Section, Air Toxics and Radiation Branch (AT–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, (312) 353–8328.

### SUPPLEMENTARY INFORMATION:

## I. Background

Section 189 of the Clean Air Act (Act), 42 U.S.C. 7513(a), requires that States containing initial moderate PM nonattainment areas submit to USEPA by November 15, 1991 among other things, a plan and demonstration that the plan will provide for attainment of the PM NAAQS as expeditiously as practicable but no later than December 31, 1994. To satisfy this requirement, on June 11, 1994 the State submitted a proposed SIP revision which consisted primarily of 31 consent orders between the State and PM sources. The April 7, 1994 submittal consisted of a revised order for the Marblehead Lime Company, River Rouge, Michigan which superseded the portion of the June 11, 1993 SIP submittal applicable to the Marblehead Lime, River Rouge facility. The air quality dispersion modeling conducted by the State to demonstrate attainment was based upon control measures, limitations, and conditions contained in these orders.

The air quality planning requirements for moderate PM nonattainment areas are set out in subparts 1 and 4 of Title I of the Act. The USEPA has issued a "General Preamble" describing USEPA's preliminary views on how USEPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

In the June 15, 1994 NPR, USEPA proposed to disapprove in its entirety the SIP revision submitted by the State because USEPA found unapprovable provisions in each of the 31 consent orders submitted for approval into the Michigan SIP, however, the USEPA also noted that it would change the proposed disapproval to final approval if the State were to remove the unacceptable language in paragraph 11, or replace it with a previously approved version, remove paragraph 12 in each of the 31 consent orders, and submit revised consent orders to USEPA. The State subsequently revised paragraph 11, removed paragraph 12 of the consent orders and submitted the revised orders for approval into the Michigan SIP on October 14, 1994.

#### **II. This Action**

Section 110(k) of the Act, 42 U.S.C. 7410(k), sets out provisions governing USEPA's review of SIP submittals. In this action, USEPA is withdrawing its proposed disapproval published in the June 15, 1994 NPR (59 FR 30742) and is, instead, fully approving the attainment plan for the Wayne County PM nonattainment area.

Discussion of how the State met the Act's requirements for part D nonattainment area SIPs providing for attainment and maintenance of the PM NAAQS is included in the June 15, 1994 NPR and the November 24, 1993 technical support document (TSD) and will not be repeated here. The revised consent orders do not alter the attainment demonstration submitted on June 11, 1993. No public comments were received on USEPA's review of this portion of the submittal. The comments submitted only address the proposed disapproval of the consent orders. The following sections discuss the basis for USEPA's proposed disapproval, comments received, and USEPA's response to comments.

# III. Basis for Proposed Disapproval

The USEPA proposed to disapprove the June 11, 1993 SIP submittal because of unapprovable language contained in two provisions found in each of the 31 consent orders. One provision (paragraph 11) allowed for the substitution of "equivalent" particulate and fugitive dust control measures. The USEPA noted that language in this provision was unacceptable because it bypassed the Act's substantive and procedural requirements for SIP revisions and went beyond the scope of the existing policy on providing for flexibility in the SIPs. The USEPA had informed MDNR that it could provide sources some flexibility by revising paragraph 11 to permit use of those measures specifically outlined by existing USEPA guidance.

The other provision (paragraph 12) allowed for termination of the order upon the issuance of an operating permit pursuant to Title V of the Act. The USEPA noted that in order for the SIP to be enforceable, consent orders must not expire. Emission limits found in Title 5 permits must be the same as those found in the SIP or within the flexibility provided for by the SIP. Should the consent order expire, the SIP would be deficient, even following the issuance of an operating permit. More details are provided in the November 24, 1993 TSD and the June 15, 1994 NPR.

# IV. Public Comments/USEPA Response

A thirty day public comment period was provided to allow interested parties the opportunity to comment on USEPA's proposed action. A summary of the public comments received and USEPA's response are presented below.

Public Comment: The Wayne County Air Pollution Control Division agrees with USEPA on the second issue (expiration of consent orders) but disagrees with the first issue (equivalent control measures). The Division believes that USEPA should provide some mechanism or flexibility for the local or State agencies to recommend approval if a company proposes an alternative equivalent control measure and demonstrates that it will achieve an equivalent or better control efficiency on a particulate matter source.

*USEPA Response:* The USEPA's detailed response to this comment is addressed below.

Public Comment: The MDNR stated that the enclosed particulate matter consent orders have been revised to incorporate wording to address the deficient "equivalency" provisions in paragraph 11, consistent with USEPA's August 28, 1994 letter and as such should meet USEPA's conditions for approvability.

USEPA Response: The USEPA has reviewed the revised consent orders and finds that the State has adequately addressed USEPA's concerns as detailed in the November 24, 1993 TSD and the June 15, 1994 NPR. The consent orders revisions are also consistent with USEPA's August 28, 1994 letter. The revised language provides flexibility in the SIPs for altering control programs and processes, so long as the change does not result in an increase in the level of fugitive dust or particulate emissions. The alternative method must also be demonstrated to be equivalent to the approved SIP method through the use of a USEPA-approved model. Any alternative method or model would require a site-specific SIP revision. This procedure ensures that the limits are not subject to revision at the sole discretion of the State.

Public Comment: The MDNR also stated that the termination clause which previously was paragraph 12 of the original consent orders has been deleted.

USEPA Response: Deletion of this provision from the consent orders corrects the deficiency cited in the June 15, 1994 NPR.

## V. Implications of This Action

The USEPA is approving the SIP initially submitted by the State of