

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 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Small business assistance program.

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

Dated: April 24, 1995.

**John P. DeVillars,**

*Regional Administrator, Region I.*

Part 52 of 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 U—Maine**

2. Section 52.1020 is amended by adding paragraph (c)(38) to read as follows:

**§ 52.1020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(38) Revisions to the State Implementation Plan establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program were submitted by the Maine Department of Environmental Protection on July 7, and August 16, 1994.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated July 7, 1994 submitting a revision to the Maine State Implementation Plan.

(B) Revisions to the State Implementation Plan for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program dated July 12, 1994 and effective on May 11, 1994.

(C) Letter from the Maine Department of Environmental Protection dated August 16, 1994 submitting a corrected page to the July 12, 1994 SIP revision.

[FR Doc. 95–22152 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

**40 CFR Part 52**

[NH17–01–7150a; A–1–FRL–5281–8]

**Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Extension of the Date To Meet Conditions for the Inspection and Maintenance Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and allows for extension of the date for the State of New Hampshire to meet the conditions delineated in the **Federal Register** notice of October 12, 1994 (59 FR 51514) from July 29, 1995, until November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. The intended effect of this action is to approve a revision to the date for submission of required conditions in accordance with Section 110(k)(4) of the Clean Air Act.

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

**ADDRESSES:** Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW. (LE–131), Washington, D.C., 20460; and the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

**FOR FURTHER INFORMATION CONTACT:** Peter Hagerty, (617) 565–3224.

**SUPPLEMENTARY INFORMATION:** On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request to extend the date for submission of a SIP revision which meets the requirements of the

three conditions specified for full approval of the New Hampshire motor vehicle inspection and maintenance program in the **Federal Register** of October 12, 1994, (59 FR 51514). New Hampshire requested an extension from July 29, 1995, to November 14, 1995.

**Summary of SIP Revision**

On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request for extension of the date for submission of a SIP revision which meets the requirements of the three conditions specified in the **Federal Register** notice of October 12, 1994, from July 29, 1995, to November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. This is consistent with the requirements of Section 110 (k)(4) of the Clean Air Act which allows states up to one year to comply with conditions based on commitments by a state to adopt enforceable measures to meet SIP requirements. In New Hampshire's case these conditions call for (1) imposition of a more severe penalty for first time inspection offenses, (2) adoption of on-road testing standards, and (3) limiting the use of compliance via diagnostic inspection to those vehicles for which it is allowed under the EPA's I/M rules. November 14, 1995, is one year from the effective date of the New Hampshire conditional approval notice and is within the time allowed under section 110(f)(4) to meet SIP conditions.

The letter requesting this extension was not the subject of a public hearing. There is now insufficient time for New Hampshire to hold public hearings on its recent request for an extension of time to meet the conditions of the I/M SIP approval. Although such hearings are still required, in this case, EPA believes it is not in the public interest to demand that they occur prior to taking action on this revision and thus require disapproval of New Hampshire's I/M SIP. We note that New Hampshire held hearings on the submitted I/M program and provided the public an opportunity to comment on whether or not the submittal complied with federal statutory and regulatory requirements. Also, during EPA's approval process, the public had an opportunity to comment on the proposed conditional approval and address the State's commitments to correct identified deficiencies. According, while the State remains obligated to hold hearings on its commitments to adopt corrective measures, it merely is delaying such hearings for a *de minimus* period. EPA

believes New Hampshire will hold hearings on its commitments in conjunction with the hearings on the substantive corrective measures themselves.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 13, 1995 unless adverse or critical comments are received by October 12, 1995.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice 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.

#### Final Action

EPA is approving an extension of the date for the State of New Hampshire to meet the conditions delineated in the October 12, 1995 **Federal Register** from July 29, 1995, until November 14, 1995.

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.

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. To the extent that 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.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

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

Conditional approvals of SIP submittals 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).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that such disapproval action does not have a significant impact on a substantial number of small entities because it does

not remove existing state requirements nor does it substitute a new federal requirement.

On January 6, 1989, (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

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 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 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone.

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

Dated: July 27, 1995.

**John P. DeVillars,**  
Regional Administrator, EPA—New England.

Part 52 of 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 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 PM<sub>10</sub> 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 PM<sub>10</sub> 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 PM<sub>10</sub> 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