

and/or products, and is not engaged in the manufacture of products for commercial sale; deadlines for submittal of Acid Rain permits were inconsistent; LAC 33.III.521.A.6 appeared to allow administrative amendments to permits to incorporate certain "off-permit" changes; it was unclear whether the State could lawfully require records to be retained for five years; LAC 33.III.527.A.3 allowed certain changes that rendered existing compliance terms irrelevant to be incorporated through minor modification procedures, yet was unclear whether the criteria in the State rule conformed to 40 CFR 70.4(b)(14); State provisions did not include a requirement that the permit specify the origin of and reference the authority for each term or condition, nor did they identify differences in form from the applicable requirements upon which the terms were based or contain various other elements required by 40 CFR 70.6; inadequate definition of "title I modification;" provisions to determine insignificant activities were not included with the State's original submittal. As discussed in the notice proposing full approval, Louisiana has addressed all of these items. For further discussion of these items, please see the proposed full approval and the Technical Support Document.

B. Options for Approval/Disapproval

The EPA is promulgating full approval of the Operating Permits program submitted to the EPA for the LDEQ on November 15, 1993, and revised on November 10, 1994. Among other things, the LDEQ has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70.

Therefore, the EPA is also promulgating full approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the public comments received and reviewed by the EPA on the proposal, are contained in the docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to

the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 25, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

40 CFR Part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A is amended by adding an entry for "Louisiana" in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Louisiana

(a) The Louisiana Department of Environmental Quality, Air Quality Division submitted an Operating Permits program on November 15, 1993, which was revised November 10, 1994, and became effective on October 12, 1995.

(b) [Reserved]

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[FR Doc. 95-22330 Filed 9-11-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 81

[FRL-5279-6]

Designation of Areas for Air Quality Planning Purposes; Wyoming; Redesignation of Particulate Matter Attainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving a December 19, 1994 request from the Governor of Wyoming to redesignate the Powder River Basin particulate matter attainment area in portions of Campbell and Converse Counties to exclude an area designated as the Kennecott/Puron Prevention of Significant Deterioration (PSD) Baseline area, pursuant to section 107 of the Clean Air Act (Act). EPA is designating the Kennecott/Puron PSD Baseline area as a separate particulate matter attainment area under section 107 of the Act. EPA is approving the State's

redesignation request because the State has adequately followed the applicable Federal requirements and policy. Approval of the section 107 redesignation eliminates the minor source baseline date for particulate matter in the Powder River Basin area which was triggered by the submittal of a complete PSD permit application for the Kennecott/Puron facility.

DATES: This final rule is effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations: Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466; and Air Quality Division, Wyoming Department of Environmental Quality, 122 West 25th Street, Herschler Building, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART-AP, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 293-1765.

SUPPLEMENTARY INFORMATION:

I. Background

The Powder River Basin particulate matter attainment area was initially designated by EPA in the January 14, 1993 **Federal Register** (see 58 FR 4348-4350). This designation was established in accordance with the Federal PSD regulations, which provide States with the option of establishing numerous PSD baseline areas under section 107(d) of the Act, as long as the baseline areas do not intersect or are not smaller than the area of 1 $\mu\text{g}/\text{m}^3$ ambient impact of any major stationary source or major modification which established the minor source baseline date or which was subject to PSD permitting requirements (see 40 CFR 52.21(a)(15)).

This designation of the Powder River Basin as a separate baseline area under section 107 of the Act effectively "untriggered" the particulate matter minor source baseline date in the Powder River Basin particulate matter attainment area. The State's PSD regulations at that time provided that the particulate matter minor source baseline date in the Powder River Basin area would not be triggered until the submittal of the first complete PSD permit application for a major stationary source or major modification locating in

or significantly impacting the Powder River Basin particulate matter attainment area, or by January 1, 1996, whichever occurred first. The State has since amended its PSD regulations to trigger the particulate matter minor source baseline date in the Powder River Basin no later than January 1, 2001.

Subsequently, in August of 1994, a PSD permit application was submitted for the Kennecott/Puron facility to construct a large coal beneficiation plant in the Powder River Basin of Campbell County, Wyoming. In order to avoid triggering the particulate matter minor source baseline date for the entire Powder River Basin particulate matter attainment area, the State submitted a request on December 19, 1994 to redesignate the Powder River Basin particulate matter attainment area to exclude the 1 $\mu\text{g}/\text{m}^3$ air quality impact area of the Kennecott/Puron facility. As stated above, this is allowed under the Federal PSD permitting regulations, as long as the area to be excluded from the Powder River Basin particulate matter attainment area encompasses the entire 1 $\mu\text{g}/\text{m}^3$ ambient impact of the Kennecott/Puron facility.

II. Evaluation of State's Submittal

The State's December 19, 1994 submittal consisted of a description of the boundary of the Kennecott/Puron PSD Baseline area to be excluded from the Powder River Basin area and supporting modeling results which were used to define the 1 $\mu\text{g}/\text{m}^3$ air quality impact area of the Kennecott/Puron facility. EPA originally noted a few concerns with the modeling, which were identified to the State in letters dated February 2, 1995 and March 31, 1995. The State responded to EPA's concerns in letters dated April 15, 1995 and April 28, 1995. The State's responses adequately addressed EPA's concerns. Thus, EPA believes the State has adequately assessed the 1 $\mu\text{g}/\text{m}^3$ air quality impact area of the Kennecott/Puron facility.

The State has followed the terms of EPA's redesignation policy in its December 19, 1994 request to redesignate the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area and to designate the Kennecott/Puron PSD Baseline area as a separate section 107 particulate matter attainment area. Authority for the State's action is provided for in section 107(d)(3)(D) of the Act, which states: "the Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the

State [and EPA] shall approve such redesignation." Therefore, EPA is approving the State's request.

This approval eliminates the minor source baseline date for particulate matter that was established in the Powder River Basin area by the submittal of a complete PSD permit application for the Kennecott/Puron facility. Thus, until the time that the minor source baseline date is triggered, minor source emissions that exist in the Powder River Basin attainment area will become part of background emissions for the area. Once the minor source baseline date is triggered, all new growth from minor sources will begin consuming increment. The particulate matter minor source baseline date is considered to be triggered in the Kennecott/Puron PSD Baseline particulate matter attainment area as of the date the facility's PSD permit application was deemed complete.

FINAL ACTION: EPA is approving the State of Wyoming's request to redesignate the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area, which is being designated as a separate section 107 particulate matter attainment area. The new section 107 Kennecott/Puron PSD Baseline particulate matter attainment area is defined as follows: the area described by the $W\frac{1}{2}SW\frac{1}{4}$ Section 18, $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$ Section 19, T47N, R70W, $S\frac{1}{2}$ Section 13, $N\frac{1}{2}$, $N\frac{1}{2}SW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$ Section 24, T47N, R71W, Campbell County, Wyoming. The Powder River Basin particulate matter attainment area boundary description in 40 CFR part 81 is thus being amended to exclude the Kennecott/Puron PSD Baseline area.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State's request should adverse or critical comments be filed. Under the procedures established in the May 10, 1994 **Federal Register** (59 FR 24054), this action will be effective on November 13, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a

proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 13, 1995.

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 any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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

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.

Redesignation of an area under section 107(d)(3)(D) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area

and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

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.

The State has requested redesignation of the Powder River Basin particulate matter attainment area, to exclude a portion of that area, in accordance with section 107 of the Act. EPA's approval of this redesignation request will merely have the effect of splitting the currently designated Powder River Basin particulate matter attainment area into two parts and will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will 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 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 81

Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1995.

Jack W. McGraw,
Acting Regional Administrator.

40 CFR part 81, subpart B, is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

§ 81.351 [Amended]

2. Section 81.351 is amended by revising the Wyoming TSP table to read as follows:

* * * * *

WYOMING—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Trona Industrial Area (Sweetwater County)	X
Powder River Basin	X
Campbell County (part)				
Converse County (part)				
That area bounded by Township 40 through 52 North, and Ranges 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area, the Hampshire Energy attainment area, and the Kennecott/Puron PSD Baseline attainment area.				
Pacific Power and Light Area	X
Campbell County (part)				
That area bounded by NW1/4 of Section 27, T50N, R71W, Campbell County, Wyoming.				
Hampshire Energy Area	X
Campbell County (part)				
That area bounded by Section 6 excluding the SW1/4; E1/2 Section 7; Section 17 excluding the SW1/4; Section 14 excluding the SE1/4; Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T48N, R70W and Section 26 excluding the NE1/4; SW1/4 Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W.				
Kennecott/Puron PSD Baseline Area	X
Campbell County (part)				
That area described by the W1/2SW1/4 Section 18, W1/2NW1/4, NW1/4SW1/4 Section 19, T47N, R70W, S1/2 Section 13, N1/2, N1/2SW1/4, N1/2SE1/4 Section 24, T47N, R71W.				
Rest of State	X

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[FR Doc. 95-22150 Filed 9-11-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 282

[FRL-5277-6]

Underground Storage Tank Program: Approved State Program for Vermont**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. Forty CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies in 40 CFR part 282 the prior approval of Vermont's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective November 13, 1995, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Vermont's underground storage tank program must be received by the close of business October 12, 1995. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of November 13, 1995, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5-1), Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Joan Coyle, Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-2211. Phone: (617) 573-9667.

SUPPLEMENTARY INFORMATION:**Background**

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Vermont. (57 FR 186, January 3, 1992). Approval was effective on February 3, 1992.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Vermont underground storage tank program. This codification reflects only the state underground storage tank program in effect at the time EPA granted Vermont approval under section 9004(a), 42 U.S.C. 6991c(a). EPA provided notice and opportunity for comment earlier during the Agency's decision to approve the Vermont program. EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Vermont program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Vermont, the status of federally approved requirements of the Vermont program will be readily discernible. Only those provisions of the Vermont underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Vermont's underground storage tank program, EPA has added Section 282.95 to Title 40 of the CFR. Section 282.95 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.95 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of

Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Vermont enforcement authorities will not be incorporated by reference. Forty CFR § 282.95 lists those approved Vermont authorities that would fall into this category.

The public also needs to be aware that some provisions of Vermont's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored; and
- Permanent closure requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program, because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.95 of the codification simply lists for reference and clarity the Vermont statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA. The State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 186, Jan. 3, 1992) to approve the Vermont underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.