

**PART 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401–7671q.

**Subpart F—California**

2. Section 52.220 is amended by adding paragraph (c)(239)(i)(D) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (239) \* \* \*
- (i) \* \* \*

(D) Bay Area Air Quality Management District.

(I) Rule 8–4, Rule 8–11, Rule 8–12, Rule 8–13, Rule 8–14, Rule 8–19, Rule 8–20, Rule 8–23, Rule 8–29, Rule 8–31, Rule 8–32, Rule 8–38, Rule 8–43, Rule 8–45, 8–50, and 8–51 adopted on December 20, 1995.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[VT–01–015–01–1217(a); A–1–FRL–5859–9]

**Clean Air Act Approval and Promulgation of State Implementation Plans; Vermont: PM10 Prevention of Significant Deterioration Increments**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is fully approving a State Implementation Plan (SIP) revision submitted by the State of Vermont, which replaces the total suspended particulate (TSP) prevention of significant (PSD) increments with increments for PM10 (particulate matter with an aerodynamic diameter smaller than or equal to a nominal 10 micrometers). This action is being taken under the Clean Air Act.

**DATES:** This action is effective on October 3, 1997, unless adverse or critical comments are received by September 3, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Susan Lancey, Office of Ecosystem Protection, EPA—Region 1, JFK Federal Building (CAP), Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection by appointment during

normal business hours at the following locations: Office of Ecosystem Protection, EPA—Region 1, One Congress Street, 11th Floor, Boston, MA 02203; Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676; and Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Susan Lancey at (617) 565–3587 or lancey.susan@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*PM10 PSD Increments*

Section 107(d) of the 1977 Amendments to the Clean Air Act authorized each State to submit to the Administrator a list identifying those areas which (1) do not meet a national ambient air quality standard (NAAQS) (nonattainment areas), (2) cannot be classified on the basis of available ambient data (unclassifiable areas), and (3) have ambient air quality levels better than the NAAQS (attainment areas). In 1978, the EPA published the original list of all area designations pursuant to section 107(d)(2) (commonly referred to as “section 107 areas”), including those designations for total suspended particulates (TSP), in 40 CFR part 81.

One of the purposes stated in the Act for the section 107 areas is for implementation of the statutory requirements for PSD. The PSD provisions of Part C of the Act generally apply in all section 107 areas that are designated attainment or unclassifiable (40 CFR 52.21(i)(3)). Under the PSD program, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond prescribed maximum allowable increases in pollutant concentrations (i.e., increments).

EPA revised the primary and secondary NAAQS for particulate matter on July 1, 1987 (52 FR 24634), eliminating TSP as the indicator for the NAAQS and replacing it with the PM10 indicator. However, EPA did not delete the section 107 areas for TSP listed in 40 CFR part 81 at that time because there were no increments for PM10 promulgated at that time.<sup>1</sup> States were required to continue implementing the TSP increments in order to prevent

significant deterioration of particulate matter air quality until the PM10 increments replaced the TSP increments.

EPA promulgated PSD increments for PM10 on June 3, 1993 (see 58 FR 31622–31638). EPA promulgated revisions to the Federal PSD permitting regulations in 40 CFR 52.21, as well as the PSD permitting requirements that State programs must meet in order to be approved into the SIP in 40 CFR 51.166. Implementation of the increments by EPA or its delegated states under the Federal PSD program was required by June 3, 1994. The implementation date for SIP-approved State PSD programs (including Vermont) will be the date upon which a particular states’ revised program, containing the new PM10 increments, is approved. In accordance with 40 CFR 51.166(a)(6)(i), each State with SIP-approved PSD programs was required to adopt the PM10 increment requirements within nine months of the effective date (or by March 3, 1995).

The PM10 PSD increments were set at the following levels: 4 µg/m<sup>3</sup> (annual arithmetic mean) and 8 µg/m<sup>3</sup> (24-hour maximum) for Class I areas, 17 µg/m<sup>3</sup> (annual arithmetic mean) and 30 µg/m<sup>3</sup> (24-hour maximum) for Class II areas, and 34 µg/m<sup>3</sup> (annual arithmetic mean) and 60 µg/m<sup>3</sup> (24-hour maximum) for Class III areas. At present all attainment areas of the state are Class II, except for the Lye Brook Wilderness Area which is Class I.

The implementation of the PM10 increments will utilize the existing baseline dates and areas for particulate matter. As such, particulate matter increments, measured as PM10, already consumed since the original baseline dates established for TSP will continue to be accounted for, but all future calculations of the amount of increments consumed will be based on PM10 emissions beginning on the implementation date of the PM10 increments (that is, today, the date of EPA approval for Vermont). For further information regarding the PM10 increments, see the June 3, 1993 **Federal Register**.

*Summary of Vermont’s PM10 PSD Increment SIP Revision*

In this action, EPA is acting on revisions to the PSD permitting program for the State of Vermont. Specifically, the Vermont Agency of Natural Resources is amending Air Pollution Control Regulation 5–502(4)(c), Major Stationary Sources and Major Modifications, to replace the TSP increments with the federal increments for PM10. All other regulations and requirements necessary for full

<sup>1</sup> The EPA did not promulgate new PM10 increments simultaneously with the promulgation of the PM10 NAAQS. Under section 166(b) of the Act, EPA is authorized to promulgate new increments “not more than 2 years after the date of promulgation of \* \* \* standards.” Consequently, EPA temporarily retained the TSP increments, as well as the Section 107 areas for TSP.

implementation of the PSD program for PM10 are already in place.

The major source baseline date (January 6, 1975) and the minor source baseline date (established in Vermont on May 17, 1990), both for particulate matter measured as TSP, will remain the same for PM10.

By operation of law under the 1990 Clean Air Act Amendments, all of Vermont is currently considered unclassifiable for PM10, however, Vermont does not currently have a section 107 area designation table in 40 CFR part 81 for PM10. This revision includes the addition of an area designation table to Part 81 to indicate that the whole state of Vermont is unclassifiable for PM10.

#### *Procedural Background regarding the PM10 PSD Increment SIP Revision*

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action. (See section 110(k)(1) and 57 FR 13565, April 16, 1992.) The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, Appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(a)(B) if a completeness determination is not made by EPA within six months after receipt of the submission. EPA Region I reviewed the SIP revision to determine completeness in accordance with the completeness criteria outlined in 40 CFR 51, Appendix V. Vermont's submittal was found to be complete, and in a letter dated April 28, 1997, EPA Region I informed the Vermont Governor's designee that the submittal was determined complete and explained how the review and approval process would proceed.

Vermont held a public hearing on March 6, 1995 to entertain public comment on the PSD SIP revision. On March 7, 1996, the Secretary of the Agency of Natural Resources (the Governor's designee) submitted

revisions to Vermont's Air Pollution Control Regulation 5-502(4)(c), Major Stationary Sources and Major Modifications, to incorporate changes into the SIP-approved State PSD permitting regulations for PM10 and to insure that all elements of the federal PSD program for particulate matter are adopted.

#### **II. Final Action**

EPA is approving the SIP revision regarding PM10 PSD permitting as submitted by the State of Vermont.

The 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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 3, 1997 unless, by September 3, 1997, 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 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 October 3, 1997.

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.

#### **III. Administrative Requirements**

##### *A. Executive Order 12866*

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

##### *B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small

entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, 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 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. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

##### *C. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, 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, 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 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

##### *D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of

Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*E. Petitions for Judicial Review*

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 October 3, 1997. 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

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

Dated: June 18, 1997.

**John P. DeVillars,**

*Regional Administrator, EPA-Region 1.*

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 UU—Vermont**

2. Section 52.2370 is amended by adding paragraph (c)(24) to read as follows:

**§ 52.2370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(24) Revision to the State Implementation Plan submitted by the Vermont Department of Environmental Conservation on March 7, 1996.

(i) Incorporation by reference.

(A) Letter from the Vermont Department of Environmental Conservation dated March 7, 1996 submitting a revision to the Vermont State Implementation Plan.

(B) Amendments to Table 2 "Prevention of Significant Deterioration Increments" referenced in Section 5-502(4)(c) of the Vermont Agency of Natural Resources Environmental Regulations (effective July 29, 1995).

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

3. The table in § 52.2375 is revised to read as follows:

**§ 52.2375 Attainment dates for national standards.**

\* \* \* \* \*

Air quality control region and nonattainment area <sup>1</sup>	Pollutant					
	SO <sub>2</sub>		PM10	NO <sub>x</sub>	CO	O <sub>3</sub>
	Primary	Secondary				
Champlain Valley Interstate—Chittenden County:						
Champlain Valley Air Management Area:						
Essex Town (including Essex Jct.) .....	a	a	a	a	b	b
Burlington City .....	a	a	a	a	b	b
South Burlington City .....	a	a	a	a	b	b
Winooski .....	a	a	a	a	b	b
Remainder of Air Management Area .....	a	a	a	a	b	b
Remainder of County .....	a	a	a	a	a	b
Vermont Valley Air Management Area .....	a	a	a	a	a	a
Addison County .....	a	a	a	a	a	b
Remainder of AQCR .....	a	a	a	a	a	a
Vermont Interstate:						
Central Vermont Air Management Area:						
Barre City .....	a	a	a	a	a	a
Remainder of Air Management Area .....	a	a	a	a	a	a
Windsor County .....	a	a	a	a	a	b
Remainder of AQCR .....	a	a	a	a	a	a

<sup>1</sup> Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those regulations by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.2375, revised as of July 1, 1978.

a. Air quality levels presently below secondary standards or area is unclassifiable.  
b. 12/31/82.

4. In § 52.2381, Table 52.2381 is amended by adding a new entry to existing state citation for Section 5-502 to read as follows:

**§ 52.2381 EPA—approved Vermont state regulations.**

\* \* \* \* \*

TABLE 52.2381-EPA—APPROVED REGULATIONS  
[Vermont SIP regulations 1972 to present]

State citation, title and subject	Date adopted by State	Date approved by EPA	Federal Register citation	Section 52.2370	Comments and unapproved sections
*	*	*	*	*	*
Section 5–502, Major stationary sources and major modifications.	7/14/95	8/4/97	[Insert <i>FR</i> citation from published date].	(c)(24)	
*	*	*	*	*	*

**PART 81—[AMENDED]**

5. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7407, 7501–7515, 7601.

**Subpart C—Section 107 Attainment Status Designations**

6. Section 81.346 is amended by adding a table for PM10 at the end of the section to read as follows:

**§ 81.346 Vermont.**

\* \* \* \* \*

VERMONT—PM10

Designation status	Designation		Classification	
	Date	Type	Date	Type
Whole State .....	11/15/90	Unclassifiable .....		

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 55**

[Alaska 001; FRL–5847–7]

**Outer Continental Shelf Air Regulations Consistency Update for Alaska**

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

**ACTION:** Final rule—consistency update.

**SUMMARY:** EPA is updating the Outer Continental Shelf (“OCS”) Air Regulations as they apply to OCS sources off the coast of Alaska. 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 State of Alaska is the designated COA. The intended effect of approving the requirements contained in the Alaska Administrative Code to OCS Sources

(January 1, 1997), is to regulate emissions from OCS sources in accordance with the requirements onshore.

**DATES:** This action is effective September 3, 1997.

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

Office of Air Quality, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Wa 98101.

Environmental Protection Agency (LE–6102), 401 “M” Street, SW, Room M–1500, Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:** Raymond Nye, Office of Air Quality (OAQ–107), U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, Wa 98101, Telephone: (206) 553–4226.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 21, 1992, EPA approved the Alaska Administrative Code to OCS sources. The updated requirements are being promulgated in response to a Notice of Intent filed pursuant to § 55.12(c). EPA has evaluated the above requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or Part C of title I

of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

**EPA Action**

In this document, EPA takes final action to incorporate the January 18, 1997 Alaska Department of Environmental Conservation rules into 40 CFR part 55 as modified under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states’ seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into Part 55 as they exist onshore.

**Administrative Requirements**

*A. Executive Order 12866 (Regulatory Impact Analysis)*

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

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 requires each federal agency to perform