

prohibited by section 522(e)(4) and (5) of SMCRA as unsuitable for mining.

5. For operations on Federal lands, whenever DEQ is responsible for making the VER determinations, DEQ will consult with OSM and any affected agency.

Article XI: Termination of the Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XII: Reinstatement of the Agreement

If this Agreement has been terminated in whole or part, it may be reinstated under the provisions of 30 CFR 745.16.

Article XIII: Amendments of the Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIV: Changes in State or Federal Standards

A. The Secretary or the State may, from time to time, revise and promulgate new or revised performance or reclamation requirements or enforcement and administrative procedures. Each party shall, if it determines it to be necessary to keep this Agreement in force, change or revise its respective laws or regulations or request necessary legislative action. Such changes will be made under the procedures of 30 CFR Part 732 for changes to the State Program and under the procedures of section 501 of SMCRA for changes to the Federal lands program.

B. DEQ and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XV: Changes in Personnel and Organization

A. DEQ and OSM shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this Agreement. Each shall promptly advise the other in writing of changes in key personnel, including the head of a department or division, or changes in the functions or duties of the principal offices of the program. DEQ and OSM shall advise each other in writing of changes in the location of their respective offices, addresses, telephone numbers, as well as changes in the names, addresses, and telephone numbers of their respective personnel.

B. Should the State Act be amended to transfer administration of the State Act to another agency, all references to DEQ in this Agreement shall be deemed to apply to the successor regulatory agency as of the date of transfer. The provisions in this Agreement shall thereafter apply to that agency.

Article XVI: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this

Agreement that the State or the Secretary may have under laws other than the Act and the State Program, including, but not limited to those listed in Appendix A.

Dated:

Governor of Montana

Dated:

Secretary of the Interior

Appendix A

1. The Federal Land Policy and Management Act, 43 U.S.C. 1701 et seq., and implementing regulations.
2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 et seq., and implementing regulations, including 43 CFR Part 3480.
3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and implementing regulations, including 40 CFR Part 1500.
4. The Endangered Species Act, 16 U.S.C. 1531 et seq., and implementing regulations, including 50 CFR Part 402.
5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., and implementing regulations, including 36 CFR Part 800.
6. Native American Graves Protection and Repatriation Act, 25 U.S.C. §§3001 et seq.
7. The American Indian Religious Freedom Act, 42 U.S.C. 1986 et seq.
8. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa et seq.
9. The Clean Air Act, 42 U.S.C. 7401 et seq., and implementing regulations.
10. The Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., and implementing regulations.
11. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq., and implementing regulations.
12. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 et seq.
13. Executive Order 11593 (May 13, 1971), Cultural Resource Inventories on Federal Lands.
14. Executive Order 11988 (May 24, 1977), for flood plain protection.
15. Executive Order 11990 (May 24, 1977), for wetlands protection.
16. Executive Order 12898 (February 11, 1994) for Federal Actions to Address Environmental Justice on Minority Populations and Low Income Populations.
17. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 et seq., and implementing regulations.
18. The Stock Raising Homestead Act of 1916, 43 U.S.C. 291 et seq.
19. The Constitution of the United States.
20. Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq.
21. 30 CFR Chapter VII.
22. The Constitution of the State of Montana.
23. Montana Strip and Underground Mine Reclamation Act (MSUMRA), Part 2, Chapter 4, Title 82, Montana Code Annotated.
24. Title 26, Chapter 4, Subchapter 3, Administrative Rules of Montana.

25. Montana Environmental Policy Act (MEPA).

[FR Doc. 97-582 Filed 1-9-97; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5674-4]

Calls for State Implementation Plan Revisions for Certain States To Reduce Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent.

SUMMARY: In accordance with section 110(k)(5) and 110(a)(2)(D) of the Clean Air Act (Act), the EPA plans to require States to submit State implementation plan (SIP) measures to ensure that emission reductions are achieved as needed to prevent significant transport of ozone (smog) pollution across State boundaries in the Eastern United States. These precursors include volatile organic compounds (VOC) and oxides of nitrogen (NO_x).

Today's notice announces the Agency's intention to publish a Notice of Proposed Rulemaking in the March 1997 timeframe, with final action scheduled for summer 1997. Ozone has long been recognized, in both clinical and epidemiological research, to affect public health. There is a wide range of ozone-induced health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma), inflammation of the lung, and possible long-term damage to the lungs. Today's notice announces EPA's intention to conduct the formal process for implementing the regional reductions in ozone precursors that are necessary for areas in the Eastern United States to reach attainment. The Ozone Transport Assessment Group (OTAG) was established approximately 1½ years ago to undertake an assessment of the regional transport problem. The OTAG is a collaborative process conducted by the affected States. The OTAG also includes representatives from EPA and interested members of the public, including environmental groups and industry, to evaluate the ozone transport problem and the development of solutions.

SUPPLEMENTARY INFORMATION:

Availability of Related Information

Documents related to OTAG are available on the Agency's Office of Air Quality Planning and Standards' (OAQPS) Technology Transfer Network (TTN) Bulletin Board System (BBS). The telephone number for the TTN BBS is (919) 541-5742. To access the bulletin board a modem and communications software are necessary. The following parameters on the communications software are required: Data Bits-8; Parity-N; and Stop Bits-1. The documents will be located on the OTAG BBS. If assistance is needed in accessing the system, call the help desk at (919) 541-5384 in Research Triangle Park, NC. Other documents related to OTAG can be downloaded from OTAG's webpage at <http://www.epa.gov/oar/otag/otag.html>.

I. Background

A. Overview of 1990 Amendments to the Clean Air Act (1990 Amendments)

In 1990, Congress amended the Act to address, among other things, continued nonattainment of the ozone national ambient air quality standard (NAAQS) (Pub. L. 101-549, Nov. 15, 1990, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). Several of the provisions added, or revised, by the 1990 Amendments are relevant to today's notice.

The 1990 Amendments divide ozone nonattainment areas into, in general, five classifications based on air quality design value and establish specific requirements, including new attainment dates, for each classification (sections 181-182).

The 1990 Amendments require States containing ozone nonattainment areas classified as serious, severe, or extreme to submit several SIP revisions, including controls to progressively reduce emissions of ozone precursors by 9 percent over each 3-year period from 1996 through the attainment date (the rate-of-progress (ROP), or SIP submittals), under section 182(c)(2)(B);¹ a demonstration of attainment (including air quality modeling) for the nonattainment area (the attainment demonstration), as well as SIP measures containing any additional reductions that may be necessary to attain by the appropriate attainment date under section 182 (c)-(e). These Act provisions established November 15, 1994 as the

required date for these SIP submittals.² On March 2, 1995, EPA Assistant Administrator for Air and Radiation, Mary D. Nichols, sent a memorandum to EPA Regional Administrators (Memorandum) to provide guidance on an alternative approach to provide States with serious and above ozone nonattainment areas flexibility in their planning efforts for the submittals due November 15, 1994.

The 1990 Amendments reflect general awareness by Congress that in some areas of the country, ozone is not merely a local problem, but rather is a regional problem in that ozone and its precursors can be transported long distances across State lines to combine with ozone and precursors downwind, thereby exacerbating the ozone problems downwind. As a result, section 184 delineates a multistate ozone transport region (OTR) in the Northeast part of the country, establishes the Northeast Ozone Transport Commission (OTC) for the purpose of implementing regionwide controls affecting all areas (including attainment areas) in the OTR, and requires specific controls in that region.

Section 110(a)(2)(D) provides an additional tool for addressing the problem of transport. This provision, which applies by its terms to all SIP's for each pollutant covered by a NAAQS and for all areas regardless of their attainment designation, provides that a SIP must contain provisions preventing its sources from contributing significantly to nonattainment problems downwind. Specifically, this provision states, in relevant part, that the SIP must—

contain adequate provisions * * * prohibiting * * * any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such [NAAQS], or

(II) interfere with measures required to be included in the applicable implementation plan for any other State * * * to prevent significant deterioration of air quality or to protect visibility. * * *

Section 110(k)(5) provides EPA with a tool for assuring that SIP's include required controls by authorizing EPA to make a finding that a SIP is inadequate to meet an Act requirement, thereby requiring the State to submit, within a

specified period, a SIP revision to correct the inadequacy. Specifically, this provision, which may be termed the SIP call provision, provides, in relevant part—

Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant [NAAQS], to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions.

All of the Act provisions summarized above are described in more detail in EPA's rulemaking notices concerning low emission vehicles (LEV) in the Northeast OTR (OTC LEV), "Proposed Rulemaking on Ozone Transport Commission; Emission Vehicle Program for the Northeast Ozone Transport Region," 59 FR 21720 (April 26, 1994); "Supplemental Notice of Proposed Rulemaking on Ozone Transport Commission; Emission Vehicle Program for the Northeast Ozone Transport Region," 59 FR 48664 (September 22, 1994); "Final Rule on Ozone Transport Commission; Emission Vehicle Program for the Northeast Ozone Transport Region," 60 FR 4712 (January 24, 1995).

B. State Actions and EPA Administrative Policy

Notwithstanding significant efforts, the States generally were not able to meet the November 15, 1994 deadline for the attainment demonstration and other SIP submissions required under section 182(c).

The March 2, 1995 Memorandum recognized the efforts made by States and the remaining difficulties in making the ROP and attainment demonstration SIP submittals. The Memorandum recognized that in general, many States were unable to complete these SIP requirements within the deadlines prescribed by the Act due to circumstances beyond their control. These States were hampered by unavoidable delays in developing the underlying technical information needed for the required SIP submittals. The EPA recognized that development of the necessary technical information, as well as the control measures necessary to achieve the large level of reductions likely to be required, had been particularly difficult for the States affected by ozone transport.

Accordingly, as an administrative remedial matter, the Memorandum

¹ These ozone nonattainment areas, as well as those classified as moderate, were also required to submit, by November 15, 1993, a SIP revision providing for reductions in VOC emissions of 15 percent by November 15, 1996 under section 182(b)(1).

² For ozone nonattainment areas classified as moderate, the attainment demonstration was due November 15, 1993 (section 182(b)(1)(A)), except that if the State elected to conduct an urban airshed model, EPA allowed an extension to November 15, 1994.

indicated that EPA would establish new timeframes for SIP submittals. The Memorandum indicated that EPA would divide the required SIP submittals into two phases. The Phase I submittals generally consisted of (i) SIP measures providing for ROP reductions due by the end of 1999 (the first 9 percent of ROP reductions); (ii) a SIP commitment (sometimes referred to as an enforceable commitment) to submit any remaining required ROP reductions on a specified schedule after 1996 (with submission no later than the end of 1999); and (iii) a SIP commitment to submit the attainment demonstration by mid-1997, with submission by no later than the end of 1999 of any additional rules needed to attain. By notice dated July 10, 1996 (61 FR 36292-36295 July 10, 1996), EPA issued findings (July 1996 Findings), and thereby started sanctions clocks, for 10 States and the District of Columbia. The findings were made for nine nonattainment areas in those States under the Act for failure to make complete Phase I ozone SIP submittals as described above.

The Phase II submittals were due at specified times after 1996 and primarily consisted of the remaining ROP SIP measures, the attainment demonstration and additional rules needed to attain, and any regional controls necessary for attainment by all areas in the region. The Memorandum contemplated that regional controls needed for serious areas to reach their 1999 attainment date would be submitted and implemented in a timeframe consistent with that deadline, and that regional controls needed for severe/extreme areas to attain would be submitted by the end of 1999.

In addition, the Memorandum called for a collaborative process among the States in the Eastern half of the country to evaluate and address transport of ozone and its precursors. Subsequently, the OTAG was formed, which includes representatives from States, EPA officials, and interested members of the public, including environmental groups and industry, to provide for an assessment of the transport problem and the development of consensus solutions.

It is becoming increasingly apparent that some of the most highly polluted ozone nonattainment areas will not be able to demonstrate attainment simply through the implementation of control measures within the nonattainment area. In some cases, significant ozone concentration and precursor emission reductions within the upwind air mass being transported into the nonattainment area also appear to be necessary.

C. OTAG Process

The OTAG is organized into a number of subgroups and workgroups. The OTAG's Policy Group provides overall direction to its subgroups for the assessment of ozone formation and transport, as well as the development of controls strategies that will reduce concentrations of ozone and its precursors. The Modeling and Assessment Subgroup addresses issues relating to emissions inventories, monitoring, and modeling. Its goal is to assess ozone transport and its impacts. The Strategies and Controls Subgroup evaluates the availability, effectiveness, and costs of potential national, regional and local air pollution control strategies. The Financial Assessment and Implementation Subgroup addresses funding and budget issues. The Outreach and Communications Subgroup educates and informs the public about OTAG's mission and goals, specifically the environmental benefits of reducing the transport of ozone and its precursors. There are also work groups that address other issues such as trading and market-based incentives, criteria for evaluating strategies and implementation issues.

The OTAG's first meetings were on May 18, 1995, in Reston, Virginia, and June 19, 1995, in Washington, DC. The OTAG has continued to meet regularly since then. The goal of OTAG is to—

Identify and recommend a strategy to reduce transported ozone and its precursors which, in combination with other measures, will enable attainment and maintenance of the national ambient ozone standard in the OTAG region. A number of criteria will be used to select the strategy including, but not limited to, cost-effectiveness, feasibility, and impacts on ozone levels.³

In addition to sensitivity modeling analyses, OTAG is modeling three rounds of strategies in order to have the technical information necessary to make a recommendation to EPA on what is needed to meet the OTAG goal. The first round of modeling was performed during September and October 1996 and provided an initial evaluation of possible OTAG emission reductions. The results from the sensitivity analyses and the first round of strategy runs indicate that NO_x reductions provide benefits across State or multi-state boundaries and local disbenefits in some urban areas. Regionwide VOC reductions provide little benefit on a regional scale but decrease ozone in urban areas, which also may lessen the disbenefits associated with certain NO_x controls. The second round is being

performed during November and December 1996 and is refining the emission reduction level for the strategies. The third round will be performed during January and February 1997 and will evaluate the geographic applicability of the OTAG strategies.

As indicated in the Memorandum, EPA envisioned that OTAG would complete its work by the end of 1996. The modeling timetable described above goes beyond the original schedule called for in the Memorandum. While EPA believes that the results from the third round of modeling runs are important, the Agency recognizes that the delay, although relatively brief, will result in some further delay in the development of regionwide controls based on the OTAG regional assessment.

In addition, according to the March 2, 1995 memorandum, States must submit, by mid-1997, the Phase II submittals that include a plan for attainment of the ozone NAAQS and any regional controls necessary for attainment by all areas in the region. The policy contemplates that these submittals will take account of the assessment of air quality controls and modeling runs performed by OTAG, as well as recommendations as to control strategies that OTAG may develop.

D. Revised Ozone NAAQS and Interim Implementation Policy

On December 13, 1996, EPA issued a notice of proposed rulemaking to revise the ozone NAAQS (61 FR 65716), as well as set out the Interim Implementation Policy (IIP) (61 FR 65764), which describes the SIP requirements applicable to areas during the period from the promulgation of a revised NAAQS to the creation of the new SIP's required to attain the revised NAAQS. The proposal noted that a standard set at a level of 0.09 ppm would result in approximately equivalent public health protection as that afforded by the current standard; a 0.08 ppm level would provide greater protection. Thus, OTAG control strategies targeted at the reduction of boundary ozone and its precursors would be effective and consistent with any of the proposals for the new NAAQS.

In the proposed IIP, EPA recognized that replacing the existing NAAQS has ramifications for the controls scheme for existing ozone nonattainment areas. For example, the attainment dates for nonattainment areas under the current NAAQS would be replaced by revised attainment dates under the revised NAAQS. Also, the proposed IIP states that nonattainment areas currently classified as serious and higher must continue to meet the same ROP

³ OTAG Policy Paper approved by the Policy Group on December 4, 1995.

requirements as under the current NAAQS, which are provided by section 182(c)(2)(B), except that if the NAAQS is revised as proposed, areas should submit ROP controls covering only the period up to the time they submit new SIPs to attain the revised NAAQS and not up to their attainment date under the current NAAQS. In addition, if the NAAQS is revised as proposed, areas would not be required to submit attainment demonstrations (including the controls) geared towards the existing NAAQS and attainment dates; rather, they would be required at a future time to submit an attainment demonstration geared to the revised NAAQS.

The IIP further proposes to require States to submit, within 90 days after promulgation of the final ozone NAAQS, a preliminary estimate of the amount of emissions reductions needed for their ozone nonattainment area to attain the revised NAAQS. Finally, the IIP proposes making revisions to the July 1996 Findings consistent with its principles.

II. Notice of Intent To Propose Rulemaking

In this notice, the Agency is announcing its plans to issue SIP calls, under section 110(k)(5) of the Act, as needed to ensure that the necessary regional reductions are achieved that will allow current nonattainment areas to prepare attainment demonstrations for the current NAAQS. This action will reflect the technical work done by OTAG, as well as any OTAG recommendations for adoption of additional NO_x and/or VOC controls. The EPA wants to ensure that the necessary regional reductions would be implemented by the relevant States within a specified timeframe. It is EPA's intention to review the assessments, modeling work, and any recommendations made by OTAG, and to base the SIP call on this review as well as any other information available. In the March 1997 timeframe, EPA intends to publish a Notice of Proposed Rulemaking (NPR). The EPA anticipates that the NPR will propose overall amounts or ranges of NO_x and/or VOC emission reductions that each State would need to achieve to reduce the boundary condition concentrations of ozone and its precursors within a specified timeframe and require the submission of SIP controls to achieve these reductions. The EPA may or may not identify or require specific control measures. The SIP revision must also contain a schedule for adoption and implementation of these measures, and EPA intends to set out this schedule in more detail in the proposed rulemaking.

The EPA intends to publish the final SIP call notice in summer 1997.

Under section 110(k)(5) of the Act, EPA has the authority to establish the date by which a State must respond to a SIP call. This date can be no later than 18 months after the SIP call is issued. The EPA believes that it is appropriate for attainment areas to meet the same schedule as nonattainment areas for making SIP submittals. The EPA could thus allow up to 18 months for these submittals. However, EPA is considering a more accelerated schedule for submittals under this SIP call to attain air quality benefits sooner and to facilitate area specific SIP planning. The EPA will be requesting comment on deadlines ranging from 6 months to 18 months following the date of publication of the notice of final rulemaking.

If EPA makes a finding under section 179(a) that the appropriate States have not made the required complete submittals by the date established in the SIP call, EPA plans to provide by rule that the offset sanction identified in section 179(b) will be applied in the affected areas, pursuant to section 179(a) and 40 CFR 52.31. If the States have still not made a complete submission 6 months after the offset sanction is imposed, then the highway funding sanction will apply in the affected nonattainment areas in accordance with 40 CFR 52.31. In addition, section 110(c) provides that EPA promulgate a Federal implementation plan (FIP) no later than 2 years after a finding under section 179(a).

The EPA believes that expedited implementation of regional control strategies to facilitate attainment of the current standard would also be beneficial if the Agency makes a final decision to revise the ozone NAAQS standard. In fact, it is likely that regional reductions in ozone and ozone precursors in upwind States will be even more critical to allow downwind States to attain a revised standard. Regional reductions could also minimize the number of areas designated nonattainment under a revised standard and/or lessen the severity of the nonattainment problem. In addition, as EPA goes through the process of developing an implementation program for the new standard, it will be able to take advantage of the information gathered by OTAG and account for emission reductions that result from the recommended strategy.

The EPA's authority under section 110(k)(5) to issue a SIP call will not be changed by promulgation of a revised NAAQS because the requirements of

section 110(a)(2)(D) will not be affected by the revised NAAQS. Under the revised NAAQS, upwind States must continue to demonstrate that their sources do not significantly contribute to nonattainment problems downwind.

Dated: January 6, 1997.

Mary D. Nichols,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 97-645 Filed 1-9-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 93-55; FCC 96-108]

Metric Conversion of Tariff Publications and Supporting Information

AGENCY: Federal Communications Commission.

ACTION: Termination of proposed rulemaking proceeding.

SUMMARY: In a 1993 Notice of Proposed Rulemaking, the Commission sought comment on a proposal to amend Part 61 of its rules to mandate metric conversion of common carrier tariff publications and supporting information ("tariff materials"). The Commission made this proposal to facilitate use of these materials in light of the increased employment of metric units of measurement in this country and Congressional policy that the metric system of measurement be employed wherever possible. Based upon the comments received and its own analysis, the Commission concluded, in this Report and Order, that it would not be in the public interest to require common carriers to convert to the metric system those units of measure appearing in their tariff materials. Specifically, the Commission found that the benefits to carriers and their customers of such mandatory metric conversion—or of requiring that conversion tables be included in such materials—were not clear enough to justify the carrier burdens involved. Accordingly, the Commission declined to adopt any of the proposed conversion options and, instead, terminated this proceeding.

DATES: The proposed rulemaking proceeding is terminated February 10, 1997.

FOR FURTHER INFORMATION CONTACT: Allen A. Barna, Competitive Pricing Division, Common Carrier Bureau, (202) 418-1530.