

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN137-1a; FRL-7004-1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to particulate matter (PM) emissions regulations for Cerestar USA, Inc. (Cerestar). Cerestar is located in Lake County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on February 16, 2001, as amendments to its State Implementation Plan (SIP). The revisions include the elimination of 18 emission points, the addition of 39 new emission points, and a change in the way the short-term emission limits are expressed (from pounds of particulate matter per ton of product to grains per dry standard cubic feet). One of the revisions also changes the name of the facility listed in the rules from American Maize Products (AMAIZO) to Cerestar USA, Inc. These SIP revisions result in an overall decrease in allowed PM emissions of about 48 tons per year (tpy).

DATES: This rule is effective on September 17, 2001, unless EPA receives relevant adverse written comments by August 17, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matthew Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524.

SUPPLEMENTARY INFORMATION: Throughout this document wherever

“we,” “us,” or “our” are used we mean EPA.

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I. What Is the EPA Approving?

We are approving revisions to PM emissions regulations for Cerestar, located in Lake County, Indiana. IDEM submitted the revised regulations on February 16, 2001, as amendments to its SIP. Indiana held public hearings on the proposed rule revisions on April 13, 2000, and September 6, 2000.

The revisions include the elimination of 18 emission points, the addition of 39 new emission points, and a change in the way the short-term emission limits are expressed (from pounds of particulate matter per ton of product to grains per dry standard cubic foot). One of the revisions also changes the name of the facility listed in the rules from American Maize Products (AMAIZO) to Cerestar USA, Inc. These SIP revisions result in an overall decrease in allowed PM emissions of about 48 tpy.

II. What Are the Changes From Current Rules?

IDEM has submitted revisions to regulation 326 Indiana Administrative Code (IAC) 6-1-10.1. The current rule contains 72 emissions points. The revisions to the rule include the elimination of 18 emission points and the addition of 39 new emission points, due to plant modernization which has occurred since the adoption of the current rule. These SIP revisions result in an overall decrease in allowed PM emissions of about 48 tpy.

The revisions also change the way the short-term emission limits are expressed, from pounds of particulate matter per ton of product (lb/ton) to grains per dry standard cubic feet (gr/dscf). Because of variability in product moisture content, and therefore weight, gr/dscf is a more accurate way to determine emissions.

III. Analysis of Supporting Materials Provided by IDEM

The general criteria used by the EPA to evaluate such emissions trades, or “bubbles,” under the Clean Air Act and applicable regulations are set out in the EPA's December 4, 1986, Emissions Trading Policy Statement (ETPS) (see 51 FR 43814). Emissions trades which result in an overall decrease in

allowable emissions require a “Level II” modeling analysis under the ETPS to ensure that air quality will be protected. A Level II analysis must include emissions from the sources involved in the trade, and must demonstrate that the air quality impact of the trade does not exceed set significance levels.

However, since Cerestar is located in a PM nonattainment area, IDEM chose to go beyond the required Level II analysis and conduct a “Level III” modeling analysis. A Level III analysis is a full dispersion modeling analysis considering all sources affecting the trade's area of impact. For this analysis, IDEM performed a dispersion modeling analysis of PM concentrations attributable to Cerestar and other Lake County sources. IDEM used virtually the same inputs and procedures as the PM attainment plan for Lake County, Indiana that EPA approved in 1995, except that IDEM used ISC3, a more current dispersion model, as well as the revised emission rates for Cerestar. This analysis demonstrated that the revised plan was still adequate to attain and maintain the PM air quality standards in the vicinity.

EPA believes the modeling analysis submitted by IDEM satisfies applicable guidance. EPA approved most aspects of the analysis in 1995, and finds the use of an updated dispersion model and revised emission rates to be necessary and sufficient. EPA concurs with IDEM's conclusion from this analysis that the requested SIP revisions will continue to protect air quality in the area.

IV. What Are the Environmental Effects of This Action?

These SIP revisions will result in a decrease in allowable PM emissions of 48 tpy. In addition, air quality modeling analyses conducted by IDEM show that the requested SIP revisions should continue to protect air quality. Therefore, these SIP revisions should not have an adverse effect on air quality.

V. EPA Rulemaking Action

We are approving, through direct final rulemaking, revisions to PM emissions regulations for Cerestar, located in Lake County, Indiana. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by August 17, 2001.

Should we receive such comments, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action will be effective on September 17, 2001.

VI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission,

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 17, 2001, unless EPA receives adverse written comments by August 17, 2001.

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 September 17, 2001. 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

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

Dated: June 13, 2001.

Gail Ginsberg,

Acting Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(141) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(141) On February 16, 2001 Indiana submitted revised particulate matter emissions regulations for Cerestar USA, Inc. The submittal amends 326 IAC 6-1-10.1, and includes the elimination of 18 emission points, the addition of 39 new emission points, and a change in the way the short-term emission limits are expressed (from pounds of particulate matter per ton of product to grains per dry standard cubic foot). The revision also changes the name of the facility listed in the rules from American Maize Products (Amaizo) to Cerestar USA, Inc.

(i) *Incorporation by reference.*

Emissions limits for Cerestar USA, Inc. in Lake County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Nonattainment Area Limitations, Section 10.1: Lake County PM₁₀ emission requirements. Added at 24 In. Reg. 1308. Effective January 13, 2001.

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FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 90-23]

Tariffs and Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Proceeding Discontinued.