New York state regulation	State effective date	Latest EPA approved date	Comments
Part 200, General Provisions	1/16/92	[Insert date and citation of this notice].	Redesignation of nonattainment areas to attainment areas (200.1(ii)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC.
Part 236, Synthetic Organic Chemical Manufacturing Facility Component Leaks.	1/16/92	[Insert date and citation of this notice].	Variances adopted by the State pursuant to Part 236.6(e)(3) become applicable only if approved by EPA as a SIP revision.

[FR Doc. 93-17779 Filed 7-26-93; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WA8-1-5478; FRL-4674-1]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving the State of Washington Implementation Plan revisions submitted for Kent, Washington, on November 5, 1990 as revised by addenda submitted on December 27, 1990 and November 15, 1991 by the State of Washington Department of Ecology (WDOE). The purpose of the revisions is to bring about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The implementation plan was submitted by WDOE to satisfy certain federal Clean Air Act requirements for an approvable moderate PM_{10} nonattainment area SIP for Kent, Washington. This action to approve this plan has the effect of making requirements adopted by the Washington Department of Ecology federally enforceable by EPA.

EFFECTIVE DATE: September 27, 1993.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, United States Environmental Protection Agency, Air Programs Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: United States Environmental Protection Agency, Air Programs Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and State of Washington Department of Ecology, 4350 Third Ave. SE, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Air Programs Branch (AT-082), US Environmental Protection Agency, Region 10, Seattle, Washington 98101, (206) 553-6511.

SUPPLEMENTARY INFORMATION:

I. Background

The Kent, Washington area was designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991). The air quality planning requirements for moderate PM_{10} nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM_{10} nonattainment area SIP requirements. See generally 57 FR 13498 (April 16, 1992); see also 57 FR 18070 (April 28, 1992).

On March 16, 1993, EPA announced its proposed approval of the moderate nonattainment area PM_{10} SIP for Kent, Washington (58 FR 14194-14198). In that rulemaking action, EPA described its interpretations of Title 1 and its rationale for proposing to approve the Kent PM_{10} SIP taking into consideration the specific factual issues presented.

Those states containing initial moderate PM_{10} nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Additional provisions are due at a later date. States with initial moderate PM_{10} nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992 (see section 189(a)). Such states also must submit contingency measures by November 15, 1993, which become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM_{10} NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13544-13545).

II. Response To Comments

EPA received no comments on its March 16, 1993, (58 FR 14194-14198) Federal Register proposal to approve the Kent moderate nonattainment area PM_{10} SIP as a revision.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified as amended in the U.S. Code at 42 U.S.C. 7401 et seq.

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM_{10} nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

III. Today's Action

Section 110(k) of the Act sets out provisions governing EPA's review and processing of SIP submittals (see 57 FR 13565–13566). In this action, EPA is approving the State of Washington Implementation Plan revisions submitted for Kent, Washington on November 5, 1990 as revised by addenda submitted on December 27, 1990 and November 15, 1991 by the WDOE. EPA has determined that the plan meets all of the applicable requirements of the Act. Among other things, the Washington Department of Ecology has demonstrated the Kent moderate PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994.

IV. Administrative Review

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

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.

Under 5 U.S.C. 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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 27, 1993. 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) of the 42 U.S.C. 7607(b)(2)).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA 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, EPA 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 section 110 and subchapter I, Part D of the CAA 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 regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: June 22, 1993.

Gerald A. Emison,

Regional Administrator.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of the Federal Register on July 1, 1982.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(40) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(40) On November 5, 1990, EPA received the Washington Department of Ecology submission for a PM_{10} nonattainment area state implementation plan for Kent, Washington.

(i) Incorporation by reference.

(A) November 5, 1990 letter from Washington Department of Ecology to EPA Region 10 submitting the PM_{10} nonattainment area state implementation plan for Kent, Washington.

(B) The PM_{10} nonattainment area state implementation plan for Kent, Washington as adopted by the Washington Department of Ecology on November 3, 1990 and effective on November 3, 1991.

(C) December 27, 1990 letter from Washington Department of Ecology to EPA Region 10 submitting an addendum to the PM_{10} nonattainment area state implementation plan for Kent, Washington.

(D) PM_{10} SIP addendum, dated June 5, 1990, to the PM_{10} Kent, Washington state implementation plan.

(E) November 15, 1991 letter from Washington Department of Ecology to EPA Region 10 submitting a supplement to the PM_{10} nonattainment area state implementation plan for Kent, Washington.

(F) PM_{10} SIP supplement, dated November 1991, to the PM_{10} Kent, Washington state implementation plan.

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[FR Doc. 93–17778 Filed 7–26–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MD8–2–5577; MD14–2–5580; MD5–2–5576; MD9–1–5579; A–1–FRL–4678–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration; Nitrogen Dioxide Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving four State Implementation Plan (SIP) revisions submitted by the State of Maryland which amend Code of Maryland Administrative Regulations (COMAR) 26.11.01.03, 26.11.02.19 (C)(8) and 26.11.06.14. The intended effect of this action is to approve [illegible] amendments to Maryland's Prevention of Significant Deterioration (PSD) program. These revisions [illegible] regulations consistent with the currently effective version of 40 CFR 52.21, including [illegible] increments [illegible] concentration [illegible] the baseline concentrations. This action is being taken in accordance with section 110 of the Clean Air Act (CAA) and in [illegible] of the October 17, 1988 promulgation of the NO$_2$ PSD increment regulations requiring that