

emission sources located outside of the Chicago, Peoria and St. Louis major metropolitan areas (MMA's). Included in the revision were two pertinent proposals: Rule 204(c)(1)(C) which eliminated the federally approved maximum SO₂ emission limitation of 6.0 pounds (lbs.) SO₂ per million BTU (MBTU) for fuel combustion emission sources outside the MMA's, and Rule 204(e)(1) which established a new maximum hourly emission limit for these sources. The State of Illinois, however, failed to submit air quality impact studies demonstrating that the proposed revisions would adequately attain and maintain the National Ambient Air Quality Standards (NAAQS) for SO₂. Therefore on December 26, 1979 (44 FR 76308) EPA proposed to approve the revisions only as they applied to specific sources for which the rules did not represent a relaxation of the federally approved SIP. EPA proposed to disapprove the rules for other sources unless Illinois submitted air quality studies demonstrating that the revisions would not cause or contribute to violations of the NAAQS at such sources. The rulemaking action was final on September 19, 1980 (45 FR 62804).

The Kincaid plant is one of the sources for which the SIP revision constituted a relaxation of the existing emission limit. Therefore an air quality study was necessary before EPA could approve the revision for Kincaid. On September 19, 1979 Illinois submitted an air quality study to EPA demonstrating that emissions allowed under the revised Rule 204(e)(1) would not cause or contribute to violations of the NAAQS at Commonwealth Edison's Kincaid plant. EPA reviewed the study and determined that it was adequate to support a SIP revision. The Agency therefore proposed to approve an emission limit of 105,162 lbs. SO₂/hour for the Kincaid plant. 44 FR 76311 (December 26, 1979). One comment was received proposing a lower emission limit. Since the modeling analysis demonstrated that the proposed limit was sufficient to protect the NAAQS, EPA published a Notice of Final Rulemaking approving the SIP revision on October 24, 1980 (45 FR 70449).

Petition for Reconsideration

New York has petitioned for reconsideration pursuant to Section 307(d)(7)(B) of the Clean Air Act (the Act), 42 U.S.C. 7607(d)(B). Commonwealth Edison and Peabody Coal Company have submitted

responses to New York's petition.¹ On December 22, 1980 the State of New York also filed a petition for review of EPA's final rulemaking in the Court of Appeals for the Seventh Circuit. *State of New York v. United States Environmental Protection Agency*, No. 80-2808. Appellate review has been stayed pending EPA's determination of New York's petition for reconsideration. New York has recently petitioned the court to reopen the record on appeal to adduce additional evidence pursuant to Section 307(c) of the Act. New York argues that scientific reports addressing the long range transport of pollutants have become available since the close of the comment period on the SIP revision. New York claims that it had no opportunity to submit this material in the Kincaid rulemaking.

EPA believes that providing an opportunity for comment at this time on the interstate impact of the Kincaid SIP revision will facilitate a more thorough determination by the Administrator and assure a more complete record for appellate review. Accordingly, EPA today solicits comments on the interstate impact of its October 24, 1980 approval of the SO₂ emission limits for Kincaid. All comments received within 30 days of the date of this notice will be considered. EPA will reconsider the emission limits in light of the comments on interstate impacts, and will also respond to other issues raised in New York's petition for reconsideration.

(Sections 110 and 301 of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601)

Dated: October 9, 1981.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 81-30901 Filed 10-23-81; 8:45 am]

BILLING CODE 6580-38-M

40 CFR Part 52

[A-5-FRL-1951-8].

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

¹ As noted by Commonwealth Edison and Peabody, New York's petition is not cognizable under Section 307(d) since that section does not apply to a SIP revision unless it is promulgated by the Administrator pursuant to Section 110(c) of the Act. The action questioned herein is an approval of a SIP revision promulgated by Illinois, pursuant to Section 110(a). Therefore EPA has decided to treat the petition as one for revision of a rule under Section 3(e) of the Administrative Procedure Act which establishes a general right to petition for "issuance, amendment or repeal" of an agency rule. 5 U.S.C. 553(e).

SUMMARY: On May 1, 1981, the State of Michigan submitted a revision to the Michigan Implementation Plan (SIP) in the form of a Final Order (07-1981) issued by the Michigan Air Pollution Control Commission (Commission) to the Boulevard Heating Plant of Detroit Edison. The Order provides for a reduction in total daily particulate emissions from the plant's four coal-fired boilers. The submittal is in accordance with Michigan's commitment to develop abatement orders for sources contributing to violations of the particulate standards in the Detroit nonattainment area (as described in a Federal Register notice published May 6, 1980—45 FR 29790).

The purpose of today's action is to announce EPA's approval of the Final Order and invite public comment on the proposed approval.

DATE: Comments on this revision and on EPA's proposed rulemaking are due by November 25, 1981.

ADDRESSES: Copies of these SIP revisions are available for review at the following addresses:

U.S. Environmental Protection Agency,
Air Programs Branch, Region V, 230
South Dearborn Street, Chicago,
Illinois 60604;

Michigan Department of Natural
Resources, Air Quality Division, State
Secondary Government Complex,
General Office Building, 7150 Harris
Drive, Lansing, Michigan 48917.

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs
Branch, Region V, U.S. Environmental
Protection Agency, 230 South
Dearborn Street, Chicago, Illinois
60604.

FOR FURTHER INFORMATION CONTACT:
Toni Lesser, Regulatory Analysis
Section, Air Programs Branch, Region V,
U.S. Environmental Protection Agency,
230 South Dearborn Street, Chicago,
Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Boulevard heating plant, located in the City of Detroit and County of Wayne, is a small part of a Detroit Edison Grid that supplies steam to various institutions. The plant contains four coal-fired boilers, each designed to produce 35,000 pounds of steam per hour, and is located within the Detroit primary nonattainment area. Due to its age (it was built in 1919), the plant is used only for short periods of time during the winter months (10-29 days per year) to regulate steam pressure for the grid, and produces approximately

.052 percent of the entire heating system load.

Under Michigan's former Rule 336.1331, the plant was subject to a limit of 0.65 pounds of particulate per 1,000 pounds flue gas or an equivalent of 590 tons of emissions per year. Rule 336.1331 was amended by the State and approved by EPA on May 6, 1980 (45 FR 29790) to restrict the Boulevard heating plant to a lower particulate emission limit of 0.45 pounds of particulate per 1,000 pounds flue gas or an equivalent of 410 tons per year by July 1, 1981.

Detroit Edison has reviewed the impact of this requirement on the Boulevard heating plant and has asserted that this regulation does not represent reasonably available control technology (RACT) for the plant. The company believes that the Boulevard plant could satisfy the RACT requirement by restricting its operation rather than by installing control technology which would enable it to meet the new 0.45 emission rate. By meeting a higher 0.65 pounds of particulate per 1,000 pounds of flue gas emission limit but limiting total particulate emission from the plant to not more than 0.9 tons per day and 10 tons per year, the overall effect is to reduce the plant's current allowable annual emission rate from 410 tons per year to 10 tons per year.

The State concurred with Detroit Edison's RACT assertion and, on April 28, 1981, the Commission entered into the record of the state administrative proceeding a Stipulation for Entry of Consent and Final Order 07-1981 which represents a site-specific variance from Rule 336.1331(d) of the approved SIP. Under Consent Order 07-1981, in parts 5.(a)-(d), Detroit Edison agreed to the following schedule:

(a) After July 1, 1981, the Company shall limit the consumption of coal for Units 1 through 4 of the Boulevard heating plant to 90 tons per day and 1,000 tons per year.

(b) After July 1, 1981, particulate emissions from each of Units 1 through 4 at the Boulevard heating plant shall not exceed 0.65 pounds particulate per 1,000 pounds of exhaust gases corrected to 50 percent excess air.

(c) After July 1, 1981, particulate emissions from Units 1 through 4 at the Boulevard heating plant shall not exceed 0.9 tons per day nor 10 tons per year.

(d) By March 1, 1982, the Company shall submit to the Commission a report containing the annual fuel consumption and ultimate fuel analysis for Units 1 through 4 of the Boulevard heating plant for the preceding calendar year.

EPA has reviewed Detroit Edison's

analysis of all the possible control alternatives which indicates that reduction in operation of the Boulevard plant represents the best approach to controlling emissions of particulates from that source. By restricting its operation, the plant can satisfy the emission reduction required under the new SIP revision and still retain its previous emission rate of up to 0.65 pounds particulate per 1,000 pounds of flue gas while it is in operation. The Order also requires the company to submit an annual report to the Commission to facilitate accurate compliance determination.

EPA has reviewed the Order and concludes that the SIP revision does not interfere with the attainment and maintenance of the particulate standards in the Detroit area by the December 31, 1982 statutory deadline. Therefore, EPA proposes approval of Order 07-1981 as a revision to the Michigan SIP. A thirty-day public comment period is being provided on this notice of proposed rulemaking. If possible, comments should be submitted in triplicate. All comments received will be available for inspection during normal business hours at the Region V Office listed at the beginning of this notice. Please call the contact person listed before visiting the Region V Office.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator certified on January 27, 1981 (46 FR 8709), that approvals of SIPs under Section 110 or 172 of the Act would not have significant economic impact on substantial number of small entities. Today's action proposes to approve a State action under Section 110 and 172 of the Act and imposes no new requirements. This action merely requires the plant to continue emitting particulates at its current rate.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation since it approves provisions which the State adopted and submitted to EPA. EPA is not imposing any requirements which are different from those already required by the State.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Secs. 110 and 172 of the Clean Air Act)

Dated: September 30, 1981.

Valdas V. Adamkus,
Acting Regional Administrator.
(FR Doc. 81-3202 Filed 10-23-81; C45 a-c)
BILLING CODE 6550-33-M

40 CFR Part 180

[OPP-260040; PH-FRL-1964-2]

Pesticide Tolerances; Proposed Technical Amendment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes that 40 CFR 180.1(h) be amended to clarify and update the entry for "beans." This proposal was submitted by the Interregional Research Project No. 4 (IR-4). This amendment will identify by generic name those vegetables intended whenever a tolerance is established for the agricultural commodities "beans."

DATE: Comments must be received on or before November 10, 1981.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted an amendment request to EPA on behalf of the IR-4 Technical Committee, requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, revise the crop grouping "beans" in 40 CFR 180.1(h) and to add new crop groupings, "beans (dry)" and "beans (succulent)." The IR-4 requested these amendments in order to clarify and update the relationship between the general category "beans," in column A and the specific raw agricultural commodities listed in column B.

IR-4 originally proposed to redefine "beans" as "beans (dry) and beans (succulent)." Subsequently, the request was modified to indicate the genera of beans to be included in the definition.

The Administrator concurs with IR-4 that 40 CFR 180.1(h) should be revised to clarify and update the general category "beans" in column A and the corresponding specific raw agricultural commodities in column B by naming the