federal register

Tuesday
April 28, 1992

Part VII

Environmental Protection Agency

40 CFR Part 52

State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-4127-1]

State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental

AGENCY: Environmental Protection Agency (EPA).

ACTION: General Preamble for future proposed rulemakings; Appendices.

SUMMARY: The EPA published a General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990 on April 16, 1992 (57 FR 13498). This document describes EPA's preliminary views on how EPA should interpret various provisions of title I of the Clean Air Act Amendments of 1990, primarily those concerning State implementation plan (SIP) revisions required for nonattainment areas. It serves as advance notice of how EPA generally intends, in subsequent rulemakings, to take action on SIP submissions.

The appendices to the General Preamble were inadvertently omitted. The appendices contain important support materials that are referenced throughout the General Preamble. Therefore, this notice, containing the aforementioned appendices, serves as a supplement to the General Preamble and should be considered as such.

FOR FURTHER INFORMATION CONTACT: Mr. Brock Nicholson, Chief, Policy Development Section, Ozone/CO Programs Branch (MD-15) at (919) 541-5517, for issues related to ozone or carbon monoxide; Mr. Eric Ginsburg at (919) 541-0877, Sulfur Dioxide/Particulate Matter Programs Branch (MD-15), for issues related to sulfur dioxide, particulate matter, or lead; Mr. Gary McCutchen at (919) 541-5592, Permits Programs Branch (MD-15), for issues related to new source review, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Ms. Paula Van Lare at (202) 260-3450 for issues related to mobile sources, 401 M Street, SW, Washington, DC 20460.

ADDRESSES: The appendices are also in Air Docket A-91-35, at 401 M Street, SW, Washington, DC.

Dated: April 21, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

Appendix A—Glossary

ACT = alternative control technique
AVO = average vehicle occupancy
BACM = best available control measures
BACT = best available control technology
CAA = Clean Air Act
CAAA = Clean Air Act Amendments
CARB = California Air Resources Board
CEMS = continuous emission monitoring system
CO = carbon monoxide
CPM = condensible particulate matter
CTG = control technique guideline
DOI = Department of the Interior
DOT = Department of Transportation
EKMA = Empirical Kinetic Modeling Approach
ERC = emission reduction credits
ETC = employer transportation coordinator
ETPS = Emission Trading Policy Statement
FIP = Federal Implementation Plan
FMVCP = Federal Motor Vehicle Control Program
FR = **Federal Register**
GVWR = Gross Vehicle Weight Rating
HC = hydrocarbons
I/M = inspection and maintenance
IPP = inventory preparation plan
LAER = lowest achievable emission rate
MMS = Minerals Management Service
MSA/CMSA = metropolitan statistical area/consolidated metropolitan statistical area
NAAQS = national ambient air quality standards
NAS = National Academy of Sciences
NO_2 = Nitrogen dioxide
NO_x = nitrogen oxides
NSPS = new source performance standard
NSR = New Source Review
OCS = outer continental shelf
PSD = prevention of significant deterioration
psi = pounds per square inch
RACM = reasonably available control measures
RACT = reasonably available control technology
RFP = reasonable further progress
RTA = rural transport area
RVP = Reid vapor pressure
SCAQMD = South Coast Air Quality Management District
SO_2 = sulfur dioxide
SIP = State implementation plan
TCM = transportation control measures
TSP = total suspended particulate (matter)
VOC = volatile organic compound
VMT = vehicle miles traveled

Appendix B—Bibliography and Cited References

To obtain copies of OAQPS documents, contact the EPA Library, (919) 541-5514; (FTS) 629-5514. For OMS publications, please contact Mark Wolcott, (313) 668-4219; (FTS) 374-8219.

SIP Inventory Guidance/Requirements

"Procedures for Preparing Emissions Projections," EPA-450/4-91-019, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 1991.

"Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources," EPA-450/4-81-026d, U.S. Environmental Protection Agency, Office of Mobile Sources, Ann Arbor, MI, July 1991. (also listed below under General Inventory Guidance).

"Procedures for the Preparation of Emissions Inventories for Carbon Monoxide and Precursors of Ozone, Volume I", EPA-450/4-91-016, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, May 1991.

"Procedures for the Preparation of Emissions Inventories for Carbon Monoxide and Precursors of Ozone, Volume II: Emission Inventory Requirements for Photochemical Air Quality Simulation Models," EPA-450/4-91-014, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, May 1991.

"Emission Inventory Requirements for Ozone State Implementation Plans," EPA-450/4-91-010, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, March 1991.

"Emission Inventory Requirements for Carbon Monoxide State Implementation Plans," EPA-450/4-91-011, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, March 1991.

"SIP Air Pollutant Inventory Management System (SAMS) Version 4.0 and SAMS User's Manual," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991.

"Example Emission Inventory Documentation for Post-1987 Ozone State Implementation Plans (SIPs)," EPA-450/4-89-018, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, October 1989.

"Procedures for Estimating and Applying Rule Effectiveness in Post-1987 Base Year Emission Inventories for Ozone and Carbon Monoxide State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, June 1989.

Quality Assurance/Inventory Review Guidance

"Quality Review Guidelines for Post-1987 State Implementation Plan (SIP) Base Year Emission Inventories (Draft)," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, February 1990. (Final version to be completed in August 1991.)

"Guidance for the Preparation of Quality Assurance Plans for O_3/CO SIP Emission Inventories," EPA-450/4-88-023, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, December 1988.

General Inventory Guidance

"Procedures for Emission Inventory Preparation," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC:

a. "Volume I: Emission Inventory Fundamentals," EPA-450/4-81-026a, September 1981.

b. "Volume II: Point Sources," EPA-450/4-81-026b, September 1981.

c. "Volume III: Area Sources," EPA-450/4-81-026c, September 1981.

d. "Volume IV: Mobile Sources," EPA-450/4-81-026d (Revised), July 1981.

e. "Volume V: Bibliography," EPA-450/4-81-026e, September 1981.

Emission Factors/Models

"Personal Computer Version of the Biogenic Emissions Inventory System (PC-BEIS) With User's Guide," EPA-450/4-91-017, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 1991.

"User's Guide to MOBILE4 (Mobile Source Emission Factor Model)," EPA-AA-TEB-89-01, U.S. Environmental Protection Agency, Office of Mobile Sources, Ann Arbor, MI, February 1989. (Revised version of MOBILE4 and documentation to be completed in July 1991.)

"Surface Impoundment Modeling System (SIMS) Version 2.0 User's Manual," EPA-450/4-90-019a, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 1990.

"Background Document for Surface Impoundment Modeling System (SIMS) Version 2.0, EPA-450/4-90-019b," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 1990.

"AIRS Facility Subsystem Source Classification Codes (SCCs) and Emission Factor Listing for Criteria Pollutants," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 1989.

"Compilation of Air Pollutant Emission Factors, Volumes I and II and its supplements, Fourth Edition," AP-42, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, September 1985.

Citations and Guidance for SIP Corrections

"Guidance Document for Correction of Part D SIP's for Nonattainment Areas," EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC, January 27, 1984.

Citations and Guidance for PM-10

"Assessment of the Controllability of Condensible Particulate Matter," EPA-600/8-90-75, October 1990.

"Procedures for Estimating Probability of Nonattainment of a PM-10 NAAQS Using Total Suspended Particulate of PM-10 Data," EPA-450/4-86-017, December 1986.

"PM-10 SIP Development Guideline," June 1987.

"Control of Open Fugitive Dust Sources," EPA-450/3-88-008, September 1988.

"Guidance Document for Residential Wood Combustion Emission Control Measures," EPA-450/2-89-015, September 1989.

"Prescribed Fire Smoke Management Guide," NFES No. 1279, February 1985.

"Prescribed Fire Plan Guide," NFES No. 1939, August 1986.

Citations and Guidance for SO_2

"SO_2 Guideline," EPA-450/2-89-019.

"SO_2 Guideline Appendices," EPA-450/2-89-019, October 1989.

"Letter from William Reilly to Representative John Dingell, In Response to questions and GAO report," April 10, 1991.

Citations and Guidance for Lead

"Updated information on Approval and Promulgation of Lead Implementation Plans," U.S. Environmental Protection Agency, Research Triangle Park, NC, July 1983.

"Guideline Series, Development of an Example Control Strategy for Lead," EPA-450/2-79-002, April 1979.

"Guideline Series, Supplementary Guideline for Lead Implementation Plans," EPA-450/2-78-038, August 1978.

Modeling Guidance

"UAM Applications Guidance," May 1991.

"User's Guide for the Urban Airshed Model, Vol. 4," EPA-450/4-90-007D, June 1990.

"Guidance on Air Quality Models (Revised)," EPA-450/2-78-027R, July 1986.

"Interim Procedures for Evaluating Air Quality Models: Experience with Implementation," EPA 450/4-85-006, July 1985.

New Source Review Guidance

"New Source Review Prevention of Significant Deterioration and Nonattainment Area Guidance Notebook," January 1988.

"Draft Workshop Manual for New Source Review (NSR) Programs," December 1990.

Miscellaneous Guidance

"Criteria for Assessing the Role of Transport of Ozone/Precursors in Ozone Nonattainment Areas," U.S. Environmental Protection Agency, Research Triangle Park, NC, EPA-450/4-91-015).

"Enforcement Guidance for Stage II Vehicle Refueling Control Programs," December 1991.

"Getting Started on Title I," U.S. Environmental Protection Agency, OAQPS, Research Triangle Park, NC., April 1991.

"Issues Relating to VOC Regulations, Cutpoints, Deficiencies, and Deviations," Clarification to Appendix D of November 24, 1987 FR (Blue Book, revised January 11, 1990), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, AQMD, May 25, 1988.

"Protocols: Can Coaters, 45FR (December 8, 1988) + Topcoaters," EPA-450/3-88-018 (December 1988).

"Technical Guidance—Stage II Vapor Recovery System for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities," Volume 1, November 1991.

Memoranda

Memorandum from William Laxton, Director, Technical Support Division, to Regional Air Division Directors, "Guidance for Determining Significant Stationary Sources of Carbon Monoxide," May 13, 1991.

Memorandum from John Seitz, OAQPS to Air Division Director, Regions I-X, "New Source Review (NSR) Program Transitional Guidance," March 11, 1991.

Memorandum from John Calcagni and William Laxton, "Interim Guidance on Emission Limits and Stack Test Methods for Inclusion in PM-10 SIP's," December 24, 1990.

Memorandum from Robert Bauman and Rich Biondi to Air Branch Chiefs, "SO_2 SIP Deficiency Checklist," November 26, 1990.

Memorandum from Joseph Tikvart and Robert Bauman concerning modeling guidelines addressing PM-10, dated July 15, 1990.

Memorandum from William Laxton, Director, Technical Support Division, to Regional Air Division Directors, "Ozone and Carbon Dioxide Design Value Calculations," June 18, 1990.

Memorandum from Craig J. Potter, "Interim Policy on Stack Height Regulatory Actions," April 22, 1988.

Memorandum from Gerald A. Emison, Director, OAQPS, to Regional Air Division Directors, "Transmittal of Reissued OAQPS CEMS Policy," March 31, 1988.

Memorandum from John Seitz, Director, Stationary Source Compliance Division, to Regional Air Division Directors, "Implementation of Rule Effectiveness Studies," March 31, 1988.

Memorandum from Craig Potter, Thomas Adams, and Francis Blake to Regional Air Division Directors, "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," September 23, 1987.

Memorandum from Gerald Emison, Director, OAQPS, to David Kee, Director, Air Management Division, Region V, "Need for a Short-Term BACT Analysis for the Proposed William A. Zimmer Power Plant," November 24, 1986.

Memorandum from Richard Rhoads, Director CPDD, to Division Directors, Regions I-X, "Growth Restrictions in Secondary NAAQS Nonattainment Areas," October 28, 1980.

Memorandum from R. Strelow to RA's Region I-X, "Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas," December 9, 1976.

Federal Register Citations

44 FR 20372, April 4, 1979.
44 FR 20375, April 4, 1979.
44 FR 53762, September 17, 1979.
44 FR 53769, September 17, 1979.
44 FR 53791, September 17, 1979.
45 FR 52676, August 7, 1980.
46 FR 7182, January 21, 1981.
46 FR 7187, January 22, 1981.
51 FR 43812, December 4, 1986.
51 FR 43814, December 4, 1986.
51 FR 43832, December 4, 1986.
52 FR 29363, August 7, 1987.
52 FR 45044, November 24, 1987.
53 FR 34500, September 7, 1988.
54 FR 612, January 9, 1989.
55 FR 30973, July 30, 1990.
55 FR 41546, October 12, 1990.
55 FR 41547, October 12, 1990.
55 FR 45799, October 31, 1990.
56 FR 5460, February 11, 1991.
56 FR 11101, March 15, 1991.
56 FR 16274, April 12, 1991.
56 FR 23826, May 24, 1991.
56 FR 27257, June 13, 1991.
56 FR 27603, June 14, 1991.
56 FR 31151, July 9, 1991.
56 FR 31154, July 19, 1991.
56 FR 37654, August 8, 1991.
56 FR 43593, September 3, 1991.
56 FR 54554, October 22, 1991.
56 FR 56694, November 6, 1991.
56 FR 58656, November 21, 1991

Code of Federal Regulations Citations

40 CFR 50.8.
40 CFR 50.9 Appendix H.
40 CFR 50.9.
40 CFR Part 51.
40 CFR Part 51 Appendix M
40 CFR Part 51 Appendix S.
40 CFR 51.100(o).
40 CFR 51.110(c)(1).
40 CFR 51.117.
40 CFR 51.165.
40 CFR 51.166.
40 CFR 51.340 (Subpart R).
40 CFR Part 52.
40 CFR 52.10.
40 CFR 52.21.
40 CFR 52.24.
40 CFR Part 55.
40 CFR Part 58.
40 CFR Part 60.
40 CFR Part 60 Subpart Da.
40 CFR Part 81.

Appellate Court Citations

Alabama Power Company v. Costle, 636 F.2d 323, 360-61, 404-05 (D.C. Cir. 1980).

NRDC v. Thomas, 838 F.2d 1224, (D.C. Cir. 1988), Cert. denied, 109 S.Ct. 219 (1988).

Delaney v. EPA, 898 F.2d 687, 136 Cong. Rec. S16971 (October 27, 1990).

House of Representatives Reports

H.R. Rep. No. 490, 101st Congress, 2nd Session, pt. 1 at 204, 239, 242, 257, 258, 267, 268, and 381.

Appendix C1—Available Fugitive Dust Control Measures

Background

The available control measures listed below apply to all fugitive dust sources except those to which only available control technology is applicable (i.e., process fugitive dust associated with stationary sources). Fugitive dust is particulate matter suspended in the air either by mechanical disturbance of the surface material or by wind action blowing across the surface. Mechanical disturbance includes resuspension of particles from vehicles traveling over roadways, parking lots, and other open areas. Wind action includes dust blown off inadequately stabilized open areas. The quantity of fugitive dust emissions is dependent upon several factors such as the size of the source, emission rate, and control efficiency. The Environmental Protection Agency's (EPA) policy is to reduce fugitive dust emissions, with an emphasis on preventing, rather than mitigating, them. For example, past efforts to control emissions from paved roads have usually relied on street cleaning to reduce silt loading. The new approach would put a higher priority on measures to prevent silt from getting on the road surface. Mitigative measures should be reserved for those areas/situations where prevention is not feasible. Technical guidance on fugitive dust control measures is found in *Control of Open Fugitive Dust Sources* (EPA-450/3-88-008 September, 1988).

List of Available Control Measures

1. Pave, vegetate, or chemically stabilize access points where unpaved traffic surfaces adjoin paved roads.

2. Require dust control plans for construction or land clearing projects.

3. Require haul trucks to be covered.

4. Provide for traffic rerouting or rapid clean up of temporary (and not readily preventable) sources of dust on paved roads (water erosion runoff, mud/dirt carryout areas, material spills, skid control sand). Delineate who is responsible for cleanup.

5. Require paving, chemically stabilizing, or otherwise stabilizing permanent unpaved haul roads, and parking or staging areas at commercial, municipal, or industrial facilities.

6. Develop traffic reduction plans for unpaved roads. Use of speed bumps, low speed limits, etc., to encourage use of other (paved) roads.

7. Limit use of recreational vehicles on open land (e.g., confine operations to specific areas, require use permits, outright ban).

8. Require improved material specification for and reduction of usage of skid control sand or salt (e.g., require use of coarse, nonfriable material during snow and ice season).

9. Require curbing and pave or stabilize (chemically or with vegetation) shoulders of paved roads.

10. Pave or chemically stabilize unpaved roads.

11. Pave, vegetate, or chemically stabilize unpaved parking areas.

12. Establish dust control measures for material storage piles.

13. Provide for storm water drainage to prevent water erosion onto paved roads.

14. Require vegetation, chemical stabilization, or other abatement of wind erodible soil, including lands subjected to water mining, abandoned farms, and abandoned construction sites.

15. Rely upon the soil conservation requirements (e.g., conservation plans, conservation reserve) of the Food Security Act to reduce emissions from agricultural operations.

Appendix C2—Available Residential Wood Combustion Control Measures

Background

Wood smoke from residential wood stoves and fireplaces is a significant source of PM-10 pollution in some areas in the western United States that do not attain the PM-10 ambient air quality standards. For example, in some mountain communities, atmospheric inversions can trap wood smoke particulates in valleys and cause PM-10 concentrations to reach levels well in excess of the standards.

The U.S. EPA's new source performance standard (53 FR 5860, February 26, 1988) is a long-term strategy designed to improve the performance of wood burning devices nationwide. The EPA believes that this standard alone, though, may not result in attainment of the PM-10 air quality standards in areas affected by wood smoke. Additional available control measures are listed below. They are intended to (1) reduce emissions from current stoves through inspections, education, and shifting to cleaner stoves or fuel; (2) curtail the use of wood stoves or fireplaces during adverse meteorological conditions; and (3) limit future growth in emissions. Additional guidance on these measures is contained in EPA-450/2-89-015 (September 1989), *Guidance Document for Residential Wood Combustion Emission Control Measures*. Nothing in this document prevents a State implementation plan (SIP) in a moderate PM-10 nonattainment area from containing control measures more stringent than RACM.

List of Available Control Measures

1. Establish an episode curtailment program, including: A curtailment plan; a communication strategy to implement the plan; a surveillance plan (e.g., "windshield" survey, opacity trigger); and enforcement provisions including procedures, penalties, and exemptions). A voluntary program will be deemed reasonable if the area demonstrates attainment.

2. Establish a public information program to inform and educate citizens about stove sizing, installation, proper operation and maintenance, general health risks of wood smoke, new technology stoves, and alternatives to wood heating.

3. Encourage improved performance of woodburning devices by:

—Establishing a program to identify, through opacity observation, deficiencies in stove operation and maintenance. (Under such a program, advice and assistance should be provided to the identified households to help reduce visible emissions from their devices.)
—Providing voluntary dryness certification programs for dealers and/or making free or inexpensive wood moisture checks available to burners.
—Evaluating and encouraging, as appropriate, the accelerated changeover of existing devices to new source performance standard or other clean burning new or existing technology stoves (e.g., hybrid designs, pellet stoves) by such approaches as subsidized stove purchases tax credits, or other incentives.

4. Provide inducements that would lead to reductions in the stove and fireplace population (or use) by:

—Slowing the growth of woodburning devices in new housing units by taxes, installation permit fees, or other disincentives.
—Encouraging a reduction in the number of woodburning devices (i.e., removing or disabling the devices) through tax credits or other incentives.
—Discouraging the resale of used stoves through taxes, fees, or other disincentives.
—Discouraging the availability of free (or very inexpensive) firewood by increasing cutting fees or limiting the cutting season.

Appendix C3—Prescribed Burning Control Measures

Background

Prescribed burning, including silvicultural and agricultural burning, is a contributor to PM-10 nonattainment in some regions. In many cases, well-established smoke management approaches are not being followed, resulting in avoidable air quality problems. The EPA has been working closely with the National Wildfire Coordinating Group (NWCG) to develop appropriate

guidance. The objective is to establish smoke management (SM) programs in these areas which constitute reasonably available control measures (RACM), and reduce population exposure to smoke from prescribed burning, while assuring that resource management goals are met.

States should address emissions from prescribed burning in a manner that balances natural resource, agricultural, and other burning objectives with air quality goals and objectives, by utilizing a smoke management program as described in the NWCG's Prescribed Fire Smoke Management Guide (NFES No. 1279, February 1985) and the Prescribed Fire Plan Guide (NFES No. 1939, August 1988), publications of the Boise (Idaho) Interagency Fire Center.

The scope of a SM program should reflect the specific conditions and requirements of a local area. Existing programs may be adequate in many cases and in other cases may provide a basis for developing a refined program. Smoke management should encourage the cooperative efforts of local, State, Federal, and private land managers. Emphasis should be on conducting burns under an established planning process.

For the purpose of PM-10 SIP development, the term prescribed burning includes all open burning of vegetative matter. This includes both planned ignition and prescribed natural fire. Nothing in a SM program constituting RACM is intended to influence vegetation management or fire suppression practices so as to increase the potential for wildfire to the point that natural resources or public safety are compromised.

The EPA believes it is reasonable that a SM program apply in those moderate PM-10 nonattainment areas where it has been shown, through monitoring, modeling, or other analysis, that prescribed burning can or does contribute to violations of the PM-10 national ambient air quality standards (NAAQS). The SM program should also apply to areas outside of the nonattainment area if it is shown that prescribed burning outside of the nonattainment area can or does contribute to NAAQS violations. The prescribed burning control measures reasonably may be limited only to the season(s) when high ambient PM-10 concentrations occur, if it can be shown that the annual PM-10 NAAQS is not violated. *See* H.R. Rep. No. 490, 101st Cong., 2d Sess. 268-269 (1990).

Source categories (e.g., burning of fencelines, ditch banks, small brush piles, small prescribed natural burns, garden plots) may not be reasonably controlled where their impact is de minimis based on consideration of their collective influence on PM-10 emissions, their duration, season, and proximity to potentially affected populations.

An SM program should consist of at least the following components:

Smoke Dispersion Evaluation

As a minimum, the program should use National Weather Service forecasts or other meteorological analyses to determine when meteorological conditions are favorable or unfavorable for dispersion and transport of smoke (i.e., "burn days," "no burn days").

Burn Planning, Authorization, and Administration

The smoke management program should provide a process (e.g., telephone call-in) for receiving burn requests, evaluating requests and granting approval for burns. Approval of a burn should be based on an evaluation of the airshed's capacity/capability to disperse emissions on allowable burn days so that the cumulative emissions from all burns and other sources in the airshed will not cause or contribute to violations of the PM-10 NAAQS. The approval to burn on a burn day should be equitably divided among all categories of burners requesting approval to burn while accommodating the "incentives" specified elsewhere in this policy.

Requirements for Ensuring Burner Qualifications

Voluntary training in smoke management techniques should be reasonably available for all burners. The program should include incentives for burners who complete the voluntary training (e.g., priority for approval to burn on "burn days").

Public Education and Awareness

Information programs on the nature of and reasons for smoke management should be periodically presented to the public (e.g., public service announcements, newspaper articles).

Surveillance and Enforcement

The SM program should rely on routine PM-10 monitoring, and/or modeling supplemented by periodic visual assessments of the effectiveness of the dispersion evaluation program. The existing PM-10 monitoring network should be evaluated for its ability to provide information on the effectiveness of the SM program as applied to burning conducted in and near the nonattainment area. The network should be modified as appropriate. The program should also provide a process for documenting and following up on public complaints and should provide for and levy fines against burners who violate any of its mandatory requirements.

Emission Inventories and Emission Efforts

States should develop and maintain an emission inventory for prescribed burning and all burns should be categorized as to their purpose. Documentation of the size, date, purpose, and emission reduction measures used should be submitted following each large burn. Emission reduction techniques (e.g., mass ignition, rapid mop-up) should be encouraged and incentives (e.g., priority for approval to burn on "burn days") should be offered for demonstrated emission reduction efforts, including the use of alternatives to burning, provided that such incentives can be utilized without compromising resource management objectives.

State Oversight

The relationship of the State air pollution agency with other State agencies to which management of the SM program may have been delegated will need to be determined on a State-by-State basis. Nevertheless, State rules and regulations should be enacted in such a manner that all provisions of the SM program are enforceable by the State through its State implementation plan. Generally, memorandums of understanding should be utilized to clearly specify working relationships among agencies.

Appendix C4—RACT Determinations for Stationary Sources

Background

Congress has for the second time in amending the Clean Air Act (Act) specifically required that reasonable available control technology (RACT) be applied to existing stationary sources in nonattainment areas. In section 172(b)(3) of the Act, as amended in 1977, Congress specified that nonattainment area plans were to "require, * * *, reasonable further progress * * * including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT was required in SIP's developed for areas that were designated nonattainment for total suspended particulate matter. Now, in section 172(c)(1) of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990 (Nonattainment Plan Provisions—In General), Congress again requires that nonattainment area plans provide for "* * * such reductions in emissions from existing sources in the (nonattainment) area as may be obtained through the adoption, at a minimum, of reasonably available control technology." Thus, RACT is now required for PM-10 nonattainment area SIP's.

The EPA recommends that the RACT for a particular source continues to be determined on a case-by-case basis considering the technological and economic feasibility of reducing emissions from that source (through process changes or add-on control technology). The following technological and economic parameters should be considered in determining RACT for a particular source.

Technological Feasibility

The technological feasibility of applying an emission reduction method to a particular source should consider the source's process and operating procedures, raw materials, physical plant layout, and any other environmental impacts such as water pollution, waste disposal, and energy requirements. The process, operating procedures, and raw materials used by a source can affect the feasibility of implementing process changes that reduce emissions and the selection of add-on emission control equipment. The operation of and longevity of control equipment can be significantly influenced by the raw materials used and the process to which it is applied. The feasibility of modifying processes or applying control equipment is also influenced by the physical layout of the particular plant. The space available in which to implement such changes may limit the choices and will also affect the costs of control.

Reducing air emissions may not justify adversely affecting other resources by increasing pollution of bodies of water, creating additional solid waste disposal

problems or creating excessive energy demands. (An otherwise available PM–10 control technology may not be reasonable if these other environmental impacts cannot reasonably be mitigated.) For analytic purposes, a State may consider a PM–10 control measure technologically infeasible if, considering the availability (and cost) of mitigative adverse impacts of that control on other pollution media, the control would not, in the State's reasoned judgment, provide a net environmental benefit. In many instances, however, PM–10 control technologies have known energy penalties and adverse effects on other media, but such effects and the cost of their mitigation are also known and have been borne by owners of existing sources in numerous cases. Such well-established adverse effects and their costs are normal and assumed to be reasonable and should not, in most cases, justify nonuse of the PM–10 control technology. The costs of preventing adverse water, solid waste and energy impacts will also influence the economic feasibility of the PM–10 control technology.

Alternative approaches to reducing emissions of particulate matter including PM–10 are discussed in Control Techniques for Particulate Emissions from Stationary Sources—Volume I (EPA–450/3–81–005a) and Volume II (EPA–450/3–81–005b), September 1982. The design, operation and maintenance of general particulate matter control systems such as mechanical collectors, electrostatic precipitators, fabric filters, and wet scrubbers are discussed in Volume I. The collection efficiency of each system is discussed as a function of particle size. Information is also presented regarding energy and environmental considerations and procedures for estimating costs of particulate matter control equipment. The emission characteristics and control technologies applicable to specific source categories are discussed in Volume II. Secondary environmental impacts are also discussed.

Additional sources of information on control technology are background information documents for new source performance standards and Identification, Assessment, and Control of Fugitive Particulate Emissions, EPA–600/8–86–023, August 1986.

In some instances, control technologies more modern or more advanced than those described in the documents referenced may exist. In such cases, the State's RACT analysis for a source should consider such available technology.

Economic Feasibility

Economic feasibility considers the cost of reducing emissions and the difference in costs between the particular source and other similar sources that have implemented emission reduction. As discussed above, EPA presumes that it is reasonable for similar sources to bear similar costs of emission reductions. Economic feasibility rests very little on the ability of a particular source to "afford" to reduce emissions to the level of similar sources. Less efficient sources would be rewarded by having to bear lower emission reduction costs if affordability were given high consideration. Rather, economic feasibility for RACT purposes is largely determined by evidence that other sources in a source category have in fact applied the control technology in question.

The capital costs, annualized costs, and cost effectiveness of an emission reduction technology should be considered in determining its economic feasibility. The OAQPS Control Cost Manual, Fourth Edition, EPA–450/3–90–006, January 1990, describes procedures for determining these costs. The above costs should be determined for all technologically feasible emission reduction options.

States may give substantial weight to cost effectiveness in evaluating the economic feasibility of an emission reduction technology. The cost effectiveness of a technology is its annualized cost ($/year) divided by the amount of PM–10 emission reduction (i.e., tons/year) which yields a cost per amount of emission reduction ($/ton). Cost effectiveness provides a value for each emission reduction option that is comparable with other options and other facilities.

If a company contends that it cannot afford the technology that appears to be RACT for that source or group of sources, the claim should be supported with such information as the impact on:

1. Fixed and variable production costs ($/unit),
2. Product supply and demand elasticity,
3. Product prices (cost absorption vs. cost pass-through),
4. Expected costs incurred by competitors,
5. Company profits, and
6. Employment.

If a company contends that available control technology is not affordable and would lead to closing the facility, the costs of closure should be considered. Closure may incur costs for demolition, relocation, severance pay, etc.

Appendix D

United States Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711.

March 11, 1991.

Memorandum

Subject: New Source Review (NSR) Program Transitional Guidance.

From: John S. Seitz, Director, Office of Air Quality Planning and Standards (MD–10).

To: Addressees.

The Clean Air Act Amendments of 1990 (1990 Amendments) make numerous changes to the NSR requirements of the prevention of significant deterioration (PSD) and nonattainment area programs. The 1990 Amendments create new and expanded nonattainment areas, extend PSD coverage to current Class I area boundaries, and mandate a PSD exemption for certain hazardous air pollutants. The Environment Protection Agency (EPA) intends to propose by September of this year a regulatory package that will implement these and other changes to the NSR provisions. Final adoption of these revised regulations is projected for August 1992. In the interim period between passage of the 1990 Amendments and adoption of the Agency's final regulations, EPA expects that numerous issues regarding the 1990 Amendments will arise. This memorandum sets forth the Agency's position on the most important of these transitional issues involving the NSR program.

This guidance document does not supersede existing State regulations or approved State implementation plans. However, in some cases, it calls upon States to implement their NSR programs in a manner consistent with provisions of the 1990 Amendments that are applicable immediately and with the requirements that flow directly from these provisions. Nonetheless, the policies set out in this transition memorandum are intended solely as guidance and do not represent final Agency action. They are not ripe for judicial review for this reason. Moreover, they are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. The EPA officials may decide to follow the guidance provided in this memorandum, or to act at variance with the guidance, based on an analysis of specific circumstances. The Agency also may change this guidance at any time without public notice.

The Regional Offices should send this guidance document to their States. Questions from States and applicants concerning specific issues and cases should be directed to the appropriate EPA Regional Office. If you have any general questions, please contact Mr. Michael Sewell of the New Source Review Section at FTS 629–0873 or (919) 541–0873.

Attachment

Addressees

Director, Air, Pesticides, and Toxics Management Division, Regions I, IV, and VI

Director, Air and Waste Management Division, Region II

Director, Air Management Division, Regions III and IX

Director, Air and Radiation Division, Region V

Director, Air and Toxics Division, Regions VII, VIII, and X

cc:

J. Calcagni
R. Campbell
W. Laxton
E. Lillis
J. Rasnic
L. Wegman
J. Weigold
NSR Contacts

Corrections to Original Document: Two errors in the document as issued on March 11, 1991 have been corrected in this copy. On page 2 on the last line, "CFC 112" is changed to correctly read "CFC 113". On page 8 in item 4, the cite "Section 172(b)" is changed to correctly read "Section 173(b)".

New Source Review (NSR) Transitional Guidance

Toxics and National Emissions Standards for Hazardous Air Pollutants (NESHAPS) Issues

1. Section 112 Hazardous Air Pollutants are No Longer Considered Regulated Pollutants

Under Prevention of Significant Deterioration (PSD), but NESHAPS Still Apply.

Under the 1977 Amendments to the Clean Air Act (Act) and regulations issued thereunder, the PSD requirements of the Act apply to all "major" new sources and "major" modifications, i.e., those exceeding certain annual tonnage thresholds (see 40 CFR 52.21(b)(1)(i) and (b)(2)(i)). Typically, new sources and modifications become subject to PSD because they exceed the specified tonnage threshold for a criteria pollutant, i.e., a pollutant for which a national ambient air quality standard (NAAQS) has been established under section 109 of the Act. Once a new source or modification is subject to PSD, the PSD requirements apply to every pollutant subject to regulation under the Act that is emitted in "significant" quantities (or, in the case of a major modification, for which there is a significant net emissions increase) (see 40 CFR 52.21(b)(23) and (i)(2)). Under the 1977 Amendments, best available control technology (BACT) and other PSD requirements apply not only to emissions of criteria pollutants but also to emissions of pollutants regulated under other provisions of the Act, such as section 111 or 112. This regulatory structure was altered by the 1990 Amendments.

Title III of the 1990 Amendments added a new section 112(b)(6) that excludes the hazardous air pollutants listed in section 112(b)(1) of the revised Act (as well as any pollutants that may be added to the list) from the PSD (and other) requirements of Part C. Thus, because they are on the initial Title III hazardous air pollutants list, the following pollutants, which had been regulated under PSD because they were covered by the section 112 NESHAPS or section 111 new source performance standards (NSPS) program, are now exempt from Federal PSD applicability:

- Arsenic
- Asbestos
- Benzene (including benzene from gasoline)
- Beryllium
- Hydrogen sulfide (H_2S)
- Mercury
- Radionuclides (including radon and polonium)
- Vinyl chloride

The Title III exemption applies to final Federal PSD permits (i.e., those issued in final form and for which administrative appeals, if any, under 40 CFR 124.19 have been exhausted) issued on or after the date of enactment of the 1990 Amendments (November 15, 1990). For Federal PSD permit applications now under review by either an EPA Regional Office or a delegated State, PSD permit requirements do not apply to the pollutants exempted by Title III. For Federal PSD permits containing PSD requirements for the pollutants exempted by Title III issued on or after November 15, 1990, the permittee may request a revision (e.g., removal of a BACT limit for benzene) to their PSD permit to reflect the Title III exemption from Federal PSD applicability.

Note that pursuant to section 116 and the preservation clause in section 112(d)(7) of the amended Act, States with an approved PSD program may continue to regulate the Title III hazardous air pollutants now exempted from Federal PSD by section 112(b)(6) if the State PSD regulations provide an independent basis to do so. These State rules would remain in effect unless a State revised them to provide similar exemptions. Additionally, the Title III pollutants continue to be subject to any other applicable State and Federal rules; the exclusion is only for Part C rules.

Finally, section 112(q) retains existing NESHAPS regulations by specifying that any standard under section 112 in effect prior to the date of enactment of the 1990 Amendments shall remain in force and effect after such date unless modified as provided in the amended section. Therefore, the requirements of 40 CFR 61.05 to 61.08, including preconstruction permitting requirements, for new and modified sources subject to existing NESHAPS regulations are still applicable.

In summary, the pollutants currently regulated under the Act as of March 1991 that are still subject to Federal PSD review and permitting requirements are:

- Carbon monoxide
- Nitrogen oxides
- Sulfur dioxide
- Particulate matter and PH-10
- Ozone (volatile organic compounds)
- Lead (elemental)
- Fluorides
- Sulfuric acid mist
- Total reduced sulfur compounds (including H_2S)
- CFC's 11, 12, 113, 114, 115
- Halons 1211, 1301, 2402
- Municipal waste combustor (MWC) acid gases, MWC metals and MWC organics

2. Hazardous Air Pollutants that are Regulated as One Component of a More General Pollutant Under Other Provisions of the Clean Air Act are Still Regulated.

Any hazardous air pollutants listed in section 112(b)(1) which are regulated as constituents of a more general pollutant listed under section 108 of the Act are still subject to PSD as part of the more general pollutant, despite the exemption in Title III. For example, volatile organic compounds (VOC's) (a term which includes benzene, vinyl chloride, methanol, toluene, methyl ethyl ketone, and thousands of other compounds) are still regulated as VOC's (but not as individual pollutants such as benzene, etc.) under the PSD regulations because these pollutants are ozone precursors, not because they are air toxics. Also, particulates (including lead compounds and asbestos) are still regulated as particulates (both PM-10 and particulate matter) under the PSD regulations. Lead compounds are exempt from Federal PSD by Title III, but the elemental lead portion of lead compounds (as tested for in 40 CFR part 60, appendix A, Method 12) is still considered a criteria pollutant subject to the lead NAAQS and still regulated under PSD.

3. Toxic Effect of Unregulated Pollutants Still Considered in BACT Analysis.

Based on the remand decision on June 3, 1986 by the EPA Administrator in *North County Resource Recovery Associates* (PSD Appeal No. 85-2), the impact on emissions of other pollutants, including unregulated pollutants, must be taken into account in determining BACT for a regulated pollutant. When evaluating control technologies and their associated emissions limits, combustion practices, and related permit terms and conditions in a BACT proposal, the applicant must consider the environmental impacts of all pollutants not regulated by PSD. Once a project is subject to BACT due to the emission of nonexempted pollutants, the BACT analysis should therefore consider all pollutants, including Title III hazardous air pollutants previously subject to PSD, in determining which control strategy is best.

PSD Class I Boundary Issues

1. PSD Applicability Coverage Changes as Class I Area Boundaries Change

Sections 162(a) and 164(a) of the amended Act specify that the boundaries of areas designated as Class I must now conform to all boundary changes at such parks and wilderness areas made since August 7, 1977 and any changes that may occur in the future. The EPA does not believe that Congress intended to create the turmoil which would occur if this redesignation required the modification of permits issued between August 7, 1977 and November 15, 1990, or the resubmission and reevaluation of complete permit applications submitted prior to enactment of the 1990 Amendments. Thus, for this reason, applications considered complete prior to November 15, 1990 should be processed as submitted without regard to the new Class I area boundaries. Exceptions to this general policy are in the area of increment consumption and air quality related values (including visibility), as discussed below.

For an applicant who submitted a complete PSD application prior to November 15, 1990, if all other PSD requirements are met, a permit may be issued based on the Class I analysis as submitted in the application, unless the reviewing authority finds, on a case-by-case basis, that additional analysis is needed from the applicant to address suspected adverse impacts or increment consumption problems due to the expanded boundaries of the Class I areas. Any existing increment violations in the new boundaries of Class I areas must be remedied through a SIP revision pursuant to 40 CFR 51.166(a)(3).

The PSD applications not considered complete before November 15, 1990 must consider the impact of both existing sources and the new or modified source on the Class I areas as defined by the 1990 Amendments. Thus, the complete application must consider the impacts on the entire Class I area based upon the boundaries in existence of the date of submittal of a complete application; as before, if a Class I boundary changes before the permit is issued, the reviewing authority may find, on a case-by-case basis, that additional analysis is needed from the applicant to address suspected adverse impacts or increment consumption problems due to expanded Class I Area boundaries.

NSR Nonattainment Issues

1. NSR Construction Permit Requirements in Nonattainment Areas

In many States, the existing approved Part D permit program by its terms covers all designated nonattainment areas in the State,

so a Part D permit program will automatically apply to the new and expanded nonattainment areas which are established under provisions of Title I of the 1990 Amendments. Thus, until new rules are adopted for these new or expanded nonattainment areas, States should apply the requirements of their existing approved Part D permit program. However, in other States, a Part D program may be limited to specified areas and does not apply to new or expanded areas. In these cases, States must implement a transitional permitting program until their existing Part D programs are revised to meet the requirements of the 1990 Amendments and expanded to cover all nonattainment areas in the State. Otherwise, both the goals of part D and Congress' intent in creating new or expanded nonattainment areas will be frustrated.

The EPA regulations already provide for these new or expanded designated nonattainment areas because the Emission Offset Interpretations Ruling (40 CFR part 51, appendix S) governs permits to construct between the date of designation and the date an approved Part D plan is made applicable to the new nonattainment area (see 40 CFR 52.24(k)). Until a State's new Part D plan is approved by EPA, if a State wishes to issue a permit for a major stationary source or major modification in a new or expanded designated nonattainment area, the State should comply with the requirements of appendix S. Among other things, appendix S requires a major source seeking to locate in a nonattainment area to (1) meet the lowest achievable emission rate for such source, (2) provide offsets from existing sources in the area, and (3) show that the offsets will provide a positive net air quality benefit (see 40 CFR part 51, appendix S, section IV.A). The EPA believes that in order to carry out the intent of appendix S, offsets should be required for sources in all categories and in all instances should be calculated on a tons per year basis (see 40 CFR part 51, appendix S, section IV.C).

Of course, neither appendix S nor the existing NSR rules incorporate the NSR changes mandated by Title I of the 1990 Amendments such as lower source applicability thresholds, increased emissions offset ratios, new definitions of major stationary source, and (for ozone nonattainment areas) requirements for nitrogen oxides (NOx) control and NOx emissions offsets. However, the 1990 Amendments require States to submit to EPA new NSR permit program rules for ozone nonattainment areas by November 15, 1992; for PM-10 nonattainment areas by June 30, 1992; and for most carbon monoxide (CO) nonattainment areas no later than 3 years from the date of the nonattainment designation. The EPA interprets this as an expression of congressional intent not to mandate that States adhere to the more stringent Title I NSR requirements in nonattainment areas during the time provided for State implementation plan (SIP) development. Thus, for NSR permitting purposes in nonattainment areas, the new NSR requirements in Title I are not in effect until the States, as required by the Act, adopt NSR permit program rules to implement the Title I provisions. In addition, EPA encourages any State having adequate authority for early implementation of the NSR changes to do so as soon as possible.

If States fail to submit to EPA the new NSR permit program rules for nonattainment areas by the deadlines in the amended Act, EPA intends to impose in these nonattainment areas a Federal implementation plan (FIP) embodying such requirements. Currently, EPA intends to propose revised NSR regulations at 40 CFR part 52 that would implement the new Title I NSR requirements under a FIP in a State if that State's revised NSR rules to implement Title I are not submitted in approvable form to EPA and made effective within the State by the deadlines established by the 1990 Amendments.

The area designation in effect on the date of *permit issuance* by the reviewing agency determines which regulations (Part C or Part D) apply to that permit. In other words, the PSD permit regulations apply to pollutants for which the area is designated as attainment or unclassifiable, and the NSR nonattainment permit regulations apply to pollutants for which the area is designated nonattainment (see 40 CFR 51.166(i) (3) and (5); and 40 CFR 52.21(i) (3) and (5)). Under these regulations, a PSD permit for a pollutant cannot be issued in an area that is designated nonattainment for that pollutant. For the situation where a source receives a PSD or other permit prior to the date the area is designated as nonattainment, the permit remains in effect as long as the source commences construction within 18 months after the date of nonattainment designation of the area, does not discontinue construction for more than 18 months, and completes construction within a reasonable time (see 40 CFR 52.24 (g) and (k)). Although the PSD regulations provide for extension of these deadlines, no extension would be appropriate where the area has been designated as nonattainment following permit issuance. Accordingly, if any of these construction provisions are not met, the PSD permit or other permit will not be extended, and the source (if subject to the nonattainment provisions) must obtain a nonattainment permit prior to commencing (or continuing) construction.

The 1990 Amendments create some new and expanded nonattainment areas by operation of law. Other nonattainment area changes are expected as the States and EPA complete the designation process prescribed in amended section 107(d). Because of these provisions, the dates areas switch from attainment to nonattainment for NSR purposes vary by pollutant. However, except for the two instances where the Amendments create changes by operation of law, the new designations and expanded boundaries will not be effective for NSR purposes until EPA promulgates the changes. The promulgations will be announced in the **Federal Register**.

Congress created new PM-10 nonattainment areas through designations that became effective upon enactment of the 1990 Amendments on November 15, 1990 (see section 107(d)(4)(B)). Specifically, Congress designated Group I areas and areas where violations of the PM-10 NAAQS had occurred prior to January 1, 1989 as nonattainment. The EPA published a list of these PM-10 areas in a **Federal Register** notice (see 55 FR 45799, October 31, 1990; see also 52 FR 29383, August 7, 1987). The EPA plans to publish a notice in the **Federal Register** listing these areas as nonattainment in the near future, but they are already considered nonattainment areas as of November 15, 1990.

Similarly, the 1990 Amendments expand by operation of law some CO and ozone nonattainment areas. However, these changes did not become effective with passage but rather on December 30, 1990. The specifics are as follows:

> Section 107(d)(4)(A)(iv) of the amended Act provides that, with the exception explained below ozone and CO nonattainment areas located within metropolitan statistical areas (MSA) and consolidated metropolitan statistical areas (CMSA) which are classified as serious, severe, or extreme for ozone or as serious for CO are automatically expanded to include the entire MSA or CMSA. This expansion became effective by operation of law 45 days after enactment unless the Governor submitted a notice by this deadline of the State's intent to seek a modification of the expanded boundaries pursuant to the procedures set forth in section 107(d)(4)(A)(v). So if a State did not provide this notice, the nonattainment boundaries of all serious, severe, and extreme ozone nonattainment areas in the State and all serious CO areas in the State expanded to include the entire MSA or CMSA on December 30, 1990. If a State did provide timely notice, the Administrator has up to 14 months from enactment to resolve the State's challenge. Until EPA promulgates a resolution of the State's challenge, the old boundaries remain in effect.

Except for these two cases where new or expanded boundaries have been created by operation of law, nonattainment area changes will not be considered effective until the changes are promulgated by the EPA. As to most new areas or expansions of previously-designated nonattainment areas, this will occur 240 days after enactment (see section 107(d)(4)(A) (i) and (ii)). Newly-created ozone and CO nonattainment areas will be considered part of a designated nonattainment area for NSR purposes at the time of promulgation.

2. Status of Construction Bans

Pursuant to section 110(n)(3), an existing construction ban that was imposed due to the absence of approved Part D NSR rules remains in effect until a revised NSR SIP is approved. Existing construction bans imposed due to disapproval of primary sulfur dioxide NAAQS attainment plans also remain in effect. A **Federal Register** notice will be published soon announcing the status of construction bans in general and also lifting specific bans where appropriate. Should a construction ban be lifted in any area designated as nonattainment, and the area lacks an approved Part D NSR rule, the State should meet the requirements of 40 CFR part 51, appendix S, in issuing permits to

major new sources or major modifications prior to the adoption of NSR rules meeting the requirements of the 1990 Amendments.

3. Federal Implementation Plans Remain in Effect

The NSR permitting program in an existing FIP remains in effect until a SIP is approved or a revised FIP is adopted.

4. Use of Previously-Approved Growth Allowances Is Prohibited

Section 173(b) invalidates growth allowances in existing SIP's in areas that received a SIP call prior to enactment of the 1990 Amendments, or that receive one thereafter. For NSR permits issued on or after November 15, 1990, previously-approved growth allowances cannot be used in these areas. Construction permits cannot be issued in SIP-call areas under existing EPA-approved Part D programs to the extent that such permits rely on previously-approved growth allowances. Case-by-case emission offsets must be obtained for any such permits, and other existing Part D requirements must be met.

5. Existing NSR Permitting Rules Continue To Apply in the Northeast Ozone Transport Region (NOTR)

The 1990 Amendments establish a single ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the CMSA that includes the District of Columbia and part of the State of Virginia. For this transport region, including all attainment areas within its boundaries, new section 184(b)(2) specifies that any stationary source that emits or has the potential to emit at least 50 tons per year of VOC's shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a moderate ozone nonattainment area. For NSR purposes, the requirements of section 184(b)(2) are not in effect in a State until the State submits a new or revised SIP that includes the requirements (or EPA imposes a FIP implementing those requirements). A State in the NOTR has until November 15, 1992 to submit to EPA the new or revised NSR rules addressing the new requirements.

Appendix E

I. Introduction

The EPA is issuing this CTG document under section 182(b) of the Clean Air Act, as amended. Under section 182(b), States must develop RACT rules for sources "covered by a CTG document issued by the Administrator between November 15, 1990 and the date of attainment." The State must submit these RACT rules "within the period set forth by the Administrator in issuing the relevant CTG document." One type of "CTG document" is a CTG; a CTG is a technical document that sets forth a presumptive level of RACT controls for a source category. The Act provides that EPA must issue eleven CTG's by November 15, 1993. In addition, the Act specifically requires the Agency to prepare CTG's for aerospace coatings and ship building and repair within the same timeframe.

This document is not a technical CTG, but rather a second type of CTG document—a document that lists the eleven CTG's EPA anticipates publishing in accordance with section 183(a) and establishes time tables for submittal of RACT rules for sources that are not ultimately covered by a CTG issued by November 15, 1993. The EPA believes that it is necessary to issue this document at this time so that States will be able to determine which sources and source categories fit within the RACT rule submittal requirement for sources that EPA expects to be covered by a post-enactment CTG.

II. List of Eleven CTG's

The EPA plans to issue the following CTG's in accordance with section 183(a).

1. Synthetic organic chemical manufacturing industry (SOCMI) distillation;
2. SOCMI reactors;
3. Wood furniture;
4. Plastic parts coating (business machines);
5. Plastic parts coating (other);
6. Offset lithography;
7. Industrial wastewater;
8. Autobody refinishing;
9. SOCMI batch processing;
10. Volatile organic liquid storage tanks; and
11. Clean up solvents.

III. Authority

Under section 182(b)(2), States must adopt RACT rules for three general groups of sources: (A) Those covered by a post-enactment CTG document; (b) those covered by a pre-enactment CTG; (c) "all other major stationary sources of VOC's." Section 182(b)(2) also establishes the timing for State submittal and source implementation of RACT rules for these three groups. For sources covered by a post-enactment CTG document, the State must submit RACT rules within the period established in the relevant CTG document. For the other two groups, the Act provides specific dates for submittal, November 15, 1992, and implementation, no later than May 31, 1995.

Alone, subparagraphs (A), (B) and (C) seem to set forth three distinct groups of sources. However, the submittal dates under the second portion of the provision potentially could blur the line between these three groups if EPA does not issue before November 15, 1992, a CTG document covering all sources for which it plans to issue a CTG under section 183(a). At that time, States would need to submit RACT rules for all other major stationary sources—those for which neither a pre-enactment CTG nor a post-enactment CTG document had been issued.

The EPA's obligation to issue the eleven CTG's does not ripen until November 15, 1993, and EPA does not anticipate issuing all of these CTG's before November 15, 1992. Therefore, to the extent EPA does not issue a CTG document before November 15, 1992, States would be required to submit non-CTG RACT rules for sources that could in the future be covered by a CTG. In addition, at the time the CTG document was issued, the State could then be required to submit a new rule, consistent with the CTG document, thereby duplicating its earlier effort.

In order to relieve the States from being required to duplicate rules and to relieve sources from potentially being subject to two different requirements within a short period, EPA is issuing this CTG document to retain the sharp distinction between the three different groups in subparagraphs (A), (B), and (C). If a State believes that one of the eleven CTG's listed in Section II will cover a particular major source, the State should follow the timing provisions of Section IV, below for submittal of a rule applicable to that source. The State should identify those sources in its November 15, 1992 RACT submittal.

IV. Time Table

The EPA is establishing the following general time table for States to submit RACT rules for sources that it identifies in a November 15, 1992 submittal as being a source covered by a post-enactment CTG document.

(1) on November 15, 1992, the State must submit a list of major stationary sources that it anticipates will be subject to one of the CTG's listed in Section II, which EPA plans to issue by November 15, 1993.

(2) For those major sources on the list submitted by the State in the 1992 submittal that are not covered by a CTG that EPA has issued by November 15, 1993, the State must submit a RACT rule by November 15, 1994 that requires implementation of RACT by May 15, 1995.

(3) For sources covered by a CTG issued under section 183(a) and for which the State has not, by the date of such issuance, adopted an approvable RACT rule, the State must submit a RACT rule in accordance with the time schedule set forth in the relevant CTG.

(4) For sources subject to a RACT rule that the State adopted and EPA approved under section 182(b)(2) prior to EPA's issuance of an applicable CTG, EPA will work with the State to determine whether the existing rule should be revised once a CTG has been issued that would apply to that source.

[FR Doc. 92-9866 Filed 4-27-92; 8:45 am]

BILLING CODE 6560-50-M