

(i) Incorporation by reference.

(A) Letter of July 12, 1995 from the Maryland Department of the Environment transmitting additions, deletions, and revisions to Maryland's State Implementation Plan, pertaining to volatile organic compound regulations in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) The following amendments to COMAR 26.11.07, pertaining to open fires, adopted by the Secretary of the Environment on May 1, 1995, effective May 22, 1995:

(1) the deletion of sections 26.11.07.01 A and B, definitions for the terms "hazardous material" and "I.I.A. standards."

(2) addition of new section 26.11.07.01B, "Terms Defined."

(3) addition of new sections 26.11.07.01B(1) and (2), definitions of the terms "excessive lodging" and "forest resource management practices."

(4) renumbering of old sections 26.11.07.01C & D, now new sections 26.11.07.01B(3) & (4).

(5) amendments to section 26.11.07.02, pertaining to general provisions.

(6) amendments to sections 26.11.07.03A, B, and B(1), pertaining to open fires authorized by control officers.

(7) addition of new section 26.11.07.03C, "Prohibition on Open Burning."

(8) amendments to section 26.11.07.04, pertaining to open fires authorized by public officers, including the addition of new sections (4)–(7).

(9) amendments to section 26.11.07.05, pertaining to open fires allowed without authorization.

(ii) Additional material.

(A) Remainder of July 12, 1995 Maryland State submittal pertaining to COMAR 26.11.19.07.

(121) Revisions to the Maryland State Implementation Plan submitted on July 17, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 12, 1995 from the Maryland Department of the Environment transmitting additions, deletions, and revisions to Maryland's State Implementation Plan, pertaining to volatile organic compound regulations in Maryland's air quality regulations, Code of Maryland Administrative Regulations (COMAR) 26.11.

(B) Amendments to COMAR 26.11.19.02A, pertaining to once-in, always-in applicability provisions, consisting of revisions to COMAR 26.11.19.02A(3), and the addition of new COMAR 26.11.19.02A (4) and (5), adopted by the Secretary of the

Environment on April 7, 1995, and effective on May 8, 1995.

(C) Amendments to COMAR 26.11.19.01B, consisting of the addition of new COMAR 26.11.19.01B(1–1), the definition for the term "annual," adopted by the Secretary of the Environment on April 7, 1995, effective on May 8, 1995.

(ii) Additional material.

(A) Remainder of July 17, 1995 Maryland State submittal pertaining to COMAR 26.11.19.02A(3)–(5) and COMAR 26.11.19.01B(1–1).

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#### 40 CFR Part 52

[OH102–1a; FRL–5675–5]

#### Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

**SUMMARY:** The United States Environmental Protection Agency (USEPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Ohio on August 30, 1996, which provides Ford Motor Company an extended exemption from opacity limitations for start-up of coal-fired boilers at its Cleveland Engine Plant 1. This revision extends the exemption for these boilers from 3 hours to 6 hours after start-up.

**DATES:** The "direct final" approval is effective on April 28, 1997 unless adverse or critical comments are received by March 27, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone John Summerhays at (312) 886–6067 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays at (312) 886–6067.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the first version of Ohio particulate matter regulations approved by USEPA, i.e., Ohio's 1972 SIP submittal, Ohio's regulations imposed a limitation on opacity without any exemptions for special circumstances. However, as experience was gained enforcing this limitation, the State identified a number of circumstances in which compliance with the limitation could be considered an unreasonable requirement. One type of such circumstances is the start-up of a boiler, before stable combustion conditions have been achieved. In rule revisions adopted in the early 1980s, the State exempted sources from the opacity limitation for a period of six hours after start-up of a boiler. USEPA accepted the principle of exempting boilers from the opacity limitation for a period necessary to achieve stable combustion, but objected to provision of an automatic six hour exemption. USEPA recommended instead that Ohio provide a three hour exemption, with provision that Ohio could request longer exemptions for specific sources on a case-by-case basis.

Pursuant to USEPA's recommendation, Ohio in 1991 modified its rule on opacity, Rule 3745–17–07, in accordance with USEPA's recommendations. Paragraph (A)(3)(b)(i) states that:

the visible particulate emission limitations established in paragraph (A)(1) of this rule shall not apply to \* \* \* the start-up of \* \* \* any fuel burning equipment which are uncontrolled or which are equipped solely with mechanical collectors \* \* \* , for a period of not more than three hours from the moment of start-up, provided that the director may incorporate a longer start-up time period in the permit \* \* \* for such source for which an applicant demonstrates to the satisfaction of the director that the longer time period is required.

Paragraph (D) of this rule then states that:

Any revision approved by the director in accordance with paragraph (A)(3)(a)(ii) [et al.] shall not revise the federally enforceable requirements of the state implementation plan until approved by the U.S. environmental protection agency.

USEPA approved Rule 3745–17–07, including the above language, on May 27, 1994, at 59 FR 27464.

##### II. Review of State Submittal

In this submittal, Ohio requests that the start-up exemption from opacity limitations be extended from three hours to six hours for coal-fired boilers at Ford's Cleveland Engine Plant 1, pursuant to Paragraphs (A)(3)(a)(ii) and (D) of its Rule 3745–17–07. The

submittal provides various evidence in support of this extension. In correspondence from an engineering consulting firm to Ford dated November 27, 1991, evidence was provided that starting up these boilers in less than six to ten hours (for a "cold" start-up) would be injurious to the heat transfer tubes in the boiler and would thereby create a safety hazard. A second type of evidence is data on the duration of opacity in excess of baseline limits during routine start-ups of these boilers. These data indicate that excess opacity essentially always exceeds the baseline opacity limit for at least some time after start-up, that excess opacity often occurs beyond three hours and up to six hours after start-up, and that excess opacity rarely occurs after 6 hours after start-up of these boilers.

Ohio's submittal includes a letter from USEPA, suggesting the possibility of avoiding an extended period of excess opacity by providing for use of natural gas as a fuel while the boilers are being started up. The submittal also includes a response to this suggestion from Ford's engineering consultant, dated March 10, 1995 (attached to correspondence from a law firm representing Ford dated March 13, 1995). This response provides cost estimates for installing burners capable of gas firing during boiler start-up, supplementing information included in the earlier document as to the historic frequency of start-ups of these boilers, indicating that provision for use of gas firing during start-up would impose high costs and would provide relatively little emissions reduction.

The State's submittal further includes a comment received from the Gas Research Institute during its public comment period. The Gas Research Institute commented that gas firing during start-up can be implemented at reasonable cost, and described selected cases where this approach has in fact been implemented. Notably, the costs cited by the Gas Research Institute in a case it describes are comparable to the cost estimates developed by Ford's consultant. The principal difference is that the Gas Research Institute notes that installation of gas-fired alternative burners would minimize emissions during ash-pulling and soot-blowing as well as during start-ups, and indicates that the costs of gas burner installation are reasonable when one considers the full range of benefits. Ohio did not provide an explicit review of this comment; nevertheless, by virtue of its request for an extension of the start-up exemption for Ford, the State can be presumed to have continued to compare costs for gas firing only against the

benefits of start-up emissions reductions, and concluded that these costs would be unreasonable and disproportionate to the relevant reduction in emissions. In any case, USEPA has approved a State-wide exemption from the general stack opacity limit during ash-pulling and soot-blowing for certain classes of boilers that include Ford's boilers, and no rationale has been provided that these exemptions should not apply to Ford. Therefore, USEPA is comparing the costs of gas burner installation solely against the benefits of emissions reductions during start-up, and concludes that the cost of gas burner installation is not warranted.

The State is authorized to adopt the extension to the exemption from the opacity limit both as a condition in a permit to operate and as a provision in an administrative order. Ohio adopted both instruments, but requested USEPA action only on the administrative order. USEPA is rulemaking only on the order, for consistency with the State's request, and because the order does not expire.

USEPA guidance states that relaxations in particulate matter limitations must be evaluated as to whether the relaxation creates the potential for violation of the air quality standard. In this case, although the revision would add three hours after start-up when previously applicable opacity limits would no longer apply, the mass emissions limitations for these boilers remain in effect throughout the start-up period and thereafter. The extension of the exemption from the opacity limit is judged not to significantly affect USEPA's ability to assure achievement of the mass emissions level which has been shown to suffice to assure attainment. Therefore, no additional analyses are needed in this case to demonstrate that attainment remains assured notwithstanding this extension of the opacity limit exemption.

### III. Final Rulemaking Action

USEPA has reviewed the State's request for extending the exemption from opacity limits for the boilers at Ford Motor Company's Cleveland Engine Plant 1 from three hours to six hours after start-up, and has reviewed the materials provided by the State in conjunction with this request. USEPA concurs that as these boilers are currently configured, start-up in a manner that would avoid exceedance of opacity limits beyond three hours after start-up would cause unreasonable wear on the equipment and an unreasonable risk to plant personnel. USEPA further concurs that boiler modifications to

accommodate natural gas firing during start-up would impose unreasonable costs relative to the quantity of reduction of start-up emissions that such modifications would provide. Therefore, USEPA is approving the State's request to extend the period of exemption from opacity limits for start-up of Ford's Cleveland Engine Plant 1.

The USEPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, USEPA is publishing a proposal to approve the SIP revision should significant adverse or critical comments which have not been previously addressed be filed. This action will be effective April 28, 1997 unless, by March 27, 1997 such adverse or critical comments are received.

If USEPA receives such comments, this action will be withdrawn by publishing a subsequent document that will withdraw today's final action. Public comments received will be addressed in a subsequent final rule based on the proposed action published elsewhere in today's Federal Register. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 28, 1997.

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

## IV. Administrative Requirements

### A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

#### D. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 28, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: January 30, 1997.

David A. Ullrich,

*Acting Regional Administrator.*

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

#### Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(113) to read as follows:

##### § 52.1870 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(113) On August 30, 1996, Ohio submitted a request to extend the exemption from opacity limits for the boilers at Ford's Cleveland Engine Plant 1 to six hours after start-up.

(i) Incorporation by reference.

(A) Findings and Orders for boilers number 1 through number 5 at Ford's Cleveland Engine Plant 1, signed by Donald Schregardus on May 31, 1996.

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#### 40 CFR Part 52

[OR34-1-6136a, OR51-7266a, OR58-7273a; FRL-5680-3]

#### Approval and Promulgation of Implementation Plans: Oregon

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) approves revisions to the State of Oregon Implementation Plan. EPA is approving revisions to Oregon Administrative Rules (OAR) Chapter 340, Divisions 21 through 24, 26, 27, 30, and 34 submitted to EPA on May 28, 1993, and a revision to Division 22 submitted to EPA on September 27, 1995, and revisions to Division 20, 21, 22, 25, 27, and 30 submitted to EPA on October 8, 1996, to satisfy the requirements of section 110 of the Clean Air Act (CAA) and 40 CFR part 51.

**DATES:** This action is effective on April 28, 1997 unless adverse or critical

comments are received by March 27, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and ODEQ.

**FOR FURTHER INFORMATION CONTACT:** Catherine Woo, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-1814.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Oregon Department of Environmental Quality (ODEQ) submitted to EPA revisions to OAR, Divisions 21-24, 26, 27, 30 and 34, on May 28, 1993. A separate revision to Division 22-100, -130, and -137 was submitted September 27, 1995. A third revision to Divisions 20, 21, 22, 25, 27, and 30 was submitted October 8, 1996.

The revisions submitted on May 28, 1993, were State-effective on March 10, 1993. The submittal contained revisions to Oregon's General Emission Standards For Particulate Matter (OAR 340-21-010, -027, -040, -055 through -230, and -240 through -245); General Gaseous Emissions (OAR 340-22-005 through -100, -104 through -120, and -133 through -640); Rules For Open Burning (OAR 340-23-022 through -115); Motor Vehicles Visible Emissions (OAR 340-24-300 through -307, and -325); Field Burning Rules (OAR 340-26-001 through -015, and -031 through -055); Air Pollution Emergencies (OAR 340-27-010 through -035); Specific Air Pollution Control Rules For Areas With Unique Air Quality Control Needs (OAR 340-30-005, -012 through -030, and -035 through -230); and Residential Woodheating (OAR 340-34-001 through -215.)

The revisions submitted on September 27, 1995, were State-effective on November 2, 1994. The submittal contained revisions to Oregon's requirements for General Gaseous Emissions (OAR 340-22-110, 22-130 and 22-137.)