

Subpart EE—New Hampshire

2. Section 52.1519 is amended by adding paragraph (c)(3) to read as follows:

§ 52.1519 Identification of plan.

* * * * *

(c) * * *

(3) Revision to the State Implementation Plan submitted by the New Hampshire Air Resources Division on June 14, 1995.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated June 14, 1995, submitting a revision to the New Hampshire State Implementation Plan.

[FR Doc. 95-22165 Filed 9-11-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[TN131-1-6794a; TN136-1-6795a; TN137-1-6796a; FRL-5291-1]

Approval and Promulgation of Air Quality Implementation Plans: Tennessee; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; clarification.

SUMMARY: EPA is correcting minor errors in the amendments to the regulations which appeared in the **Federal Register** on July 28, 1995 (60 FR 38694). This action approved nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties which are part of the Nashville, Tennessee, ozone nonattainment area.

EFFECTIVE DATE: September 26, 1995.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, please contact Richard A. Schutt, Air Programs Branch, U.S. Environmental Protection Agency Region 4, 345 Courtland Street NE., Atlanta, GA 30365, (404) 347-3555 extension 4206.

SUPPLEMENTARY INFORMATION: In the July 28, 1995 (60 FR 38694), final rule, EPA approved nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties in Tennessee in § 52.2235. This section had been added to the CFR in a direct final rule published by EPA on June 22, 1995 (60 FR 32469). This rule was withdrawn on August 7, 1995 (60 FR 40101), after comments were received on the direct final rule, thereby removing § 52.2235 from the CFR. On

August 8, 1995 (60 FR 40292), EPA added § 52.2235 back into the CFR. Today EPA is adding § 52.2235 paragraph (b) back into the CFR.

Dated: August 22, 1995.

Patrick M. Tobin,
Acting Regional Administrator.

Part 52 of chapter I, title 40, *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.

2. Section 52.2235 is amended by adding paragraph (b) to read as follows:

§ 52.2235 Control Strategy for Ozone.

* * * * *

(b) Nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties, submitted on July 13, 1994, were approved by EPA on September 26, 1995.

[FR Doc. 95-22164 Filed 9-11-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[WY2-1-7126; FRL-5279-5]

Approval and Promulgation of State Implementation Plans; Wyoming; Revision to Section 3 Particulates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is approving a revision of the Wyoming State Implementation Plan (SIP) submitted by the Governor of Wyoming on September 6, 1988. Specifically, a revision was made to the definition of "ambient air" in Section 3, Particulates, of the Wyoming Air Quality Standards and Regulations (WAQSR). The action makes the revised definition part of the Federally approved SIP.

EFFECTIVE DATE: This final rule is effective on October 12, 1995.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Denver, Colorado 80202-2466; the Air Quality Division, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming 82002; and

the Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 293-1765.

SUPPLEMENTARY INFORMATION:

I. Overview

On August 26, 1992, EPA proposed to approve a revision to Section 3, Particulates, of the WAQSR, which was submitted for approval in the SIP on September 6, 1988. The revision to Section 3, which added subsection (d), defined "ambient air" for surface coal mines located in Wyoming's Powder River Basin (PRB). The details of the original proposed rule can be found at 57 FR 38641-38650.

After publication of the original proposed action, EPA reevaluated the need to conduct the 30-year "life-of-mine" modeling as outlined in the proposed action. As a result, a Memorandum of Agreement (MOA) was written between Dennis Hemmer, Director of the Wyoming Department of Environmental Quality (DEQ) and Patricia D. Hull, Director of the Air, Radiation and Toxics Division in EPA Region VIII, describing procedures to be followed by the State of Wyoming and EPA in protecting the PM₁₀ National Ambient Air Quality Standards (NAAQS) in the Powder River Basin. The approach outlined in the MOA is based upon continued ambient air quality monitoring, rather than implementation of the 30-year life-of-mine modeling study. A detailed discussion of the MOA is provided below. Since EPA changed the basis for approving the revisions to the State's definition of ambient air, EPA re-proposed approval of these revisions on June 23, 1994 (see 59 FR 32395-32397).

II. Memorandum of Agreement

A. Compliance

The signed MOA between EPA and DEQ was submitted to the DEQ on January 24, 1994. A review of the PM₁₀ ambient monitoring data from the Powder River Basin, as well as the actions by the DEQ and the Wyoming coal companies to maintain an adequate ambient monitoring network, support EPA's view that these actions have proven successful in maintaining the PM₁₀ NAAQS in the region. Other factors that were taken into account include: (1) The fact that the DEQ included in each PRB mining permit explicit requirements to implement best

available work practices (BAWP); (2) that the DEQ is using necessary enforcement to ensure that BAWP are being and will continue to be implemented; and (3) that the probability of future PM₁₀ NAAQS violations in the area is small.

For these reasons, EPA believes it is appropriate to continue ambient monitoring in place of a 30-year life-of-mine study, provided there are no violations of the PM₁₀ NAAQS. The ambient monitoring network submitted to EPA in June 1992, remains in effect. If a PM₁₀ exceedance is monitored, then one of the following two procedures would become effective:

1. In the event of an exceedance of the PM₁₀ NAAQS or Prevention of Significant Deterioration (PSD) increments in the Powder River Basin, the State must expeditiously use all necessary compliance tools, including enforcement of BAWP requirements in the State permits, to eliminate the likelihood of future exceedances of the PM₁₀ NAAQS or PSD increments caused by the contributing source(s).

2. If, in the opinion of EPA, the State does not initiate timely and appropriate action to address these exceedances, or if timely State action does not effectively resolve the issue of exceedances (i.e., if a violation of the PM₁₀ NAAQS occurs following the timely and successful completion of any corrective action required by the State), EPA will reevaluate the need for the State to implement a 30-year life-of-mine study.

B. Conditions Agreed to in the MOA by the State of Wyoming

By signing the MOA, the State of Wyoming agreed to:

1. Conduct ambient air monitoring, including overseeing the mines' ambient monitoring networks, entering the data into the Aerometric Information and Retrieval System (AIRS) database, ensuring attainment of the primary and secondary NAAQS for PM₁₀ based upon 40 CFR 50.6, requiring the minimum frequency of sampling for PM₁₀ based on 40 CFR 58.13, and basing violations upon the calculation in 40 CFR, part 50, appendix K.

2. Provide EPA with a summary of BAWP for each mine, verification that the mines are employing BAWP, and a copy of the Wyoming State regulation which provides the State with the authority to enforce BAWP.

On December 2, 1993 the State of Wyoming DEQ submitted copies of the regulations requested: the authority to require and enforce BAWP through State regulation is contained in Section 35-11-801(a) of the Wyoming Statutes

Ann. (W.S.A.), and Section 21(c)(v) of the WAQSR addresses Best Available Control Technology measures for mining operations.

3. Provide EPA with a written opinion from the State's Attorney General that the State has the authority to take enforcement action against mines based upon violations of the PM₁₀ NAAQS.

A letter from the Wyoming Attorney General's office set forth the enforcement authority of the State of Wyoming, as required by the MOA. The letter referred to the general enforcement provision of Section 35-11-201, W.S.A., and to Section 3(a) of the WAQSR, which establishes the ambient standards for particulate matter and includes the calculation used for demonstration of attainment from 40 CFR part 50, appendix K. The submittal also included a reference to Section 35-11-701, W.S.A., which allows the Director of the DEQ to issue a Notice of Violation; a reference to Section 35-11-901(a), W.S.A., which provides for civil penalties and injunctive relief against "any person who violates * * * any regulation [or] standard;" and a reference to Section 35-11-901(j), W.S.A., which discusses criminal penalties.

C. PSD Increments

The issue of particulate matter increment consumption was temporarily resolved by the establishment of a new Powder River Basin section 107 area. (See 58 FR 4348, January 14, 1993.) This designation effectively "untriggered" the minor source baseline date in the Powder River Basin particulate matter attainment area and, thus, emissions from coal mines and other minor sources were no longer consuming particulate matter increment.

Since that time, a complete PSD permit application was received for the Kennecott/Puron facility in the PRB, which would effectively trigger the minor source baseline date in the PRB. However, the State requested on December 19, 1994 that the impact area of this PSD source be designated as a separate section 107 area so that the minor source baseline date would only be triggered in the 1 µg/m³ impact area of the Kennecott/Puron facility. Such a request is allowed under the Federal PSD rules as long as the area to be excluded from the Powder River Basin particulate matter attainment area encompasses the entire 1 µg/m³ ambient impact of the Kennecott/Puron facility. In a separate rule in this **Federal Register**, EPA is approving the State's December 19, 1994 request and is redesignating the Powder River Basin

particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area, which is being designated as a separate particulate matter attainment area. Thus, EPA's action will "untrigger" the particulate matter minor source baseline date in the remaining Powder River Basin particulate matter attainment area. Refer to that direct final rule elsewhere in this **Federal Register** for further details.

Dispersion modeling of coal mines for tracking PSD increment may be required at some time in the future, if a new or modified major stationary source again triggers the minor source baseline date in the Powder River Basin or by January 1, 2001 (as currently provided in the State's definition of "minor source baseline date"), whichever occurs first.

Final Action

As discussed above, EPA re-proposed action on the revision to the definition of "ambient air" in Section 3(d) of the WAQSR on June 23, 1994, and no comments were received on that proposed SIP approval. Therefore, EPA is finalizing its approval of Section 3(d) of the WAQSR and is incorporating the revised definition into the approved SIP for Wyoming.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the Amendments enacted on November 15, 1990, and has determined that this action conforms with those requirements.

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

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 economic 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.

Approvals of SIP submittals under section 110 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 small entities affected. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act 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 (1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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 November 13, 1995. 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 must 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)).

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernment relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 10, 1995.

Jack W. McGraw,
Acting Regional Administrator.

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 ZZ—Wyoming

2. Section 52.2620 is amended by adding paragraph (c)(22) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(22) On September 6, 1988, the Governor of Wyoming submitted revisions to Section 3 of the Wyoming Air Quality Standards and Regulations, adding subsection (d) which defines "ambient air" for surface coal mines located in Wyoming's Powder River Basin.

(i) Incorporation by reference.

(A) Revisions to Section 3(d) of the Wyoming Air Quality Standards and Regulations, effective June 5, 1987.

(ii) Additional material.

(A) Memorandum of Agreement signed on December 22, 1993 by Dennis Hemmer, Director, Department of Environmental Quality, State of Wyoming, and on January 24, 1994 by Patricia D. Hull, Director, Air, Radiation and Toxics Division, EPA Region VIII.

[FR Doc. 95-22149 Filed 9-11-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 55

[FRL-5294-2]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Final rule—consistency update.

SUMMARY: EPA is finalizing the updates of the Outer Continental Shelf ("OCS") Air Regulations. The requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain

consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), the Clean Air Act Amendments of 1990. The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD), and the Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the requirements contained in "Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources" (August, 1995), "South Coast Air Quality Management District Requirements Applicable to OCS Sources" (Part I and II) (August, 1995), and "Ventura County Air Pollution Control District Requirements Applicable to OCS Sources" (August, 1995) is to regulate emissions from OCS sources in accordance with the requirements onshore.

EFFECTIVE DATE: This action is effective October 12, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency (LE-6102), 401 "M" Street, SW., Room M-1500, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air and Toxics Division (A-5-3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1197.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 1995 in 60 FR 3603 and June 13, 1995 in 60 FR 31128, EPA proposed to approve the following requirements into the OCS Air Regulations: "Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources", "South Coast Air Quality Management District Requirements Applicable to OCS Sources" (Part I and II), and "Ventura County Air Pollution Control District Requirements Applicable to OCS Sources". These requirements are being promulgated in response to the submittal of rules from local air pollution control agencies. EPA has