuel combustion techniques because it is not all-inclusive. Therefore, the submitted rule is not limiting.

(15) The Federal definition of "clean coal technology" restricts it to the generation of electricity or process steam. Ohio's definition includes, in addition, "industrial products," which

is an expansion beyond the Federal standard.

Response: We do not anticipate that Ohio's definition at OAC 3745-31-01(O) will be applied to any product or process that the Federal definition was not intended to cover. Nevertheless, we will advise OEPA to change its definition to match the Federal definition. We do not feel that the minor difference between the definitions warrants disapproval.

E. What Is Today's Action?

In this rule, EPA approves OEPA's requests for additions and revisions to OAC 3745-31-21 to 3745-31-27 submitted on March 1, 1996, April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. EPA also approves OEPA's August 19, 1999, request for additions to OAC 3745-47-01, 3745-47-02, 3745-47-03, 3745-05, 3745-47-07, and 3745-47-08 (D). EPA will take action on any subsequently submitted revision requests at a later time.

Today's action will take effect immediately upon publication as provided for by the good cause exemption of section 553 (d)(1) of the Administrative Procedure Act. This approval is a substantive rule that relieves a restriction on Ohio: sanctions would be imposed on Ohio if the SIP continued to lack nonattainment NSR provisions.

Recently, EPA announced new regulations regarding changes to the New Source Review Program through efforts under "New Source Review Reform". See <http://www.epa.gov/nsr/>. Today's approval of Ohio's NSR SIP submission does not address EPA's new rules but is limited to portions of Ohio's program under prior existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any new requirements that EPA may promulgate as part of New Source Review Reform.

F. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(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 March 11, 2003. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 23, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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—*et seq.*

Subpart KK—Ohio

2. Section 52.1870 is amended by adding (c)(126) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(126) On March 1, 1996, and several subsequent dates, Ohio submitted revisions to its Permit to Install rules as

a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Ohio Administrative Code (OAC) Rule 3745-31-21, effective April 27, 1998; OAC Rules 3745-31-22 through 3745-31-27, effective April 12, 1996; OAC Rules 3745-47-01, 3745-47-2, and 3745-47-03, effective June 30, 1981; OAC Rule 3745-47-05, effective June 30, 1981; OAC Rule 3745-47-07, effective June 30, 1981; and OAC Rule 3745-47-08(D), effective August 10, 1999.

[FR Doc. 03-336 Filed 1-9-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[IN148-1a; FRL-7436-2]

Redesignation and Approval and Promulgation of Indiana Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is redesignating Lake County, Indiana, to attainment for particulate matter with a nominal aerodynamic diameter of 10 microns or less (PM₁₀). EPA also approves Indiana's plan for continuing to attain the PM₁₀ standards. Indiana requested these actions on September 25, 2002. In taking this action, EPA concludes that this area is meeting the national standards for PM₁₀ and has acceptable plans for assuring continued attainment.

DATES: This rule is effective on March 11, 2003, unless the EPA receives relevant adverse written comments by February 10, 2003. If EPA receives adverse comment, we will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at (312) 886-6067 before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

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

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. Review of Redesignation Request

A. Background

B. Review Under Statutory Criteria

1. Has the Area Attained the Standards?
2. Has EPA Fully Approved the Applicable Implementation Plan?
3. Is Attainment Due to Permanent and Enforceable Emission Reductions?
4. Does the Maintenance Plan Assure Continued Attainment?
5. Has the State Met the Requirements of Section 110 and Part D?

II. Rulemaking Action

III. Administrative Requirements

I. Review of Redesignation Request

A. Background

On November 6, 1991, EPA published a nonattainment designation for northern Lake County for the PM₁₀ standards as given in Title 40 of the Code of Federal Regulations § 50.6 (40 CFR 50.6).¹ (See designations in 40 CFR 81.315.) These standards include a standard for annual average concentrations and a standard for 24-hour average concentrations. The area designated nonattainment included the cities of Gary, East Chicago, Hammond, and Whiting. On September 25, 2002, Indiana requested that the PM₁₀ designation in 40 CFR 81.315 for this area in Lake County be changed from nonattainment to attainment. Included with this request were a summary of relevant air quality data, evidence of the opportunity for public review of this request (including a public hearing held July 18, 2002), and a discussion of how the various criteria for redesignation have been met.

Statutory criteria for redesignations from nonattainment to attainment are given in section 107(d)(3)(E) of the Clean Air Act. EPA may not promulgate such a redesignation unless: (i) The area has attained the applicable air quality standards, (ii) the area has a fully approved State Implementation Plan (SIP) under section 110(k) of the Act,

¹ EPA also set revised standards for PM₁₀ as well as new standards for particles nominally 2.5 microns and smaller (PM_{2.5}), promulgated on July 18, 1997, and codified at 40 CFR 50.7. However, the Circuit Court of Appeals for the District of Columbia vacated the revised PM₁₀ standards (*American Trucking Assoc. v. EPA*, 175 F.3d 1027). EPA has not promulgated designations for the revised PM₁₀ standards. Today's action addresses the 1987 PM₁₀ standards in 40 CFR 50.6, for which designations remain in effect in 40 CFR part 81.