

bridges across the North Branch of the Chicago River, and the draws of the N. Halsted St. bridge, the Division St. bridge and the Chicago, Milwaukee, St. Paul and Pacific Railroad bridge across the North Branch Canal.

(d) The opening signal for all Chicago River bridges is three short blasts or by shouting, except that four short blasts is the opening signal for the Chicago and Northwestern railroad bridge near Kinzie Street and the Milwaukee Road bridge near North Avenue and five short blasts is the opening signal for the Lake Shore bridge when approaching from the north.

(e) The emergency provisions of § 117.31 of this part apply to the passage of all vessels and the operation of all bridges on the Chicago River.

Dated: October 2, 1995.

G.F. Woolever,
Rear Admiral, U.S. Coast Guard Commander,
Ninth Coast Guard District.

[FR Doc. 95-24916 Filed 10-4-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-5309-5]

Clean Air Act Promulgation of Extension of Attainment Date for PM-10 Nonattainment Area in Denver, CO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action serves to grant a 1-year attainment date extension for the Denver, Colorado particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10) nonattainment area. This action is based on monitored air quality data for the national ambient air quality standard for PM-10 during the years 1992-94 and EPA's evaluation of the applicable state implementation plan (SIP).

DATES: This final rule is effective on December 5, 1995, unless adverse comments are received by November 6, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, EPA Region VIII, at the address listed below. Copies of the State's submittal and other information are available for inspection during normal business hours at the

following locations: Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405; and Colorado Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530. The information may be inspected between 8 a.m. and 4 p.m., on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Callie Videtich, 8ART-AP, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405, (303) 293-1754.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements and EPA Actions Concerning Designation and Classification

On the date of enactment of the 1990 Clean Air Act Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law (see generally, 42 U.S.C. section 7407(d)(4)(B)). These areas included all former Group I areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the PM-10 standards prior to January 1, 1989 (many of these areas were identified by footnote 4 in the October 31, 1990 Federal Register notice). A Federal Register notice announcing the areas designated nonattainment for PM-10 upon enactment of the Act was published in 56 FR 11101 (March 15, 1991). A subsequent Federal Register notice correcting some of these areas was published on August 8, 1991 (56 FR 37654). These nonattainment designations and moderate area classifications were codified in 40 CFR part 81 in a Federal Register notice published on November 6, 1991 (56 FR 56694). All other areas in the Nation not designated nonattainment at enactment were designated unclassifiable (see section 107(d)(4)(B)(iii) of the Act). Additional PM-10 areas were designated nonattainment in subsequent Federal Register actions.

States containing areas which were designated as moderate nonattainment by operation of law under section 107(d)(4)(B) were to develop and submit SIPs to provide for the attainment of the PM-10 NAAQS. Pursuant to section 189(a)(2), those SIP revisions were to be submitted within one year of enactment of the Act (November 15, 1991). The SIP revisions were to provide for

implementation of RACM/RACT by December 10, 1993 and attainment by December 31, 1994.

B. Application for a 1-Year Extension of the Attainment Date

If the State does not have the necessary number of consecutive clean years of data to show attainment of the NAAQS, a State may apply for an extension of the attainment date. Pursuant to section 188(d) of the Act, a State may apply for, and EPA may grant, a 1-year extension of the attainment date if the State has: (1) complied with the requirements and commitments pertaining to the applicable implementation plan for the area; and (2) the area has measured no more than one exceedance of the 24 hour PM-10 standard in the year preceding the extension year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard. If the State does not have the requisite number of years of clean air quality data to show attainment and does not apply or does not qualify for an attainment date extension, the area will be reclassified as serious by operation of law.

The authority delegated to the Administrator to extend attainment dates for moderate areas is discretionary. Section 188(d) of the Act provides that the Administrator "may" extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that EPA grant extensions to such areas. In exercising this discretionary authority for PM-10 nonattainment areas, EPA will examine the air quality planning progress made in the moderate areas. EPA will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM-10 planning obligations for the area. In order to determine whether the State has substantially met these planning requirements, the EPA will review the State's application for the attainment date extension to determine: (1) Whether the State has adopted and substantially implemented control measures submitted to address the requirement for implementing RACM/RACT in the moderate nonattainment area; and (2) that reasonable further progress is being met for the area. RFP for PM-10 nonattainment areas is determined to be linear emissions reductions made on an annual basis which will provide progress toward the eventual attainment of the NAAQS in the area. If the State cannot make a sufficient demonstration that the area has complied with the extension criteria

stated above, and EPA determines that the area has not demonstrated attainment of the PM-10 NAAQS, the area will be reclassified as serious by operation of law pursuant to section 188(b) of the Act. If an extension is granted, at the end of the extension year, EPA will again determine whether the area has attained the PM-10 NAAQS. If the requisite 3 consecutive years of clean air quality data needed to demonstrate attainment are not met, the State may apply for a second 1-year extension of the attainment date. In order to qualify for the second 1-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. In addition, EPA will consider the State's PM-10 planning progress for the area in a manner similar to its evaluation of the first extension request. However, EPA may grant no more than two 1-year extensions of the attainment date to a single nonattainment area [see section 188(d) of the Act].

II. Area Being Granted a 1-Year Extension of the Attainment Date

EPA is granting a 1-year extension of the attainment date for the Denver, Colorado PM-10 nonattainment area. As discussed below and in the accompanying technical support document to this action, this determination is based upon air quality data which revealed violations of the PM-10 NAAQS during the years of 1992-94 and EPA's evaluation of the applicable SIP.

If a State containing a moderate PM-10 nonattainment area does not have 3 consecutive years of clean air quality data to demonstrate that the area has attained the PM-10 NAAQS, the State may apply for a 1-year extension of the attainment date. The EPA may extend the attainment date for 1 year only if the State submits an application for the affected nonattainment area satisfying the requirements discussed above. The following area qualifies for an attainment date extension:

A. Denver, Colorado

1. Review of the ambient data: Denver has experienced exceedances of the 24-hour PM-10 NAAQS on six separate days since 1987. Two exceedances were recorded in 1987 and four exceedances in the 1992/93 winter season. A violation of the *annual* PM-10 NAAQS has never occurred. Since no exceedances of the PM-10 NAAQS were recorded in 1994, the area meets one of the requirements to qualify for an attainment date extension under section

188(d).¹ Data requirements for purposes of making comparisons with the 24-hour and annual PM-10 NAAQS must be consistent with section 2.3 of 40 CFR part 50, appendix K.

2. Review of SIP planning progress and SIP implementation: The State of Colorado originally submitted the PM-10 SIP for Denver on June 7, 1993. On December 20, 1993 (58 FR 66326), EPA proposed to limitedly approve the control measures contained in the June 7, 1993 Denver PM-10 SIP. On the same date, EPA also proposed to conditionally approve the Denver PM-10 SIP based on the State's commitment to revise permit limitations at two sources (Purina Mill and Electron Corporation). EPA limitedly approved the control measures contained in the June 7, 1993 Denver PM-10 SIP on July 25, 1994 (59 FR 37698). EPA limitedly approved the control measures because they strengthened the PM-10 SIP for Denver by advancing the PM-10 air quality goal of the Act. In addition, because EPA questioned the contribution of secondary particulate emissions in the attainment demonstration, EPA did not take action on whether the June 7, 1993 SIP submittal attained the NAAQS or met the reasonably available control measures (RACM) (including reasonably available control technology (RACT)) requirements of the Act.

On March 30, 1995, the State of Colorado re-submitted the entire SIP for the Denver PM-10 nonattainment area. This revision is intended to satisfy the PM-10 SIP requirements that were due on November 15, 1991: i.e., provisions to assure that RACM/RACT would be implemented by December 10, 1993, a demonstration that the NAAQS will be attained, quantitative milestones which will be achieved every three years and which demonstrate reasonable further progress by December 31, 1994 and 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. EPA is still evaluating the March 30, 1995 submittal and will determine, at a later date, whether the November 15, 1991 requirements are met in their entirety. Finally, the permits have been issued to Purina Mills and Electron Corporation,

fulfilling the State's earlier commitments.

Pursuant to EPA's November 14, 1994 guidance entitled "Criteria for Granting 1-Year Extensions of Moderate PM-10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones," from Sally Shaver, Director of Air Quality Strategies and Standards Divisions, to Regional Air Division Directors, "[t]he State must demonstrate that it has complied with all requirements and commitments pertaining to the affected nonattainment area in the applicable implementation plan." In addition, this guidance indicates that "[i]n instances where EPA will not have taken final rulemaking action on the State's moderate area SIP revision prior to granting the attainment date extension for the area, the applicable SIP for the area would be the most recent federally approved particulate matter SIP for the area." Since EPA has not approved all portions of the PM-10 SIP for Denver, EPA also considered the State's total suspended particulate (TSP) SIP for the Denver area. EPA approved the Denver TSP SIP on October 5, 1979 (44 FR 57401). The TSP SIP control measures consisted of street cleaning practices, unpaved road controls, control of mud and dirt carry out sources, control of construction, grading, excavation, and demolition, and paving or stabilizing unpaved roads and alleys.

For the most part, the PM-10 SIP for Denver addresses the same type of emissions addressed in the TSP SIP. In addition, the PM-10 SIP is more stringent than the TSP SIP because the PM-10 SIP incorporates regulations that require a certain percentage of sand reductions on streets as well as street cleaning requirements and sand specification requirements. Also, the PM-10 SIP addresses other PM-10 emissions including woodburning. Although additional reentrained road dust requirements for a portion of the nonattainment area were submitted in March 30, 1995, for which EPA has not completed its review, EPA has approved the majority of the PM-10 SIP pertaining to reentrained road dust emissions. Therefore, since the PM-10 SIP, for the most part, supplants the TSP SIP for Denver, EPA believes it is more appropriate to evaluate the implementation of the PM-10 SIP and not the TSP SIP.

The State has completed its air quality planning requirements for the Denver PM-10 nonattainment area that were due by November 15, 1991. As indicated above, the State submitted a revised plan that supersedes and replaces all

¹The Act states that no more than one exceedance may have occurred in the area [see section 189(d)(2)]. The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

other versions of the Denver PM-10 SIP element. EPA is still evaluating this submittal. However, the March 30, 1995 SIP purports to demonstrate attainment of the NAAQS by December 31, 1994, and if this is the case, the State would have met its RACM/RACT requirements.

EPA has evaluated the milestone report submitted by the State on March 31, 1995, to determine the State's progress in implementing the Denver PM-10 SIP. As indicated earlier, the majority of the SIP was submitted in June 1993. The milestone report indicates that the State has implemented 100% of its originally adopted control measures. Therefore, EPA believes that the State has substantially implemented its RACM/RACT requirements and has made emission reductions amounting to reasonable further progress (RFP) toward attainment of the PM-10 NAAQS as defined in section 171(1) of the Act.

III. Final Action

EPA is granting a 1-year attainment date extension for the Denver, Colorado PM-10 nonattainment area. This action is based on monitored air quality data for the national ambient air quality standard for PM-10 during the years 1992-94 and EPA's evaluation of the applicable SIP. Therefore, the attainment date for the Denver, Colorado PM-10 nonattainment area is now December 31, 1995. If necessary, the State may request one more 1-year attainment date extension.

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 submitted. Under the procedures established in the May 10, 1994 Federal Register (59 FR 24054), this action will be effective December 5, 1995 unless, by November 6, 1995, adverse or critical comments are received.

If such comments are received, 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. 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 December 5, 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 a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities."

The Agency has determined that the granting of attainment date extensions would result in none of the effects identified in section 3(f). Attainment date extensions under section 188(d) of the CAA do not impose any new requirements on any sectors of the economy; nor do they result in a materially adverse impact on State, local, or tribal governments or communities.

V. Regulatory Flexibility

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.

Extension of nonattainment area attainment dates under section 188(b)(2) of the CAA do not create any new requirements. Therefore, because this federal approval does not impose any new requirements, I certify that it does not have a significant impact on small entities.

VI. Unfunded Mandates

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 assess whether various actions undertaken in association with proposed or final regulations 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.

EPA has determined, as discussed earlier in section IV. of this action, that this final action of granting a one-year extension to the Denver, Colorado PM-10 nonattainment area does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. A finding that an area should be granted a one-year extension of the attainment date consists of factual determinations based upon air quality considerations and the area's compliance with certain prior requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action. This action also will not impose a 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.

VII. Petition Language

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 December 5, 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: September 25, 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 G—Colorado

2. Section 52.322 is added to read as follows:

§ 52.322 Extensions.

The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, extends for one year (until December 31, 1995) the attainment date for the Denver, Colorado, PM-10 nonattainment area.

[FR Doc. 95-24508 Filed 10-5-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 58

[FRL-5304-9]

RIN 2060-AF88

Ambient Air Quality Surveillance Siting Criteria for Open Path Analyzers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations to define the appropriate ambient air monitoring criteria for open path (long-path) analyzers. These revisions to the Ambient Air Quality Surveillance regulations define the siting requirements for open path analyzers used as State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS) and Photochemical Assessment Monitoring Stations (PAMS), as well as general quality assurance procedures for this technology. These changes provide the ambient air monitoring community with criteria needed to effectively use open path analyzers and associated data for regulatory purposes.

EFFECTIVE DATE: This final rule and all contained regulatory changes except for appendix D, section 2.2, are effective on October 6, 1995. The 40 CFR part 58, appendix D, section 2.2 requirements are not effective until the Office of Management and Budget approves the information requirements contained in them and the EPA publishes a document announcing their approval in the Federal Register.

ADDRESSES: Copies of the comments received on the notice of proposed rulemaking, supporting documentation, and the response to public comments document may be obtained from: Air Docket (LE-131), Attention: Docket

Number A-93-44, U.S. Environmental Protection Agency, room M-1500, 401 M Street, SW., Washington, D.C. 20460. Docket Number A-93-44, containing supporting information used in developing these revised regulations, is available for public inspection and copying between 8:30 a.m. and 12 noon, and between 1:30 p.m. and 3:30 p.m., Monday through Friday, at the EPA's Air Docket Section at the address noted above. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Lee Ann B. Byrd (919) 541-5367, Monitoring and Quality Assurance Group (MD-14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

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I. Authority

Sections 110, 301(a), 313, and 319 of the Clean Air Act as amended 42 U.S.C. 7410, 7601(a), 7613, 7619.

II. Background

A new technique for monitoring pollutants in ambient air has been developed and introduced to the EPA. Instruments based on this new technique, called open path (or long-path) analyzers, use ultraviolet, visible, or infrared light to measure nitrogen dioxide (NO₂), ozone (O₃), carbon monoxide (CO), sulfur dioxide (SO₂), and other gaseous pollutant concentrations over a path of several meters up to several kilometers. The

measurements obtained by these open path analyzers are path-integrated values from which path-averaged concentrations are obtained. In contrast, traditional point analyzers measure pollutant concentrations at one specific point by extracting an air sample from the atmosphere through an inlet probe.

Due to the fundamental difference in the measurement principles of open path and point analyzers, there may be tradeoffs in using each type of instrument for certain applications. Because of the ability of open path analyzers to measure pollutant concentrations over a path, these new techniques are expected to provide better spatial coverage, and thereby a better assessment of a general population's exposure to air pollutants for certain applications. However, due to this same path-averaging characteristic, open path analyzers could underestimate high pollutant concentrations at specific points within the measurement path for other ambient air monitoring situations. The applicability of either technique to a particular monitoring scenario is dependent on a number of factors including plume dispersion characteristics, monitoring location, pollutant of interest, population density, site topography, and monitoring objective. The EPA has considered these factors in evaluating the advantages and disadvantages of using open path analyzers for the various ambient air monitoring applications detailed in 40 CFR part 58.

The EPA has assessed the performance of an open path analyzer as candidate equivalent methods for measuring ozone, sulfur dioxide, and nitrogen dioxide under part 53. This open path analyzer was formally designated as an equivalent method for each of the three pollutants in a Federal Register notice, volume 60, number 84 on May 2, 1995. In parallel with this effort, the EPA developed these part 58 siting and quality assurance criteria for open path analyzers, which were published on August 18, 1994 as a notice of proposed rulemaking.

The intended purpose of these revisions to part 58 is to define first the conceptual framework of network design and siting which is equally relevant to open path and point types of ambient air monitoring sites, followed by the practical implications that flow from the conceptual approach. Comments received in response to the notice of proposed rulemaking have been carefully considered. Improvements to the network design and siting criteria were identified from these comments, and, as appropriate,