

TABLE 52.2081.—EPA-Approved Rules and Regulations

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/Unapproved sections
No. 9 .....	Air Pollution Control Permits.	March 4, 1993 .....	February 6, 1996 ..	61 FR 4353 .....	(c)(41)	Addition of NSR and other CAAA requirements under Amended Regulation No. 9 except for Chapters 9.13, 9.14, 9.15, and Appendix A.

[FR Doc. 96-2226 Filed 2-5-96; 8:45 am]  
BILLING CODE 6560-50-P

**40 CFR Part 81**

[FRL-5412-5]

**Designation of Areas for Air Quality Planning Purposes; South Dakota; Approval of Redesignation Request**

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

**ACTION:** Direct final rule.

**SUMMARY:** In this document, EPA is approving an October 12, 1995 request from the designee of the Governor of South Dakota to redesignate the "Rest of State" area designated under section 107 of the Clean Air Act (Act), which includes the entire State of South Dakota except the Rapid City area, from unclassifiable to attainment for PM-10. EPA is approving the redesignation request because the State has adequately demonstrated that the "Rest of State" is in attainment of the PM-10 National Ambient Air Quality Standards (NAAQS) and that it will continue to maintain the PM-10 NAAQS. The requirements that will apply in the "Rest of State" area will not change as a result of this action because, for the purposes of the requirements of the Act, unclassifiable areas and attainment areas are treated the same.

**DATES:** This action is effective on April 8, 1996 unless adverse or critical comments are received by March 7, 1996. 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 Program, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466; and South Dakota Department of Environment and Natural Resources, Division of Environmental Regulation,

Joe Foss Building, Pierre, South Dakota 57501.

**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) 312-6445.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The State of South Dakota has two areas designated under section 107 of the Act for PM-10 in 40 CFR 81.342, both of which are designated as unclassifiable: the "Rapid City Area" and the "Rest of State" (see 60 FR 55800, November 3, 1995, for the initial promulgation of PM-10 table in 40 CFR 81.342). EPA designated these areas as unclassifiable, rather than attainment, to be consistent with section 107(d)(4)(B) of the Act, which states that any area not initially designated as nonattainment for PM-10 shall be designated unclassifiable. Both "unclassifiable" and "attainment" areas have the same status relative to the applicable requirements of the Act.

However, States do have the option of requesting redesignation of such areas from unclassifiable to attainment for PM-10, if certain requirements are met. In a September 13, 1995 letter to the State of South Dakota, EPA stated that the following requirements needed to be met in order for EPA to redesignate an area from unclassifiable to attainment for PM-10:

A. EPA must receive a request from the Governor (or his/her designee) to redesignate an area from unclassifiable to attainment for PM-10 pursuant to section 107(d)(3)(D) of the Act;

B. The State must have a maintenance plan pursuant to section 175A of the Act which, for redesignation from unclassifiable to attainment, would include the existing State regulations approved in the SIP that control emissions of PM-10 in the area; and

C. Verification of three consecutive years of clean air quality PM-10 data for the area.

With such a submittal showing that the area is in attainment of the PM-10 NAAQS and that the area will maintain attainment based on the PM-10 controls in the SIP, EPA can redesignate an area from unclassifiable to attainment for PM-10.

**II. Evaluation of State's Submittal**

On October 12, 1995, the designee of the Governor of South Dakota submitted a request pursuant to section 107(d)(3)(D) of the Act for the "Rest of State" area (which includes the entire State except the Rapid City area) to be redesignated from unclassifiable to attainment for PM-10. The State's letter indicated that the air quality monitoring data for the "Rest of State," all of which has been entered into EPA's aerometric information retrieval system (AIRS) database, show levels less than the PM-10 NAAQS. Further, the State indicated that the South Dakota air monitoring network for the "Rest of State" is reviewed annually to ensure that the monitors are measuring maximum PM-10 concentrations, and that the most recent network review was sent to EPA in August of 1995. Last, the State indicated that Article 74:36 of the Administrative Rules of South Dakota (ARSD), which was most recently approved by EPA as part of the SIP on September 6, 1995 (60 FR 46222), will ensure that attainment of the PM-10 NAAQS will be maintained in the "Rest of State" area.

A review of the data entered by the State into the AIRS database found that the "Rest of State" area is in attainment of the PM-10 NAAQS. The State currently has three PM-10 monitoring stations in the "Rest of State" area: two in Sioux Falls and one in Brookings. Based on the information included in the most recent annual network review (which was approved by EPA on August 18, 1995), EPA is confident that these monitors are in the areas of expected maximum PM-10 concentrations in the "Rest of State" area. A review of the data indicates there have been no violations of the PM-10 24-hour or

annual NAAQS at any of these monitors in the last three calendar years (1992 through 1994), and the expected number of PM-10 exceedances is less than 1.0 per year. The PM-10 data currently in AIRS for 1995 also shows no violations. Thus, EPA believes the "Rest of State" area in South Dakota, which includes the entire State except the "Rapid City Area," is in attainment of the PM-10 NAAQS.

The State of South Dakota has many regulations in its SIP which will help to ensure that the "Rest of State" area maintains attainment of the PM-10 NAAQS. First, the State has a construction and operating permit program in ARSD 74:36:04, for minor sources greater than 25 tons per year, and in ARSD 74:36:05, for major sources greater than 100 tons per year. These regulations allow the State to issue a permit for a new source to construct or operate only when it has been shown that the new source will not prevent or interfere with attainment or maintenance of the NAAQS. Further, the State has also been delegated authority to implement the Federal prevention of significant deterioration (PSD) permitting program in 40 CFR 52.21 which includes, among other things, the requirement that new and modified major stationary sources comply with the PM-10 increments and apply best available control technology (BACT). Thus, the State's permitting requirements should ensure that new growth in stationary source emissions does not impact attainment or maintenance of the PM-10 NAAQS in the "Rest of State" area.

In addition to the permitting requirements, the State has specific regulations that control the emissions of particulate matter, including PM-10, in ARSD 74:36:06, 74:36:07, and 74:36:15. These include particulate emission limits for fuel-burning units, process industry units, incinerators, and wood waste burners; a 20% opacity limit that generally applies to all sources; and open burning requirements. Last, the State has adopted most of the Federal new source performance standards (NSPS) of 40 CFR part 60 in ARSD 74:36:07, and many of these regulations also help to reduce PM-10 emissions. Thus, EPA believes these existing State regulations, which have been approved by EPA as part of the SIP, will help to ensure that the "Rest of State" area maintains attainment of the PM-10 NAAQS.

Based on the fact that the "Rest of State" area is in attainment of both the 24-hour and annual PM-10 NAAQS and that the State has controls in place that will help to ensure the "Rest of State"

maintains attainment of the PM-10 NAAQS, EPA believes it is appropriate to approve the State's request to redesignate the "Rest of State" from unclassifiable to attainment for PM-10. The State will still be required to conduct annual monitoring network reviews to ensure the PM-10 monitors are measuring maximum concentrations, so EPA will be aware if the attainment status of this area changes in the future and triggers the need for additional PM-10 controls as required by the Act.

#### Final Action

EPA is approving the State of South Dakota's request to redesignate the "Rest of State" area in 40 CFR 81.342 from unclassifiable to attainment for PM-10.

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 April 8, 1996 unless, by March 7, 1996, 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 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 April 8, 1996.

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.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. 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 "Rest of State" area from unclassifiable to attainment for PM-10, in accordance with section 107 of the Act. EPA's approval of this redesignation request 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 April 8, 1996. 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

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 23, 1996.  
 Jack W. McGraw,  
*Acting Regional Administrator.*  
 40 CFR part 81 is amended as follows:

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

2. Section 81.342 is amended by revising the table for "South Dakota—PM-10" to read as follows:

**PART 81—[AMENDED]**

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

**§ 81.342 South Dakota.**  
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**SOUTH DAKOTA—PM-10**

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Rapid City Area .....	11/15/90 .....	Unclassifiable .....		
Rest of State <sup>1</sup> .....	April 8, 1996 .....	Attainment .....		

<sup>1</sup> Denotes a single area designation for PSD baseline area purposes.

\* \* \* \* \*  
 [FR Doc. 96-2497 Filed 2-5-96; 8:45 am]  
 BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Public Land Order 7182**

[AK-931-1430-01; F-031676]

**Partial Revocation of Public Land Order No. 3689; Alaska**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order partially revokes a public land order insofar as it affects 18.85 acres of public and nonpublic land withdrawn for use by the military for the Lakeview Pumping Station. The land is no longer needed for the purpose for which it was withdrawn. A portion of the parcel has been deeded to the State of Alaska and is no longer public land. The remainder of the parcel will continue to be withdrawn as part of the Tetlin National Wildlife Refuge, as established and designated by the Alaska National Interest Lands Conservation Act. This action is for record clearing purposes only.

**EFFECTIVE DATE:** February 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 3689, which withdrew public land for use by the Department of the Army for the

Lakeview Pumping Station, is hereby revoked insofar as it affects the following described land:

**Copper River Meridian**

Located within secs. 28 and 33 of T. 14 N., R. 20 E., currently described as:  
 U.S. Survey No. 4360, which contains 16.35 acres; and  
 U.S. Survey No. 2784, lot 1, which contains 2.50 acres.  
 The areas described contain a total of 18.85 acres.

2. Any of the land described in this order that is part of the Tetlin National Wildlife Refuge will continue to be withdrawn pursuant to Sections 302(8) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988), and will continue to be subject to the terms and conditions of any other withdrawal or segregation of record.

3. Any public land affected by this order that may be outside of the Tetlin National Wildlife Refuge will remain withdrawn from all forms of entry, appropriation, or disposal under the public land laws until a further opening order is published.

Dated: January 26, 1996.  
 Bob Armstrong,  
*Assistant Secretary of the Interior.*  
 [FR Doc. 96-2385 Filed 2-5-96; 8:45 am]  
 BILLING CODE 4310-JA-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 0, 1, 17, 21, 22, 23, 24, 25, 73, 74, 78, 80, 87, 90, 94, 95, and 97**

[WT Docket No. 95-5, FCC 95-473]

**Streamlining the Antenna Structure Clearance Procedure and Revision of the Rules Concerning Construction, Marking, and Lighting of Antenna Structures**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final Rule.

**SUMMARY:** The Commission has adopted a Report and Order to streamline the Commission's antenna structure clearance process by instituting a uniform registration process for structure owners, revise the current antenna structure painting and lighting requirements in keeping with updated recommendations by the Federal Aviation Administration (FAA), and make antenna structure owners primarily responsible for antenna structures that require painting and/or lighting. These amendments reduce the number of Commission filings, expedite the processing of authorizations involving FAA coordination, and clarify rules concerning the painting and lighting of antenna structures.

**DATES:** These regulations are effective March 7, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 7, 1996. Written comments by the public on the proposed and/or modified information collections are due March 7, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the